



# FORT ORD REUSE AUTHORITY

## SPECIAL MEETING

### FORT ORD REUSE AUTHORITY (FORA) BOARD OF DIRECTORS

Wednesday, May 27, 2020 at 2:00 p.m.

## AGENDA

**ALL ARE ENCOURAGED TO SUBMIT QUESTIONS/CONCERNS BY NOON MAY 26, 2020.**

THIS MEETING MAY BE ACCESSED REMOTELY USING THE FOLLOWING ZOOM LINK:

[HTTPS://ZOOM.US/J/956115894](https://zoom.us/j/956115894)

PLEASE REVIEW FORA'S UPDATED REMOTE MEETINGS PROTOCOL AND BEST PRACTICES HERE:

[HTTPS://FORA.ORG/REMOTE\\_MEETINGS\\_PROTOCOLS](https://fora.org/remote_meetings_protocols)

#### 1. CALL TO ORDER

#### 2. CLOSED SESSION

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

#### 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. 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. Bond Purchase Agreements, Preliminary Official Statement, and Indenture of Trust - *2<sup>nd</sup> Vote*  
**ACTION**

**Recommendation:** 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. **(p. 2)**

#### 7. 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 [board@fora.org](mailto:board@fora.org). Thank for your patience and understanding during these unprecedented times.

#### 8. ITEMS FROM MEMBERS

#### INFORMATION

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

#### 9. ADJOURNMENT

**NEXT SPECIAL MEETING: Thursday, June 4, 2020 AT 2:00 P.M.**

The video of this meeting and its materials will be available online at [www.fora.org](http://www.fora.org)  
Contact Deputy Clerk Harry Tregenza with questions/concerns: [harry@fora.org](mailto:harry@fora.org)

# FORT ORD REUSE AUTHORITY BOARD REPORT

## BUSINESS ITEMS

<b>Subject:</b>	Preliminary Official Statement, Building Removal Funding Agreements, Bond Purchase Agreement and Indenture of Trust - <i>2nd Vote</i>	
<b>Meeting Date:</b>	May 27, 2020	<b>ACTION</b>
<b>Agenda Number:</b>	6a	

### **RECOMMENDATION:**

Adopt Resolution 20-xx (**Attachment A**): 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.

### **BACKGROUND/DISCUSSION:**

#### **Introduction**

FORA's finance team is working to issue the 2020 Tax Allocation Bonds (the "Bonds") to fund building remediation work for FORA by early June. Pursuant to that work, the FORA Board needs to approve certain legal documents. Staff and the finance team requests that the Board approve certain documents called: "Bond Purchase Agreements", "Preliminary Official Statement; Continuing Disclosure Certificate", "Revised Funding Agreements", and "Irrevocable Direction to Transfer Funds"; as well as ratify an updated Indenture of Trust, initially approved at the December 13, 2019 meeting. The documents for consideration by the Board for approval are described below:

#### **Indenture of Trust**

The Board authorized the Bonds and approved a bond indenture at its December 13, 2019 board meeting. However, the following major changes have been made to this document since then (**Attachment B**):

- 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 owed 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%
- 4) An escrow term bond for the City of Marina

The Indenture provides that any Bond proceeds allocated to make the CalPERS termination payment left over after making such payment shall be re-allocated by the trustee according to the percentages identified above.

The escrow term bond for Marina provides additional potential funding for building removal by the City of Marina. This additional funding is contingent on the following:

- 1) There is growth in assessed valuation in the Marina Project Area after the issuance of the Bonds over and above what is required to maintain 125% coverage of FORA Bonds debt service from both Marina and Seaside tax increment.
- 2) No increase in assessed valuation in Seaside shall count towards the release of any bond proceeds from the Marina escrow term bond.
- 3) If any of the proceeds of the escrow term bond have not been released by a date certain, the remaining proceeds will be used to pay off the remaining escrow term bonds.

To make this feature work without adversely impacting any of the other FORA stakeholders, the City of Marina will use a portion of its 52.25% allocation of FORA bond proceeds at closing to pay the additional financing costs for the escrow term bonds and to pre-fund interest on its escrow term bonds through the date certain for mandatory redemption described above. The City is working with its consultants to make a final decision on both the sizing of the escrow term bond and the appropriate date for mandatory redemption.

### **Bond Purchase Agreement**

This document (**Attachment C**) is the proposed contract between FORA and its Bond underwriting team of Stifel and Citi. It sets forth the conditions under which the FORA Bond underwriting team will commit to purchase the FORA Bonds. The document will be executed at the time of the actual bond sale.

### **Preliminary Official Statement; Continuing Disclosure Certificate**

The Preliminary Official Statement is the disclosure document to investors in the Bonds regarding the potential risks (**Attachment D**). These risks described in this document are events that could result in a reduction in the flow of property tax increment from the Marina and Seaside project areas. The draft attached also includes special disclosure language regarding COVID-19; and includes as an appendix a Continuing Disclosure Certificate pursuant to which FORA (and the administrator of the bonds) agrees to provide ongoing disclosures to bond investors.

### **Revised Funding Agreements**

The Resolution approves revised funding agreements. While the Board approved these documents at its April 30<sup>th</sup> meeting, the following changes have been made (**Attachment E**):

- 1) No Funding Agreement for County
- 2) Allowance for re-allocation of any used bond proceeds after CalPERS termination payment to Funding Agreements per the revised allocation percentages stated above
- 3) Allowance for allocation to Marina from release of bond proceeds from the Marina escrow term bond

### **Irrevocable Direction to Transfer Funds**

This document (**Attachment F**) to be executed by the County, FORA and the City of Marina (acting as FORA Bond administrator) provides direction for the County to do the following:

- 1) Transfer the FORA share of property tax increment from the Marina and Seaside project areas to the FORA Bond trustee for the payment of debt service.
- 2) After debt service on the FORA Bonds has been fully funded for a given Bond Year, re-allocate the surplus property tax increment received by the County from the FORA Bond trustee as provided for in the FORA authorizing statute.

This document also provides that “the County shall incur no monetary liability in respect of the foregoing directions, and that the sole remedy for any noncompliance by the County with this direction by FORA shall be an action to compel performance.”

### **Bond and Disclosure Counsel Agreement**

Resolution No. 19-13 approved the law firm of Quint & Thimmig, LLP to serve as bond counsel and disclosure counsel for the Bonds. In that role they have drafted all of the documents approved by the Resolution except the Bond Purchase Agreement (that was prepared by counsel to the bond underwriters). The Resolution expressly approves the contract between FORA and Quint & Thimmig, LLP for its services (**Attachment G**).

### **Schedule**

FORA’s finance team anticipates selling the Bonds on June 11th and closing the Bond financing on June 25<sup>th</sup>.

### **Good Faith Estimates**

The following information consists of estimates that have been provided by the Municipal Advisor and has been represented by such party to have been provided in good faith:


- A. True Interest Cost of the Bonds: 3.35%
- B. Finance Charge of the Bonds (Sum of all fees/charges paid to third parties): \$995,000
- C. Net Proceeds of the Bonds to be Received (net of finance charges, reserves and capitalized interest, if any): \$28,705,000

- a. This amount is inclusive of a \$5M Marina escrow term bond
- D. Total Payment Amount through Maturity of the Bonds: \$39,356,000

The foregoing constitute good faith estimates only. The principal amount of the Bonds, the true interest cost of the Bonds, the finance charges thereof, the amount of proceeds received therefrom and total payment amount with respect thereto may differ from such good faith estimates due to: (a) the actual date of the sale of the Bonds being different than the date assumed for purposes of such estimates; (b) the actual principal amount of Bonds sold being different from the estimated amount used for purposes of such estimates; (c) the actual amortization of the Bonds being different than the amortization assumed for purposes of such estimates; (d) the actual market interest rates at the time of sale of the Bonds being different than those estimated for purposes of such estimates; (e) other market conditions; or (f) alterations in the Authority's financing plan, or a combination of such factors.

The actual date of sale of the Bonds and the actual principal amount of Bonds sold will be determined by the Authority based on a variety of factors. The actual interest rates borne by the Bonds will depend on market interest rates at the time of sale thereof. The actual amortization of the Bonds will also depend, in part, on market interest rates at the time of sale thereof. Market interest rates are affected by economic and other factors beyond the control of the Authority.

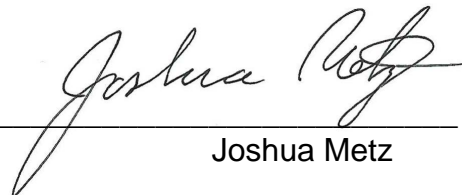
**FISCAL IMPACT:**

Reviewed by FORA Controller 

**COORDINATION:**

Authority Counsel. NHA Advisors. Quint & Thimmig LLP, City of Seaside. City of Marina. County of Monterey.

Prepared by NHA Advisors. Approved by

  
Joshua Metz

**ATTACHMENTS:**

- A. Resolution 20-xx: Approving, and Authorizing the Execution and Delivery of, (p. 6)  
Irrevocable Direction to Transfer Funds, Bond Purchase Agreement, Official  
Statement, and Revised Funding Agreements, and Ratifying Changes to Bond  
Indenture of Trust in Connection with Tax Allocation Bonds to Fund Building Removal  
Costs, and Approving Related Actions
- B. Indenture of Trust (p. 11)
- C. Bond Purchase Agreement (p. 77)
- D. Preliminary Official Statement and Continuing Disclosure Certificate (p. 102)
- E. Revised Funding Agreements (p. 200)
- F. Irrevocable Direction to Transfer Funds (p. 246)
- G. Bond and Disclosure Counsel Agreement (p. 252)

**FORT ORD REUSE AUTHORITY**  
**Resolution No. 20-\_\_\_\_\_**

**A RESOLUTION OF THE GOVERNING BODY OF THE FORT ORD REUSE AUTHORITY**  
*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*

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

A. On December 13, 2019, the Board of Directors (the “Board”) of the Fort Ord Reuse Authority (the “Authority”) adopted Resolution No. 19-13 (“Resolution 19-13”) authorizing the issuance of tax allocation revenue bonds (the “Bonds”) and approving and authorizing the execution and delivery of an Indenture (the “Indenture”) among the Authority, U.S. Bank National Association, as trustee (the “Trustee”) and the City of Marina, California, as administrator (in such capacity, the “Administrator”), among other matters, in order to finance Building Removal Costs, as defined in the Indenture.

B. On April 30, 2020, the Board adopted Resolution No. 20-02 (“Resolution No. 20-02” and, together with Resolution No. 19-13, the “Prior Resolutions”), approving Building Removal Funding Agreements (collectively, the “Funding Agreements”), with the Cities of Marina and Seaside, the County of Monterey (the “County”), the Transportation Agency of Monterey County, the Marina Coast Water District and the Monterey-Salinas Transit District (collectively, the “Local Agencies”), and authorizing the execution and delivery of the Funding Agreements, as well as designating the allocation of Bond proceeds available to fund Building Removal Costs to be inserted therein.

C. Due to changing circumstances, including, among other changes, a desire to allow the use of Bond proceeds to provide for any shortfall in funds available to satisfy any liability of the Authority to CalPERS, and a decision not to include tax increment revenues from the East Garrison Redevelopment Project Area in the Pledged Tax Revenues pledged under, and as such capitalized term is defined in, the Indenture, to the repayment of the Bonds, various revisions have been made to the Indenture and the Funding Agreements, and it has been determined that the County will not enter into a Funding Agreement with the Authority and the Administrator (referred to in this Resolution as the “Canceled County Funding Agreement”).

D. The Board now desires to approve and authorize the execution and delivery of the revised Indenture and Funding Agreements (except for the Canceled County Funding Agreement), and to proceed with the sale and issuance of the Bonds.

E. A preliminary official statement to be used in connection with the offering of the Bonds (the “Preliminary Official Statement”), as well as a bond purchase agreement to be used in connection with the sale of the Bonds to the Underwriters identified in this Resolution (the “Bond Purchase Agreement”), have been prepared and it is appropriate at this time for the Authority to

approve the forms thereof and the distribution of the Preliminary Official Statement to prospective purchasers of the Bonds.

NOW THEREFORE the Board hereby resolves that:

1. The foregoing recitals are true and correct.
2. The Board hereby acknowledges that proceeds of the Bonds will be used to finance Building Removal Costs, and to pay costs of issuance of the Bonds (which may include costs of a reserve fund insurance policy (a "Reserve Policy") for the Bonds, and an insurance policy ("Bond Insurance") for the payment of the Bonds), to make a cash deposit to the Reserve Account under the Indenture if required by the Underwriters to fund a reserve fund for the Bonds with cash, and to pay the debt of the Authority to CalPERS in excess of available funds allocated thereto in connection with the Authority's transition plan, all as provided in the Indenture as approved below. The Board hereby further acknowledges that the Pledged Tax Revenues to be used to repay the Bonds will only include tax increment revenues allocated to the Authority before and after its dissolution pursuant to the California Health and Safety Code derived from the Seaside-Fort Ord Project Area and the Marina Redevelopment Project No. 3, as provided in the Indenture approved below, and the Board hereby determines that only such Pledged Tax Revenues are needed to pay amounts owing on the Bonds and otherwise under the Indenture, including any amounts that may be owing to the provider of any Reserved Policy and Bond Insurance, and Administrative Expenses (as defined in the Indenture).
3. The Board hereby approves the revised Indenture in the form on file with the Secretary. The Chair, the Executive Officer and the Controller/Finance Manager of the Authority (each, an "Authorized Officer"), each acting alone, are hereby authorized and directed to execute and deliver the revised Indenture for and in the name and on behalf of the Authority in such form, together with such changes therein, deletions therefrom and additions thereto as the Authorized Officer executing the same shall approve, upon consultation with Bond Counsel and the Counsel to the Authority, such approval to be conclusively evidenced by the execution and delivery by an Authorized Officer of the Indenture. The Board hereby authorizes the delivery and performance of the Indenture.
4. The Board hereby authorizes and directs the Executive Officer to execute and deliver the Irrevocable Direction to Transfer Funds to the County Auditor-Controller and the County Treasurer Tax-Collector, in the form on file with the Secretary, together with such changes thereto as the Executive Officer, upon consultation with Bond Counsel and Counsel to the Authority, may approve, so long as the Pledged Tax Revenues as defined therein remains consistent with the Pledged Tax Revenues as defined in the revised Indenture approved above.
5. The bond purchase agreement for the Bonds (the "Purchase Contract") between the Authority and Stifel Nicolaus & Company Incorporated and Citibank, N.A. (collectively, the "Underwriters"), in the form on file with the Secretary, is hereby approved. The Executive Officer is hereby authorized and directed, for and in the name and on behalf of the Authority, to accept the offer of the Underwriters to purchase the Bonds contained in the Purchase Contract (provided that the aggregate principal amount of the Bonds sold thereby is not in excess of

\$55,000,000, any Underwriters' discount is not in excess of 0.70%, and the true interest cost of the Bonds is not in excess of 4.50% per annum), and to execute and deliver the Purchase Contract in said form, with such additions thereto or changes therein as are recommended or approved by the Executive Officer upon consultation with Bond Counsel, Counsel to the Authority and the Authority's Municipal Advisor, the approval of such additions or changes to be conclusively evidenced by the execution and delivery of the Purchase Contract by the Executive Officer.

6. The Board hereby approves the Preliminary Official Statement in the form on file with the Secretary, together with any changes therein or additions thereto deemed advisable by the Executive Officer following consultation with Counsel to the Authority and Disclosure Counsel. The Board authorizes the Executive Officer to deem "final" pursuant to Rule 15c2-12 under the Securities Exchange Act of 1934 (the "Rule") the Preliminary Official Statement prior to its distribution to prospective purchasers of the Bonds.

The Executive Officer is hereby authorized and directed to assist the Disclosure Counsel in causing the Preliminary Official Statement to be brought into the form of a final official statement (the "Final Official Statement"), and the Executive Officer, on behalf of the Authority, is hereby authorized to execute the Final Official Statement and a statement that the facts contained in the Final Official Statement, and any supplement or amendment thereto (which shall be deemed an original part thereof for the purpose of such statement) were, at the time of sale of the Bonds, true and correct in all material respects and that the Final Official Statement did not, on the date of sale of the Bonds, and does not, as of the date of delivery of the Bonds contain any untrue statement of material fact or omit to state any material fact required to be stated where necessary to make any statement made therein not misleading in the light of the circumstances under which it was made. The execution and delivery by the Executive Officer of the Final Official Statement, which shall include such changes and additions thereto deemed advisable by the Executive Officer, upon consultation with Counsel to the Authority and Disclosure Counsel and such information permitted to be excluded from the Preliminary Official Statement pursuant to the Rule, shall be conclusive evidence of the approval of the Final Official Statement by the Authority.

The Final Official Statement, when prepared, is approved for distribution in connection with the offering and sale of the Bonds.

7. The Board hereby approves the revised Funding Agreements in the respective forms on file with the Secretary, which approval, however, does not include the Canceled County Funding Agreement. The Authorized Officer, each acting alone, are hereby authorized and directed to execute and deliver the revised Funding Agreements (other than the Canceled County Funding Agreement) for and in the name and on behalf of the Authority in such forms, together with such changes therein, deletions therefrom and additions thereto as the Authorized Officer executing the same shall approve, upon consultation with Bond Counsel and the Counsel to the Authority, such approval to be conclusively evidenced by the execution and delivery by an Authorized Officer of the Funding Agreements. The Board hereby authorizes the delivery and performance of the Funding Agreements (other than the Canceled County Funding Agreement).



Notwithstanding the provisions of Section 2 of Resolution No. 20-02, the allocation of Bond Proceeds and certain other funds available to fund the Building Removal Costs are hereby revised as follows: (a) from the proceeds of the Bonds deposited to the Project Fund established under the Indenture on the date of issuance of the Bonds, City of Marina, 52.25% (a portion of which funds will be transferred to the Escrow Interest Account to be used to pay interest on the Escrow Term Bonds (as such capitalized terms are defined in the Indenture)); Transportation Agency for Monterey County, 7.00%; Marina Coast Water District, 5.25%; Monterey-Salinas Transit District, 1.00%; and City of Seaside, 34.50%; (b) from funds released from the CalPERS Obligation Fund that are not needed to pay the CalPERS Obligation (as such capitalized terms are defined in the Indenture), City of Marina, 50% and City of Seaside, 50%; and (c) from amounts released from the Escrow Fund which has been funded with Escrow Term Bond proceeds, and from the Escrow Interest Account not needed to pay interest on the Deemed Escrow Term Bonds (as such terms are defined in the Indenture), City of Marina, 100%

8. The Continuing Disclosure Certificate (the "Disclosure Agreement"), in the form attached as an Appendix to the Preliminary Official Statement, is hereby approved. The Executive Officer is hereby authorized and directed to execute and deliver the Disclosure Agreement in said form, which such additions thereto or changes therein as are recommended or approved by such officer upon consultation with Disclosure Counsel and Counsel to the Authority, the approval of such additions or changes to be conclusively evidenced by the execution and delivery of the Disclosure Agreement by the Executive Officer.

9. The designation of the law firm of Quint & Thimmig LLP as Bond Counsel and Disclosure Counsel to the Authority in connection with the issuance, sale and delivery of the Bonds, as set forth in Section 8 of Resolution No. 19-13, is hereby affirmed. The Executive Officer is hereby authorized to enter into an agreement with said firm for its services, in the form on file with the Secretary, it being hereby acknowledged that the compensation for such firm is fully contingent upon the successful issuance of the Bonds.

10. The Authorized Officers, and any and all other officers and employees of the Authority, are hereby authorized and directed, for and in the name and on behalf of the Authority, to do any and all things and take any and all actions, including execution and delivery of any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents which they, or any of them, may deem necessary or advisable in order to consummate the lawful sale and issuance of the Bonds. In furtherance of the foregoing, the Executive Officer is hereby authorized to approve modifications to the documents approved by this Resolution to accommodate Bond Insurance and/or the Reserve Policy for the Bonds if, upon the advice of the Underwriters and the Municipal Advisor to the Authority for the Bonds, such Bond Insurance and/or Reserve Policy are advantageous to the Authority in the circumstances.

11. Except as may be modified pursuant to this Resolution, the provisions of the Prior Resolutions are hereby affirmed.

12. This Resolution shall take effect from and after the date of its passage and adoption.

Upon motion by \_\_\_\_\_, seconded by \_\_\_\_\_, the foregoing Resolution was passed on this 27th day of May, 2020, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

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Jane Parker, Chair

ATTEST:

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Joshua Metz, Secretary

06006.05:J16852  
5/18/20

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INDENTURE OF TRUST

by and among the

FORT ORD REUSE AUTHORITY,

CITY OF MARINA, CALIFORNIA,

and

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee

Dated as of June 1, 2020

Relating to:

\$\_\_\_\_\_

Fort Ord Reuse Authority  
Tax Allocation Bonds, Series 2020  
(Federally Taxable)

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EXHIBIT A      FORM OF BOND  
EXHIBIT B      BUILDING REMOVAL PARCELS

## INDENTURE OF TRUST

This INDENTURE OF TRUST (this "Indenture"), dated as of June 1, 2020, is by and among the FORT ORD REUSE AUTHORITY, a public entity duly existing under the laws of the State of California (the "Authority"), the CITY OF MARINA, CALIFORNIA, a municipal corporation (the "Administrator") and U.S. BANK NATIONAL ASSOCIATION, a national banking association organized and existing under the laws of the United States of America, as trustee (the "Trustee").

### RECITALS:

**WHEREAS**, the Authority is a public corporation of the State of California duly formed and presently existing and exercising its powers pursuant to the Fort Ord Reuse Authority Act, constituting Title 7.85 (commencing with Section 67650) of the California Government Code (the "Fort Ord Reuse Authority Act"); and

**WHEREAS**, the Authority is authorized by Section 67679(d)(9) of the California Government Code to issue bonds pursuant to the Marks-Roos Local Bond Pooling Act of 1985, constituting Section 6584 et seq. of the California Government Code (the "Marks-Roos Act") to finance its programs and obligations, including Building Removal (as defined below) activities and any otherwise unfunded liability to CalPERS (the "CalPERS Obligation"), as more fully described below; and

**WHEREAS**, the Authority is authorized pursuant to Section 6592(a) of the Marks-Roos Act to pledge to payment of its bonds any moneys of the Authority, including without limitation the portion of certain property tax revenues allocated to the Authority pursuant to California Health and Safety Code Section 33492.71(c)(1)(A) and (D), as applicable; and

**WHEREAS**, in order to finance costs of Building Removal and the CalPERS Obligation, the Authority desires to issue its Ford Ord Reuse Authority Tax Allocation Bonds, Series 2020 (Federally Taxable) (the "Bonds"); and

**WHEREAS**, the Building Removal is with respect to property described in Exhibit B to this Indenture, which property is located within the boundaries of the County of Monterey, California (the "County"), and within the boundaries as the former Fort Ord Military Base; and

**WHEREAS**, on December 10, 2019, the Board of Supervisors of the County held a duly noticed public hearing regarding the issuance of the Bonds in accordance with Section 6586.5 of the Marks-Roos Act; and

**WHEREAS**, following such public hearing, the Board of Supervisors of the County adopted Resolution No. 19-412 pursuant to which it found and determined that the Authority's issuance of the Bonds will result in significant public benefits of the type described in Section 6586(a) through (d), inclusive, of the Marks-Roos Act; and

**WHEREAS**, pursuant to Government Code Section 67700, the Authority will be dissolved on and as of June 30, 2020; and

**WHEREAS**, the Bonds will be payable from Pledged Tax Revenues (as defined herein); and

**WHEREAS**, the Authority has submitted to the County, and the County has acknowledged, certain Irrevocable Instructions (as defined herein) pursuant to which the County will transfer Pledged Tax Revenues directly to the Trustee, on behalf of the Authority, to ensure that scheduled principal and interest payments and other amounts due on the Bonds, as well as administrative expenses incurred in connection with the administration of this Indenture and the Bonds, are paid when due both prior to and following the dissolution of the Authority; and

**WHEREAS**, pursuant to California Government Code Section 67675 the Authority has prepared and adopted the Fort Ord Reuse Plan; and

**WHEREAS**, pursuant to California Government Code Section 67679, the Authority has designated certain basewide public capital improvements to be planned, designed, constructed, repaired, remodeled, or replaced, and financed by the Authority in the Fort Ord Reuse Plan, specifically including the demolition, removal, repair and remediation of buildings and building sites located at certain parcels within the boundaries of the former Fort Ord Military Base (as more fully defined herein, "Building Removal"); and

**WHEREAS**, pursuant to California Government Code Section 67679 and the Fort Ord Reuse Plan, the Authority has determined that Building Removal constitutes the improvement of basewide capital facilities to be performed by the Authority as set forth in the Fort Ord Reuse Plan; and

**WHEREAS** pursuant to California Government Code Section 67679(a)(i) the Authority may conduct the Building Removal, or may delegate any of its powers related thereto to one or more of its member agencies; and

**WHEREAS**, the Cities of Marina and Seaside desire to use proceeds of the Bonds to pay for the costs of the Building Removal ("Building Removal Costs") and also desire that a portion of the proceeds of the Bonds be used by the Transportation Agency of Monterey County, Marina Coast Water District and Monterey-Salinas Transit District to pay for Building Removal Costs; and

**WHEREAS**, each of the Cities of Seaside and Marina, the Transportation Agency of Monterey County, the Marina Coast Water District and Monterey-Salinas Transit District (collectively, the "Local Agencies" and each a "Local Agency") have each entered into a Building Removal Funding Agreement, each dated as of June 1, 2020 (collectively, the "Funding Agreements") with the Authority and the Administrator, whereby they have each agreed to use Bond proceeds deposited into each such Local Agency's designated account provided for herein and thereafter transferred to the respective Local Agency for Building Removal Costs, which



Funding Agreements were approved by Resolution No. 20-02 adopted by the Board of Directors on April 30, 2020; and

**WHEREAS** on December 13, 2019, at a regular meeting of the Board of Directors of the Authority, the Governing Body adopted Resolution No. 19-13 authorizing the issuance of the Bonds and the execution and delivery of this Indenture, as well as the filing of judicial validation proceedings under Section 860 et. Seq. of the California Code of Civil Procedure related to the Bonds, this Indenture and the Pledged Tax Revenues (the "Validation Action"); and

**WHEREAS** on March 12, 2020, the Superior Court of the State of California, County of Monterey, rendered a judgement in the Validation Action in favor of the Authority with respect to the matters that were the subject of the Validation Action; and

**WHEREAS**, on May 22, 2020, the Board of Directors of the Authority adopted Resolution No. 20-\_\_\_\_, approving a revised version of this Indenture and revised Funding Agreements in light of circumstances that had changed since the adoption of Resolution Nos. 19-13 and 20-02, and approved certain documents related to the administration, sale and issuance of the Bonds; and

**WHEREAS**, the Administrator is entering into this Indenture solely to perform certain administrative functions as specified herein with respect to the Bonds following the dissolution of the Authority; and

**WHEREAS**, in order to provide for the authentication and delivery of the Bonds, to establish and declare the terms and conditions upon which the Bonds are to be issued and secured and to secure the payment of the principal thereof and interest thereon, the Authority, the Administrator and the Trustee have duly authorized the execution and delivery of this Indenture; and

**WHEREAS**, the Authority has determined that all acts and proceedings required by law necessary to make the Bonds when executed by the Authority, and authenticated and delivered by the Trustee, the valid, binding and legal special obligations of the Authority, and to constitute this Indenture a legal, valid and binding agreement for the uses and purposes herein set forth in accordance with its terms, have been done or taken.

#### **A G R E E M E N T :**

**NOW, THEREFORE, THIS INDENTURE WITNESSETH**, that in order to secure the payment of the principal of and the interest on the Bonds issued and Outstanding under this Indenture according to their tenor and to secure the performance and observance of all the covenants and conditions therein and herein set forth, and to declare the terms and conditions upon and subject to which the Bonds are to be issued and received, and in consideration of the premises and of the mutual covenants herein contained and of the purchase and acceptance of the Bonds by the Owners thereof, and for other valuable consideration, the receipt and sufficiency of which is

hereby acknowledged, the Authority, the Administrator and the Trustee do hereby covenant and agree with one another, for the benefit of the respective Owners from time to time of the Bonds as follows:

## ARTICLE I

### DETERMINATIONS; DEFINITIONS

**Section 1.01. Findings and Determinations.** The Authority has reviewed all proceedings heretofore taken and, as a result of such review, hereby finds and determines that all things, conditions and acts required by law to exist, happen or be performed precedent to and in connection with the issuance of the Bonds do exist, have happened and have been performed in due time, form and manner as required by law, and the Authority is now duly empowered, pursuant to each and every requirement of law, to issue the Bonds in the manner and form provided in this Indenture.

**Section 1.02. Definitions.** Unless the context otherwise requires, the terms defined in this Section 1.02 shall, for all purposes of this Indenture, of any Supplemental Indenture, and of any certificate, opinion or other document herein mentioned, have the meanings herein specified.

“Administrative Expense Account” means the account by that name established in the Debt Service Fund in accordance with Section 4.02(d) hereof.

“Administrative Expenses” means the following actual or reasonably estimated costs directly related to the administration of this Indenture and the Bonds: fees and costs of the Trustee (including its legal counsel) in the discharge of the duties required of it under this Indenture; any fees or expenses of the County (including its legal counsel) under or in connection with the Irrevocable Instructions; any [Policy Costs] (other than in respect of the reimbursement of draws under the Reserve Policy); the costs incurred by the Authority or the Administrator to comply with or implement any provision of this Indenture, the Continuing Disclosure Certificate or any provision of the Marks-Roos Act or the Fort Ord Reuse Authority Act relating to the Bonds or the payment thereof; costs related to the release of funds from the Escrow Fund; an allocable share of the salaries of Authority and Administrator staff related to the foregoing and a proportionate amount of Authority or Administrator general administrative overhead related thereto.

“Administrator” means the City of Marina, California, in its capacity as Administrator under this Indenture.

“Annual Debt Service” means, for each Bond Year, the sum of (a) the interest payable on the Outstanding Bonds in such Bond Year, assuming that the Outstanding Bonds are retired as scheduled, and (b) the principal or sinking fund amount of the Outstanding Bonds payable by their terms in such Bond Year.

“Authority” means the Fort Ord Reuse Authority, a public corporation formed pursuant to the Fort Ord Reuse Authority Act, Title 7.85 of the California Government Code, commencing with Section 67650.

“Authorized Denomination” means \$5,000 or any integral multiple thereof.

“Authorized Officer” means, prior to the Dissolution Date, the Chair or the Executive Officer of the Authority and, after the Dissolution Date, the City Manager or the Finance Director of the City of Marina, California.

“Bond Counsel” means (a) Quint & Thimmig LLP, or (b) any other attorney or firm of attorneys appointed by or acceptable to the Authority, of nationally-recognized experience in the issuance of obligations the interest on which is excludable from gross income for federal income tax purposes.

“Bond Year” means each twelve (12) month period extending from September 2 in one calendar year to September 1 of the succeeding calendar year, both dates inclusive; provided that the first Bond Year with respect to the Bonds shall commence on the Closing Date and end on September 1, 2020.

“Bonds” means the Fort Ord Reuse Authority Tax Allocation Bonds, Series 2020 (Federally Taxable) issued and Outstanding under this Indenture..

“Building Removal” means any or all of the following: waste characterization, abatement, building demolition, building removal, building repair, waste disposal, and remediation of buildings and building sites located at certain parcels of property within the boundaries of the former Fort Ord listed on Exhibit B hereto.

“Building Removal Costs” means the costs of Building Removal, including, without limitation, all costs of planning, engineering, management, risk management (including insurance premiums, legal fees and litigation costs associated with the Building Removal), and associated administrative services required to remove blighted buildings from certain parcels of property within the boundaries of the former Fort Ord listed on Exhibit B.

“Business Day” means any day, other than a Saturday or Sunday or a day on which commercial banks in New York, New York, or any other city or cities where the Principal Corporate Trust Office of the Trustee is located are required or authorized by law to close or a day on which the Federal Reserve System is closed.

“CalPERS Obligation” means the amount owed by the Authority to CalPERS upon termination of the Authority’s contract with CalPERS as in effect on the Dissolution Date related to the Authority’s unfunded pension liability, that is in excess of the funds otherwise set aside by the Authority for that purpose.

“CalPERS Obligation Fund” means the fund by that name established and held by the Trustee pursuant to Section 3.05.

“Closing Date” means June \_\_, 2020, being the date upon which the Bonds are delivered by the Authority to the Original Purchasers thereof in exchange for the amount representing the purchase price of the Bonds by the Original Purchasers.

“Continuing Disclosure Certificate” means the Continuing Disclosure Certificate, dated as of June 1, 2020, executed by the Authority and the Administrator, as originally executed and as it may be amended from time to time in accordance with the terms thereof.

“Costs of Issuance” means all items of expense directly or indirectly payable by or reimbursable to the Authority relating to the authorization, issuance, sale and delivery of the Bonds, including but not limited to printing expenses, bond insurance and reserve policy premiums, if any, rating agency fees, filing and recording fees, initial fees and charges and first annual administrative fee of the Trustee and fees and expenses of its counsel, fees, charges and disbursements of attorneys, municipal advisors, accounting firms, consultants and other professionals, fees and charges for preparation, execution and safekeeping of the Bonds, administrative costs of the Authority and the Administrator incurred in connection with the issuance of the Bonds, expenses of the underwriters of the Bonds, the fees and expenses of counsel to the underwriters of the Bonds, and any other cost, charge or fee in connection with the original issuance of the Bonds.

“Costs of Issuance Fund” means the fund by that name established and held by the Trustee pursuant to Section 3.03.

“County” means the County of Monterey, California.

“County Auditor-Controller” means the Auditor-Controller of the County.

“Debt Service Fund” means the fund by that name established and held by the Trustee pursuant to Section 4.02.

“Deemed Escrow Bonds” means, as of any date of determination, Escrow Term Bonds in a principal amount equal to the amount then on deposit in the Escrow Fund (not including any amounts on deposit in the Escrow Interest Account, and excluding any investment earnings allocable to the amount on deposit in the Escrow Fund and the Escrow Interest Account).

“Defeasance Obligations” means any of the following which, at the time of investment, are legal investments under the laws of the State for the moneys proposed to be invested therein and are in compliance with the Authority’s investment policies then in effect (provided that the Trustee shall be entitled to rely upon any investment direction

from the Authority as conclusive certification to the Trustee that investments described therein are legal and are in compliance with the Authority's investment policies then in effect): (a) Cash; (b) non-callable, direct obligations of the United States of America; (c) securities fully and unconditionally guaranteed as to the timely payment of principal and interest by the United States of America; and (d) other investments approved by the Insurer.

"Depository" means (a) initially, DTC, and (b) any other Securities Depository acting as Depository pursuant to Section 2.11.

"Depository System Participant" means any participant in the Depository's book-entry system.

"DTC" means The Depository Trust Company, New York, New York, and its successors and assigns.

"Dissolution Date" means June 30, 2020, the day on which the Authority will be dissolved.

"Escrow Fund" means the fund by that name established and held by the Trustee pursuant to Section 3.06.

"Escrow Interest Account" means the account by that name within the Escrow Fund established pursuant to Section 3.06.

"Escrow Term Bonds" means the Term Bonds maturing on September 1, \_\_\_\_, indicated as such in Section 2.02.

"Escrow Termination Date" means \_\_\_\_\_ 1, \_\_\_\_.

"Event of Default" means any of the events described in Section 8.01.

"Federal Securities" means any direct, noncallable general obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America and CATS and TGRS), or obligations the payment of principal of and interest on which are directly or indirectly guaranteed by the United States of America.

"Fiscal Year" means any twelve-month period beginning on July 1 in any year and extending to the next succeeding June 30, both dates inclusive, or any other twelve month period selected and designated by the Authority to the Trustee in writing as its official fiscal year period.

“Fort Ord Reuse Authority Act” means the Fort Ord Reuse Authority Act, codified at Title 7.85 of the California Government Code, commencing with Section 67650, and the acts amendatory thereof and supplementary thereto.

“Funding Agreements” means, collectively, the five Building Removal Funding Agreements, each dated as of June 1, 2020, each among a Local Agency, the Authority and the Administrator.

“Indenture” means this Indenture of Trust by and among the Authority, the Administrator and the Trustee, as originally entered into or as it may be amended or supplemented by any Supplemental Indenture entered into pursuant to the provisions hereof.

“Independent Accountant” means any accountant or firm of such accountants duly licensed or registered or entitled to practice as such under the laws of the State, appointed by the Administrator, and who, or each of whom: (a) is in fact independent and not under domination of the Authority or the Administrator; (b) does not have any substantial interest, direct or indirect, with the Authority or the Administrator; and (c) is not connected with the Authority or the Administrator as an officer or employee of the Authority or the Administrator, but who may be regularly retained to make reports to the Authority or the Administrator.

“Independent Fiscal Consultant” means any consultant or firm of such consultants appointed by the Administrator, and who, or each of whom: (a) is judged by the Administrator to have experience in matters relating to the collection of Pledged Tax Revenues or otherwise with respect to the financing of redevelopment projects; (b) is in fact independent and not under domination of the Authority or the Administrator; (c) does not have any substantial interest, direct or indirect, with the Authority or the Administrator; and (d) is not connected with the Authority or the Administrator as an officer or employee of the Authority or the Administrator, but who may be regularly retained to make reports to the Authority or the Administrator.

“Information Services” means the Electronic Municipal Market Access System (referred to as “EMMA”), a facility of the Municipal Securities Rulemaking Board, (at <http://emma.msrb.org>); and, in accordance with then current guidelines of the Securities and Exchange Commission, such other addresses and/or such services providing information with respect to called bonds as an Authorized Officer may designate in writing to the Trustee.

“Insurance Policy” means the insurance policy issued by the Insurer guaranteeing the scheduled payment of principal of and interest on the Bonds when due.

“Insurer” means \_\_\_\_\_.

"Interest Account" means the account by that name established and held by the Trustee pursuant to Section 4.02(a).

"Interest Payment Date" means each March 1 and September 1, commencing September 1, 2020, for so long as any of the Bonds remain Outstanding hereunder.

"Irrevocable Instructions" means that certain Irrevocable Direction to Transfer of the Authority to, and acknowledged by, the County Auditor-Controller and the County Treasurer and Tax Collector and the Administrator, dated as of the Closing Date for the Bonds.

"Local Agency" and "Local Agencies" means, individually and collectively, the City of Marina, California, the City of Seaside, California, TAMC, MCWD and MST.

"Marina Bond Proceeds Account" means the account of that name established within the Project Fund.

"Marina Project Area No. 3" means the redevelopment project area by that name established by the former Marina Redevelopment Agency.

"Marks-Roos Act" means the Marks-Roos Local Bond Pooling Act of 1985, codified at Article 4 of Chapter 6 of Division 7 of Title 1 of the California Government Code, commencing with Section 6584, and the acts amendatory thereof and supplementary thereto.

"MCWD" means the Marina Coast Water District.

"MCWD Bond Proceeds Account" means the account of that name established within the Project Fund.

"Maximum Annual Debt Service" means, as of the date of calculation, the largest amount for the current or any future Bond Year payable on the Bonds in such Bond Year. For purposes of such calculation, (i) the amount of interest on any Bonds that is payable from the proceeds of such Bonds that is set aside solely for such purpose shall not be included in the calculation of Maximum Annual Debt Service; and (ii) there also shall be excluded payments with respect to the Bonds to the extent that amounts due with respect to the Bonds are prepaid or otherwise discharged in accordance with this Indenture.

"MST" means Monterey-Salinas Transit District.

"MST Bond Proceeds Account" means the account of that name established within the Project Fund.

"Minimum Administrative Expense Requirement" means \$\_\_\_\_\_ per Fiscal Year.

"Moody's" means Moody's Investors Service and its successors.

"Nominee" means (a) initially, Cede & Co., as nominee of DTC, and (b) any other nominee of the Depository designated pursuant to Section 2.11(a).

"Original Purchasers" means, collectively, Stifel Nicolaus & Company Incorporated and Citibank, N.A.

"Outstanding" when used as of any particular time with reference to Bonds, means (subject to the provisions of Section 9.05) all Bonds except: (a) Bonds theretofore canceled by the Trustee or surrendered to the Trustee for cancellation; (b) Bonds paid or deemed to have been paid within the meaning of Section 9.03; and (c) Bonds in lieu of or in substitution for which other Bonds shall have been authorized, executed, issued and delivered by the Authority pursuant hereto.

"Owner" or "Bondowner" means, with respect to any Bond, the person in whose name the ownership of such Bond shall be registered on the Registration Books.

"Participating Underwriter" has the meaning given to such term in the Continuing Disclosure Certificate.

"Permitted Investments" means any of the following which, at the time of investment, are legal investments under the laws of the State for the moneys proposed to be invested therein and are in compliance with the Authority's investment policies then in effect (provided that the Trustee shall be entitled to rely upon any investment direction from the Authority as conclusive certification to the Trustee that investments described therein are legal and are in compliance with the Authority's investment policies then in effect):

(a) Federal Securities;

(b) Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies and provided such obligations are backed by the full faith and credit of the United States of America (stripped securities are only permitted if they have been stripped by the Authority itself): (i) direct obligations or fully guaranteed certificates of beneficial ownership of the U.S. Export-Import Bank; (ii) certificates of beneficial ownership of the Farmers Home Administration; (iii) Federal Housing Administration debentures; (iv) participation certificates of the General Services Administration; (v) Federal Financing Bank bonds and debentures; (vi) guaranteed mortgage-backed bonds or guaranteed pass-through obligations of Ginnie Mae (formerly known as the



Government National Mortgage Association); (vii) guaranteed Title XI financings of the U.S. Maritime Administration; and (viii) project notes, local authority bonds, new communities debentures and U.S. public housing notes and bonds of the U.S. Department of Housing and Urban Development;

(c) Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following non-full faith and credit U.S. government agencies (stripped securities only as stripped by the Authority itself): (i) senior debt obligations of the Federal Home Loan Bank System; (ii) participation certificates and senior debt obligations of the Federal Home Loan Mortgage Corporation; (iii) mortgaged-backed securities and senior debt obligations of Fannie Mae; (iv) senior debt obligations of Sallie Mae (formerly known as the Student Loan Marketing Association); (v) obligations of the Resolution Funding Corporation; and (vi) consolidated system-wide bonds and notes of the Farm Credit System;

(d) Money market funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and having a rating by S&P of at least AAAm-G, AAAM or AAm, and a rating by Moody's of Aaa, Aa1 or Aa2, including such funds for which the Trustee, its affiliates or subsidiaries provide investment advisory or other management services or for which the Trustee or an affiliate of the Trustee serves as investment administrator, shareholder servicing agent, and/or custodian or subcustodian, notwithstanding that (i) the Trustee or an affiliate of the Trustee receives fees from funds for services rendered, (ii) the Trustee collects fees for services rendered pursuant to this Indenture, which fees are separate from the fees received from such funds, and (iii) services performed for such funds and pursuant to this Indenture may at times duplicate those provided to such funds by the Trustee or an affiliate of the Trustee;

(e) Certificates of deposit (including those of the Trustee, its parent and its affiliates) secured at all times by collateral described in (a) or (b) above or by collateral that may be used by a national bank for purposes of satisfying its obligations to collateralize pursuant to federal law, which have a maturity not greater than one year from the date of investment and which are issued by commercial banks, savings and loan associations or mutual savings banks;

(f) Certificates of deposit, savings accounts, deposit accounts or money market deposits (including those of the Trustee and its affiliates), but only to the extent that the amount being invested in such certificates of deposit, savings accounts, deposit accounts or money market deposits are fully insured by FDIC, including BIF and SAIF, secured at all times by collateral described in (a) or (b) above or by collateral that may be used by a national bank for purposes of satisfying its obligations to collateralize pursuant to federal law;

(g) Investment agreements, including guaranteed investment contracts, forward purchase agreements, reserve fund put agreements and collateralized investment agreements with an entity rated "A" or better by Moody's and "A" or better by S&P, or unconditionally guaranteed by an entity rated "A" or better by Moody's and "A" or better by S&P;

(h) Commercial paper rated, at the time of purchase, "Prime-1" by Moody's and "A-1+" or better by S&P;

(i) Bonds or notes issued by any state or municipality which are rated by Moody's and S&P in one of the two highest rating categories assigned by such agencies;

(j) Federal funds, money market deposits or bankers acceptances of any bank which has an unsecured, uninsured and unguaranteed obligation rating of "Prime-1" or "A3" or better by Moody's, and "A-1+" or better by S&P; and

(k) The Local Authority Investment Fund that is administered by the California Treasurer for the investment of funds belonging to local agencies within the State of California, provided that for investment of funds held by the Trustee, the Trustee is entitled to make investments and withdrawals in its own name as Trustee.

"Pledged Tax Revenues" means all taxes attributable to the Seaside-Fort Ord Project Area and the Marina Project Area No. 3 that are allocated, or available to be allocated, to (a) the Authority pursuant to California Health and Safety Code Section 33492.71, subsection (c)(1)(A) or (b) the Administrator, as successor in interest to the Authority upon its dissolution, pursuant to California Health and Safety Code Section 33492.71, subsection (c)(1)(D), as applicable.

"Principal Account" means the account by that name established and held by the Trustee pursuant to Section 4.02(b).

"Principal Corporate Trust Office" means the corporate trust office of the Trustee in San Francisco, California, or such other or additional offices as the Trustee may designate in writing to the Authority from time to time as the corporate trust office for purposes of the Indenture; except that with respect to presentation of Bonds for payment or for registration of transfer and exchange, such term means the office of the Trustee at which, at any particular time, its corporate trust agency or corporate trust operations business is conducted.

"Project Fund" means the fund by that name established and held by the Trustee pursuant to Section 3.04.

“Qualified Reserve Account Credit Instrument” means (i) the Reserve Policy, and (ii) an irrevocable standby or direct-pay letter of credit, insurance policy, or surety bond issued by a commercial bank or insurance company and deposited with the Trustee, provided that all of the following requirements are met at the time of acceptance thereof by the Trustee: (a) S&P or Moody’s have assigned a long-term credit rating at the time of issuance of such Qualified Reserve Account Credit Instrument to such bank or insurance company of “A” (without regard to modifier) or higher; (b) such letter of credit, insurance policy or surety bond has a term of at least 12 months; (c) such letter of credit, insurance policy or surety bond has a stated amount at least equal to the portion of the Reserve Requirement with respect to which funds are proposed to be released; and (d) the Trustee is authorized pursuant to the terms of such letter of credit, insurance policy or surety bond to draw thereunder an amount equal to any deficiencies which may exist from time to time in the Interest Account or the Principal Account for the purpose of making payments required pursuant to Sections 4.02(a), 4.02(b) or 4.02(c) of this Indenture.

“Record Date” means, with respect to any Interest Payment Date, the close of business on the fifteenth (15th) calendar day of the month preceding such Interest Payment Date, whether or not such fifteenth (15th) calendar day is a Business Day.

“Redemption Account” means the account by that name established and held by the Trustee pursuant to Section 4.02(e).

“Registration Books” means the records maintained by the Trustee pursuant to Section 2.08 for the registration and transfer of ownership of the Bonds.

“Report” means a document in writing signed by an Independent Fiscal Consultant and including: (a) a statement that the person or firm making or giving such Report has read the pertinent provisions of this Indenture to which such Report relates; (b) a brief statement as to the nature and scope of the examination or investigation upon which the Report is based; and (c) a statement that, in the opinion of such person or firm, sufficient examination or investigation was made as is necessary to enable said consultant to express an informed opinion with respect to the subject matter referred to in the Report.

“Reserve Account” means the account by that name established and held by the Trustee pursuant to Section 4.02(c).

“Reserve Policy” means the Municipal Bond Debt Service Reserve Insurance Policy issued by the Insurer for the Bonds.

“Reserve Requirement” means the lesser of (i) 125% of average Annual Debt Service, (ii) Maximum Annual Debt Service, or (iii) 10% of the original principal amount of the Bonds; provided, that the Authority may meet all or a portion of the Reserve Requirement by providing to the Trustee for deposit to the Reserve Account a Qualified Reserve Account Credit Instrument meeting the requirements of Section 4.02(c) hereof.

Notwithstanding the foregoing, in determining the Annual Debt Service and the Maximum Annual Debt Service for purposes of the Reserve Requirement, there shall be excluded any debt service on the Deemed Escrow Bonds.

“Reuse Plan” means the Fort Ord Reuse Plan prepared by the Authority, dated May 1996, as amended and supplemented from time to time.

“S&P” means S&P Global Ratings, LLC, a Standard & Poor’s Financial Services LLC business, and its successors.

“Seaside-Fort Ord Project” means the redevelopment project area by that name established by the former Redevelopment Agency of the City of Seaside.

“Seaside Bond Proceeds Account” means the account of that name established within the Project Fund.

“Securities Depositories” means The Depository Trust Company, New York, New York 10041-0099, Fax-(212) 855-7232; or, in accordance with then current guidelines of the Securities and Exchange Commission, such other addresses and/or such other securities depositories as the Authority may designate in a Written Request of the Authority delivered to the Trustee.

“Serial Bonds” means all Bonds other than Term Bonds.

“State” means the State of California.

“Supplemental Indenture” means any resolution, agreement or other instrument which has been duly adopted or entered into by the Authority and the Administrator (if prior to the Dissolution Date), or by the Administrator (after the Dissolution Date), but only if and to the extent that such Supplemental Indenture is specifically authorized hereunder.

“Surplus Account” means the account by that name established and held by the Trustee pursuant to Section 4.02(f).

“TAMC” means the Transportation Agency for Monterey County.

“TAMC Bond Proceeds Account” means the account of that name established within the Project Fund.

“Term Bonds” means (i) the Bonds maturing on September 1, 20\_\_ and September 1, 20\_\_, payable from mandatory sinking account payments, and (ii) the Escrow Term Bonds payable from mandatory sinking account payments, amounts in the Escrow Interest Account and undisbursed amounts in the Escrow Fund to the extent provided in Section 3.06.

"Trustee" means U.S. Bank National Association, as trustee hereunder, or any successor thereto appointed as trustee hereunder in accordance with the provisions of Article VI.

"Written Request of the Administrator" or "Written Certificate of the Administrator" means a request or certificate, in writing signed by the City Manager of the Administrator, or the designee of either, or by any other officer of the Administrator or the City duly authorized by the Administrator for that purpose.

"Written Request of the Authority" or "Written Certificate of the Authority" means a request or certificate, in writing signed by the Executive Officer or Treasurer of the Authority, or the designee of either, or by any other officer of the Authority duly authorized by the Authority for that purpose.

**Section 1.03. Rules of Construction.** All references herein to "Articles," "Sections" and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Indenture, and the words "herein," "hereof," "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or subdivision hereof.

## ARTICLE II

### BOND AUTHORIZATION AND TERMS

**Section 2.01. Authorization of the Bonds.** The Bonds are hereby authorized to be issued by the Authority under and subject to the terms of this Indenture, the Marks-Roos Act and the Fort Ord Reuse Authority Act. This Indenture constitutes a continuing agreement with the Owners of all of the Bonds issued or to be issued hereunder and then Outstanding to secure the full and final payment of principal and the interest on all Bonds which may from time to time be executed and delivered hereunder, subject to the covenants, agreements, provisions and conditions herein contained. The Bonds shall be designated the "Fort Ord Reuse Authority Tax Allocation Bonds, Series 2020 (Federally Taxable)." The Bonds shall be issued in the initial aggregate principal amount of \$\_\_\_\_\_.

**Section 2.02. Terms of the Bonds.** The Bonds shall be issued in fully registered form without coupons. The Bonds shall be issued in Authorized Denominations, and no Bond shall have more than one maturity date. The Bonds shall be dated the Closing Date. The Bonds shall be lettered and numbered as the Trustee shall prescribe.

The Bonds shall mature on the dates, and shall bear interest (calculated on the basis of a 360-day year comprised of twelve 30-day months) at the rates per annum, as follows:

Maturity Date (September 1)	Principal Amount	Interest Rate
	\$	%

\* Indicates Term Bonds, other than the Escrow Term Bonds.

\*\* Indicates the Escrow Term Bonds.

Each Bond shall bear interest from the Interest Payment Date next preceding the date of authentication thereof, unless (a) it is authenticated after a Record Date and on or before the following Interest Payment Date, in which event it shall bear interest from such Interest Payment Date; or (b) it is authenticated on or before August 15, 2020, in which event it shall bear interest from its Closing Date; provided, however, that if, as of the date of authentication of any Bond, interest thereon is in default, such Bond shall bear interest from the Interest Payment Date to which interest has previously been paid or made available for payment thereon.

Interest on the Bonds (including the final interest payment upon maturity or redemption) is payable when due by check or draft of the Trustee mailed on the Interest Payment Date to the Owner thereof at such Owner's address as it appears on the Registration Books at the close of business on the preceding Record Date; provided that at the written request of the Owner of at least \$1,000,000 aggregate principal amount of the Bonds, which written request is on file with the Trustee as of any Record Date, interest on such Bonds shall be paid on the succeeding Interest Payment Date to such account in the United States as shall be specified in such written request. The principal of the Bonds is payable in lawful money of the United States of America upon presentation and surrender thereof at the Principal Corporate Trust Office of the Trustee.

**Section 2.03. Redemption of Bonds.**

(a) No Optional Redemption. The Bonds are not subject to optional redemption prior to their respective maturities.

(b) Mandatory Sinking Fund Redemption. The Term Bonds maturing September 1, 20\_\_ and September 1, 20\_\_, and the Escrow Term Bonds, shall be subject to mandatory redemption in whole, or in part by lot, on September 1 in each year, commencing September 1, 20\_\_, September 1, 20\_\_ and September 1, 20\_\_, respectively, as set forth below, from sinking fund payments made by the Authority to the Principal Account pursuant to Section 4.02(b), at a redemption price equal to the principal amount thereof to be redeemed, without premium, in the

aggregate respective principal amounts and on September 1 in the respective years as set forth in the following tables; provided however, that (i) in lieu of redemption thereof the Term Bonds (other than Escrow Term Bonds) may be purchased by the Authority pursuant to Section 2.03(h) hereof, and (ii) if some but not all of the Escrow Term Bonds have been redeemed pursuant to subsection (c) below, the total amount of all future sinking fund payments for the Escrow Term Bonds shall be reduced by the aggregate principal amount of such Escrow Term Bonds so redeemed, to be allocated among such sinking fund payments in integral multiples of \$5,000 as determined by the Administrator so as to maintain as much as practicable the same debt service profile for the Bonds as in effect prior to such redemption (notice of which determination shall be given by an Authorized Officer to the Trustee).

Term Bonds Maturing September 1, 20\_\_

Redemption Date (September 1)	Principal Amount
	\$

Term Bonds Maturing September 1, 20\_\_

Redemption Date (September 1)	Principal Amount
	\$

Escrow Term Bonds Maturing \_\_\_\_\_ 1, 20\_\_

Redemption Date (September 1)	Principal Amount
	\$

(c) Mandatory Redemption of Escrow Term Bonds From Escrow Fund Transfer. The Escrow Term Bonds are subject to redemption on the Escrow Termination Date, in whole or in part, at a redemption price equal to the principal amount thereof to be redeemed, together with accrued interest to the date of redemption, without premium, from amounts transferred from the Escrow Fund to the Redemption Account pursuant to Section 3.06(E).

(d) Notice of Redemption. The Trustee on behalf and at the expense of the Administrator shall mail (by first class mail, postage prepaid) notice of any redemption at least twenty (20) (or

such longer period, up to thirty (30) days, as may be required by the Depository) but not more than sixty (60) days prior to the redemption date, (i) to the Owners of any Bonds designated for redemption at their respective addresses appearing on the Registration Books, and (ii) to the Securities Depositories and one or more Information Services; but such mailing shall not be a condition precedent to such redemption and neither failure to receive any such notice nor any defect therein shall affect the validity of the proceedings for the redemption of such Bonds or the cessation of the accrual of interest thereon. Such notice shall state the redemption date and the redemption price, shall designate the CUSIP number of the Bonds to be redeemed, shall state the individual number of each Bond to be redeemed or shall state that all Bonds between two stated numbers (both inclusive) or all of the Bonds Outstanding are to be redeemed, and shall require that such Bonds be then surrendered at the Principal Corporate Trust Office of the Trustee for redemption at the redemption price, giving notice also that further interest on such Bonds will not accrue from and after the redemption date.

Upon the payment of the redemption price of Bonds being redeemed, each check or other transfer of funds issued for such purpose shall, to the extent practicable, bear the CUSIP number identifying, by issue and maturity, the Bonds being redeemed with the proceeds of such check or other transfer.

(e) Partial Redemption of Bonds. In the event only a portion of any Bond is called for redemption, then upon surrender of such Bond the Authority shall execute and the Trustee shall authenticate and deliver to the Owner thereof, at the expense of the Administrator, a new Bond or Bonds of the same interest rate and maturity, of Authorized Denominations, in aggregate principal amount equal to the unredeemed portion of the Bond to be redeemed.

(f) Effect of Redemption. From and after the date fixed for redemption, if funds available for the payment of the redemption price of and interest on the Bonds so called for redemption shall have been duly deposited with the Trustee, such Bonds so called shall cease to be entitled to any benefit under this Indenture other than the right to receive payment of the redemption price and accrued interest to the redemption date, and no interest shall accrue thereon from and after the redemption date specified in such notice.

All Bonds redeemed and purchased by the Trustee pursuant to this Section shall be canceled by the Trustee. The Trustee shall destroy the canceled Bonds and, upon written request of the Administrator, issue a certificate of destruction thereof to the Administrator.

(g) Manner of Redemption. Whenever any Bonds or portions thereof are to be selected for redemption by lot, the Trustee shall make such selection in such manner as the Trustee shall deem appropriate and shall notify the Administrator thereof to the extent Bonds are no longer held in book-entry form. In the event of redemption by lot of Bonds, the Trustee shall assign to each Bond then Outstanding a distinctive number for each \$5,000 of the principal amount of each such Bond. The Bonds to be redeemed shall be the Bonds to which were assigned numbers so selected, but only so much of the principal amount of each such Bond of a denomination of more than \$5,000 shall be redeemed as shall equal \$5,000 for each number assigned to it and so



selected. All Bonds redeemed or purchased pursuant to this Section 2.03 shall be cancelled and destroyed by the Trustee.

(h) Purchase in Lieu of Redemption. In lieu of redemption of the Term Bonds (other than Escrow Term Bonds) pursuant to the subsection (b) above, amounts on deposit in the Principal Account may also be used and withdrawn by the Trustee, upon the Written Request of the Administrator, for the purchase of such Term Bonds at public or private sale as and when and at such prices (including brokerage and other charges, but excluding accrued interest, which is payable from the Interest Account) as the Administrator may in its discretion determine. The par amount of any such Term Bonds so purchased by the Authority in any twelve-month period ending on July 15 in any year shall be credited towards and shall reduce the par amount of the Term Bonds required to be redeemed pursuant to subsection (e) on September 1 in each year; provided that evidence satisfactory to the Trustee of such purchase has been delivered to the Trustee by said July 15.

**Section 2.04. Form of Bonds.** The Bonds, the form of Trustee's Certificate of Authentication, and the form of Assignment to appear thereon, shall be substantially in the form set forth in Exhibit A, which is attached hereto and by this reference incorporated herein, with necessary or appropriate variations, omissions and insertions, as permitted or required by this Indenture.

**Section 2.05. Execution of Bonds.** The Bonds delivered on the Closing Date and at any time prior to the Dissolution Date shall be executed on behalf of the Authority by the signature of the Chair or the Executive Officer or the written designee of either of them and the signature of the Secretary of the Authority who are in office on the date of execution and delivery of this Indenture. Bonds executed on or after the Dissolution Date shall be executed on behalf of the Administrator by the signature of the Mayor or City Manager of the Administrator who are in office as of the date of execution thereof. Any of such signatures may be made manually or may be affixed by facsimile thereof. If any officer whose signature appears on any Bond ceases to be such officer before delivery of the Bonds to the purchaser, such signature shall nevertheless be as effective as if the officer had remained in office until the delivery of the Bonds to the purchaser. Any Bond may be signed and attested on behalf of the Authority or the Administrator by such persons as at the actual date of the execution of such Bond shall be the proper officers of the Authority or the Administrator, respectively, although on the date of such Bond any such person shall not have been such officer of the Authority or the Administrator.

Only such of the Bonds as shall bear thereon a Certificate of Authentication in the form hereinbefore set forth, manually executed and dated by the Trustee, shall be valid or obligatory for any purpose or entitled to the benefits of this Indenture, and such Certificate shall be conclusive evidence that such Bonds have been duly authenticated and delivered hereunder and are entitled to the benefits of this Indenture. In the event temporary Bonds are issued pursuant to Section 2.09 hereof, the temporary Bonds may bear thereon a Certificate of Authentication executed and dated by the Trustee, may be initially registered by the Trustee, and, until so exchanged as provided under Section 2.09 hereof, the temporary Bonds shall be entitled to the

same benefits pursuant to this Indenture as definitive Bonds authenticated and delivered hereunder.

**Section 2.06. Transfer of Bonds.** Any Bond may, in accordance with its terms, be transferred, upon the Registration Books, by the person in whose name it is registered, in person or by a duly authorized attorney of such person, upon surrender of such Bond to the Trustee at its Principal Corporate Trust Office for cancellation, accompanied by delivery of a written instrument of transfer in a form acceptable to the Trustee, duly executed. Whenever any Bond shall be surrendered for transfer, the Authority (prior to the Dissolution Date) or the Administrator (on or after the Dissolution Date) shall execute and the Trustee shall thereupon authenticate and deliver to the transferee a new Bond or Bonds of like tenor, maturity and aggregate principal amount of Authorized Denominations. The Trustee shall require the payment by the Owner of any tax or other governmental charge on the transfer of any Bonds pursuant to this Section 2.06. The cost of printing Bonds and any services rendered or expenses incurred by the Trustee in connection with any transfer shall be paid by the Administrator.

The Trustee may refuse to transfer, under the provisions of this Section 2.06, either (a) any Bonds during the period fifteen (15) days prior to the date established by the Trustee for the selection of Bonds for redemption, or (b) any Bonds selected by the Trustee for redemption.

**Section 2.07. Exchange of Bonds.** Bonds may be exchanged at the Principal Corporate Trust Office of the Trustee for Bonds of the same tenor and maturity and of other Authorized Denominations. The Trustee shall require the payment by the Owner of any tax or other governmental charge on the exchange of any Bonds pursuant to this Section 2.07. The cost of printing Bonds and any services rendered or expenses incurred by the Trustee in connection with any exchange shall be paid by the Administrator.

The Trustee may refuse to exchange, under the provisions of this Section 2.07, either (a) any Bonds during the fifteen (15) days prior to the date established by the Trustee for the selection of Bonds for redemption or (b) any Bonds selected by the Trustee for redemption.

**Section 2.08. Registration of Bonds.** The Trustee will keep or cause to be kept, at its Principal Corporate Trust Office, sufficient records for the registration and registration of transfer of the Bonds, which shall at all times during normal business hours be open to inspection and copying by the Administrator, upon reasonable prior notice to the Trustee; and, upon presentation for such purpose, the Trustee shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on the Registration Books Bonds as hereinbefore provided.

**Section 2.09. Temporary Bonds.** The Bonds may be initially issued in temporary form exchangeable for definitive Bonds when ready for delivery. The temporary Bonds may be printed, lithographed or typewritten, shall be of such Authorized Denominations as may be determined by the Authority, and may contain such reference to any of the provisions of this Indenture as may be appropriate. Every temporary Bond shall be executed by the Authority upon the same

conditions and in substantially the same manner as the definitive Bonds. If the Authority issues temporary Bonds, it will execute and furnish definitive Bonds without delay and in any event prior to the Dissolution Date, and thereupon the temporary Bonds shall be surrendered, for cancellation, in exchange therefor at the Principal Corporate Trust Office of the Trustee, and the Trustee shall authenticate and deliver in exchange for such temporary Bonds an equal aggregate principal amount of definitive Bonds of Authorized Denominations, interest rates and like maturities. Until so exchanged, the temporary Bonds shall be entitled to the same benefits pursuant to this Indenture as definitive Bonds authenticated and delivered hereunder.

**Section 2.10. Bonds Mutilated, Lost, Destroyed or Stolen.** If any Bond shall become mutilated, the Authority (prior to the Dissolution Date) or the Administrator (after the Dissolution Date), at the expense of the Owner of such Bond, shall execute, and the Trustee shall thereupon authenticate and deliver, a new Bond of like tenor and amount in exchange and substitution for the Bond so mutilated, but only upon surrender to the Trustee of the Bond so mutilated. Every mutilated Bond so surrendered to the Trustee shall be canceled by it. If any Bond shall be lost, destroyed or stolen, evidence of such loss, destruction or theft may be submitted to the Trustee and, if such evidence be satisfactory to it and indemnity for the Trustee, the Authority and the Administrator satisfactory to the Trustee shall be given, the Administrator, at the expense of the Owner, shall execute, and the Trustee shall thereupon authenticate and deliver, a new Bond of like tenor and amount in lieu of and in substitution for the Bond so lost, destroyed or stolen (or if any such Bond has matured or has been called for redemption, instead of issuing a substitute Bond, the Trustee may pay the same without surrender thereof upon receipt of indemnity satisfactory to the Trustee and the Authority). The Authority or the Administrator, as applicable, may require payment by the Owner of a sum not exceeding the actual cost of preparing each new Bond issued under this Section 2.10 and of the expenses which may be incurred by the Authority or the Administrator, and the Trustee, in the premises. Any Bond issued under the provisions of this Section in lieu of any Bond alleged to be lost, destroyed or stolen shall constitute an original additional contractual obligation on the part of the Authority whether or not the Bond so alleged to be lost, destroyed or stolen be at any time enforceable by anyone, and shall be equally and proportionately entitled to the benefits of this Indenture with all other Bonds issued pursuant to this Indenture.

**Section 2.11. Book-Entry System.**

(a) Original Delivery. The Bonds shall be initially delivered in the form of a separate single fully registered Bond without coupons (which may be typewritten) for each maturity of the Bonds. Upon initial delivery, the ownership of each such Bond shall be registered on the Registration Books in the name of the Nominee. Except as provided in subsection (c), the ownership of all of the Outstanding Bonds shall be registered in the name of the Nominee on the Registration Books.

With respect to Bonds the ownership of which shall be registered in the name of the Nominee, none of the Authority, the Administrator or the Trustee shall have any responsibility or obligation to any Depository System Participant or to any person on behalf of which the Depository System Participant holds an interest in the Bonds. Without limiting the generality of

the immediately preceding sentence, none of the Authority, the Administrator or the Trustee shall have any responsibility or obligation with respect to (i) the accuracy of the records of the Depository, the Nominee or any Depository System Participant with respect to any ownership interest in the Bonds, (ii) the delivery to any Depository System Participant or any other person, other than a Bondowner as shown in the Registration Books, of any notice with respect to the Bonds, including any notice of redemption, (iii) the selection by the Depository of the beneficial interests in the Bonds to be redeemed in the event the Administrator elects to redeem the Bonds in part, (iv) the payment to any Depository System Participant or any other person, other than a Bondowner as shown in the Registration Books, of any amount with respect to principal, premium, if any, or interest on the Bonds or (v) any consent given or other action taken by the Depository as Owner of the Bonds. The Authority, the Administrator and the Trustee may treat and consider the person in whose name each Bond is registered as the absolute owner of such Bond for the purpose of payment of principal, premium and interest on such Bond, for the purpose of giving notices of redemption and other matters with respect to such Bond, for the purpose of registering transfers of ownership of such Bond, and for all other purposes whatsoever. The Trustee shall pay the principal of and interest and premium, if any, on the Bonds only to the respective Owners or their respective attorneys duly authorized in writing, and all such payments shall be valid and effective to fully satisfy and discharge all obligations with respect to payment of principal of and interest and premium, if any, on the Bonds to the extent of the sum or sums so paid. No person other than a Bondowner shall receive a Bond evidencing the obligation of the Authority to make payments of principal, interest and premium, if any, pursuant to this Indenture. Upon delivery by the Depository to the Nominee of written notice to the effect that the Depository has determined to substitute a new nominee in its place, and subject to the provisions herein with respect to Record Dates, such new nominee shall become the Nominee hereunder for all purposes; and upon receipt of such a notice the Authority shall promptly deliver a copy of the same to the Trustee.

(b) Representation Letter. In order to qualify the Bonds for the Depository's book-entry system, the Authority shall execute and deliver to such Depository a letter representing such matters as shall be necessary to so qualify the Bonds and provide a copy of such letter to the Trustee. The execution and delivery of such letter shall not in any way limit the provisions of subsection (a) above or in any other way impose upon the Authority, the Administrator or the Trustee any obligation whatsoever with respect to persons having interests in the Bonds other than the Bondowners. The Trustee agrees to comply with all provisions in such letter with respect to the giving of notices thereunder by the Trustee. In addition to the execution and delivery of such letter, upon written request of the Depository or the Trustee, the Authority or the Administrator, as applicable, may take any other actions, not inconsistent with this Indenture, to qualify the Bonds for the Depository's book-entry program.

(c) Transfers Outside Book-Entry System. In the event that either (i) the Depository determines not to continue to act as Depository for the Bonds, or (ii) the Administrator determines to terminate the Depository as such, then the Administrator shall thereupon discontinue the book-entry system with such Depository. In such event, the Depository shall cooperate with the Administrator and the Trustee in the issuance of replacement Bonds by providing the Trustee with a list showing the interests of the Depository System Participants in the Bonds, and by

surrendering the Bonds, registered in the name of the Nominee, to the Trustee on or before the date such replacement Bonds are to be issued. The Depository, by accepting delivery of the Bonds, agrees to be bound by the provisions of this subsection (c). If, prior to the termination of the Depository acting as such, the Administrator fails to identify another Securities Depository to replace the Depository, then the Bonds shall no longer be required to be registered in the Registration Books in the name of the Nominee, but shall be registered in whatever name or names the Owners transferring or exchanging Bonds shall designate, in accordance with the provisions of this Article II. Prior to its termination, the Depository shall furnish the Trustee with the names and addresses of the Depository System Participants and respective ownership interests thereof.

(d) Payments to the Nominee. Notwithstanding any other provision of this Indenture to the contrary, so long as any Bond is registered in the name of the Nominee, all payments with respect to principal of and interest and premium, if any, on such Bond and all notices with respect to such Bond shall be made and given, respectively, as provided in the letter described in subsection (b) of this Section or as otherwise instructed by the Depository.

### ARTICLE III

#### DEPOSIT AND APPLICATION

**Section 3.01. Issuance of Bonds.** Upon the execution and delivery of this Indenture, the Authority shall execute and deliver to the Trustee the Bonds in the aggregate principal amount of \$\_\_\_\_\_, and the Trustee shall authenticate and deliver the Bonds upon the Written Request of the Authority.

**Section 3.02. Application of Proceeds of Sale and Certain Other Amounts.**

(a) On the Closing Date with respect to the Bonds, the net proceeds of sale of the Bonds, being \$\_\_\_\_\_ (calculated as the par amount thereof, less (plus) net original issue discount (premium) in the amount of \$\_\_\_\_\_, less the discount of the Original Purchasers in the amount of \$\_\_\_\_\_, and less the premiums for the Insurance Policy and the Reserve Policy in the amount of \$\_\_\_\_\_ paid by the Underwriters directly to the Insurer), shall be paid to the Trustee and applied as follows:

(i) The Trustee shall deposit the amount of \$\_\_\_\_\_ in the Costs of Issuance Fund.

(ii) The Trustee shall deposit \$\_\_\_\_\_ in the CalPERS Obligation Fund.

(iii) The Trustee shall deposit \$\_\_\_\_\_ in the Marina Bond Proceeds Account of the Project Fund.

(iv) The Trustee shall deposit \$\_\_\_\_\_ in the MCWD Bond Proceeds Account of the Project Fund.

(v) The Trustee shall deposit \$\_\_\_\_\_ in the MST Bond Proceeds Account of the Project Fund.

(vi) The Trustee shall deposit \$\_\_\_\_\_, in the Seaside Bond Proceeds Account of the Project Fund.

(vii) The Trustee shall deposit \$\_\_\_\_\_ in the TAMC Bond Proceeds Account of the Project Fund.

(viii) The Trustee shall deposit \$\_\_\_\_\_ in the Administrative Expense Account.

(ix) The Trustee shall deposit \$\_\_\_\_\_ in the Escrow Fund and \$\_\_\_\_\_ in the Escrow Interest Account.

(b) The Trustee may establish a temporary account to facilitate the deposits referred to in Section 3.02(a).

**Section 3.03. Costs of Issuance Fund.** There is hereby established a separate fund to be known as the "Costs of Issuance Fund," which shall be held by the Trustee in trust. The moneys in the Costs of Issuance Fund shall be used and withdrawn by the Trustee from time to time to pay the Costs of Issuance with respect to the Bonds, upon submission of a Written Request of the Authority (delivered to the Trustee prior to the Dissolution Date) or the Written Request of the Administrator (delivered to the Trustee on or after the Dissolution Date), stating the person to whom payment is to be made, the amount to be paid, the purpose for which the obligation was incurred and that such payment is a proper charge against said fund. On the date which is six (6) months following the Closing Date with respect to the Bonds, or upon the earlier Written Request of the Administrator, all amounts (if any) remaining in the Costs of Issuance Fund shall be withdrawn therefrom by the Trustee and transferred to the Administrative Expense Account and the Costs of Issuance Fund shall be closed.

**Section 3.04. Project Fund.**

(a) There shall be established a separate and segregated fund to be known as the Project Fund and within the Project Fund a Marina Bond Proceeds Account, a Seaside Bond Proceeds Account, a MCWD Bond Proceeds Account, a MST Bond Proceeds Account, and a TAMC Bond Proceeds Account, which fund and accounts shall be held by the Trustee. Amounts deposited to the Project Fund and the accounts therein shall be held by the Trustee in cash uninvested.

(b) On the Closing Date, the Trustee will remit the amount deposited in the respective Accounts of the Project Fund pursuant to Section 3.02(a)(iii) through (vii) to the applicable Local Agency as directed by the respective Local Agency, to be applied by the Local Agencies to the

payment of Building Removal Costs and of expenses incidental thereto pursuant to the Funding Agreements.

(c) Within two Business Days following the CalPERS Obligation Payment Date (as defined in Section 3.05), the Trustee shall deposit in the respective Accounts of the Project Fund the Excess Amount (as defined in Section 3.05) as follows: 52.25% to the Marina Bond Proceeds Account, 5.25% to the MCWD Bond Proceeds Account, 1.00% to the MST Bond Proceeds Account, 34.50% to the Seaside Bond Proceeds Account, and 7.00% to the TAMC Bond Proceeds Account. The Trustee shall then remit the amounts so deposited in the respective Accounts of the Project Fund to the applicable Local Agency as directed by the applicable Local Agency, to be applied by the Local Agencies to the payment of Building Removal Costs and of expenses incident thereto pursuant to the Funding Agreements.

(d) In making transfers pursuant to the foregoing Sections 3.04(b) and (c), the Trustee may conclusively rely upon the wire transfer instructions provided by the respective Local Agencies in making disbursements from the Project Fund to each Local Agency.

(e) It is hereby expressly understood and agreed that none of the Authority, the Administrator, the County or the Trustee shall be under any liability of any kind or character whatsoever with respect to the use by the Local Agencies of the amounts remitted to them pursuant to this Section 3.04, or the payment of any Building Removal Costs, and that any such Building Removal Costs shall be the responsibility of the applicable Local Agency.

### **Section 3.05. CalPERS Obligation Fund.**

(a) There shall be established as a separate and segregated fund to be held by the Trustee the CalPERS Obligation Fund, to which a deposit shall be made on the Closing Date pursuant to Section 3.02(a)(ii).

(b) The amount deposited to the CalPERS Obligation Fund and any investment earnings thereon shall be disposed of as follows: (i) upon submission to the Trustee of a written certificate executed by an Authorized Officer specifying the CalPERS Obligation and the manner in which payment is to be made in respect thereof, the Trustee shall transfer such amount to CalPERS as specified in such written certificate, the date of such payment by the Trustee being referred to herein as the "CalPERS Obligation Payment Date;" and (ii) within two Business Days following the CalPERS Obligation Payment Date the Trustee shall transfer all remaining amounts in the CalPERS Obligation Fund (the "Excess Amount") to the Project Fund, with such Excess Amount to be allocated to and deposited in the Accounts within the Project Fund as described in Section 3.04(c). Following the transfers referred to in the preceding sentence, the CalPERS Obligation Fund shall be closed.

(c) Amount in the CalPERS Obligation Fund shall be invested as provided in Section 6.07. Investment earnings on amounts in the CalPERS Obligation Fund shall be retained in such fund to be used for the purposes of such fund.

### **Section 3.06. Escrow Fund.**

(a) There is hereby established as a separate fund to be held by the Trustee, the Escrow Fund, to the credit of which a deposit shall be made as required by Section 3.02(a) (ix) hereof. There is also created within the Escrow Fund a separate Escrow Interest Account to be held by the Trustee, to the credit of which a deposit shall be made pursuant to Section 3.02(a)(ix). Moneys in the Escrow Fund and the Escrow Interest Account shall be held by the Trustee and, pending disbursement as hereinafter provided, shall be subject to a lien in favor of the Owners of the Escrow Term Bonds, and shall be administered as hereinafter provided.

#### **(b) Disbursements.**

(i) Escrow Fund Disbursements. The Trustee shall make disbursements from the Escrow Fund to the Marina Bond Proceeds Account of the Project Fund and the Reserve Account upon receipt of written certificate of an Authorized Officer stating that the requirements of Section 3.06(c) have been met as to all or a portion of the Escrow Term Bonds, together with the report and other information required by Section 3.06(c). Upon receipt of any such written certificate, the Trustee shall (A) deposit the amount specified therein as necessary to increase the amount in the Reserve Account to the amount of the Reserve Requirement in effect following such release of funds from the Escrow Fund (taking into account the amount then available to be drawn on the Reserve Policy), and (B) deposit the remaining amount of the requested disbursement to the Marina Bond Proceeds Account of the Project Fund, all as provided in Section 3.06(c). The transfers referred to in the preceding sentence shall only be made no more than annually, in each case on or about \_\_\_\_\_, and any written certificate requesting any such disbursements shall be presented to the Trustee by an Authorized Officer at least two Business Days (or such lesser number of days as agreed to by the Trustee) prior to the date for the transfer to be made.

(ii) Escrow Interest Account Disbursements. The Trustee shall transfer from the Escrow Interest Account to the Interest Account on the Business Day prior to each Interest Payment Date an amount equal to the interest payable on the Deemed Escrow Bonds on the immediately succeeding Interest Payment Date.

(iii) Other Disbursements. In addition to the foregoing, amounts shall be disbursed from the Escrow Fund and the Escrow Interest Account as provided in Section 3.06(d) and (e).

(c) Release Test. An Authorized Officer may file with the Trustee a written certificate accompanied by a written report of an Independent Fiscal Consultant which identifies (i) the amount proposed to be released from the Escrow Fund, (ii) the amount of Maximum Annual Debt Service which results from such release, and (iii) the amount of the Reserve Requirement which results from such release. Such report shall conclude that the amount of Adjusted Tax Revenues



which are identified in such written certificate are at least equal to 125% of the amount of Maximum Annual Debt Service identified in such report. Promptly following receipt of such certificate and report, the Trustee shall withdraw from the Escrow Fund the amount identified in such report and transfer such amounts as follows:

(A) the Trustee shall deposit into the Reserve Account an amount required to cause the balance therein to equal the amount of the Reserve Requirement identified in such report (taking into account any amount then available to be drawn on the Reserve Policy); and

(B) the Trustee shall transfer the remainder of such amount into the Marina Bond Proceeds Account and the Trustee shall promptly remit the amount deposited thereto to the City of Marina according to written wire transfer instructions of the City of Marina delivered to the Trustee upon which the Trustee may rely.

Notwithstanding the foregoing, no transfer pursuant to the foregoing provisions and the provisions of Section 3.06(b) shall be allowed in any Bond Year following a Bond Year where the actual receipts of Pledged Tax Revenues in that Bond Year did not exceed Maximum Annual Debt Service (determined without including debt service on the Deemed Escrow Bonds) by 25%.

For purposes of this Section 3.06(c) the following capitalized terms shall have the following meanings:

"Marina Pledged Tax Revenues" means, for any Bond Year, the amount of Pledged Tax Revenues from the Marina Project Area No. 3 for such Bond Year based on the assessed valuation of property in the Marina Project Area No. 3 as evidenced in a written document from an appropriate official of the County.

"Original Seaside Pledged Tax Revenues" means \$\_\_\_\_\_ of Pledged Tax Revenues from the Seaside Fort Ord Project Area [based on the projection in the Fiscal Consultant's Report to be included in an Appendix of the Official Statement for the Bonds for Fiscal Year 2020-21]. If the assessed valuation for the Seaside Fort Ord Project Area has declined since Fiscal Year 2020-21, the Independent Fiscal Consultant shall recalculate the Original Seaside Pledged Tax Revenues based on the latest assessed valuation for the Seaside Fort Ord Project Area.

"Adjusted Pledged Tax Revenues", means for any Bond Year the sum of (i) the Marina Pledged Tax Revenues, and (ii) the Original Seaside Pledged Tax Revenues.

(d) Moneys in the Escrow Fund and the Escrow Interest Account shall be invested and deposited in accordance with Section 6.07. Investment earnings and profits from such investment of amounts in the Escrow Fund and Escrow Interest Account shall be transferred by the Trustee to the Interest Account of the Debt Service Fund on the Business Day prior to each Interest Payment Date.

(e) Disbursements For Bond Redemption; Closing of Fund. On and after \_\_\_\_\_ 1, \_\_\_\_ (the "Escrow Close Date"), the Trustee shall make no further disbursements from the Escrow Fund pursuant to Section 3.06(b) and (c), and on \_\_\_\_\_ 1, \_\_\_\_ (the "Escrow Redemption Date") the Trustee shall transfer all amounts then on deposit in the Escrow Fund to the Redemption Fund, to be applied to the redemption of Escrow Term Bonds to the maximum extent possible on the Escrow Redemption Date, as provided in Section 2.03(c), and shall transfer all amounts then on deposit in the Escrow Interest Account to the Interest Account to be used to pay interest on the Escrow Bonds to be redeemed on the Escrow Redemption Date, with any funds not needed for such purpose deposited to the Interest Account.

(f) The Escrow Fund and the Escrow Interest Account shall be closed when no funds remain in such fund and account.

## ARTICLE IV

### SECURITY FOR THE BONDS; FLOW OF FUNDS

**Section 4.01. Security of Bonds; Equal Security.** Except as may otherwise be provided below and in Section 6.06, the Bonds shall be equally secured by a pledge of, security interest in and lien on all of the Pledged Tax Revenues, and the Bonds shall also be secured by a first and exclusive pledge of, security interest in and lien upon all of the moneys in the Debt Service Fund, the Interest Account, the Principal Account, the Redemption Account and the Reserve Account without preference or priority for series, issue, number, dated date, sale date, date of execution or date of delivery. The Escrow Term Bonds in an amount equal to the amount of the Deemed Escrow Term Bonds shall be additionally secured by amounts in the Escrow Fund and the Escrow Interest Account. Except for the Pledged Tax Revenues and such moneys, no funds or properties of the Authority, the County or the Administrator shall be pledged to, or otherwise liable for, the payment of principal of or interest on the Bonds.

In the event the Administrator receives any moneys that constitute Pledged Tax Revenues, the Administrator shall promptly transfer to the Trustee such Pledged Tax Revenues for deposit by the Trustee in the Debt Service Fund. Prior to the payment in full of the principal of and interest on the Bonds and the payment in full of all other amounts payable hereunder, neither the Authority nor the Administrator shall have any beneficial right to or interest in the Pledged Tax Revenues, except as may be provided in this Indenture.

Amounts in the Project Fund (and the accounts therein), the CalPERS Obligation Fund and the Administrative Expense Account are not pledged to the repayment of the Bonds.

The Authority and the Administrator shall not be obligated to make any payments required hereunder or under any Bond, or be deemed to incur any liability hereunder or by reason hereof or arising out of any of the transactions contemplated hereby, payable from any funds or assets other than the Pledged Tax Revenues and amounts in the Debt Service Fund and the accounts

therein as provided in this Indenture. The Bonds and the obligation to pay principal of and interest thereon will not constitute an indebtedness or an obligation of the Authority, the officers of the Authority, the Administrator, any agency, any district, any city, the County, the State or any other political subdivision thereof, within the meaning of any constitutional or statutory debt limitation, or a charge against the general credit or taxing powers of any of them. The Bonds shall be limited obligations of the Authority, payable solely from the Pledged Tax Revenues and amounts in the Debt Service Fund and the accounts therein duly pledged therefor. Neither the faith and credit nor the taxing power of the Authority, the Administrator, any agency, any district, any city, the County, the State or any political subdivision thereof is pledged to the payment of the Bonds.

In consideration of the acceptance of the Bonds by those who shall hold the same from time to time, this Indenture shall be deemed to be and shall constitute a contract between the Authority and the Administrator, and the Owners from time to time of the Bonds, and the covenants and agreements herein set forth to be performed on behalf of the Authority or the Administrator shall be for the equal and proportionate benefit, security and protection of all Owners of the Bonds without preference, priority or distinction as to security or otherwise of any of the Bonds over any of the others by reason of the number or date thereof or the time of sale, execution and delivery thereof, or otherwise for any cause whatsoever, except as expressly provided therein or herein.

**Section 4.02. Deposit of Amounts by Trustee.** There is hereby established a trust fund to be known as the Debt Service Fund, and within the Debt Service Fund a Principal Account, an Interest Account, a Reserve Account, an Administrative Expense Account, a Redemption Account and a Surplus Account, each which shall be held by the Trustee hereunder in trust. Pledged Tax Revenues received by the Trustee pursuant to the Irrevocable Instructions or otherwise shall be deposited by the Trustee in the Debt Service Fund. The Trustee shall transfer from the Debt Service Fund the following amounts, at the following times, to the following respective special accounts, which are hereby established in the Debt Service Fund, and in the following order of priority:

(a) Interest Account. Not later than the fifth (5th) Business Day preceding each Interest Payment Date, commencing with the Interest Payment Date of September 1, 2020 the Trustee shall deposit in the Interest Account an amount which when added to the amount contained in the Interest Account on that date, will be equal to the aggregate amount of the interest becoming due and payable on the Outstanding Bonds on such Interest Payment Date. No such transfer and deposit need be made to the Interest Account if the amount contained therein is at least equal to the interest to become due on the next succeeding Interest Payment Date upon all of the Outstanding Bonds. All moneys in the Interest Account shall be used and withdrawn by the Trustee solely for the purpose of paying the interest on the Bonds as it shall become due and payable (including accrued interest on any Bonds redeemed prior to maturity pursuant to this Indenture).

(b) Principal Account. Not later than the fifth (5th) Business Day preceding September 1 in each year beginning September 1, 202\_\_ the Trustee shall deposit in the

Principal Account an amount which, when added to the amount then contained in the Principal Account, will be equal to the principal becoming due and payable on the Outstanding Serial Bonds and Outstanding Term Bonds, including pursuant to mandatory sinking account redemption, on the next September 1. No such transfer and deposit need be made to the Principal Account if the amount contained therein is at least equal to the principal to become due on the next September 1 on all of the Outstanding Serial Bonds and Term Bonds. All moneys in the Principal Account shall be used and withdrawn by the Trustee solely for the purpose of paying the principal of the Serial Bonds and the Term Bonds, including by mandatory sinking account redemption, as the same shall become due and payable.

(c) Reserve Account. In the event that the amount on deposit in the Reserve Account as of any Interest Payment Date is less than the then Reserve Requirement (taking into account the amount available to be drawn on the Reserve Policy), the Trustee shall transfer to the Reserve Account an amount sufficient to increase the amount in the Reserve Account to the then amount of the Reserve Requirement.

[The Reserve Requirement will be satisfied by the delivery of the Reserve Policy by the Insurer on the Closing Date with respect to the Bonds. Neither the Authority nor the Administrator will have any obligation to replace the Reserve Policy or to fund the Reserve Account with cash if, at any time that the Bonds are Outstanding, any rating assigned to the Insurer is downgraded, suspended or withdrawn or amounts are not available under the Reserve Policy other than in connection with a draw on the Reserve Policy. Notwithstanding anything to the contrary set forth herein the amounts available under the Reserve Policy shall be used and withdrawn by the Trustee solely for the purpose of making transfers to the Interest Account and the Principal Account in such order of priority, in the event of any deficiency at any time in any of such accounts with respect to the payment of debt service on the Bonds.]

The Trustee shall ascertain the necessity for a claim upon the Reserve Policy in accordance with the provisions of this Section 4.02(c) and provide notice to the Insurer in accordance with the terms of the Reserve Policy at least five Business Days prior to each date upon which interest or principal is due on the Bonds.

If there shall then not be sufficient Pledged Tax Revenues to transfer an amount sufficient to maintain the Reserve Requirement on deposit in the Reserve Account, the Authority shall be obligated to continue making transfers as Pledged Tax Revenues become available until there is an amount sufficient to maintain the Reserve Requirement on deposit in the Reserve Account. No such transfer and deposit need be made to the Reserve Account so long as there shall be on deposit therein a sum at least equal to the Reserve Requirement. All money in the Reserve Account shall be used and withdrawn by the Trustee solely for the purpose of making transfers hereunder to the Interest Account and the Principal Account, in the event of any deficiency at any time in any of such accounts or for the retirement of all the Bonds then Outstanding, except that so long as

the Authority (prior to the Dissolution Date) or the Administrator (after the Dissolution Date) is not in default hereunder, any amount in the Reserve Account in excess of the Reserve Requirement shall be withdrawn from the Reserve Account semiannually on or before two (2) Business Days preceding each Interest Payment Date by the Trustee and deposited in the Surplus Account. All amounts in the Reserve Account on the Business Day preceding the final Interest Payment Date shall be withdrawn from the Reserve Account and shall be transferred to the Interest Account and the Principal Account, in such order, to the extent required to make the deposits then required to be made pursuant to this Section 4.02.

[With the prior written consent of the Insurer, the Administrator shall have the right at any time to direct the Trustee to release funds from the Reserve Account, in whole or in part, by tendering to the Trustee a Qualified Reserve Account Credit Instrument. Upon tender of such items to the Trustee, and upon delivery by the Administrator to the Trustee of written calculation of the amount permitted to be released from the Reserve Account (upon which calculation the Trustee may conclusively rely), the Trustee shall transfer such funds from the Reserve Account to the Surplus Account to be applied in accordance with Section 4.02(f) hereof. The Trustee shall comply with all documentation relating to a Qualified Reserve Account Credit Instrument as shall be required to maintain such Qualified Reserve Account Credit Instrument in full force and effect and as shall be required to receive payments thereunder in the event and to the extent required to make any payment when and as required under this paragraph (d). Upon the expiration of any Qualified Reserve Account Credit Instrument, the Administrator shall either (i) replace such Qualified Reserve Account Credit Instrument with a new Qualified Reserve Account Credit Instrument, or (ii) deposit or cause to be deposited with the Trustee an amount of funds equal to the Reserve Requirement, to be derived from the first legally available Pledged Tax Revenues. If the Reserve Requirement is being maintained partially in cash and partially with a Qualified Reserve Account Credit Instrument, including the Reserve Policy, the cash shall be first used to meet any deficiency which may exist from time to time in the Interest Account or the Principal Account for the purpose of making payments required pursuant to Sections 4.02(a) or 4.02(b) of this Indenture. If the Reserve Requirement is being maintained with two or more Qualified Reserve Account Credit Instruments, including the Reserve Policy, on which there is available coverage, any draw to meet a deficiency which may exist from time to time in the Interest Account or the Principal Account for the purpose of making payments required pursuant to Sections 4.02(a), 4.02(b) or 4.02(c) of this Indenture shall be pro-rata with respect to each such instrument after applying all cash and investments in the Reserve Account. For the avoidance of doubt, "available coverage" means the coverage then available for disbursement pursuant to the terms of the applicable alternative credit instrument without regarding to the legal or financial ability or willingness of the provider of such instrument to honor a claim or draw thereon or the failure of such provider to honor any such claim or draw.]

(d) Administrative Expense Account. On the Closing Date, the Trustee shall make a deposit to the Administrative Expense Fund as required by Section 3.02(a)(viii).

Thereafter, on each September 1, following the deposits required by subsections (a), (b), and (if applicable) (c) of this Section 4.02 on such date, the Trustee shall transfer an amount equal to the Minimum Expense Requirement to the Administrative Expense Fund. Deposits may also be made to the Administrative Expense Fund as provided in Section 4.02(f).

Amounts in the Administrative Expense Account shall be withdrawn by the Trustee and paid to or as directed by the Administrator upon receipt by the Trustee of a Written Certificate of the Administrator stating the amount to be withdraw, that such amount is to be used to pay an Administrative Expense and the nature of such Administrative Expense.

(e) Redemption Account. On the date on which Bonds are to be redeemed pursuant to Section 2.03(c), the Trustee shall apply any amount transferred from the Escrow Fund to the Redemption Account pursuant to Section 3.06(e) to the redemption of Escrow Term Bonds pursuant to Section 2.03(c). All moneys in the Redemption Account shall be used and withdrawn by the Trustee solely for the purpose of paying the principal of the Escrow Term Bonds to be redeemed pursuant to Section 2.03(c) on the date set for such redemption. Interest due on the Escrow Term Bonds to be redeemed on the date set for redemption shall be paid from funds available therefor in the Interest Account that were transferred from Escrow Interest Account.

(f) Surplus Account. On September 2 of each year, after making the deposits required under subsections (a) through (e) above on the preceding September 1, the Trustee shall transfer all amounts remaining on deposit in the Debt Service Fund to the Surplus Account. Any amounts transferred to the Surplus Account shall be disposed of by the Trustee as follows: (i) transfer to the Administrative Expense Account an amount determined by the Administrator as necessary to pay Administrative Expenses to the extent amounts in the Administrative Expense Account are not sufficient for such purpose as directed in a Written Request of the Administrator delivered to the Trustee by September 12 of each year; and (ii) promptly following the foregoing transfer to the Administrative Expense Fund, and in any event no later than 10 Business Days following the deposit of funds in the Surplus Fund each year, any remaining amount in the Surplus Fund shall be transferred by the Trustee, without further direction, to the County Auditor-Controller for redistribution by the County Auditor-Controller as provided in Section 33492.71(c)(1)(D) of the Health and Safety Code.

## ARTICLE V

### OTHER COVENANTS OF THE AUTHORITY AND THE ADMINISTRATOR

**Section 5.01. Punctual Payment.** The Administrator, on behalf of the Authority, shall punctually pay or cause to be paid the principal and interest to become due on the Bonds together with any premium thereon, if applicable, in strict conformity with the terms of the Bonds and of this Indenture, solely from the Pledged Tax Revenues and other amounts pledged to such

payments hereunder. The Authority shall faithfully observe and perform all of the conditions, covenants and requirements of this Indenture, all Supplemental Indentures and the Bonds.

**Section 5.02. Limitation on Additional Indebtedness; Against Encumbrances.** The Authority hereby covenants that, so long as the Bonds are Outstanding, the Authority shall not issue any bonds, notes or other obligations, enter into any agreement or otherwise incur any indebtedness, which is in any case payable from all or any part of the Pledged Tax Revenues. Neither the Authority nor the Administrator will encumber, pledge or place any charge or lien upon any of the Pledged Tax Revenues or other amounts pledged to the Bonds.

**Section 5.03. Extension of Payment.** Neither the Authority nor the Administrator will directly or indirectly, extend or consent to the extension of the time for the payment of any Bond or claim for interest on any of the Bonds and will not, directly or indirectly, be a party to or approve any such arrangement by purchasing or funding the Bonds or claims for interest in any other manner. In case the maturity of any such Bond or claim for interest shall be extended or funded, whether or not with the consent of the Authority or the Administrator, such Bond or claim for interest so extended or funded shall not be entitled, in case of default hereunder, to the benefits of this Indenture, except subject to the prior payment in full of the principal of all of the Bonds then Outstanding and of all claims for interest which shall not have been so extended or funded.

**Section 5.04. Enforcement of Irrevocable Instructions.** The Administrator, on behalf of the Authority, hereby covenants to take such actions within its power as may be reasonable and necessary to compel the County Auditor-Controller to comply with the direction set forth in the Irrevocable Instructions to transfer to the Trustee for deposit in the Debt Service Fund, all of the Pledged Tax Revenues in the amounts and at the times provided in the California Health and Safety Code and other applicable law.

**Section 5.05. Payment of Claims.** The Administrator, on behalf of the Authority, shall promptly pay and discharge from funds in the Administrative Expense Fund, or cause to be paid and discharged, any and all lawful claims for labor, materials or supplies which, if unpaid, might become a lien or charge upon the Pledged Tax Revenues or any part thereof, or upon any funds in the hands of the Trustee, or which might impair the security of the Bonds. Nothing herein contained shall require the Administrator to make any such payment so long as the Administrator in good faith shall contest the validity of said claims or if there are not sufficient funds in the Administrative Expense Fund to make such payment.

**Section 5.06. Books and Accounts; Financial Statements.** The Administrator, on behalf of the Authority, shall keep, or cause to be kept, proper books of record and accounts, separate from all other records and accounts of the Administrator, in which complete and correct entries shall be made of all transactions relating to the Pledged Tax Revenues and the Administrative Expense Fund. Such books of record and accounts shall at all times during business hours be subject to the inspection of the Owners of not less than ten percent (10%) in aggregate principal amount of the Bonds then Outstanding, or their representatives authorized in writing.

**Section 5.07. Protection of Security and Rights of Owners.** The Administrator, on behalf of the Authority, will preserve and protect the security of the Bonds and the rights of the Owners. From and after the Closing Date with respect to the Bonds, the Bonds shall be incontestable by the Authority or the Administrator.

**Section 5.08. Maintenance of Pledged Tax Revenues.** The Authority (prior to the Dissolution Date) and the Administrator on behalf of the Authority (after the Dissolution Date) shall comply with all requirements of the California Health and Safety Code to ensure the allocation and payment to the Trustee of the Pledged Tax Revenues pursuant to the Irrevocable Instructions or otherwise. The Authority shall not undertake proceedings for amendment of the Reuse Plan or the Authority's transition plan if such amendment shall result in a reduction in the amount of Pledged Tax Revenues available to pay the Bonds.

**Section 5.09. Continuing Disclosure.** The Administrator hereby covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate. Notwithstanding any other provision of this Indenture, failure of the Administrator to comply with the Continuing Disclosure Certificate shall not be considered an Event of Default; however, any Owner or beneficial owner of the Bonds may take such actions as may be necessary and appropriate to compel performance, including seeking mandate or specific performance by court order.

**Section 5.10. Further Assurances.** The Authority and the Administrator, as applicable, will adopt, make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of this Indenture, and for the better assuring and confirming unto the Owners of the Bonds the rights and benefits provided in this Indenture.

## ARTICLE VI

### THE TRUSTEE

#### **Section 6.01. Duties, Immunities and Liabilities of Trustee.**

(a) The Trustee shall, prior to the occurrence of an Event of Default, and after the curing or waiver of all Events of Default which may have occurred, perform such duties and only such duties as are specifically set forth in this Indenture and no implied covenants, duties or obligations shall be read into this Indenture against the Trustee. The Trustee shall, during the existence of any Event of Default (which has not been cured or waived), exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

(b) The Administrator may remove the Trustee at any time, and shall remove the Trustee (i) if at any time requested to do so by an instrument or concurrent instruments in writing signed by the Owners of not less than a majority in aggregate principal amount of the Bonds then



Outstanding (or their attorneys duly authorized in writing) or (ii) if at any time the Administrator has knowledge that the Trustee shall cease to be eligible in accordance with subsection (f) of this Section, or shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or a receiver of the Trustee or its property shall be appointed, or any public officer shall take control or charge of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation. In each case such removal shall be accomplished by the giving of written notice of such removal by the Administrator to the Trustee, whereupon the Administrator shall appoint a successor Trustee by an instrument in writing.

(c) The Trustee may at any time resign by giving written notice of such resignation to the Administrator and by giving the Owners notice of such resignation by first class mail, postage prepaid, at their respective addresses shown on the Registration Books. Upon receiving such notice of resignation, the Administrator shall promptly appoint a successor Trustee by an instrument in writing, with notice of such appointment to be furnished to any Insurer.

(d) Any removal or resignation of the Trustee and appointment of a successor Trustee shall become effective only upon acceptance of appointment by the successor Trustee. If no successor Trustee shall have been appointed and have accepted appointment within forty-five (45) days of giving notice of removal or notice of resignation as aforesaid, the resigning Trustee or any Owner (on behalf of such Owner and all other Owners) may petition any court of competent jurisdiction at the expense of the Administrator for the appointment of a successor Trustee, and such court may thereupon, after such notice (if any) as it may deem proper, appoint such successor Trustee. Any successor Trustee appointed under this Indenture shall signify its acceptance of such appointment by executing, acknowledging and delivering to the Administrator and to its predecessor Trustee a written acceptance thereof, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become vested with all the moneys, estates, properties, rights, powers, trusts, duties and obligations of such predecessor Trustee, with like effect as if originally named Trustee herein; but, nevertheless at the Written Request of the Administrator or the request of the successor Trustee, such predecessor Trustee shall execute and deliver any and all instruments of conveyance or further assurance and do such other things as may reasonably be required for more fully and certainly vesting in and confirming to such successor Trustee all the right, title and interest of such predecessor Trustee in and to any property held by it under this Indenture and shall pay over, transfer, assign and deliver to the successor Trustee any money or other property subject to the trusts and conditions herein set forth. Upon request of the successor Trustee, the Administrator shall execute and deliver any and all instruments as may be reasonably required for more fully and certainly vesting in and confirming to such successor Trustee all such moneys, estates, properties, rights, powers, trusts, duties and obligations. Upon acceptance of appointment by a successor Trustee as provided in this subsection, the Administrator shall cause either the predecessor Trustee or the successor Trustee to mail a notice of the succession of such Trustee to the trusts hereunder to each rating agency which then has a current rating on the Bonds and to the Owners at their respective addresses shown on the Registration Books.

(e) If an Event of Default hereunder occurs with respect to any Bonds of which the Trustee has been given or is deemed to have notice, as provided in Section 6.03(d) hereof, then the Trustee shall immediately give written notice thereof, by first-class mail to the Owner of each such Bond, unless such Event of Default shall have been cured before the giving of such notice; provided, however, that unless such Event of Default consists of the failure to make any payment on the Bonds when due, the Trustee shall, within thirty (30) days of the Trustee's knowledge thereof, give such notice to the Bondowners, provided that the Trustee may elect not to give such notice if and so long as the Trustee in good faith determines that it is in the best interests of the Bondowners not to give such notice.

(f) The Authority and the Administrator agree that, so long as any Bonds are Outstanding, the Trustee shall be a financial institution having a corporate trust office in the State, having (or in the case of a corporation or trust company included in a bank holding company system, the related bank holding company shall have) a combined capital and surplus of at least \$75,000,000, and subject to supervision or examination by federal or state authority. If such financial institution publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purpose of this subsection the combined capital and surplus of such financial institution shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. In case at any time the Trustee shall cease to be eligible in accordance with the provisions of this subsection (f), the Trustee shall resign immediately in the manner and with the effect specified in this Section.

**Section 6.02. Merger or Consolidation.** Any company into which the Trustee may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it shall be a party or any company to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided such company shall be eligible under subsection (f) of Section 6.01, shall be the successor to such Trustee without the execution or filing of any paper or any further act, anything herein to the contrary notwithstanding.

**Section 6.03. Liability of Trustee.**

(a) The recitals of facts herein and in the Bonds contained shall be taken as statements of the Authority and the Trustee shall not assume responsibility for the correctness of the same, nor make any representations as to the validity or sufficiency of this Indenture or of the security for the Bonds nor shall incur any responsibility in respect thereof, other than as expressly stated herein. The Trustee shall, however, be responsible for its representations contained in its certificate of authentication on the Bonds. The Trustee shall not be liable in connection with the performance of its duties hereunder, except for its own negligence or willful misconduct. The Trustee shall not be liable for the acts of any agents of the Trustee selected by it with due care. The Trustee and its officers and employees may become the Owner of any Bonds with the same rights it would have if they were not Trustee and, to the extent permitted by law, may act as depository for and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of the Owners, whether or

not such committee shall represent the Owners of a majority in principal amount of the Bonds then Outstanding.

(b) The Trustee shall not be liable with respect to any action taken or omitted to be taken by it in accordance with the direction of the Owners of not less than a majority in aggregate principal amount of the Bonds at the time Outstanding relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under this Indenture.

(c) The Trustee shall not be liable for any action taken by it and believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Indenture, except for actions arising from the negligence or willful misconduct of the Trustee. Where the Trustee is given the permissive right to do things enumerated in this Indenture, such right shall not be construed as a mandatory duty.

(d) The Trustee shall not be deemed to have knowledge of any Event of Default hereunder unless and until a responsible officer shall have actual knowledge thereof, or shall have received written notice thereof from the Administrator at its Principal Corporate Trust Office. In the absence of such actual knowledge or notice, the Trustee may conclusively assume that no Event of Default has occurred and is continuing under this Indenture. Except as otherwise expressly provided herein, the Trustee shall not be bound to ascertain or inquire as to the performance or observance by any other party of any of the terms, conditions, covenants or agreements herein or of any of the documents executed in connection with the Bonds, or as to the existence of an Event of Default thereunder. The Trustee shall not be responsible for the validity or effectiveness of any collateral given to or held by it. Without limiting the generality of the foregoing, the Trustee may rely conclusively on the Administrator's certificates to establish the Administrator's compliance with its financial covenants hereunder, including, without limitation, its covenants regarding the deposit of Pledged Tax Revenues into the Debt Service Fund.

(e) The Trustee shall have no liability or obligation to the Bondowners with respect to the payment of debt service on the Bonds or with respect to the observance or performance by the Authority or the Administrator of the other conditions, covenants and terms contained in this Indenture.

(f) No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers. The Trustee shall be entitled to interest on all amounts advanced by it at the maximum rate permitted by law.

(g) The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, attorneys or receivers and the Trustee shall not be responsible for any intentional misconduct or negligence on the part of any agent, attorney or receiver appointed with due care by it hereunder.

(h) The Trustee shall have no responsibility, opinion, or liability with respect to any information, statements or recital in any offering memorandum or other disclosure material prepared or distributed with respect to the issuance of the Bonds.

(i) Before taking any action under Article VIII or this Article at the request of the Owners, the Trustee may require that a satisfactory indemnity bond be furnished by the Owners for the reimbursement of all expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from its negligence or willful misconduct in connection with any action so taken.

(j) The Trustee agrees to accept and act upon instructions or directions pursuant to this Indenture sent by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods, provided, however, that, the Trustee shall have received an incumbency certificate listing persons designated to give such instructions or directions and containing specimen signatures of such designated persons, which such incumbency certificate shall be amended and replaced whenever a person is to be added or deleted from the listing. If the Authority or the Administrator elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The Authority or the Administrator, as applicable, agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

(k) The Trustee shall not be liable to the parties hereto or deemed in breach or default hereunder if and to the extent its performance hereunder is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the Trustee and could not have been avoided by exercising due care. Force majeure shall include but not be limited to acts of God, terrorism, war, riots, strikes, fire, floods, earthquakes, epidemics, pandemics or other similar occurrences.

(l) The Trustee shall not be responsible for or accountable to anyone for the subsequent use or application of any moneys which shall be released or withdrawn in accordance with the provisions hereof.

**Section 6.04. Right to Rely on Documents and Opinions.** The Trustee shall have no liability in acting upon any notice, resolution, request, consent, order, certificate, report, opinion, facsimile transmission, electronic mail, or other paper or document reasonably believed by it to be genuine and to have been signed or prescribed by the proper party or parties, and shall not be required to make any investigation into the facts or matters contained thereon. The Trustee may consult with counsel, including, without limitation, counsel of or to the Authority, with regard to legal questions, and, in the absence of negligence or intentional misconduct by the Trustee, the opinion

of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by the Trustee hereunder in accordance therewith.

The Trustee shall not be bound to recognize any person as the Owner of a Bond unless and until such Bond is submitted for inspection, if required, and his title thereto is established to the satisfaction of the Trustee.

Whenever in the administration of the trusts imposed upon it by this Indenture the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a Written Certificate of the Authority or a Written Certificate of the Administrator, which shall be full warrant to the Trustee for any action taken or suffered under the provisions of this Indenture in reliance upon such written certificate, but in its discretion the Trustee may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as it may deem reasonable. The Trustee may conclusively rely on any certificate or report of any Independent Accountant or Independent Fiscal Consultant appointed by the Administrator.

**Section 6.05. Preservation and Inspection of Documents.** All documents received by the Trustee under the provisions of this Indenture shall be retained in its possession and shall be subject at all reasonable times upon reasonable notice to the inspection of and copying by the Administrator and any Owner, and their agents and representatives duly authorized in writing, during regular business hours and under reasonable conditions.

**Section 6.06. Compensation and Indemnification.** The Administrator shall pay to the Trustee from time to time, solely from amounts in the Administrative Expense Account, reasonable compensation for all services rendered under this Indenture in accordance with the letter proposal from the Trustee approved by the Authority and/or the Administrator, as applicable, and also all reasonable expenses, charges, legal and consulting fees and other disbursements and those of its attorneys (including the allocated costs and disbursement of in-house counsel to the extent such services are not redundant with those provided by outside counsel), agents and employees, incurred in and about the performance of its powers and duties under this Indenture. The Trustee shall have a lien on the Pledged Tax Revenues and all funds and accounts held by the Trustee hereunder, subordinate to the lien of the Bondowners thereon, to secure the payment to the Trustee of all fees, costs and expenses, including reasonable compensation to its experts, attorneys and counsel (including the allocated costs and disbursement of in-house counsel to the extent such services are not redundant with those provided by outside counsel).

The Administrator further covenants and agrees to indemnify, defend and save the Trustee and its officers, directors, agents and employees, harmless against any loss, expense and liabilities including legal fees and expenses which it may incur to the extent arising out of or in connection with the exercise and performance of its powers and duties hereunder, including the costs and expenses of defending against any claim of liability, but excluding any and all losses, expenses and liabilities which are due to the negligence or willful misconduct of the Trustee, its officers,

directors, agents or employees. The obligations of the Administrator and the rights of the Trustee under this Section 6.06 shall survive resignation or removal of the Trustee under this Indenture and payment of the Bonds and discharge of this Indenture.

The Trustee's compensation and costs related to its indemnification under this Indenture shall constitute Administrative Expenses.

**Section 6.07. Deposit and Investment of Moneys in Funds.** Moneys in the Debt Service Fund, the Interest Account, the Principal Account, the Reserve Account, the Administrative Expense Account, the Redemption Account, the Surplus Account, the CalPERS Obligation Fund, the Escrow Fund (including the Escrow Interest Account therein) and the Costs of Issuance Fund shall be invested by the Trustee in Permitted Investments as directed by the Administrator in the Written Request of the Administrator filed with the Trustee, except that moneys in the Reserve Account shall not be invested in Permitted Investments having a maturity of more than five (5) years, unless any such Permitted Investment is described in clause (g) of the definition thereof. In the absence of any such Written Request of the Administrator, the Trustee shall invest any such moneys in Permitted Investments described in clause (d) of the definition thereof, which by their terms mature prior to the date on which such moneys are required to be paid out hereunder; provided, however, that any such investment shall be made by the Trustee only if, prior to the date on which such investment is to be made, the Trustee shall have received a Written Request of the Administrator specifying a specific money market fund and, if no such Written Request of the Administrator is so received, the Trustee shall hold such moneys uninvested. The Trustee shall be entitled to rely conclusively upon the written instructions of the Administrator directing investments in Permitted Investments as to the fact that each such investment is permitted by the laws of the State, and shall not be required to make further investigation with respect thereto. Obligations purchased as an investment of moneys in any fund shall be deemed to be part of such fund or account. All interest or gain derived from the investment of amounts in any of the funds or accounts held by the Trustee hereunder shall be retained in the respective fund or account from which the investment was made. The Trustee may act as principal or agent in the acquisition or disposition of any investment and may impose its customary charges therefor. The Trustee shall incur no liability for losses arising from any investments made at the direction of the Authority or otherwise made in accordance with this Section. For investment purposes only, the Trustee may commingle the funds and accounts established hereunder, but shall account for each separately.

The Authority and the Administrator acknowledge that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the Administrator the right to receive brokerage confirmations of security transactions effected by the Trustee as they occur, the Authority and the Administrator specifically waive receipt of such confirmations to the extent permitted by law. The Authority and the Administrator further understands that trade confirmations for securities transactions effected by the Trustee will be available upon request and at no additional cost and other trade confirmations may be obtained from the applicable broker. The Trustee will furnish the Administrator monthly cash transaction statements which shall include detail for all investment transactions made by the Trustee hereunder. Upon the

Administrator's election, such statements will be delivered via the Trustee's online service and upon electing such service, paper statements will be provided only upon request.

All moneys held by the Trustee shall be held in trust, but need not be segregated from other funds unless specifically required by this Indenture. Except as specifically provided in this Indenture, the Trustee shall not be liable to pay interest on any moneys received by it, but shall be liable only to account for earnings derived from funds that have been invested. Investments of funds on deposit in the Reserve Account shall be valued on August 1 of each year at their market value.

**Section 6.08. Accounting Records and Financial Statements.** The Trustee shall at all times keep, or cause to be kept, proper books of record and account, prepared in accordance with corporate trust industry standards, in which complete and accurate entries shall be made of all transactions relating to the proceeds of the Bonds made by it and all funds and accounts held by the Trustee established pursuant to this Indenture. Such books of record and account maintained by the Trustee shall be available for inspection by the Administrator upon reasonable prior notice, at reasonable hours and under reasonable circumstances. The Trustee shall furnish to the Administrator, on at least a monthly basis, an accounting of all transactions in the form of its customary statements relating to the proceeds of the Bonds and all funds and accounts held by the Trustee pursuant to this Indenture.

**Section 6.09. Other Transactions with Administrator.** The Trustee, either as principal or agent, may engage in or be interested in any financial or other transaction with the Administrator.

## ARTICLE VII

### MODIFICATION OR AMENDMENT OF THIS INDENTURE

**Section 7.01. Amendment With And Without Consent of Owners.** This Indenture and the rights and obligations of the Authority, the Administrator, the Trustee and of the Owners may be modified or amended at any time by a Supplemental Indenture which shall become binding upon adoption without the consent of any Owners to the extent permitted by law, but only for any one or more of the following purposes:

(a) to add to the covenants and agreements of the Authority, or of the Administrator for itself or on behalf of the Authority, in this Indenture contained, other covenants and agreements thereafter to be observed, including any covenant or agreement that provides for additional security for the Bonds, or to limit or surrender any rights or powers herein reserved to or conferred upon the Authority or the Administrator; or

(b) to make such provisions for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective provision contained in this Indenture, or in any other respect whatsoever as the Administrator may deem necessary or desirable, provided

under any circumstances that such modifications or amendments shall not, in the reasonable determination of the Administrator, materially adversely affect the interests of the Owners; or

(c) to comply with additional requirements of a provider of a Qualified Reserve Account Credit Instrument; provided that such amendment does not have an adverse impact on the Insurer's rights under the Indenture or the availability of Pledged Tax Revenues for the Bonds.

Except as set forth in the preceding paragraph, this Indenture and the rights and obligations of the Authority, or of the Administrator for itself or on behalf of the Authority, and of the Owners may be modified or amended at any time by a Supplemental Indenture which shall become binding when the prior written consent of the Owners of a majority in aggregate principal amount of the Bonds then Outstanding are filed with the Trustee. No such modification or amendment shall (a) extend the maturity of or reduce the interest rate on any Bond or otherwise alter or impair the obligation of the Authority, or of the Administrator on behalf of the Authority, to pay the principal and interest at the time and place and at the rate and in the currency provided therein of any Bond without the express written consent of the Owner of such Bond, or (b) reduce the percentage of Bonds required for the written consent to any such amendment or modification. In no event shall any Supplemental Indenture modify any of the rights or obligations of the Trustee without its prior written consent. In no event shall any Supplemental Indenture modify any of the rights or obligations of any Insurer without its prior written consent.

**Section 7.02. Effect of Supplemental Indenture.** From and after the time any Supplemental Indenture becomes effective pursuant to this Article VII, this Indenture shall be deemed to be modified and amended in accordance therewith, the respective rights, duties and obligations of the parties hereto or thereto and all Owners, as the case may be, shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modification and amendment, and all the terms and conditions of any Supplemental Indenture shall be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

**Section 7.03. Endorsement or Replacement of Bonds After Amendment.** After the effective date of any amendment or modification hereof pursuant to this Article VII, the Administrator may determine that any or all of the Bonds shall bear a notation, by endorsement in form approved by the Administrator, as to such amendment or modification and in that case upon demand of the Administrator the Owners of such Bonds shall present such Bonds for that purpose at the Principal Corporate Trust Office of the Trustee, and thereupon a suitable notation as to such action shall be made on such Bonds. In lieu of such notation, the Administrator may determine that new Bonds shall be prepared at the expense of the Administrator and executed in exchange for any or all of the Bonds, and in that case, upon demand of the Administrator, the Owners of the Bonds shall present such Bonds for exchange at the Principal Corporate Trust Office of the Trustee, without cost to such Owners.



**Section 7.04. Amendment by Mutual Consent.** The provisions of this Article VII shall not prevent any Owner from accepting any amendment as to the particular Bond held by such Owner, provided that due notation thereof is made on such Bond and, provided further that written consent to such amendment shall first be obtained from any Insurer.

**Section 7.05. Opinion of Counsel.** Prior to executing any Supplemental Indenture, the Trustee shall be furnished an opinion of counsel, upon which it may conclusively rely to the effect that all conditions precedent to the execution of such Supplemental Indenture under this Indenture have been satisfied and such Supplemental Indenture is authorized and permitted under this Indenture and does not adversely affect the exclusion of interest on the Bonds issued as tax-exempt bonds from gross income for federal income tax purposes or adversely affect the exemption of interest on the Bonds from personal income taxation by the State.

**Section 7.06. Copy of Supplemental Indenture to S&P.** The Trustee shall provide to S&P, for so long as S&P maintains a rating on any of the Bonds (without regard to any municipal bond or financial guaranty insurance), a copy of any Supplemental Indenture at least fifteen (15) days prior to its proposed effective date.

## ARTICLE VIII

### EVENTS OF DEFAULT AND REMEDIES OF OWNERS

**Section 8.01. Events of Default.** The following events shall constitute Events of Default hereunder:

(a) if default shall be made in the due and punctual payment of the principal of or interest on any Bond when and as the same shall become due and payable, whether at maturity as therein expressed, by declaration or otherwise;

(b) if default shall be made by the Authority or the Administrator in the observance of any of the covenants, agreements or conditions on its respective part in this Indenture or in the Bonds contained, other than a default described in the preceding clause (a), and such default shall have continued for a period of thirty (30) days following receipt by the Authority and the Administrator (prior to the Dissolution Date), or to the Administrator (from and after the Dissolution Date) of written notice from the Trustee or written notice from any Owner (with a copy of said notice delivered to the Trustee) of the occurrence of such default, provided that if in the reasonable opinion of the Administrator the failure stated in the notice can be corrected, but not within such thirty (30) day period, such failure will not constitute an event of default if corrective action is instituted by the Administrator within such thirty (30) day period and the Administrator thereafter diligently and in good faith cures such failure in a reasonable period of time; or

(c) If the Authority or the Administrator files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United

States of America, or if a court of competent jurisdiction will approve a petition by the Administrator seeking reorganization under the federal bankruptcy laws or any other applicable law of the United States of America, or, if under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction will approve a petition by the Authority or the Administrator, seeking reorganization under the federal bankruptcy laws or any other applicable law of the United States of America, or, if under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction will assume custody or control of the Authority or the Administrator or of the whole or any substantial part of its respective property.

Immediately upon receiving notice or actual knowledge of the occurrence of an Event of Default, the Trustee shall give notice of such Event of Default to the Authority and the Administrator (if prior to the Dissolution Date) or the Administrator (from and after the Dissolution Date) confirmed in writing. With respect to any Event of Default described in subsections (a) or (c) above the Trustee shall, and with respect to any Event of Default described in subsection (b) above the Trustee in its sole discretion may, also give such notice to the Owners by mail.

If an Event of Default has occurred under this Section and is continuing, the Trustee, may, and, if requested in writing by the Owners of a majority in aggregate principal amount of the Bonds then Outstanding, the Trustee shall, subject to the provisions of Section 8.06, exercise any remedies available to the Trustee and the Bondowners in law or at equity, including mandamus.

Any Bondowner shall have the right, for the equal benefit and protection of all Bondowners similarly situated:

(a) by mandamus, suit, action or proceeding, to compel the Authority, prior to the Dissolution Date, and the Administrator, from and after the Dissolution Date, and their respective officers, agents or employees to perform each of their respective covenants and agreements contained in this Indenture and in the Bonds, and to require the carrying out of any or all such covenants and agreements and the fulfillment of the respective duties specifically imposed upon them under this Indenture;

(b) by suit, action or proceeding in equity, to enjoin any acts or things which are unlawful, or the violation of any of the Bondowners' rights; or

(c) upon the happening of any Event of Default, by suit, action or proceeding in any court of competent jurisdiction, to require the Authority, prior to the Dissolution Date, and the Administrator, from and after the Dissolution Date, and their respective employees to account as if they were the trustees of an express trust with regard to any of the Pledged Tax Revenues or any funds held in any of the funds and accounts under this Indenture.

**Section 8.02. Application of Funds Upon Default.** So long as an Event of Default has occurred and is continuing, all amounts received by the Trustee pursuant to any right given or action taken by the Trustee under the provisions of this Indenture (including any Pledged Tax

Revenues) and all sums in the funds and accounts established and held by the Trustee hereunder, and all sums thereafter received by the Trustee hereunder, shall be applied by the Trustee in the following order upon presentation of the Bonds, and the stamping thereon of the payment if only partially paid, or upon the surrender thereof if fully paid:

First, to the payment of the fees, costs and expenses of the Trustee in declaring such Event of Default and in exercising the rights and remedies set forth in this Article VIII, including reasonable compensation to its agents, advisors, attorneys (including the allocated costs and disbursements of its in-house counsel to the extent such services are not redundant with those provided by outside counsel) and counsel and any outstanding fees and expenses of the Trustee; and

Second, to the payment of the whole amount then owing and unpaid upon the Bonds for principal and interest, as applicable, with interest on the overdue principal, and installments of interest at the net effective rate then borne by the Outstanding Bonds (to the extent that such interest on overdue installments of principal and interest shall have been collected), and in case such moneys shall be insufficient to pay in full the whole amount so owing and unpaid upon the Bonds, then to the payment of such principal and interest without preference or priority, ratably to the aggregate of such principal and interest.

**Section 8.03. Power of Trustee to Control Proceedings.** In the event that the Trustee, upon the happening of an Event of Default, shall have taken any action, by judicial proceedings or otherwise, pursuant to its duties hereunder, whether upon its own discretion or upon the request of the Owners of a majority in principal amount of the Bonds then Outstanding, it shall have full power, in the exercise of its discretion for the best interests of the Owners of the Bonds, with respect to the continuance, discontinuance, withdrawal, compromise, settlement or other disposal of such action; provided, however, that the Trustee shall not, unless there no longer continues an Event of Default, discontinue, withdraw, compromise or settle, or otherwise dispose of any litigation pending at law or in equity, if at the time there has been filed with it a written request signed by the Owners of a majority in principal amount of the Outstanding Bonds hereunder opposing such discontinuance, withdrawal, compromise, settlement or other disposal of such litigation.

**Section 8.04. Limitation on Owner's Right to Sue.** No Owner of any Bond issued hereunder shall have the right to institute any suit, action or proceeding at law or in equity, for any remedy under or upon this Indenture, unless (a) such Owner shall have previously given to the Authority and the Administrator (prior to the Dissolution Date) or the Administrator (from and after the Dissolution Date), and the Trustee written notice of the occurrence of an Event of Default; (b) the Owners of a majority in aggregate principal amount of all the Bonds then Outstanding shall have made written request upon the Trustee to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name; (c) said Owners shall have tendered to the Trustee indemnity reasonably acceptable to the Trustee against the costs, expenses and liabilities to be incurred in compliance with such request; and (d) the Trustee shall have refused or omitted to

comply with such request for a period of sixty (60) days after such written request shall have been received by, and said tender of indemnity shall have been made to, the Trustee.

Such notification, request, tender of indemnity and refusal or omission are hereby declared, in every case, to be conditions precedent to the exercise by any Owner of any remedy hereunder; it being understood and intended that no one or more Owners shall have any right in any manner whatever by his or their action to enforce any right under this Indenture, except in the manner herein provided, and that all proceedings at law or in equity to enforce any provision of this Indenture shall be instituted, had and maintained in the manner herein provided and for the equal benefit of all Owners of the Outstanding Bonds.

The right of any Owner of any Bond to receive payment of the principal of (and premium, if any) and interest on such Bond as herein provided, shall not be impaired or affected without the written consent of such Owner, notwithstanding the foregoing provisions of this Section or any other provision of this Indenture.

**Section 8.05. Non-Waiver.** Nothing in this Article VIII or in any other provision of this Indenture or in the Bonds, shall affect or impair the obligation of the Authority, and the Administrator on behalf of the Authority, which is absolute and unconditional, to pay from the Pledged Tax Revenues and other amounts pledged hereunder, the principal of and interest on the Bonds to the respective Owners on the respective Interest Payment Dates, as herein provided, or affect or impair the right of action, which is also absolute and unconditional, of the Owners or the Trustee to institute suit to enforce such payment by virtue of the contract embodied in the Bonds.

A waiver of any default by any Owner or the Trustee shall not affect any subsequent default or impair any rights or remedies on the subsequent default. No delay or omission of any Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or an acquiescence therein, and every power and remedy conferred upon the Owners and the Trustee by the Marks-Roos Act or by this Article VIII may be enforced and exercised from time to time and as often as shall be deemed expedient by the Owners and the Trustee.

If a suit, action or proceeding to enforce any right or exercise any remedy shall be abandoned or determined adversely to the Owners or the Trustee, the Authority, the Administrator, the Trustee and the Owners shall be restored to their former positions, rights and remedies as if such suit, action or proceeding had not been brought or taken.

**Section 8.06. Actions by Trustee as Attorney-in-Fact.** Any suit, action or proceeding which any Owner shall have the right to bring to enforce any right or remedy hereunder may be brought by the Trustee for the equal benefit and protection of all Owners similarly situated and the Trustee is hereby appointed (and the successive respective Owners by taking and holding the Bonds shall be conclusively deemed so to have appointed it) the true and lawful attorney-in-fact of the respective Owners for the purpose of bringing any such suit, action or proceeding and to do and perform any and all acts and things for and on behalf of the respective Owners as a class or classes,

as may be necessary or advisable in the opinion of the Trustee as such attorney-in-fact, provided, however, the Trustee shall have no duty or obligation to exercise any such right or remedy unless it has been indemnified to its satisfaction from any loss, liability or expense (including fees and expenses of its outside counsel and the allocated costs and disbursements of its in-house counsel to the extent such services are not redundant with those provided by outside counsel).

**Section 8.07. Remedies Not Exclusive.** No remedy herein conferred upon or reserved to the Owners is intended to be exclusive of any other remedy. Every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing, at law or in equity or by statute or otherwise, and may be exercised without exhausting and without regard to any other remedy conferred by the Marks-Roos Act or any other law.

**Section 8.08. Determination of Percentage of Bondowners.** Whenever in this Indenture the consent, direction or other action is required or permitted to be given or taken by a percentage of the Owners of an aggregate principal amount of Outstanding Bonds (including by the Owners of a majority in aggregate principal amount of the Outstanding Bonds), such percentage shall be calculated on the basis of the principal amount of the Outstanding Bonds determined as of the next succeeding Interest Payment Date.

## ARTICLE IX

### THE ADMINISTRATOR

**Section 9.01. Duties, Immunities and Liabilities of Administrator.** It is hereby acknowledged that the Administrator is entering into this Indenture solely as an accommodation to the Authority, the Trustee and the Bondowners in light of the dissolution of the Authority on the Dissolution Date. To that end, the Administrator shall be obligated to perform such duties and only such duties as are specifically set forth in this Indenture to be performed by it and no implied covenants, duties or obligations shall be read into this Indenture against the Administrator. Where the Administrator is given the permissive right to do things enumerated in this Indenture, such right shall not be construed as a mandatory duty.

**Section 9.02. Liability of Administrator.**

(a) The Administrator shall have no obligation to use any of its own funds (i) to make payments on the Bonds or to the Trustee in respect thereof, or (ii) to pay any costs or expenses of the Trustee, except from amounts in the Administrative Expense Account. The recitals of facts herein and in the Bonds contained shall be taken as statements of the Authority, and the Administrator shall not assume responsibility for the correctness of the same, nor make any representations as to the validity or sufficiency of this Indenture or of the security for the Bonds nor shall incur any responsibility in respect thereof. The Administrator shall not be liable in connection with the performance of its duties hereunder, except for its own negligence or misconduct.

(b) The Administrator shall not be liable for any action taken by it and believed by it to be authorized or within the discretion or rights or powers conferred upon it by this Indenture, except for actions arising from the negligence or misconduct of the Administrator.

(c) The Administrator shall not be deemed to have knowledge of any Event of Default hereunder unless and until it shall have received written notice thereof from the Trustee or an owner of the Bonds. In the absence of such actual knowledge or notice, the Administrator may conclusively assume that no Event of Default has occurred and is continuing under this Indenture. Except as otherwise expressly provided herein, the Administrator shall not be bound to ascertain or inquire as to the performance or observance by any other party of any of the terms, conditions, covenants or agreements herein or of any of the documents executed in connection with the Bonds, or as to the existence of any default thereunder.

(d) No provision of this Indenture shall require the Administrator to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if amounts in the Administrative Expense Account are not available for that purpose. Nonetheless, the Administrator shall be entitled to interest on any amounts voluntarily advanced by it from its own funds at the maximum rate permitted by law.

(e) The Administrator shall have no responsibility, opinion, or liability with respect to any information, statements or recital in any offering memorandum or other disclosure material prepared or distributed with respect to the issuance of the Bonds.

(f) The Administrator shall not be liable to the parties hereto or deemed in breach or default hereunder if and to the extent its performance hereunder is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the Administrator and could not have been avoided by exercising due care. Force majeure shall include but not be limited to acts of God, terrorism, war, riots, strikes, fire, floods, earthquakes, epidemics or other similar occurrences.

(g) The Administrator shall not be responsible for or accountable to anyone for the subsequent use or application of any moneys which are transferred to Local Agencies in accordance with the provisions hereof.

**Section 9.03. Right to Rely on Documents and Opinions.** The Administrator shall have no liability in acting upon any notice, resolution, request, consent, order, certificate, report, opinion, facsimile transmission, electronic mail, or other paper or document reasonably believed by it to be genuine and to have been signed or prescribed by the proper party or parties, and shall not be required to make any investigation into the facts or matters contained thereon. The Administrator may consult with counsel, including, without limitation, counsel of or to the Authority, with regard to legal questions, and, in the absence of negligence or intentional misconduct by the Administrator, the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by the Administrator hereunder in accordance therewith.

**Section 9.04. Compensation and Indemnification.** The Administrator shall be entitled to reasonable compensation for all services rendered under this Indenture and also payment or reimbursement of all reasonable expenses, charges, legal and consulting fees and other disbursements and those of its attorneys, agents and employees, incurred in and about the performance of its powers and duties under this Indenture. All such compensation and payment or reimbursements shall be Administrative Expenses payable from amounts in the Administrative Expense Account. The Administrator shall have a lien on the Pledged Tax Revenues and all funds and accounts held by the Trustee hereunder to secure the payment to the Administrator of all costs and expenses, including reasonable compensation to its attorneys, subordinate to the lien thereon for the benefit of the Bondowners and the Trustee.

## ARTICLE X

### MISCELLANEOUS

**Section 10.01. Benefits Limited to Parties.** Nothing in this Indenture, expressed or implied, is intended to give to any person other than the Authority, the Administrator, the Trustee and the Owners, any right, remedy or claim under or by reason of this Indenture. Any covenants, stipulations, promises or agreements in this Indenture contained by and on behalf of the Authority shall be for the sole and exclusive benefit of the Trustee, the Administrator and the Owners. Any covenants, stipulations, promises or agreements in this Indenture contained by and on behalf of the Administrator shall be for the sole and exclusive benefit of the Trustee, the Authority and the Owners. To the extent that this Indenture confers upon or gives any Insurer any right, remedy or claim under or by reason of this Indenture, such Insurer is hereby explicitly recognized as being third-party beneficiaries hereunder and may enforce any such right, remedy or claim conferred, given or granted hereunder.

**Section 10.02. Successor is Deemed Included in All References to Predecessor.** Whenever in this Indenture or any Supplemental Indenture any of the Authority, the Administrator or the Trustee is named or referred to, such reference shall be deemed to include the successors or assigns thereof, and all the covenants and agreements in this Indenture contained by or on behalf of the Authority, the Administrator or the Trustee shall bind and inure to the benefit of the respective successors and assigns thereof whether so expressed or not.

#### **Section 10.03. Discharge of Indenture.**

(a) If the Administrator shall cause to be paid from the Pledged Tax Revenues or amounts in the funds and accounts created hereunder and discharge the entire indebtedness on all Bonds or any portion thereof in any one or more of the following ways:

(i) by well and truly paying or causing to be paid the principal of and interest and premium (if any) on all or the applicable portion of Outstanding Bonds, as and when the same become due and payable;

(ii) by irrevocably depositing with the Trustee, in trust, or an escrow agent, in an irrevocable escrow, at or before maturity, money which, together with the available amounts then on deposit in the funds and accounts established pursuant to this Indenture, is fully sufficient to pay all or the applicable portion of Outstanding Bonds, including all principal and interest, or;

(iii) by irrevocably depositing with the Trustee, in trust, or an escrow agent, in an irrevocable escrow, Defeasance Obligations in such amount as an Independent Accountant shall determine will, together with such other money as may be deposited with the Trustee plus the interest to accrue thereon and available moneys then on deposit in the funds and accounts established pursuant to this Indenture, be fully sufficient to pay and discharge the indebtedness on all Bonds or the applicable portion thereof (including all principal and interest) at or before maturity;

and, if such Bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given pursuant to Section 2.03(d) or provision satisfactory to the Trustee shall have been made for the giving of such notice, then, at the election of the Administrator, and notwithstanding that any Bonds shall not have been surrendered for payment, the pledge of the Pledged Tax Revenues and other funds provided for in this Indenture and all other obligations of the Trustee, the Authority and the Administrator under this Indenture shall cease and terminate with respect to all Outstanding Bonds or, if applicable, with respect to that portion of the Bonds which has been paid and discharged, except only (A) the obligation of the Trustee to transfer and exchange Bonds hereunder, (B) the obligations of the Administrator under Section 6.06 hereof, and (C) the obligation of the Administrator to pay or cause to be paid to the Owners from the amounts so deposited with the Trustee, all sums due thereon and to pay the Trustee all fees, expenses and costs of the Trustee. In the event the Administrator shall, pursuant to the foregoing provision, pay and discharge any portion or all of the Bonds then Outstanding, the Trustee shall be authorized to take such actions and execute and deliver to the Administrator all such instruments as may be necessary or desirable to evidence such discharge, including, without limitation, selection by lot of Bonds of any maturity of the Bonds that the Administrator has determined to pay and discharge in part.

In the case of a defeasance or payment of all of the Bonds Outstanding, any funds thereafter held by the Trustee which are not required for said purpose or for payment of amounts due the Trustee pursuant to Section 6.06 shall be paid over to the Administrator and applied by the Administrator consistent with the Fort Ord Reuse Authority Act and the Marks-Roos Act, as applicable.

**Section 10.04. Execution of Documents and Proof of Ownership by Owners.** Any request, consent, declaration or other instrument which this Indenture may require or permit to be executed by any Owner may be in one or more instruments of similar tenor, and shall be executed by such Owner in person or by such Owner's attorneys appointed in writing.



Except as otherwise herein expressly provided, the fact and date of the execution by any Owner or his attorney of such request, declaration or other instrument, or of such writing appointing such attorney, may be proved by the certificate of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which he purports to act, that the person signing such request, declaration or other instrument or writing acknowledged to him the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer.

The ownership of Bonds and the amount, maturity, number and date of ownership thereof shall be proved by the Registration Books.

Any demand, request, direction, consent, declaration or other instrument or writing of the Owner of any Bond shall bind all future Owners of such Bond in respect of anything done or suffered to be done by the Authority, the Administrator or the Trustee and in accordance therewith, provided, however, that the Trustee shall not be deemed to have knowledge that any Bond is owned by or for the account of the Authority or the Administrator unless the Authority or the Administrator is the registered Owner or the Trustee has received written notice that any other registered Owner is such an affiliate.

**Section 10.05. Disqualified Bonds.** In determining whether the Owners of the requisite aggregate principal amount of Bonds have concurred in any demand, request, direction, consent or waiver under this Indenture, Bonds which are owned or held by or for the account of the Authority or the Administrator (but excluding Bonds held in any employees' retirement fund) shall be disregarded and deemed not to be Outstanding for the purpose of any such determination. Upon request of the Trustee, the Authority and the Administrator shall specify in a Written Certificate to the Trustee those Bonds disqualified pursuant to this Section and the Trustee may conclusively rely on such Certificate.

**Section 10.06. Waiver of Personal Liability.** No member, Councilmember, officer, agent or employee of the Authority or the Administrator shall be individually or personally liable for the payment of the principal or interest or any premium on the Bonds; but nothing herein contained shall relieve any such member, Councilmember, officer, agent or employee from the performance of any official duty provided by law.

**Section 10.07. Destruction of Cancelled Bonds.** Whenever in this Indenture provision is made for the surrender to the Trustee of any Bonds which have been paid or cancelled pursuant to the provisions of this Indenture, the Trustee shall destroy such bonds and provide the Authority a certificate of destruction. The Administrator shall be entitled to rely upon any statement of fact contained in any certificate with respect to the destruction of any such Bonds therein referred to.

**Section 10.08. Notices.** Any notice, request, demand, communication or other paper shall be sufficiently given and shall be deemed given when delivered or upon receipt when mailed by first class, registered or certified mail, postage prepaid, or sent by facsimile, addressed as follows:

If to the Authority:	Fort Ord Reuse Authority 920 2nd Avenue, Suite A Marina, California 93933 Attention: Executive Officer
If to the Administrator:	City of Marina 211 Hillcrest Avenue Marina, California 93933 Attention: City Manager
If to the Trustee:	U.S. Bank National Association One California Street, 10th Floor San Francisco, California 94111 Attention: Global Corporate Trust
If to the Insurer:	[To come]

The Authority, the Administrator, the Trustee and the Insurer may designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

**Section 10.09. Partial Invalidity.** If any Section, paragraph, sentence, clause or phrase of this Indenture shall for any reason be held illegal, invalid or unenforceable, such holding shall not affect the validity of the remaining portions of this Indenture. The Authority and the Administrator hereby declare that they would have entered into this Indenture and each and every other Section, paragraph, sentence, clause or phrase hereof and the Authority would have authorized the issuance of the Bonds irrespective of the fact that any one or more Sections, paragraphs, sentences, clauses, or phrases of this Indenture may be held illegal, invalid or unenforceable. If, by reason of the judgment of any court, the Trustee is rendered unable to perform its duties hereunder, all such duties and all of the rights and powers of the Trustee hereunder shall, pending appointment of a successor Trustee in accordance with the provisions of Section 6.01 hereof, be assumed by and vest in the person serving as the chief financial officer of the Administrator in trust for the benefit of the Owners. The Administrator covenants for the direct benefit of the Owners that the person serving as its chief financial officer in such case shall be vested with all of the rights and powers of the Trustee hereunder, and shall assume all of the responsibilities and perform all of the duties of the Trustee hereunder, in trust for the benefit of the Bonds, pending appointment of a successor Trustee in accordance with the provisions of Section 6.01 hereof.

**Section 10.10. Unclaimed Moneys.** Anything contained herein to the contrary notwithstanding, any money held by the Trustee in trust for the payment and discharge of the interest or premium (if any) on or principal of the Bonds which remains unclaimed for two (2) years after the date when the payments of such interest, premium and principal have become

payable, if such money was held by the Trustee at such date, or for two (2) years after the date of deposit of such money if deposited with the Trustee after the date when the interest and premium (if any) on and principal of such Bonds have become payable, shall be repaid by the Trustee to the Administrator free from trust, and the Trustee shall thereupon be released and discharged with respect thereto and the Bondowners shall look only to the Administrator for the payment of the principal of and interest on of such Bonds.

**Section 10.11. Execution in Counterparts.** This Indenture may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Section 10.12. Governing Law.** This Indenture shall be construed and governed in accordance with the laws of the State applicable to contracts made and performed in the State.

## ARTICLE XI

### INSURANCE POLICY AND RESERVE POLICY

**Section 11.01. Provisions Relating to the Insurance Policy.** [To come]

**Section 11.02. Provisions Relating to the Reserve Policy.** [To come]

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, the FORT ORD REUSE AUTHORITY has caused this Indenture to be signed in its name by its Executive Officer, the CITY OF MARINA, CALIFORNIA has caused this Indenture to be signed in its name by its City Manager, and U.S. BANK NATIONAL ASSOCIATION, in token of its acceptance of the trusts created hereunder, has caused this Indenture to be signed in its corporate name by its officer thereunto duly authorized, all as of the day and year first above written.

FORT ORD REUSE AUTHORITY

By: \_\_\_\_\_

Joshua Metz,  
Executive Officer

CITY OF MARINA, CALIFORNIA

By: \_\_\_\_\_

Layne Long,  
City Manager

U.S. BANK NATIONAL ASSOCIATION,  
as Trustee

By: \_\_\_\_\_

Authorized Officer

06006.05:J16759

**EXHIBIT A**

**FORM OF BOND**

UNLESS THIS BOND IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY TO THE TRUSTEE FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY BOND ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY AND ANY PAYMENT IS MADE TO CEDE & CO., ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL SINCE THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

R-\_\_\_\_\_

\$\_\_\_\_\_

**UNITED STATES OF AMERICA  
STATE OF CALIFORNIA  
COUNTY OF MONTEREY**

**FORT ORD REUSE AUTHORITY  
TAX ALLOCATION BOND,  
SERIES 2020 (FEDERALLY TAXABLE)**

INTEREST RATE:      MATURITY DATE:      DATED DATE:      CUSIP:  
June \_\_, 2020

REGISTERED OWNER:      CEDE & CO.

PRINCIPAL SUM:      \_\_\_\_\_ DOLLARS

The FORT ORD REUSE AUTHORITY, a public entity duly existing under and by virtue of the laws of the State of California (the "Authority"), for value received hereby promises to pay to the Registered Owner stated above, or registered assigns (the "Registered Owner"), on the Maturity Date stated above (subject to any right of prior redemption hereinafter provided for), the Principal Sum stated above, in lawful money of the United States of America, and to pay interest thereon in like lawful money from the Interest Payment Date (as hereinafter defined) next preceding the date of authentication of this Bond, unless (i) this Bond is authenticated on or before an Interest Payment Date and after the close of business on the fifteenth (15th) day of the month immediately preceding an Interest Payment Date (the "Record Date"), in which event it shall bear interest from such Interest Payment Date, or (ii) this Bond is authenticated on or before August 15, 2020, in which event it shall bear interest from the Dated Date above; provided however, that if at the time of authentication of this Bond, interest is in default on this Bond, this Bond shall bear interest from

the Interest Payment Date to which interest has previously been paid or made available for payment on this Bond, until payment of such Principal Sum in full, at the Interest Rate per annum stated above, payable semiannually on March 1 and September 1 in each year, commencing September 1, 2020 (each an "Interest Payment Date"), calculated on the basis of 360-day year comprised of twelve 30-day months. Principal hereof and premium, if any, upon early redemption hereof are payable upon surrender of this Bond at the corporate trust office of U.S. Bank National Association, as trustee (the "Trustee"), in Saint Paul, Minnesota, or at such other place designated by the Trustee (the "Principal Corporate Trust Office"). Interest hereon (including the final interest payment upon maturity or earlier redemption) is payable by check of the Trustee mailed by first class mail, postage prepaid, on the Interest Payment Date to the Registered Owner hereof at the Registered Owner's address as it appears on the registration books maintained by the Trustee as of the Record Date for such Interest Payment Date; provided however, that payment of interest may be by wire transfer to an account in the United States of America to any registered owner of Bonds in the aggregate principal amount of \$1,000,000 or more upon written instructions of any such registered owner filed with the Trustee for that purpose prior to the Record Date preceding the applicable Interest Payment Date.

This Bond is one of a duly authorized issue of bonds of the Authority designated as "Fort Ord Reuse Authority Tax Allocation Bonds, Series 2020 (Federally Taxable)" (the "Bonds"), of an aggregate principal amount of \$\_\_\_\_\_ all of like tenor and date (except for such variation, if any, as may be required to designate varying series, numbers, maturities, interest rates, or redemption and other provisions) and all issued pursuant to the provisions of the Marks-Roos Local Bond Pooling Act of 1985, codified at Article 4 of Chapter 6 of Division 7 of Title 1 of the California Government Code (the "Marks-Roos Act") and the Fort Ord Reuse Authority Act, codified at Title 7.85 of the California Government Code (the "Fort Ord Reuse Authority Act"), and pursuant to an Indenture of Trust, dated as of June 1, 2020, entered into by and among the Authority, the City of Marina, California, as Administrator (the "Administrator") and the Trustee (the "Indenture"), providing for the issuance of the Bonds. The Bonds are being issued in the form of registered Bonds without coupons. Reference is hereby made to the Indenture (copies of which are on file at the office of the Trustee) and all indentures supplemental thereto, to the Marks-Roos Act and to the Fort Ord Reuse Authority Act, for a description of the terms on which the Bonds are issued, the provisions with regard to the nature and extent of the Pledged Tax Revenues (as that term is defined in the Indenture), and the rights thereunder of the registered owners of the Bonds and the rights, duties and immunities of the Trustee and the rights and obligations of the Authority and the Administrator thereunder, to all of the provisions of which Indenture the Registered Owner of this Bond, by acceptance hereof, assents and agrees. Capitalized terms used and not otherwise defined herein have the meanings given them in the Indenture.

The Bonds are limited obligations of the Authority and this Bond and the interest hereon and on all other Bonds and the interest thereon (to the extent set forth in the Indenture), are payable from, and are secured by a pledge of, security interest in and lien on the Pledged Tax Revenues.

There has been created the Debt Service Fund (as defined in the Indenture), which will be maintained by the Trustee, into which Pledged Tax Revenues shall be deposited for payment, when due, of the principal of and the interest on the Bonds. As and to the extent set forth in the Indenture, all such Pledged Tax Revenues and the moneys in the Debt Service Fund, except the Administrative Expense Account and the Surplus Account therein, are exclusively and irrevocably pledged to and constitute a trust fund, in accordance with the terms hereof and the provisions of the Indenture, the Marks-Roos Act and the California Health and Safety Code, for the security and payment or redemption of, including any premium upon early redemption, and for the security and payment of interest on, the Bonds. In addition, the Escrow Term Bonds are secured by amounts in the Escrow Fund and the Escrow Interest Account, as such capitalized terms are defined in the Indenture. Except for the Pledged Tax Revenues and such moneys, no funds or properties of the Authority or the Administrator shall be pledged to, or otherwise liable for, the payment of principal of or interest on the Bonds.

The Bonds are not subject to optional redemption prior to their respective maturities.

The Term Bonds are subject to sinking fund payments prior to maturity as described in the Indenture, and the Escrow Term Bonds are subject to mandatory redemption on \_\_\_\_\_ 1, \_\_\_\_, in whole or in part, in each case at a redemption price equal to the principal amount thereof to be redeemed, together with accrued interest to the date of redemption, without premium. As provided in the Indenture, notice of redemption shall be given by first class mail no less than twenty (20) (or such longer period, up to thirty (30) days, as may be required by the Depository) nor more than sixty (60) days prior to the redemption date to the respective registered owners of any Bonds designated for redemption at their addresses appearing on the Bond registration books maintained by the Trustee, but neither failure to receive such notice nor any defect in the notice so mailed shall affect the sufficiency of the proceedings for redemption.

If this Bond is called for redemption and payment is duly provided therefor as specified in the Indenture, interest shall cease to accrue hereon from and after the date fixed for redemption.

The Bonds are issuable as fully registered Bonds without coupons in denominations of \$5,000 and any integral multiple thereof. Subject to the limitations and conditions and upon payment of the charges, if any, as provided in the Indenture, Bonds may be exchanged for a like aggregate principal amount of Bonds of other Authorized Denominations and of the same maturity.

This Bond is transferable by the Registered Owner hereof, in person or by his attorney duly authorized in writing, at the Principal Corporate Trust Office of the Trustee, but only in the manner and subject to the limitations provided in the Indenture, and upon surrender and cancellation of this Bond. Upon registration of such transfer a new fully registered Bond or Bonds, of any Authorized Denominations, for the same aggregate principal amount and of the same maturity will be issued to the transferee in exchange herefor. The Trustee may refuse to transfer or exchange (a) any Bond during the fifteen (15) days prior to the date established for the selection of Bonds for redemption, or (b) any Bond selected for redemption.

The Authority, the Administrator and the Trustee may treat the Registered Owner hereof as the absolute owner hereof for all purposes, and the Authority and the Trustee shall not be affected by any notice to the contrary.

The rights and obligations of the Authority, the Administrator, the Trustee and the registered owners of the Bonds may be modified or amended at any time in the manner, to the extent and upon the terms provided in the Indenture, but no such modification or amendment shall (a) extend the maturity of or reduce the interest rate on any Bond or otherwise alter or impair the obligation of the Authority to pay the principal and interest at the time and place and at the rate and in the currency provided therein of any Bond without the express written consent of any Insurer or the Owner of such Bond, (b) reduce the percentage of Bonds required for the written consent to any such amendment or modification or (c) without its written consent thereto, modify any of the rights or obligations of the Trustee.

This Bond is not a debt, liability or obligation of any of the members, Councilmembers or officers of the Authority or the Administrator, any agency, any district, any city, the County of Monterey, the State of California, or any of its political subdivisions except the Authority, and no agency, district, or city, and none of said County, said State, nor any of its political subdivisions except the Authority is liable hereon, nor in any event shall this Bond be payable out of any funds or properties other than those pledged therefor under the Indenture. The Bonds do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

It is hereby certified that all of the things, conditions and acts required to exist, to have happened or to have been performed precedent to and in the issuance of this Bond do exist, have happened or have been performed in due and regular time and manner as required by the Law and the laws of the State of California, and that the amount of this Bond, together with all other indebtedness of the Authority, does not exceed any limit prescribed by the Marks-Roos Act, the Fort Ord Reuse Authority Act, or any other laws of the State of California, and is not in excess of the amount of Bonds permitted to be issued under the Indenture.

This Bond shall not be entitled to any benefit under the Indenture or become valid or obligatory for any purpose until the Trustee's Certificate of Authentication hereon shall have been manually signed by the Trustee.



IN WITNESS WHEREOF, the Fort Ord Reuse Authority has caused this Bond to be executed in its name and on its behalf with the facsimile signature of its Executive Officer and attested by the facsimile signature of its Secretary, all as of the Dated Date set forth above.

FORT ORD REUSE AUTHORITY

By: \_\_\_\_\_  
Executive Officer

ATTEST:

\_\_\_\_\_  
Secretary

[FORM OF TRUSTEE'S CERTIFICATE OF AUTHENTICATION]

This is one of the Bonds described in the within-mentioned Indenture.

Authentication Date: \_\_\_\_\_

U.S. BANK NATIONAL ASSOCIATION, as  
Trustee

By: \_\_\_\_\_  
Authorized Signatory

[FORM OF STATEMENT OF INSURANCE]

[FORM OF ASSIGNMENT]

For value received the undersigned hereby sells, assigns and transfers unto

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(Name, Address and Tax Identification or Social Security Number of Assignee)

the within-registered Bond and hereby irrevocably constitute(s) and appoints(s)

\_\_\_\_\_ attorney,  
to transfer the same on the registration books of the Trustee with full power of substitution in the premises.

Dated: \_\_\_\_\_

Signatures Guaranteed:

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Note: Signature(s) must be guaranteed by an eligible guarantor.

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Note: The signatures(s) on this Assignment must correspond with the name(s) as written on the face of the within Bond in every particular without alteration or enlargement or any change whatsoever.

## EXHIBIT B

### BUILDING REMOVAL PARCELS

List of Building Removal Parcels by U.S Army Corps of Engineers ("Army") Parcel Number.

Jurisdiction	USACE Parcel Number	Description	Bond Account Owner
City of Marina	E4.1.1	Cypress Knolls	City of Marina
City of Marina	E4.1.2.1	Cypress Knolls	City of Marina
City of Marina	E4.1.2.2	Cypress Knolls	City of Marina
City of Marina	L5.9.1.1	Marina Radio Club	City of Marina
City of Marina	L5.4.2	Marina Park	City of Marina
City of Marina	L5.5.1	Marina Park	City of Marina
City of Marina	E2b.3.1.1	Marina Arts District	City of Marina
City of Marina	E2c.4.2.1	Commercial/Business Park	City of Marina
City of Marina	L5.5.1	PBC parcel 2nd Ave, across from CSBUB	City of Marina
City of Marina	L23.1.5	across from FORA on 11th street	City of Marina
City of Marina	E2d.3.2	Equestrian Center	City of Marina
City of Marina	L5.9.1.2	Equestrian Center	City of Marina
City of Marina	E2b.2.4	White Church across from VA/DOD clinic	City of Marina
City of Marina	L5.4.1	old pool, water city roller hockey	City of Marina
City of Marina	E2b.1.5	old fire station, 2nd ave.	City of Marina
City of Marina	L20.16.1	TAMC Transit Center	TAMC
City of Marina	L2.1	MST Transit Center	MST
City of Marina	L35.1	MCWD Storage	MCWD
City of Marina	Various	Any parcel that was within the boundaries of the former Fort Ord Military Base that is now located within the City of Marina	City of Marina
State Parks	S3.1.1	MCWD Wastewater Plant	MCWD
City of Seaside	L2.4.3.1	MST Storage	MST
City of Seaside	L32.4.1.1	Surplus II	City of Seaside
City of Seaside	L19.4	Surplus II	City of Seaside
City of Seaside	L15.1	Surplus II	City of Seaside
City of Seaside	F2.3.2	Main Gate	City of Seaside
City of Seaside	F2.3.3	GJMB Parcel	City of Seaside
City of Seaside	F5.2	National Guard	City of Seaside
City of Seaside	L23.5.1	Chartwell School	City of Seaside
City of Seaside	E18.1.3	Nurses Barracks	City of Seaside
City of Seaside	Various	Any parcel that was within the boundaries of the former Fort Ord Military Base that is now located within the City of Seaside	City of Seaside

\$ \_\_\_\_\_  
**FORD ORD REUSE AUTHORITY  
TAX ALLOCATION BONDS, SERIES 2020  
(FEDERALLY TAXABLE)**

**BOND PURCHASE AGREEMENT**

\_\_\_\_\_, 2020

Ford Ord Reuse Authority  
920 2nd Avenue, Suite A  
Marina, California 93933

Ladies and Gentlemen:

The undersigned, Stifel, Nicolaus & Company, Incorporated, on behalf of itself and as representative (the “**Representative**”) of Citigroup Global Markets, Inc. (together with the Representative, the “**Underwriters**”), offers to enter into this Bond Purchase Agreement (this “**Purchase Agreement**”) with the Ford Ord Reuse Authority (the “**Authority**”), which will be binding upon the Authority and the Underwriters upon the acceptance hereof by the Authority. This offer is made subject to its acceptance by the Authority by execution of this Purchase Agreement and its delivery to the Underwriters on or before 5:00 p.m., California time, on the date hereof, or at such other later time as the Underwriters shall agree to in writing. All terms used herein and not otherwise defined shall have the respective meanings given to such terms in the Indenture (as hereinafter defined).

The Authority acknowledges and agrees that: (i) the purchase and sale of the Bonds pursuant to this Purchase Agreement is an arm’s length commercial transaction between the Authority and the Underwriters; (ii) in connection with such transaction, the Underwriters are acting solely as principals and not as agents or fiduciaries of the Authority; (iii) the Underwriters have not assumed a fiduciary responsibility in favor of the Authority with respect to the offering contemplated hereby or the discussions, undertakings and procedures leading thereto (irrespective of whether the Underwriters have provided other services or are currently providing other services to the Authority on other matters); and (iv) the Authority has consulted with its own legal and financial advisors to the extent it has deemed appropriate.

1. Purchase and Sale. Upon the terms and conditions and upon the basis of the representations, warranties and agreements hereinafter set forth, the Underwriters hereby agree to purchase from the Authority for offering to the public, and the Authority hereby agrees to sell to the Underwriters for such purpose, all (but not less than all) of the \$\_\_\_\_\_ aggregate principal amount of the Ford Ord Reuse Authority Tax Allocation Bonds, Series 2020 (Federally Taxable), at a purchase price equal to \$\_\_\_\_\_ (being the aggregate principal amount thereof, less an Underwriters’ discount of \$\_\_\_\_\_). In addition, on behalf of the Authority, from the purchase price of the Bonds, the Underwriters shall wire the amount of \$\_\_\_\_\_ to the Insurer (defined below) to pay the costs of the premiums for the Policy (defined below) and the Reserve Policy (defined below). The Bonds are to be purchased by the Underwriters from the Authority. Such

payment and delivery and the other actions contemplated hereby to take place at the time of such payment and delivery are herein sometimes called the “**Closing**.”

2. The Bonds and Related Documents. The Bonds shall be substantially in the form described in, and shall be issued and secured under the provisions of, an Indenture of Trust, dated as of May 1, 2020 (the “**Indenture**”), by and among the Authority, the City of Marina (the “**Administrator**”) and U.S. Bank National Association, as trustee (the “**Trustee**”). The Bonds will be issued under the authority set forth in Section 67679(d)(9) of the Ford Ord Reuse Authority Act, Title 7.85, commencing with Section 67650, of the California Government Code (the “**FORA Act**”), and the Marks-Roos Local Bond Pooling Act of 1985, constituting Section 6584 et seq. of the California Government Code (the “**Marks-Roos Act**”) and a resolution of the Authority adopted on December 13, 2019 (the “**Authorizing Resolution**”). The Building Removal Fund Agreements (as defined below) were approved by a resolution of the Authority adopted on April 30, 2020 (the “**Building Removal Resolution**”). The Official Statement (as defined below) was approved by a resolution of the Authority adopted on May \_\_, 2020 (the “**Authority OS Resolution**” and, together with the Authorizing Resolution, the Building Removal Resolution, the “**Authority Resolutions**”). The Bonds shall be as described in the Indenture and the Official Statement dated the date hereof relating to the Bonds (which, together with all exhibits and appendices included therein or attached thereto and such amendments or supplements thereto which shall be approved by the Underwriters, is hereinafter called the “**Official Statement**”).

The Bonds are secured by a pledge of and lien on the Pledged Tax Revenues (defined in the Indenture), which generally consist of the portion of property tax revenues allocated to (a) the Authority pursuant to California Health and Safety Code Section 33492.71, subsection (c)(1)(A) or (b) the Administrator, as successor in interest to the Authority upon its dissolution, pursuant to California Health and Safety Code Section 33492.71, subsection (c)(1)(D).

The Bonds shall be insured under a municipal bond insurance policy (the “**Policy**”) from \_\_\_\_\_ (the “**Insurer**”). A debt service reserve insurance policy (the “**Reserve Policy**”) shall also be purchased from the Insurer for the Bonds.

The net proceeds of the Bonds will be used to finance the Building Removal Costs, as such term is defined in the Indenture, and as described in the Official Statement, pursuant to certain Building Removal Funding Agreements (each a “**Building Removal Funding Agreement**”) to be entered into separately among the Authority, the Administrator and each entity receiving proceeds of the Bonds, as applicable, to pay Building Removal Costs (each, a “**Funding Recipient**”).

The Authority and the Administrator will undertake pursuant to the provisions of a Continuing Disclosure Certificate, dated as of May 1, 2020 (the “**Disclosure Certificate**”) and executed by the Authority and the Administrator, to provide certain annual information and notices of the occurrence of certain enumerated events. A description of the undertaking is set forth in the Preliminary Official Statement (as defined below) and will also be set forth in the Official Statement.

The Indenture, the Continuing Disclosure Certificate, and this Purchase Agreement are sometimes collectively referred to herein as the “**Authority Legal Documents**.”

3. Offering. Except as otherwise disclosed and agreed to by the Authority, the Underwriters agree to make a bona fide public offering of the Bonds at the initial public offering price or prices set forth on the inside cover page of the Official Statement and in Exhibit A; provided,

however, that the Underwriters reserve the right to change such initial public offering prices as the Underwriters deem necessary or desirable, in their sole discretion, in connection with the marketing of the Bonds, and to sell the Bonds to certain dealers (including dealers depositing the Bonds into investment trusts) and others at prices lower than the initial offering prices set forth in the Official Statement. A “bona fide public offering” shall include an offering to institutional investors or registered investment companies, regardless of the number of such investors to which the Bonds are sold.

4. Use and Preparation of Documents. The Authority has caused to be prepared and delivered to the Underwriters prior to the execution of this Purchase Agreement copies of the Preliminary Official Statement dated \_\_\_\_\_, 2020, relating to the Bonds (the “**Preliminary Official Statement**”), which was approved by the Authority OS Resolution. The Authority ratifies, confirms and approves the use by the Underwriters prior to the date hereof of the Preliminary Official Statement. The Authority has previously deemed the Preliminary Official Statement to be final as of its date for purposes of Rule 15c2-12 promulgated under the Securities Exchange Act of 1934 (“**Rule 15c2-12**”), except for information permitted to be omitted therefrom by Rule 15c2-12. The Authority hereby agrees to deliver or cause to be delivered to the Underwriters, within seven (7) business days of the date hereof, but not less than one (1) business day prior to Closing, a sufficient number of copies of the final Official Statement relating to the Bonds, dated the date hereof, which includes all information permitted to be omitted by Rule 15c2-12 and any amendments or supplements to such Official Statement as have been approved by the Authority and the Underwriters to enable the Underwriters to distribute a single copy of each Official Statement to any potential customer of the Underwriters requesting an Official Statement during the time period beginning when the Official Statement becomes available and ending 25 days after the End of the Underwriting Period (defined below). The Authority hereby approves of the use and distribution (including the electronic distribution) by the Underwriters of the Preliminary Official Statement and the Official Statement in connection with the offer and sale of the Bonds. The Authority shall have executed and delivered to the Underwriters a certification to such effect in the form attached hereto as Exhibit B. The Underwriters agree that they will not confirm the sale of any Bonds unless the confirmation of sale is accompanied or preceded by the delivery of a copy of the Official Statement.

5. Representations, Warranties and Agreements of the Authority. The Authority hereby represents, warrants and agrees as follows:

(a) The Authority is a public entity existing and exercising its powers under the laws of the State of California (the “**State**”), including the FORA Act.

(b) The Authority has full legal right, power and authority to enter into the Authority Legal Documents and carry out and consummate the transactions contemplated by the Authority Legal Documents.

(c) By all necessary official action of the Authority prior to or concurrently with the acceptance hereof, the Authority has duly authorized and approved the preparation and use of the Preliminary Official Statement and the Official Statement, the execution and delivery of the Official Statement and the Authority Legal Documents, the issuance of the Bonds, and the performance by the Authority of all transactions contemplated by the Authority Legal Documents; and the Authority Legal Documents will constitute legal, valid and binding obligations of the Authority, enforceable in accordance with their respective terms, except as enforcement may

be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles relating to or limiting creditors' rights generally.

(d) The Authority is not in any material respect in breach of or default under any applicable constitutional provision, law or administrative regulation to which it is subject or any applicable judgment or decree or any loan agreement, indenture, bond, note, resolution, agreement (including, without limitation, the Indenture) or other instrument to which the Authority is a party or to which the Authority or any of its property or assets is otherwise subject, and no event has occurred and is continuing which with the passage of time or the giving of notice, or both, would constitute such a default or event of default under any such instrument; and the execution and delivery of the Authority Legal Documents, and compliance with the provisions on the Authority's part contained therein, will not conflict with or constitute a material breach of or a material default under any constitutional provision, law, administrative regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the Authority is a party or to which the Authority or any of its property or assets is otherwise subject, nor will any such execution, delivery, adoption or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the property or assets of the Authority or under the terms of any such constitutional provision, law, regulation or instrument, except as provided by the Indenture.

(e) Except as described in or contemplated by the Official Statement, as of the date of the Closing, all authorizations, approvals, licenses, permits, consents and orders of any governmental authority, board, authority or commission having jurisdiction of the matter which are required for the due authorization by, or which would constitute a condition precedent to or the absence of which would materially adversely affect the due performance by, the Authority of its obligations under the Authority Legal Documents shall have been duly obtained.

(f) Between the date of this Purchase Agreement and the date of the Closing, the Authority will not, without the prior written consent of the Underwriters, offer or issue any bonds, notes or other obligations for borrowed money, or incur any material liabilities, direct or contingent, payable from Pledged Tax Revenues (as defined in the Indenture), nor will there be any adverse change of a material nature in the financial position, results of operations or condition, financial or otherwise, of the Authority.

(g) To the best knowledge of the officer of the Authority executing this Purchase Agreement, after due inquiry, as of the date hereof, there is no action, suit, proceeding, inquiry or investigation, at law or in equity before or by any court, government Authority, public board or body, pending or threatened against the Authority, affecting the existence of the Authority or the titles of its officers to their respective offices, or affecting or seeking to prohibit, restrain or enjoin the execution and delivery of the Indenture or the collection or allocation to the Authority or the Administrator (as applicable) of the Pledged Tax Revenues or contesting or affecting, as to the Authority or the Administrator, the validity or enforceability of the Authority Legal Documents, or contesting the completeness or accuracy of the Preliminary Official Statement or the Official Statement, or contesting the powers of the Authority or the Administrator, or in any way contesting or challenging the consummation of the transactions contemplated hereby, or which might result in a material adverse change in the financial condition of the Authority or which might materially adversely affect the amount of, or the collection or allocation to the Authority or the Administrator of, the Pledged Tax Revenues; nor, to the best knowledge of the officer of the Authority executing this Purchase Agreement, is there any known basis for any such action, suit, proceeding, inquiry or



investigation, wherein an unfavorable decision, ruling or finding would materially adversely affect the validity of the authorization, execution, delivery or performance by the Authority of the Authority Legal Documents.

(h) As of the time of acceptance hereof and as of the date of the Closing, the Authority does not and will not have outstanding any indebtedness which indebtedness is secured by a pledge of or lien on the Pledged Tax Revenues.

(i) As of the date thereof and as of the date hereof, the Preliminary Official Statement did not and does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein in light of the circumstances under which they were made, not misleading (except that this representation does not include information relating to The Depository Trust Company or the book-entry-only system, or the Insurer, the Policy or the Reserve Policy).

(j) As of the date thereof and at all times subsequent thereto to and including the date which is 25 days following the End of the Underwriting Period (as such term is hereinafter defined) for the Bonds, the Official Statement did not and will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made not misleading (except that this representation does not include information relating to The Depository Trust Company or the book-entry-only system, the Insurer, the Policy or the Reserve Policy).

(k) If between the date hereof and the date which is 25 days after the End of the Underwriting Period for the Bonds, an event occurs which would cause the information contained in the Official Statement, as then supplemented or amended, to contain an untrue statement of a material fact or to omit to state a material fact required to be stated therein or necessary to make such information herein, in the light of the circumstances under which it was presented, not misleading, the Authority will notify the Underwriters, and, if in the opinion of the Underwriters or the Authority, or respective counsel, such event requires the preparation and publication of a supplement or amendment to the Official Statement, the Authority will cooperate in the preparation of an amendment or supplement to the Official Statement in a form and manner approved by the Underwriters, and shall pay all expenses thereby incurred. For the purposes of this subsection, between the date hereof and the date which is 25 days of the End of the Underwriting Period for the Bonds, the Authority will furnish such information with respect to itself as the Underwriters may from time to time reasonably request. As used herein, the term “**End of the Underwriting Period**” means the later of such time as: (i) the Authority delivers the Bonds to the Underwriters; or (ii) the Underwriters do not retain, directly or as members of an underwriting syndicate, an unsold balance of the Bonds for sale to the public. Notwithstanding the foregoing, unless the Underwriters gives notice to the contrary, the “End of the Underwriting Period” shall be the date of Closing.

(l) If the information contained in the Official Statement is amended or supplemented pursuant to paragraph (k) hereof, at the time of each supplement or amendment thereto and (unless subsequently again supplemented or amended pursuant to such subparagraph) at all times subsequent thereto up to and including the date which is 25 days after the End of the Underwriting Period for the Bonds, the portions of the Official Statement so supplemented or amended (including any financial and statistical data contained therein) will not contain any untrue statement of a material fact required to be stated therein or necessary to make such information therein in the light of the circumstances under which it was presented, not misleading (except that this representation

does not include information relating to The Depository Trust Company or the book-entry-only system, or the Insurer, the Policy or the Reserve Policy).

(m) After the Closing, the Authority will not participate in the issuance of any amendment of or supplement to the Official Statement to which, after being furnished with a copy, the Underwriters shall reasonably object in writing or which shall be disapproved of by counsel for the Underwriters.

(n) Any certificate signed by any officer of the Authority and delivered to the Underwriters shall be deemed a representation by the Authority to the Underwriters as to the statements made therein.

(o) The Authority will apply the proceeds from the sale of the Bonds for the purposes specified in the Official Statement and the Building Removal Funding Agreements.

(p) The Authority has not been notified of any listing or proposed listing by the Internal Revenue Service to the effect that the Authority is not a bond issuer whose arbitrage certifications may be relied upon.

(q) The Authority will furnish such information, execute such instruments and take such other action in cooperation with the Underwriters, at the expense of the Underwriters, as it may reasonably request in order to qualify the Bonds for offer and sale under the “blue sky” or other securities laws and regulations of such states and other jurisdictions of the United States of America as the Underwriters may designate; provided, however, that the Authority will not be required to execute a special or general consent to service of process or qualify as a foreign corporation in connection with any such qualification in any jurisdiction.

(r) The Authority has not been subject to any continuing disclosure undertaking within the last five years.

(s) The default judgment dated March 12, 2020 (the “**Default Judgment**”) entered in favor of the Authority in connection with *Fort Ord Reuse Authority v. All Persons Interested, etc.*, Case No. 20CV000381 (the “**Validation Action**”) filed in the Superior County of California, County of Monterey, was duly entered, an appeal has not been filed, and the default judgment is in full force and effect.

(t) The building removal activities and other proposed uses of proceeds of the Bonds as contemplated by the Indenture and the Building Removal Funding Agreements constitute basewide public facilities within the meaning of Government Code Section 67679(d).

(u) The Administrator has been properly designated and appointed as the successor agency to the Authority for purposes of administering the Bonds, and all required approvals and consents to such designation and appointment have been obtained.

(v) No portion of the Pledged Tax Revenues is payable to the County, the Administrator, the City of Seaside, or any other taxing entity, prior to payment of debt service on the Bonds and other amounts payable under Sections 4.02(a), (b), (c), (d) and (e) of the Indenture.

6. Closing. At 8:00 A.M., California time, on May \_\_, 2020, or on such other date as may be mutually agreed upon by the Authority and the Underwriters, the Authority will,

subject to the terms and conditions hereof, sell and deliver the Bonds to the Underwriters, duly executed and authenticated, together with the other documents hereinafter mentioned, and, subject to the terms and conditions hereof, the Underwriters will accept such delivery and pay the purchase price of the Bonds as set forth in Section 1 hereof in federal funds. Sale, delivery and payment as aforesaid shall be made at the offices of Quint & Thimmig, LLP, Larkspur, California (“**Bond Counsel**”), or such other place as shall have been mutually agreed upon by the Authority and the Underwriters, except that the Bonds (with one certificate for each maturity and otherwise in a form suitable for the book-entry system) shall be delivered to the Underwriters in New York, New York, through the book-entry system of The Depository Trust Company (“**DTC**”). Unless the DTC Fast Automated Securities Transfer (“**FAST**”) is utilized, the Bonds will be made available for inspection by DTC at least one business day prior to the Closing.

7. Closing Conditions. The Underwriters have entered into this Purchase Agreement in reliance upon the representations and warranties of the Authority contained herein, and in reliance upon the representations and warranties to be contained in the documents and instruments to be delivered at the Closing and upon the performance by the Authority of its obligations hereunder, both as of the date hereof and as of the date of the Closing. Accordingly, the Underwriters’ obligation under this Purchase Agreement to purchase, to accept delivery of and to pay for the Bonds shall be conditioned upon the performance by the Authority of its obligations to be performed hereunder and under such documents and instruments at or prior to the Closing, and shall also be subject to the following additional conditions:

(a) The Underwriters shall receive, within seven (7) business days of the date hereof, but in no event less than 1 day prior to Closing, copies of the Official Statement (including all information previously permitted to have been omitted from the Preliminary Official Statement by Rule 15c2-12 and any amendments or supplements as have been approved by the Underwriters), in such reasonable quantity as the Underwriters shall have requested;

(b) The representations and warranties of the Authority contained herein shall be true and correct on the date hereof and on and as of the date of the Closing, as if made on the date of the Closing, and the statements of the officers and other officials of the Authority and the Trustee made in any certificate or other document furnished pursuant to the provisions hereof shall be accurate;

(c) At the time of the Closing, the Authority Legal Documents shall have been duly authorized, executed and delivered by the respective parties thereto and the Official Statement shall have been duly authorized, executed and delivered by the Authority, all in substantially the forms heretofore submitted to the Underwriters, with only such changes as shall have been agreed to in writing by the Underwriters, and shall be in full force and effect; and there shall be in full force and effect such resolution or resolutions of the governing body of the Authority as, in the opinion of Bond Counsel, shall be necessary or appropriate in connection with the transactions contemplated hereby;

(d) At the time of the Closing, all necessary official action of the Authority relating to the Official Statement and the Authority Legal Documents shall have been taken and shall be in full force and effect and shall not have been amended, modified or supplemented in any material respect;

(e) At or prior to the Closing, the Underwriters shall have received copies of each of the following documents:

(1) Bond Counsel Opinion. The approving opinion of Bond Counsel to the Authority, dated the date of the Closing and substantially in the form included as Appendix \_\_ to the Official Statement;

(2) Supplemental Opinion of Bond Counsel. A supplemental opinion or opinions of Bond Counsel addressed to the Underwriters, in form and substance acceptable to the Underwriters, and dated the date of the Closing, stating that the Underwriters may rely on the opinions of Bond Counsel described in paragraph (1) above as if such opinions were addressed to the Underwriters and to the following effect:

(i) the Purchase Agreement, the Continuing Disclosure Certificate, the Building Removal Funding Agreements and the Irrevocable Direction (as defined herein) have been duly executed and delivered by the Authority and (assuming due authorization, execution and delivery by and validity against the other parties thereto) constitute the valid and binding agreements of the Authority, except as enforcement thereof may be limited by bankruptcy, insolvency or other laws affecting enforcement of creditors' rights and by the application of equitable principles;

(ii) the statements contained in the Official Statement under the captions ["THE BONDS,"] ["SECURITY FOR THE BONDS,"] ["VALIDATION,"] ["TAX MATTERS,"] and in Appendices \_\_ and \_\_ insofar as such statements expressly summarize certain provisions of the Indenture or the opinion of Bond Counsel, are accurate in all material respects; and

(iii) the Bonds are not subject to the registration requirements of the Securities Act of 1933, as amended, and the Indenture is exempt from qualification pursuant to the Trust Indenture Act of 1939, as amended.

(3) Authority Certificate. A certificate of the Authority, dated the date of the Closing, signed on behalf of the Authority by a duly authorized officer of the Authority, to the effect that:

(i) the representations and warranties of the Authority contained herein are true and correct in all material respects on and as of the date of the Closing as if made on the date of the Closing;

(ii) no event affecting the Authority has occurred since the date of the Official Statement which has not been disclosed therein or in any supplement or amendment thereto which event should be disclosed in the Official Statement in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; and

(iii) the Authority is not, in any material respect, in breach of or default under any applicable law or administrative regulation of the State or the United States or any applicable judgment or decree or any loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the Authority is a party or is otherwise subject, which would

have a material adverse impact on the Authority's ability to perform its obligations under the Authority Legal Documents, and no event has occurred and is continuing which, with the passage of time or the giving of notice, or both, would constitute a default or event of default under any such instrument.

(4) Authority Counsel Opinion. An opinion of Kennedy, Archer & Griffen, Counsel to the Authority, dated the date of the Closing and addressed to the Underwriters, in form and substance acceptable to the Underwriters to the following effect:

(i) the Authority is a public entity duly organized and existing under the Constitution and laws of the State, with full right, power and authority to execute, deliver and perform its obligations under the Authority Legal Documents;

(ii) the Authority Resolutions were duly adopted at regular meetings of the Authority, called and held pursuant to law, with all public notice required by law and at which quorums were present and acting throughout; and the Authority Resolutions are in full force and effect and have not been modified amended or rescinded since their respective adoption date;

(iii) the Authority Legal Documents, the Preliminary Official Statement and the Official Statement have been duly authorized, executed and delivered (as applicable) by the Authority and, assuming due authorization, execution and delivery by the other parties thereto, the Authority Legal Documents constitute the valid, legal and binding obligations of the Authority enforceable in accordance with their respective terms, except as enforcement thereof may be limited by bankruptcy, insolvency or other laws affecting enforcement of creditors rights and by the application of equitable principles if equitable remedies are sought;

(iv) the execution and delivery of the Authority Legal Documents and the Official Statement and compliance with the provisions of the Authority Legal Documents, under the circumstances contemplated thereby, (1) do not and will not in any material respect conflict with or constitute on the part of the Authority a breach of or default under any agreement or other instrument to which the Authority is a party or by which it is bound, and (2) do not and will not in any material respect constitute on the part of the Authority a violation, breach of or default under any existing law, regulation, court order or consent decree to which the Authority is subject;

(v) to the best of such counsel's knowledge, except as otherwise disclosed in the Official Statement, there is no litigation or proceeding, pending and served, or threatened, challenging the creation, organization or existence of the Authority, or the validity of the Bonds or the Authority Legal Documents or seeking to restrain or enjoin any of the transactions referred to therein or contemplated thereby, or under which a determination adverse to the Authority would have a material adverse effect upon the financial condition or the revenues of the Authority, or which, in any manner, questions the right of the Authority to issue, sell and deliver the Bonds, to enter into the Authority Legal Documents or to use the Pledged Tax Revenues for repayment of the Bonds or affects in any manner the right or ability of the Authority or the Administrator to receive the Pledged Tax Revenues or the authority of the Authority to pledge the Pledged Tax Revenues;

(vi) the Default Judgment entered in favor of the Authority in connection with the Validation Action was duly entered, an appeal has not been filed, and the default judgment is in full force and effect;

(vii) the Summons issued in connection with the Validation Action was properly served on the California Department of Finance within the time required by applicable laws and rules of court;

(viii) the building removal activities and other proposed uses of proceeds of the Bonds as contemplated by the Indenture and the Building Removal Funding Agreements constitute basewide public facilities within the meaning of Government Code Section 67679(d);

(ix) the Administrator has been properly designated and appointed as the successor agency to the Authority for purposes of administering the Bonds, and all required approvals and consents to such designation and appointment have been obtained; and

(x) based upon his or her participation as Authority Counsel in the preparation of the Preliminary Official Statement and the Official Statement and without having undertaken to determine independently the fairness, accuracy or completeness of the statements contained in the Preliminary Official Statement or the Official Statement, Authority Counsel has no reason to believe that the information relating to the Authority, the Pledged Tax Revenues (excluding any financial or statistical data with respect thereto, and any information relating to The Depository Trust Company or the book-entry only system, or the Insurer, the Policy or the Surety Policy, all as to which no opinion is expressed) contained in the Preliminary Official Statement, as of its date and as of the date hereof and the Official Statement, as of its date and as of the date of the Closing, contains any untrue statement of a material fact or omitted or omits, respectively, to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(5) Trustee's Certificate. A Certificate, dated the date of Closing, to the effect that:

(i) the Trustee is a national banking association duly organized and validly existing under the laws of the United States of America;

(ii) the Trustee has full power, authority and legal right to comply with the terms of the Indenture and to perform its obligations stated therein; and

(iii) the Indenture has been duly authorized, executed and delivered by the Trustee and (assuming due authorization, execution and delivery by the other parties thereto) constitutes the legal, valid and binding obligation of the Trustee in accordance with its terms, except as the enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles relating to or limiting creditors' rights generally.

(6) Trustee Counsel Opinion. The opinion of counsel to the Trustee, dated the date of the Closing, addressed to the Underwriters, to the effect that:

(i) The Trustee is a national banking association, duly organized and validly existing under the laws of the United States of America, having full power to enter into, accept and administer the trusts created under the Indenture;

(ii) The Indenture has been duly authorized, executed and delivered by the Trustee and Indenture constitutes the legal, valid and binding obligation of the Trustee, enforceable in accordance with its terms, except as enforcement thereof may be limited by bankruptcy, insolvency or other laws affecting the enforcement of creditors' rights generally and by the application of equitable principles, if equitable remedies are sought; and

(iii) Except as may be required under Blue Sky or other securities laws of any state, no consent, approval, authorization or other action by any governmental or regulatory authority having jurisdiction over the Trustee that has not been obtained is or will be required for the execution and delivery of the Indenture, or the consummation of the transactions contemplated by the Indenture.

(7) Authority Resolutions. A copy of each of the Authority Resolutions.

(8) Authority Board Certificate. A certificate of the Secretary of the Authority to the effect that the Authority Resolutions were validly adopted, remain in full force and effect, and have not been amended, rescinded or otherwise modified since their respective date of adoption.

(9) Authority Legal Documents. Fully executed copies of this Purchase Agreement and the other Authority Legal Documents.

(10) Validation Action. A copy of the Default Judgment entered in favor of the Authority in connection with the Validation Action.

(11) Irrevocable Direction. A copy of the Irrevocable Direction to Transfer Funds, dated the date of the Closing (the "**Irrevocable Direction**"), duly executed by the Authority, the Auditor-Controller of the County, the Treasurer-Tax Collector of the County and the Administrator.

(12) County Resolutions. A copy of the resolution of the County Board of Supervisors, adopted on December 10, 2019, making the finding of public benefit required by the Marks-Roos Act (the "**County Resolution**"), and on \_\_\_\_\_, 2020 approving the Building Removal Funding Agreement with respect to the County.

(13) County Certificates. A certificate of the County, dated the date of this Purchase Agreement, substantially in the form attached hereto as Exhibit C, as well as a closing certificate of the County dated the date of the Closing, in form and substance acceptable to the Underwriters, to the effect that the representations and warranties in the County's certificate are true and correct as of the date of the Closing.

(14) Opinion of County Counsel. An opinion of County Counsel, dated the date of the Closing and addressed to the Underwriters, to the effect that:

(i) the County has full power, authority and legal right to comply with the terms of the Building Removal Funding Agreement with respect to the County and the Irrevocable Direction and to perform its obligations stated therein; and

(ii) the Building Removal Funding Agreement with respect to the County and the Irrevocable Direction have been duly authorized, executed and delivered by the County and (assuming due authorization, execution and delivery by the other parties thereto) constitute the legal, valid and binding obligations of the County in accordance with their terms, except as the enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles relating to or limiting creditors' rights generally.

(15) City of Marina Certificates. A certificate of the City of Marina, dated the date of this Purchase Agreement, substantially in the form attached hereto as Exhibit D, as well as a closing certificate of the City of Marina, dated the date of the Closing, in form and substance acceptable to the Underwriters, to the effect that the representations and warranties in the City of Marina's certificate are true and correct as of the date of the Closing.

(16) Opinion of City of Marina City Attorney. An opinion of the City Attorney of the City of Marina, dated the date of the Closing and addressed to the Underwriters, to the effect that:

(i) the City of Marina has full power, authority and legal right to comply with the terms of the Indenture and to perform its obligations stated therein;

(ii) the Indenture has been duly authorized, executed and delivered by the City of Marina and (assuming due authorization, execution and delivery by the other parties thereto) constitutes the legal, valid and binding obligation of the City of Marina in accordance with its terms, except as the enforcement thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws or equitable principles relating to or limiting creditors' rights generally.

(17) City of Seaside Certificates. A certificate of the City of Seaside, dated the date of this Purchase Agreement, substantially in the form attached hereto as Exhibit E, as well as a closing certificate of the City of Seaside, in form and substance acceptable to the Underwriters, to the effect that the representations and warranties in the City of Seaside's certificate are true and correct as of the date of the Closing.

(18) Rating Letter. A letter from \_\_\_\_\_ ("\_\_\_\_") to the effect that the Bonds have been assigned an insured rating of "\_\_\_\_" and the Bonds have been assigned an underlying rating of "\_\_\_\_," which ratings shall be in effect as of the date of the Closing.

(19) Disclosure Letter. A letter of Quint & Thimmig, LLP ("**Disclosure Counsel**"), dated the date of the Closing, addressed to the Underwriters, to the effect that, based upon its participation in the preparation of the Preliminary Official Statement and the Official Statement and without having undertaken to determine independently the fairness, accuracy or completeness of the statements contained in the Preliminary Official Statement and the Official Statement, such counsel has no reason to believe that the Preliminary Official Statement, as of its date and as of the date of this Purchase Agreement, and the Official Statement, as of the date of this



Purchase Agreement as of the date of the Closing (excluding therefrom the reports, financial and statistical data and forecasts therein and the information included in Appendices \_\_ and \_\_ thereto and information relating to The Depository Trust Company or the book-entry only system, or the Insurer, the Policy or the Reserve Policy, as to which no advice need be expressed) contained or contains any untrue statement of a material fact or omitted or omits to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(20) Fiscal Consultant's Report. The Fiscal Consultant's Report (defined in the Official Statement) prepared by Economic & Planning Systems, Inc. (the "**Fiscal Consultant**") providing information with respect to the Project Areas and the Pledged Tax Revenues.

(21) Fiscal Consultant's Certificate. A certificate of the Fiscal Consultant dated the date of the Closing, addressed to the Authority and the Underwriters, in form and substance acceptable to the Underwriters, (i) certifying as to the accuracy of (A) the information contained in APPENDIX \_\_—"FISCAL CONSULTANT'S REPORT", and the information in the Official Statement under the captions \_\_\_\_\_, (ii) consenting to the inclusion of such firm's Fiscal Consultant's Report in the Preliminary Official Statement and the Official Statement, and (iii) stating that, to the best of such firm's knowledge, but without having conducted any investigation with respect thereto, nothing has come to such firm's attention between the date of such report and the date of the Closing which would materially alter any of the conclusions set forth in such report.

(22) Municipal Advisor Certificate. A certificate, dated the Closing Date, signed by a duly authorized official of NHA Advisors, LLC, in its capacity as municipal advisor to the Authority (in such capacity, the "**Municipal Advisor**") to the effect that, (A) in connection with its participation in the preparation of the Preliminary Official Statement and the Official Statement and without undertaking any independent investigation and without having undertaken to determine independently the fairness, accuracy or completeness of the statements contained in the Preliminary Official Statement or the Official Statement, nothing has come to the attention of the Municipal Advisor that would lead it to believe that the statements and information contained in the Preliminary Official Statement as of the date thereof and as of the date of this Purchase Agreement or the Official Statement as of its date and as of the Closing Date contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading.

(23) Underwriters' Counsel Opinion. An opinion, dated the date of the Closing and addressed to the Underwriters, of Stradling Yocca Carlson & Rauth, a Professional Corporation, counsel to the Underwriters, in form and substance satisfactory to the Underwriters.

(24) Bond Insurance Policy. The executed Policy of the Insurer insuring the scheduled payment of principal of and interest on the Insured Bonds, substantially in the form attached as Appendix \_\_ to the Official Statement.

(25) Reserve Policy. The executed Reserve Policy issued by the Insurer.

(26) Insurer Counsel Opinion. An opinion of counsel to the Insurer, dated as of the date of Closing, addressed to the Underwriters and the Authority in form and substance acceptable to the Underwriters, substantially to the effect that: (i) the Insurer has been duly incorporated and is validly existing and in good standing under the laws of the State of its incorporation; (ii) the Policy and Reserve Policy constitute legal, valid and binding obligations of the Insurer enforceable in accordance with their terms, subject, as to enforcement, to bankruptcy, insolvency, reorganization, rehabilitation and other similar laws of general applicability relating to or affecting creditors' and/or claimants' rights against insurance companies and to general equity principles; and (iii) the information contained in the Official Statement under the caption "BOND INSURANCE" does not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

(27) Additional Documents. Such additional certificates, instruments and other documents as Bond Counsel, the Authority or the Underwriters may reasonably deem necessary.

All the opinions, letters, certificates, instruments and other documents mentioned above or elsewhere in this Purchase Agreement shall be deemed to be in compliance with the provisions hereof if, but only if, they are in form and substance satisfactory to the Underwriters.

If the Authority or the Trustee shall be unable to satisfy the conditions to the obligations of the Underwriters to purchase, to accept delivery of and to pay for the Bonds contained in this Purchase Agreement, if the Authority shall determine in good faith (and provide written notice to the Underwriters) that legislation has been introduced or proposals made by the Governor of the State which if enacted and effective would prohibit the issuance of the Bonds, or if the obligations of the Underwriters to purchase, to accept delivery of and to pay for the Bonds shall be terminated for any reason permitted by this Purchase Agreement, this Purchase Agreement shall terminate and the Underwriters shall be under no further obligation hereunder.

8. Termination. The Underwriters shall have the right to terminate the Underwriters' obligations under this Purchase Agreement to purchase, to accept delivery of and to pay for the Bonds by notifying the Authority of its election to do so if, after the execution hereof and prior to the Closing, any of the following events occurs:

(a) the market price or marketability of the Bonds, or the ability of the Underwriters to enforce contracts for the sale of the Bonds, shall be materially adversely affected by any of the following events:

(1) legislation shall have been enacted by the Congress of the United States or the legislature of the State or shall have been favorably reported out of committee of either body or be pending in committee of either body, or shall have been recommended to the Congress for passage by the President of the United States or a member of the President's Cabinet, or a decision shall have been rendered by a court of the United States or the State or the Tax Court of the United States, or a ruling, resolution, regulation or temporary regulation, release or announcement shall have been made or shall have been proposed to be made by the Treasury Department of the United States or the Internal Revenue Service, or other federal or state authority with appropriate jurisdiction, with respect

to federal or state taxation upon interest received on obligations of the general character of the Bonds; or

(2) there shall have occurred (i) an outbreak or escalation of hostilities or the declaration by the United States of a national emergency or war or (ii) any other calamity or crisis in the financial markets of the United States or elsewhere or the escalation of such calamity or crisis; or

(3) a general suspension of trading on the New York Stock Exchange or other major exchange shall be in force, or minimum or maximum prices for trading shall have been fixed and be in force, or maximum ranges for prices for securities shall have been required and be in force on any such exchange, whether by virtue of determination by that exchange or by order of the Securities and Exchange Commission (the “SEC”) or any other governmental authority having jurisdiction; or

(4) legislation shall have been enacted by the Congress of the United States or shall have been favorably reported out of committee or be pending in committee, or shall have been recommended to the Congress for passage by the President of the United States or a member of the President’s Cabinet, or a decision by a court of the United States shall be rendered, or a ruling, regulation, proposed regulation or statement by or on behalf of the SEC or other governmental agency having jurisdiction of the subject matter shall be made, to the effect that any obligations of the general character of the Bonds, or the Authority Legal Documents, or any comparable securities of the Authority, are not exempt from the registration, qualification or other requirements of the Securities Act of 1933 or the Trust Indenture Act of 1939 or otherwise, or would be in violation of any provision of the federal securities laws; or

(5) except as disclosed in or contemplated by the Official Statement, any material adverse change in the affairs of the Authority shall have occurred; or

(6) any rating on: (i) securities of the Authority which are secured by a pledge of the Pledged Revenues on a parity with the Bonds or (ii) the Insurer is reduced or withdrawn or placed on credit watch with negative outlook by any major credit rating agency; or

(b) any event or circumstance shall exist that either makes untrue or incorrect in any material respect any statement or information in the Official Statement (other than any statement provided by the Underwriters) or is not reflected in the Official Statement but should be reflected therein in order to make the statements therein, in the light of the circumstances under which they were made, not misleading and, in either such event, the Authority refuses to permit the Official Statement to be supplemented to supply such statement or information, or the effect of the Official Statement as so supplemented is to materially adversely affect the market price or marketability of the Bonds or the ability of the Underwriters to enforce contracts for the sale of the Bonds; or

(c) a general banking moratorium shall have been declared by federal or State authorities having jurisdiction and be in force; or

(d) a material disruption in securities settlement, payment or clearance services affecting the Bonds shall have occurred; or

(e) any new restriction on transactions in securities materially affecting the market for securities (including the imposition of any limitation on interest rates) or the extension of credit by, or a charge to the net capital requirements of, underwriters shall have been established by the New York Stock Exchange, the SEC, any other federal or State agency or the Congress of the United States, or by Executive Order; or

(f) a decision by a court of the United States shall be rendered, or a stop order, release, regulation or no-action letter by or on behalf of the SEC or any other governmental agency having jurisdiction of the subject matter shall have been issued or made, to the effect that the issuance, offering or sale of the Bonds, including the underlying obligations as contemplated by this Purchase Agreement or by the Official Statement, or any document relating to the issuance, offering or sale of the Bonds, is or would be in violation of any provision of the federal securities laws at the date of the Closing, including the Securities Act of 1933, the Securities Exchange Act of 1934 and the Trust Indenture Act of 1939.

9. Expenses. The Authority will pay or cause to be paid the approved expenses incident to the performance of its obligations hereunder and certain expenses relating to the sale of the Bonds, including, but not limited to, (a) the cost of the preparation and printing or other reproduction of the Authority Legal Documents (other than this Purchase Agreement); (b) the fees and disbursements of Bond Counsel, Disclosure Counsel, the Financial Advisor, Fiscal Consultant and any other experts or other consultants retained by the Authority; (c) the costs and fees of the credit rating agencies; (d) the cost of preparing and delivering the definitive Bonds; (e) the cost of providing immediately available funds on the Closing Date; (f) the cost of the printing or other reproduction of the Preliminary Official Statement and Official Statement and any amendment or supplement thereto, including a reasonable number of certified or conformed copies thereof; (g) the Underwriters out-of-pocket expenses incurred with the financing; and (h) expenses (included in the expense component of the spread) incurred on behalf of the Authority's employees which are incidental to implementing this Purchase Agreement. The Underwriters will pay the expenses of the preparation of this Purchase Agreement and all other expenses incurred by the Underwriters in connection with the public offering and distribution of the Bonds, and the fee and disbursements of counsel to the Underwriters. The Underwriters are required to pay the fees of the California Debt and Investment Advisory Commission in connection with the offering of the Bonds. The Authority acknowledges that it has had an opportunity, in consultation with such advisors as it may deem appropriate, if any, to evaluate and consider such fees. Notwithstanding that such fees are solely the legal obligation of the Underwriters, the Authority agrees to reimburse the Underwriters for such fees.

The Underwriters shall pay, and the Authority shall be under no obligation to pay, all expenses incurred by the Underwriters in connection with the public offering and distribution of the Bonds.

10. Notices. Any notice or other communication to be given to the Authority under this Purchase Agreement may be given by delivering the same in writing at the Authority's address set forth above; Attention: Executive Officer, and to the Underwriters under this Purchase Agreement may be given by delivering the same in writing to Stifel Nicolaus & Company,

Incorporated, One Montgomery Street, 35<sup>th</sup> Floor, San Francisco, California 94104, Attention: Eileen Gallagher.

11. Parties in Interest. This Purchase Agreement is made solely for the benefit of the Authority and the Underwriters and no other person shall acquire or have any right hereunder or by virtue hereof. All of the representations, warranties and agreements of the Authority contained in this Purchase Agreement shall remain operative and in full force and effect, regardless of: (i) any investigations made by or on behalf of the Underwriters; (ii) delivery of and payment for the Bonds pursuant to this Purchase Agreement; and (iii) any termination of this Purchase Agreement.

12. Effectiveness and Counterpart Signatures. This Purchase Agreement shall become effective upon the execution of the acceptance by an authorized officer of the Authority and shall be valid and enforceable at the time of such acceptance and approval. This Purchase Agreement may be executed by the parties hereto by facsimile transmission and in separate counterparts, each of which when so executed and delivered (including delivery by facsimile transmission) shall be an original, but all such counterparts shall together constitute but one and the same instrument.

13. Headings. The headings of the sections of this Purchase Agreement are inserted for convenience only and shall not be deemed to be a part hereof.

14. Governing Law. This Purchase Agreement shall be construed in accordance with the laws of the State of California.

Very truly yours,

STIFEL, NICOLAUS & COMPANY,  
INCORPORATED

By: \_\_\_\_\_  
Its: Authorized Officer

Accepted:

FORT ORD REUSE AUTHORITY

By: \_\_\_\_\_  
Executive Officer

Time of Execution: \_\_\_\_\_ California Time

**EXHIBIT A**

\$ \_\_\_\_\_

**FORT ORD REUSE AUTHORITY  
TAX ALLOCATION BONDS, SERIES 2020  
(FEDERALLY TAXABLE)**

<i>Maturity Date</i> (_____ 1)	<i>Principal Amount</i>	<i>Interest Rate</i>	<i>Yield</i>	<i>Price</i>
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[<sup>C</sup> Priced to first optional redemption date of \_\_\_\_\_ 1, 20\_\_, at \_\_\_\_.]

[<sup>T</sup> Term Bonds.]

**[REDEMPTION]**

**EXHIBIT B**

\$ \_\_\_\_\_ \*

**FORT ORD REUSE AUTHORITY  
TAX ALLOCATION BONDS, SERIES 2020  
(FEDERALLY TAXABLE)**

**RULE 15c2-12 CERTIFICATE**

The undersigned hereby certifies and represents that he is the Executive Officer of the Fort Ord Reuse Authority (the “**Authority**”), and, as such, is duly authorized to execute and deliver this certificate and further hereby certifies that:

(1) this certificate is being delivered in connection with the sale and issuance of the above-captioned obligations (the “**Bonds**”) in order to enable the underwriters of the Bonds to comply with Rule 15c2-12 promulgated under the Securities Exchange Act of 1934, as amended (the “**Rule**”);

(2) in connection with the sale and issuance of the Bonds, there has been prepared a Preliminary Official Statement dated the date of this certificate setting forth information concerning the Bonds and the Authority (the “**Preliminary Official Statement**”); and

(3) except for the Permitted Omissions, the Preliminary Official Statement is deemed final within the meaning of the Rule. As used herein, the term “**Permitted Omissions**” refers to the offering price(s), interest rates(s), selling compensation, aggregate principal amount, principal amount per maturity, delivery dates, ratings and other terms of the Bonds depending on such matters, all as set forth in the Rule.

Dated: \_\_\_\_\_, 2020

FORT ORD REUSE AUTHORITY

By: \_\_\_\_\_  
Its: Executive Officer

\* *Preliminary, subject to change.*



**EXHIBIT C**

**FORT ORD REUSE AUTHORITY  
TAX ALLOCATION BONDS, SERIES 2020  
(FEDERALLY TAXABLE)**

**CERTIFICATE OF THE COUNTY OF MONTEREY**

\_\_\_\_\_, 2020

In connection with the proposed offer and sale of the above-referenced bonds (the “Bonds”), the County of Monterey (the “County”) hereby represents, warrants and covenants to the Fort Ord Reuse Authority (the “Authority”), Stifel, Nicolaus & Company, Incorporated (“Stifel”), and Citigroup Global Markets, Inc., as underwriters of the Bonds (“Citigroup,” and, together with Stifel, the “Underwriters”), as follows:

A. The County is a county of the State of California duly organized and existing under the Constitution and laws of the State of California with full power, authority and legal right to comply with the terms of the Irrevocable Direction and to perform its obligations stated therein

B. The Irrevocable Direction has been duly authorized, executed and delivered by the County.

C. The County has validly adopted the County Public Benefit Resolution following a duly noticed public hearing and the County Public Benefit Resolution remains in full force and effect, and has not been amended, rescinded or otherwise modified since its date of adoption.

D. The County has validly adopted the County Bond-Related Resolution and the County Bond-Related Resolution remains in full force and effect, and has not been amended, rescinded or otherwise modified since its date of adoption.

E. County represents that the Irrevocable Direction states the duties of the Auditor-Controller and the Treasurer-Tax Collector under California Health & Safety Code Sections 33492.71(c)(1)(A) and (D), as confirmed by the Superior Court of the State of California for the County of Monterey in its Judgement of Validation in Case No. 20CV000381 issued on March 12, 2020. The County agrees to comply with the terms of the Irrevocable Direction.

F. Neither the County nor its officers, employees or staff will take any action to challenge the right of the Trustee to receive the Pledged Tax Revenues as contemplated by the Indenture.

The County expressly acknowledges that the Underwriters and the Authority shall rely on the representations, warranties and covenants set forth in this Certificate in connection with the purchase, sale and issuance of the Bonds.

Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Purchase Agreement by and between the Authority and the Underwriters dated as of \_\_\_\_\_, 20\_\_, relating to the Bonds.

**COUNTY OF MONTEREY**

By: \_\_\_\_\_  
Chair of the Board of Supervisors

**EXHIBIT D**

**FORT ORD REUSE AUTHORITY  
TAX ALLOCATION BONDS, SERIES 2020  
(FEDERALLY TAXABLE)**

**CERTIFICATE OF THE CITY OF MARINA**

\_\_\_\_\_, 2020

In connection with the proposed offer and sale of the above-referenced bonds (the “Bonds”), the City of Marina (the “City”) hereby represents, warrants and covenants to the Fort Ord Reuse Authority (the “Authority”), Stifel, Nicolaus & Company, Incorporated (“Stifel”), and Citigroup Global Markets, Inc., as underwriters of the Bonds (“Citigroup,” and, together with Stifel, the “Underwriters”), as follows:

A. The City is a general law city of the State of California duly organized and existing under the laws of the State of California with full power, authority and legal right to comply with the terms of the Indenture and the Irrevocable Direction and to perform its obligations stated therein.

B. The Indenture and the Irrevocable Direction have been duly authorized, executed and delivered by the City.

C. The City certifies that neither the City nor the Successor Agency to the Redevelopment Agency of the City of Marina (the “Marina Successor Agency”) has any claim on the Pledged Tax Revenues (as such term is defined in the Indenture) prior to the payment of the debt service on the Bonds and other payments permitted or required by the Indenture.

E. The final maturity of the outstanding enforceable obligations of the Marina Successor Agency is no sooner than \_\_\_\_\_, 20\_\_\_. The City will not, and will not permit the officers, employees or staff of the City to, accelerate payment of, prepay, or otherwise shorten the final maturity of the outstanding enforceable obligations of the Marina Successor Agency to a date sooner than \_\_\_\_\_, 20\_\_.

F. The City will not, and will not permit the officers, employees and staff of the City to, take any action to challenge the right of the Authority or the Administrator (as applicable) to receive the Pledged Tax Revenues as contemplated by the Indenture.

G. The City has been properly designated and appointed as the successor agency to the Authority for purposes of administering the Bonds, and all required approvals and consents to such designation and appointment have been obtained from the City Council of the City.

The City expressly acknowledges that the Underwriters and the Authority shall rely on the representations, warranties and covenants set forth in this Certificate in connection with the purchase, sale and issuance of the Bonds. Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Purchase Agreement by and between the Authority and the Underwriters dated as of \_\_\_\_\_, 20\_\_\_, relating to the Bonds.

**CITY OF MARINA**

By: \_\_\_\_\_  
Its: \_\_\_\_\_

**EXHIBIT E**

**FORT ORD REUSE AUTHORITY  
TAX ALLOCATION BONDS, SERIES 2020  
(FEDERALLY TAXABLE)**

**CERTIFICATE OF THE CITY OF SEASIDE**

\_\_\_\_\_, 2020

In connection with the proposed offer and sale of the above-referenced bonds (the “Bonds”), the City of Seaside (the “City”) represents, warrants and covenants to the Fort Ord Reuse Authority (the “Authority”), Stifel, Nicolaus & Company, Incorporated (“Stifel”), and Citigroup Global Markets, Inc., as underwriters of the Bonds (“Citigroup,” and, together with Stifel, the “Underwriters”), as follows:

A. The City is a general law city of the State of California duly organized and existing under the laws of the State of California.

B. The City certifies neither the City nor the Successor Agency to the Redevelopment Agency of the City of Seaside (the “Seaside Successor Agency”) has any claim on the Pledged Tax Revenues (as such term is defined in the Indenture) prior to the payment of the debt service on the Bonds and other payments permitted or required by the Indenture.

C. The final maturity of the outstanding enforceable obligations of the Seaside Successor Agency is no sooner than \_\_\_\_\_, 20\_\_\_. The City will not, and will not permit the officers, employees and staff of the City to, take any action to accelerate payment of, prepay, or otherwise shorten the final maturity of the outstanding enforceable obligations of the Seaside Successor Agency to a date sooner than \_\_\_\_\_, 20\_\_.

D. The City will not, and will not permit the officers, employees and staff of the City to, take any action to challenge the right of the Authority or the Administrator (as applicable) to receive the Pledged Tax Revenues as contemplated by the Indenture.

The City expressly acknowledges that the Underwriters and the Authority shall rely on the representations, warranties and covenants set forth in this Certificate in connection with the purchase, sale and issuance of the Bonds. Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Purchase Agreement by and between the Authority and the Underwriters, dated as of \_\_\_\_\_, 20\_\_, relating to the Bonds.

**CITY OF SEASIDE**

By: \_\_\_\_\_  
Its: \_\_\_\_\_

**PRELIMINARY OFFICIAL STATEMENT DATED JUNE \_\_, 2020**

**NEW ISSUE—BOOK-ENTRY ONLY**

**RATINGS:**

S&P: “\_\_\_” (\_\_\_-Insured Bonds)

S&P: “BBB+” (Underlying)

See “RATINGS” herein

In the opinion of Quint & Thimmig LLP, Larkspur, California, Bond Counsel, interest on the Bonds is exempt from personal income taxation imposed by the State of California. Interest on the Bonds is includible in gross income of the owners thereof for federal income tax purposes.



\$ \_\_\_\_\_\*  
**FORT ORD REUSE AUTHORITY  
TAX ALLOCATION BONDS,  
SERIES 2020 (FEDERALLY TAXABLE)**

**Dated: Date of Delivery**

**Due: September 1, as shown on the inside cover**

The \$ \_\_\_\_\_\* Fort Ord Reuse Authority Tax Allocation Bonds, Series 2020 (Federally Taxable) (the “Bonds”), are being issued by the Fort Ord Reuse Authority (the “Authority”) pursuant to the provisions of the California Government Code, a Resolution adopted by the Board of Directors of the Authority, and an Indenture of Trust, dated as of June 1, 2020 (the “Indenture”), by and among the Authority, the City of Marina, California, as administrator (the “Administrator”) and U.S. Bank National Association, as trustee (the “Trustee”). The Bonds are being issued to (a) fund Building Removal Costs (as defined in the Indenture) for various public agencies related to property formerly included in the Fort Ord Military Base (the “Former Base”) in Monterey County, California, (b) provide funds to satisfy an obligation of the Authority to CalPERS, (c) purchase a reserve fund municipal bond insurance policy in lieu of cash funding a debt service reserve fund for the Bonds, and (d) provide for the costs of issuing the Bonds.

The Bonds will be delivered as fully registered bonds, registered in the name of Cede & Co. as nominee of The Depository Trust Company, New York, New York (“DTC”), and will be available to ultimate purchasers (“Beneficial Owners”) in the denomination of \$5,000 or any integral multiple thereof, under the book-entry system maintained by DTC. Beneficial Owners will not be entitled to receive delivery of bonds representing their ownership interest in the Bonds. Principal of, premium if any, and semiannual interest on the Bonds due on March 1 and September 1 of each year, commencing September 1, 2020, will be payable by the Trustee to DTC for subsequent disbursement to DTC participants, so long as DTC or its nominee remains the registered owner of the Bonds. See “THE BONDS—Description of the Bonds.”

The Bonds are subject to redemption prior to maturity. \$ \_\_\_\_\_ of the Bond proceeds will be initially deposited to an Escrow Fund established under the Indenture which, if not released in accordance with the terms of the Indenture, will result in a redemption at par of the Escrow Term Bonds (as defined herein) on \_\_\_\_\_ 1, \_\_\_\_, from amounts on deposit in the Escrow Fund. In addition to the deposit to the Escrow Fund, Bond proceeds will be deposited to an Escrow Interest Account in an amount equal to the scheduled interest on the Escrow Term Bonds to \_\_\_\_\_ 1, \_\_\_\_. See “THE BONDS—Redemption” and “SECURITY FOR THE BONDS—Escrow Fund.”

The Bonds are payable from and secured by a first lien on the Pledged Tax Revenues, as defined in the Indenture, constituting certain property taxes arising from properties located within two redevelopment project areas that include territory in the Former Base, which property taxes are allocated to be used to make payments on the Bonds pursuant to provisions of the California Health and Safety Code. The Bonds are also secured by a pledge of and lien on moneys in a Debt Service Fund, including a Reserve Account therein, established under the Indenture. See “SECURITY FOR THE BONDS.”

The scheduled payment of principal of and interest on the Bonds maturing on \_\_\_\_\_ 1 in the years \_\_\_\_ through \_\_\_\_, inclusive (collectively, the “Insured Bonds”), when due will be guaranteed under an insurance policy to be issued concurrently with the delivery of the Insured Bonds by \_\_\_\_\_.

[insert Insurer’s logo]

The Bonds and interest thereon are not a debt of the County of Monterey, the City of Marina, the City of Seaside, the State of California (the “State”) or any of their political subdivisions except the Authority, and then only to the extent set forth in the Indenture, and none of the County of Monterey, the City of Marina, the City of Seaside, the State or any of their political subdivisions except the Authority is liable thereon. The Bonds and interest thereon are not payable out of any funds or properties other than those pledged to their payment under the Indenture.

**MATURITY SCHEDULE**

(see inside cover)

This cover page and the inside cover page contain information for quick reference only. They are not intended to be a summary of all factors relating to an investment in the Bonds. Investors should review this entire Official Statement before making any investment decision with respect to the Bonds.

The Bonds are offered, when, as and if issued, subject to the approval as to their legality of Quint & Thimmig LLP, Larkspur, California, Bond Counsel to the Authority. Certain legal matters will be passed on for the Authority by Quint & Thimmig LLP acting as Disclosure Counsel to the Authority, and for the Authority by Kennedy, Archer & Giffen, Monterey, California in its capacity as general counsel to the Authority. Certain legal matters will be passed on for the Underwriters by Stradling, Yocca, Carlson & Rauth, a Professional Corporation, Newport Beach, California. It is anticipated that the Bonds will be available for delivery through the facilities of DTC on or about June \_\_, 2020.



This Official Statement is dated June \_\_, 2020.

\* Preliminary, subject to change.

This Preliminary Official Statement and the information contained herein are subject to completion or amendment. These securities may not be sold nor may offers to buy be accepted prior to the time the Official Statement is delivered in final form. Under no circumstances shall this Preliminary Official Statement constitute an offer to sell or a solicitation of an offer to buy nor shall there be any sale of these securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of such jurisdiction.

\$ \_\_\_\_\_ \*

**FORT ORD REUSE AUTHORITY  
TAX ALLOCATION BONDS,  
SERIES 2020 (FEDERALLY TAXABLE)**

**MATURITY SCHEDULE**

\$ \_\_\_\_\_ Serial Bonds

Maturity (September 1)	Principal Amount	Interest Rate	Yield	Price	CUSIP†
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\$ \_\_\_\_\_ % Term Bonds maturing September 1, \_\_\_\_\_, Price \_\_\_\_\_ to Yield \_\_\_\_\_% CUSIP† \_\_\_\_\_

\$ \_\_\_\_\_ % Term Bonds maturing September 1, \_\_\_\_\_, Price \_\_\_\_\_ to Yield \_\_\_\_\_% CUSIP† \_\_\_\_\_

\$ \_\_\_\_\_ % Escrow Term Bonds maturing September 1, \_\_\_\_\_, Price \_\_\_\_\_ to Yield \_\_\_\_\_% CUSIP† \_\_\_\_\_

† Copyright 2020, American Bankers Association. CUSIP® is a registered trademark of the American Bankers Association. CUSIP data herein is provided by CUSIP Global Services Bureau, operated by Standard & Poor's. This data is not intended to create a database and does not serve in any way as a substitute for CUSIP Global Services. CUSIP numbers have been assigned by an independent company not affiliated with the Authority or the Underwriters and are included solely for the convenience of the owners of the Bonds. Neither the Authority nor the Underwriters are responsible for the selection or uses of these CUSIP numbers, and no representation is made as to their correctness on the Bonds or as included herein. The CUSIP number for a specific maturity is subject to being changed after the issuance of the Bonds as a result of various subsequent actions including, but not limited to, a refunding in whole or in part or as a result of the procurement of secondary market portfolio insurance or other similar enhancement by investors that is applicable to all or a portion of certain maturities of the Bonds.

\* Preliminary, subject to change.

# FORT ORD REUSE AUTHORITY

## BOARD OF DIRECTORS

### VOTING MEMBERS:

#### **County of Monterey**

Jane Parker, *Chair*  
Mary Adams, *Supervisor*  
John Phillips, *Supervisor*  
Luis Alejo, *Supervisor\**  
Chris Lopez, *Supervisor\**

#### **City of Del Rey Oaks**

John Gaglioti, *Councilmember*  
Kristin Clark, *Councilmember\**

#### **City of Marina**

Gail Morton, *Mayor Pro-Tem*  
Frank O'Connell, *Councilmember/Past Chair*  
Lisa Berkley, *Councilmember\**  
Adam Urrutia, *Councilmember\**

#### **City of Monterey**

Alan Haffa, *Vice Mayor*  
Ed Smith, *Councilmember\**

#### **City of Seaside**

Ian Oglesby, *Mayor*  
Dave Pacheco, *Mayor Pro-Tem\**  
Jon Wizard, *Councilmember*  
Jason Campbell, *Councilmember\**

#### **City of Sand City**

Mary Ann Carbone, *Mayor*  
Jerry Blackwelder, *Councilmember\**

#### **City of Salinas**

Joe Gunter, *Mayor/ Vice Chair*  
Steve McShane, *Councilmember\**

#### **City of Pacific Grove**

Bill Peake, *Mayor\**  
Cynthia Garfield, *Councilmember*

#### **City of Carmel-by-the-Sea**

Jan Reimers, *Councilmember*  
Jeff Baron, *Councilmember\**

\* Alternate

### EX-OFFICIO MEMBERS:

#### **20th Congressional District**

Jimmy Panetta, *Congressman*  
Kathleen Lee\*

#### **17th State Senate District**

Bill Monning, *Senator*  
Colleen Courtney\*

#### **29th State Assembly District**

Mark Stone, *Assemblymember*  
Erica Parker\*

#### **Transportation Agency of Monterey County**

Debbie Hale  
Todd Muck\*  
Mike Zeller\*

#### **Monterey Peninsula Unified School District**

Dr. P.K. Diffenbaugh  
Ryan Altemeyer\*

#### **University of California, Santa Cruz**

Dr. Scott Brandt  
Steve Matarazzo\*

#### **California State University Monterey Bay**

Dr. Eduardo Ochoa  
Kevin Saunders\*  
Nicole Hollingsworth\*  
Dr. Lawrence Samuels\*

#### **United States Army**

COL Greg Ford  
Jim Laughlin\*

#### **Fort Ord Army Base Realignment & Closure Office (BRAC)**

Bill Collins  
Melissa Broadston\*

#### **Monterey Peninsula College**

Dr. Walter Tribbley  
David Martin\*

## AUTHORITY OFFICIALS

Josh Metz, *Executive Officer*  
Helen Rodriguez, *Controller/Finance Manager*  
Joan Simon, *Principal Analyst*  
Hermalinda Flores, *Accounting Officer*  
Harrison Tregenza, *Deputy Clerk/Executive Assistant*

## PROFESSIONAL SERVICES

### **General Counsel**

Kennedy, Archer & Giffen  
Monterey, California

### **Municipal Advisor**

NHA Advisors, LLC  
San Rafael, California

### **Fiscal Consultant**

Economic & Planning Systems  
Sacramento, California

### **Trustee and Dissemination Agent**

U.S. Bank National Association  
Los Angeles, California

### **Bond Counsel and Disclosure Counsel**

Quint & Thimmig LLP  
Larkspur, California



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## GENERAL INFORMATION ABOUT THIS OFFICIAL STATEMENT

*No Offering May Be Made Except by this Official Statement.* No dealer, broker, salesperson or other person has been authorized to give any information or to make any representations with respect to the Bonds other than as contained in this Official Statement, and if given or made, such other information or representation must not be relied upon as having been authorized by the Authority.

*No Unlawful Offers or Solicitations.* This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy in any state in which such offer or solicitation is not authorized or in which the person making such offer or solicitation is not qualified to do so or to any person to whom it is unlawful to make such offer or solicitation.

*Effective Date.* This Official Statement speaks only as of its date, and the information and expressions of opinion contained in this Official Statement are subject to change without notice. Neither the delivery of this Official Statement nor any sale of the Bonds will, under any circumstances, create any implication that there has been no change in the affairs of the Authority or either of the Project Areas since the date of this Official Statement.

*Use of this Official Statement.* This Official Statement is submitted in connection with the sale of the Bonds referred to in this Official Statement and may not be reproduced or used, in whole or in part, for any other purpose. This Official Statement is not a contract with the purchasers of the Bonds.

*Preparation of this Official Statement.* The information contained in this Official Statement has been obtained from sources that are believed to be reliable, but this information is not guaranteed as to accuracy or completeness.

The Underwriters have provided the following sentence for inclusion in this Official Statement: The Underwriters have reviewed the information in this Official Statement in accordance with, and as part of, its responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriters do not guarantee the accuracy or completeness of such information.

*Document References and Summaries.* All references to and summaries of the Indenture or other documents contained in this Official Statement are subject to the provisions of those documents and do not purport to be complete statements of those documents.

*Stabilization of and Changes to Offering Prices.* The Underwriters may over-allot or take other steps that stabilize or maintain the market price of the Bonds at a level above that which might otherwise prevail in the open market. If commenced, the Underwriters may discontinue such market stabilization at any time. The Underwriters may offer and sell the Bonds to certain dealers, dealer banks and banks acting as agent at prices lower than the public offering prices stated on the cover page of this Official Statement, and those public offering prices may be changed from time to time by the Underwriters.

*Bonds are Exempt from Securities Laws Registration.* The issuance and sale of the Bonds have not been registered under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, in reliance upon exemptions for the issuance and sale of municipal securities provided under section 3(a)(2) of the Securities Act of 1933 and section 3(a)(12) of the Securities Exchange Act of 1934.

*Estimates and Projections.* Certain statements included or incorporated by reference in this Official Statement constitute "forward-looking statements" within the meaning of the United States Private Securities Litigation Reform Act of 1995, section 21E of the United States Securities Exchange Act of 1934, as amended, and section 27A of the United States Securities Act of 1933, as amended. Such statements are generally identifiable by the terminology used such as "plan," "expect," "estimate," "budget" or other similar words. THE ACHIEVEMENT OF CERTAIN RESULTS OR OTHER EXPECTATIONS CONTAINED IN SUCH FORWARD-LOOKING STATEMENTS INVOLVE KNOWN AND UNKNOWN RISKS, UNCERTAINTIES AND OTHER FACTORS WHICH MAY CAUSE ACTUAL RESULTS, PERFORMANCE OR ACHIEVEMENTS DESCRIBED TO BE MATERIALLY DIFFERENT FROM ANY FUTURE RESULTS, PERFORMANCE OR ACHIEVEMENTS EXPRESSED OR IMPLIED BY SUCH FORWARD-LOOKING STATEMENTS. THE AUTHORITY DOES NOT PLAN TO ISSUE ANY UPDATES OR REVISIONS TO THOSE FORWARD-LOOKING STATEMENTS IF OR WHEN ITS EXPECTATIONS, OR EVENTS, CONDITIONS OR CIRCUMSTANCES ON WHICH SUCH STATEMENTS ARE BASED OCCUR.

*Websites.* The Fort Ord Reuse Authority and the Cities of Marina and Seaside maintain Internet websites, but the information on those websites is not incorporated by reference in or otherwise a part of this Official Statement and those websites should be relied upon in making an investment decision with respect to the Bonds.

*Municipal Bond Insurance.* \_\_\_\_\_ (the "Bond Insurer") makes no representation regarding the Bonds or the advisability of investing in the Bonds. In addition, the Bond Insurer has not independently verified, makes no representation regarding, and does not accept any responsibility for the accuracy or completeness of this Official Statement or any information or disclosure contained herein, or omitted herefrom, other than with respect to the accuracy of the information regarding the Bond Insurer, supplied by the Bond Insurer and presented under the heading "MUNICIPAL BOND INSURANCE" and APPENDIX G—SPECIMEN MUNICIPAL BOND INSURANCE POLICY.

**FORT ORD REUSE AUTHORITY**  
**REGIONAL LOCATION MAP**

[to come]

## OFFICIAL STATEMENT

\$ \_\_\_\_\_ \*

**FORT ORD REUSE AUTHORITY  
TAX ALLOCATION BONDS,  
SERIES 2020 (FEDERALLY TAXABLE)**

### INTRODUCTION

This Official Statement, including the cover page, is provided to furnish information in connection with the sale by the Fort Ord Reuse Authority (the “Authority”) of its \$ \_\_\_\_\_\* Fort Ord Reuse Authority Tax Allocation Bonds, Series 2020 (Federally Taxable) (the “Bonds”). Capitalized terms used in this Official Statement and not defined herein have the meanings given to them in the Indenture referred to below. See APPENDIX A—SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE – Definitions.

#### **Authority and Purpose**

The Authority is issuing the Bonds pursuant to authority granted by Section 67679(d)(9) of the California Government Code (the “Government Code”), Resolution No. 19-13 adopted by the Board of Directors of the Authority on December 13, 2019, and an Indenture of Trust, dated as of June 1, 2020 (the “Indenture”) by and among the Authority, the City of Marina, California, as administrator (the “Administrator”) and U.S. Bank National Association, as trustee (the “Trustee”). See “THE BONDS—Authority for Issuance.” The Authority is issuing the Bonds to (a) fund Building Removal Costs (as defined in the Indenture) for various public agencies related to property formerly included in the former Fort Ord military base in Monterey County, California, (b) provide funds to satisfy an obligation of the Authority to CalPERS, (c) purchase a reserve fund municipal bond insurance policy in lieu of cash funding a debt service reserve fund for the Bonds, and (d) provide for the costs of issuing the Bonds.

#### **The Authority and the Administrator**

*Authority.* The Authority is a public corporation of the State of California (the “State”) established in 1994 pursuant to the Fort Ord Reuse Authority Act, constituting Section 67650 of the Government Code (the “Fort Ord Reuse Act”). The Authority is responsible for the oversight of Monterey Bay area economic recovery from the closure of and reuse planning of the former Fort Ord military base. The former Fort Ord is located on the California coastline near the Monterey Peninsula consisting of approximately 27,800 acres.

The Authority has implemented its mandated mission by overseeing replacement land use; assuring compliance with adopted measures; removing physical barriers to reuse; financing and constructing major components of the required infrastructure and basewide demands; and protecting identified environmental reserves. The Authority has exercised its planning, financing, and monitoring responsibilities under the authority of the Fort Ord Reuse Authority Act. Pursuant to Section 67700 of the Government Code, the Authority will be dissolved on June 30, 2020, and will thereafter cease to exist.

Under Section 33492.71 of the California Health and Safety Code (the “Health and Safety Code”), the Authority receives a specified share of property tax revenue attributable to the Seaside-Fort Ord Project Area of the former Redevelopment Agency of the City of Seaside and

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\* Preliminary, subject to change.

the Marina Project Area No. 3 of the former Marina Redevelopment Agency (collectively, the “Project Areas”) that are located within the Authority’s territorial jurisdiction consisting of the former Fort Ord military base (as more particularly defined in the Indenture and described herein, the “Pledged Tax Revenues”). The Pledged Tax Revenues are explicitly allocated under the Health and Safety Code to be used to pay Authority debt obligations consisting of the Bonds, and will remain available to pay debt service on the Bonds after the Authority’s dissolution. See “SECURITY FOR THE BONDS—Pledged Tax Revenues.”

*Administrator.* The City of Marina, California is located in Monterey County, California (the “County”). The City is located along the central coast of California, adjacent to the City of Seaside and unincorporated Monterey County. For general information regarding the City and the County see APPENDIX F—GENERAL INFORMATION ABOUT THE CITY OF MARINA, THE CITY OF SEASIDE AND THE COUNTY OF MONTEREY.

The City has entered into the Indenture solely to perform certain limited administrative activities following the dissolution of the Authority, as explicitly set forth in the Indenture. The City has no responsibility whatsoever for the repayment of the Bonds. See “SECURITY FOR THE BONDS—Limited Obligation.”

### **Authority to Issue Bonds**

Section 67679(d)(9) of the California Government Code authorizes the Authority to issue bonds pursuant to the Marks-Roos Local Bond Pooling Act of 1985, constituting Section 6584 et seq. of the Government Code. The Board of Directors of the Authority approved the issuance of the Bonds on December 13, 2019. See “THE BONDS—Authority for Issuance.”

### **The Building Removal Program**

An integral part of the Authority’s mission is to remove or reuse the military structures on the former Fort Ord military base. When the federal government shut down the Fort Ord military base the United States Army left behind several thousand abandoned buildings. Although the Authority has successfully completed this process for approximately 90% of the former military buildings, the remaining 10% of the structures are largely remote and contaminated with friable asbestos, lead-based paint, and other toxins. It is an urgent goal of the highest priority for the Authority to fund the removal of this blight before the Authority’s dissolution. The Authority has determined that the issuance of the Bonds to fund costs of the remaining building remediation (as more fully described herein, “Building Removal Costs”) is both appropriate and necessary. A portion of the Bond proceeds will be deposited to a Project Fund, and then allocated to five Project Accounts to be used by five respective local agencies (collectively, the Local Agencies”) to be used by them to pay Building Removal Costs. See “FINANCING PLAN—The Building Removal Program.”

### **The Pension Obligation**

Pursuant to a contract, as amended, between the Authority and CalPERS, upon its dissolution and termination of its employee pension plan established pursuant to such contract, the Authority will have an obligation to make a pension plan termination payment (the “Termination Payment”) to CalPERS. The Authority has set aside certain funds to satisfy the Termination Payment; however, the amount of the termination payment will not be determined until sometime following the dissolution of the Authority. The Authority expects that the amount of the Termination Payment will exceed the funds that it has set aside to pay that obligation (the “Shortfall Amount”), so the Indenture provides for a CalPERS Obligation Fund to be funded with a portion of the Bond proceeds in an amount calculated to be well in excess of the expected

Shortfall Amount that will be used to fund the Termination Payment that is in excess of the funds set aside by the Authority for that purpose. Under the Indenture, following payment of the Termination Payment, any excess funds in the CalPERS Obligation Fund will be distributed to the Local Agencies to be used by them to pay Building Removal Costs.

### **Escrow Term Bonds**

Portions of the proceeds of the Bonds will be deposited to an Escrow Fund and to an Escrow Interest Account established and held by the Trustee under the Indenture. Amounts in the Escrow Fund may be released to fund Building Removal Costs for the City of Marina if certain conditions set forth in the Indenture are satisfied. Any amounts in the Escrow Fund that have not been released by \_\_\_\_\_ 1, \_\_\_\_ will be used to redeem Escrow Term Bonds on \_\_\_\_\_ 1, \_\_\_\_ (the "Escrow Termination Date"). Until released as described above, amounts in the Escrow Fund are pledged to the payment of the Escrow Term Bonds. Amounts in the Escrow Interest Account will be used by the Trustee to pay interest on the Escrow Term Bonds to and including the Escrow Termination Date.

### **The Project Areas**

The Pledge Tax Revenues to be used to pay debt service on the Bonds are derived from an allocation of property tax revenues attributable to two redevelopment project areas that include property located within the former Fort Ord military base. The two project areas include the Marina Project Area No. 3 and the Seaside-Fort Ord Redevelopment Project Area (collectively, the "Project Areas.")

Certain property tax revenues from the Project Areas are required to be deposited to the redevelopment Property Tax Trust Fund maintained by the County Auditor-Controller, who distributes the Pledged Tax Revenues from such fund directly to the Trustee pursuant to certain Irrevocable Instructions of the Authority for deposit by the Trustee in the Debt Service Fund established and maintained by the Trustee under the Indenture. See "SECURITY FOR THE BONDS—Pledged Tax Revenues."

### **Tax Increment Financing**

Prior to the enactment of AB 1X 26 on June 29, 2011 by the California legislature (the "Dissolution Act"), the Government Code authorized the financing of redevelopment projects through the use of tax increment revenues. This method provided that the taxable valuation of the property within a redevelopment project area on the property tax roll last equalized prior to the effective date of the ordinance which adopted the redevelopment plan became the base year valuation. Assuming the taxable valuation never drops below the base year level, the taxing agencies receiving property taxes thereafter received only that portion of the taxes produced by applying then current tax rates to the base year valuation, and the redevelopment agency was allocated the remaining portion of property taxes produced by applying then current tax rates to the increase in valuation over the base year. A portion of such incremental tax revenues allocated to a redevelopment agency are to be used to fund certain "pass-through obligations," which include amounts allocated to the Authority under the Health and Safety Code, and constitute the Pledged Tax Revenues to be used to repay the Bonds.

The Dissolution Act requires the County Auditor-Controller to determine the amount of property taxes that would have been allocated to a former redevelopment agency had the former agency not been dissolved pursuant to the operation of the Dissolution Act, using current assessed values on the last equalized roll (the "Tax Revenues") and to deposit that amount in the Redevelopment Property Tax Trust Fund for the respective successor agency to the former

redevelopment agency established and held by the County Auditor-Controller pursuant to the Dissolution Act.

### **Security for the Bonds**

Section 33492.71(c)(1)(A) of the Health and Safety Code provides that thirty-five percent of the tax increment revenue received by the successor redevelopment agencies in the Cities of Marina and Seaside from their respective Project Area identified herein, after certain amounts required to be deposited in an applicable low and moderate income housing fund has been deducted, shall be paid to the Authority to finance its responsibilities in providing for the reuse of Fort Ord. Section 33492.71(a)(D) of the Health and Safety Code provides that, upon dissolution of the Authority, the amount allocated to the Authority (the “Pledged Tax Revenues”) shall continue to be paid to accounts of the Authority insofar as needed to pay principal and interest or other amounts on debt incurred by the Authority. Pursuant to an Irrevocable Direction to Transfer Funds of the Authority to the County Auditor-Controller and the County Treasurer-Tax Collector (the “Irrevocable Instructions”), the Authority has irrevocably authorized and directed the County to remit directly to the Trustee all of the Pledged Tax Revenues derived from the Project Areas. See “SECURITY FOR THE BONDS.”

The County Auditor-Controller distributes funds from the Redevelopment Property Tax Trust Fund into which tax allocation revenues from the Project Areas are deposited in the order specified in the Dissolution Act. The County has no responsibility for the disposition of funds by the Trustee, or any obligation with respect to the payment or administration of the Bonds.

Pursuant to the Indenture, the Bonds are secured by a pledge of the Pledged Tax Revenues. Specifically, the Bonds are limited obligations of the Authority payable solely from and secured by the pledge of Pledged Tax Revenues and moneys on deposit in the Debt Service Fund, including the Reserve Account therein, established under the Indenture. As previously described, Tax Revenues from the Project Areas are deposited to the Redevelopment Project Tax Trust Fund maintained by the County Auditor-Controller for the Authority, who remits the Pledged Tax Revenues from such fund to the Trustee for deposit by the Trustee in the Debt Service Fund held by the Trustee under the Indenture. Amounts in the Debt Service Fund are used to make payments on the Bonds and to pay Administrative Expenses, with any excess released from the lien of the Indenture (see “SECURITY FOR THE BONDS—Pass-Through Payments”).

### **Municipal Bond Insurance Policy; Reserve Account Insurance Policy**

The scheduled payment of principal of and interest on the Bonds maturing on \_\_\_\_\_ 1 in the years \_\_\_\_ through \_\_\_\_, inclusive (collectively, the “Insured Bonds”), when due will be guaranteed under an insurance policy (the “Municipal Bond Insurance Policy”) to be issued by \_\_\_\_\_ (the “Bond Insurer”). See “MUNICIPAL BOND INSURANCE.”

In addition, the Bond Insurer has made a commitment to issue a municipal bond insurance policy for the Reserve Account (the “Reserve Account Insurance Policy”) in an amount equal to the Reserve Requirement, which Reserve Account Insurance Policy will be held in the Reserve Account solely for the benefit of Bonds. See “SECURITY FOR THE BONDS—Flow of Funds Under the Indenture” and APPENDIX A—SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE.

## Limited Obligation

The Bonds are limited obligations of the Authority and are secured by an irrevocable pledge of, and are payable as to principal, interest and premium, if any, from the Pledged Tax Revenues and amounts in the Debt Service Fund and the accounts therein pledged therefore under the Indenture. The Bonds are not a debt of the City of Marina, the City of Seaside, the County, the State or any of their political subdivisions except the Authority, and none of the City of Marina, the City of Seaside, the County, the State or any of their political subdivisions except the Authority are liable thereon. **The Bonds are not payable out of any funds other than those pledged to the payment of the Bonds in the Indenture, consisting solely of the Pledged Tax Revenues and amounts in the accounts within the Debt Service Fund, other than the Administrative Expense Account and the Surplus Account therein.** No member of the Board of Directors of the Authority, officer, agent, or employee of the Authority, or member of the City Council of the City of Marina or the City of Seaside, or of the County Board of Supervisors, or any person executing the Bonds, is liable personally on the Bonds by reason of their issuance.

## Professionals Involved in the Offering

NHA Advisors, LLC, San Rafael, California (the “Municipal Advisor”), has served as municipal advisor to the Authority and has advised the Authority with respect to the financial structure of the Bonds and as to other financial aspects related to the Bonds.

Economic & Planning Systems, Sacramento, California, has acted as fiscal consultant to the Authority (the “Fiscal Consultant”) and advised the Authority as to the taxable values and the revenues projected to be available to pay debt service on the Bonds as referenced in this Official Statement. The report prepared by the Fiscal Consultant is referred to in this Official Statement as the “Fiscal Consultant’s Report.” See APPENDIX E—FISCAL CONSULTANT’S REPORT.

U.S. Bank National Association, San Francisco, California, will act as Trustee for the Bonds under the Indenture and will serve as the Dissemination Agent under the Continuing Disclosure Certificate for the Bonds.

The proceedings in connection with the issuance of the Bonds are subject to the approval as to their legality of Quint & Thimmig LLP, Larkspur, California, Bond Counsel to the Authority. Quint & Thimmig LLP is also acting as Disclosure Counsel to the Authority for the Bonds. Kennedy, Archer & Giffen, Monterey, California, acting as general counsel to the Authority, will render an opinion as to certain legal matters on behalf of the Authority. Certain legal matters will be passed on for the Underwriters by Stradling, Yocca, Carlson & Rauth, a Professional Corporation, Newport Beach, California, acting as Underwriters’ Counsel.

## Further Information

Brief descriptions of certain provisions of the Health and Safety Code, the Government Code, the Dissolution Act, the Bonds, the Indenture and the Project Areas are included in this Official Statement. Such descriptions do not purport to be comprehensive or definitive. All references in this Official Statement to the Health and Safety Code, the Government Code, the Dissolution Act, the Bonds, the Indenture, the Constitution and the other laws of the State, are qualified in their entirety by reference to such documents and laws. References in this Official Statement to the Bonds are qualified in their entirety by the form thereof included in the Indenture and by the provisions of the Indenture.



During the period of the offering of the Bonds, copies of the forms of all documents described herein are available upon written request from the Trustee. The Trustee may impose a charge for the copying, mailing and handling of documents.

## FINANCING PLAN

### **The Building Removal Program**

An integral part of the Authority's mission is to remove or reuse the military structures on the former Fort Ord military base. When the federal government shut down the Fort Ord military base the United States Army left behind several thousand abandoned buildings. Although the Authority has successfully completed this process for approximately 90% of the former military buildings, the remaining 10% of the structures are largely remote and contaminated with friable asbestos, lead-based paint, and other toxins. The Authority has determined that the issuance of the Bonds to fund Building Removal Costs is both appropriate and necessary.

The Indenture defines "Building Removal" means any or all of the following: waste characterization, abatement, building demolition, building removal, building repair, waste disposal, and remediation of buildings and building sites located at certain parcels of property within the boundaries of the former Fort Ord identified in the Indenture. The Indenture defines "Building Removal Costs" as the costs of Building Removal, including, without limitation, all costs of planning, engineering, management, risk management (including insurance premiums, legal fees and litigation costs associated with the Building Removal), and associated administrative services required to remove blighted buildings from those parcels of property.

In order to carry on Building Removal activities of the Authority following its dissolution, the Authority is issuing the Bonds and, pursuant to the Indenture, on the date of issuance of the Bonds and amounts from the CalPERS Obligation Fund proceeds of the Bonds will be allocated and remitted to the Cities of Marina and Seaside, the Monterey County Water District, Monterey-Salinas Transit and the Transportation Agency for Monterey County (collectively, the "Local Agencies"), in the respective amounts set forth in the Indenture pursuant to separate Building Removal Funding Agreements with each Local Agency. Additional amounts will be allocated to the Local Agencies under the Indenture following the payment of the CalPERS Obligation described below, to the extent funds in the CalPERS Obligation Fund in excess of the amount needed to pay the CalPERS Obligation. Amounts released from the Escrow Fund if the conditions to such release are satisfied prior to the Escrow Termination Date will be remitted to the City of Marina to fund Building Removal Costs incurred by the City of Marina. The agreements with the Local Agencies obligate the respective Local Agency to use the Bond proceeds and amounts from the CalPERS Obligation Fund so remitted to it to pay Building Removal Costs incurred in respect of the parcel or parcels identified in the related agreement.

The expenditure of funds for, and the completion of any Building Removal activities, has no effect on the payment of the Bonds. The Local Agencies have no obligation with respect to the payment or administration of the Bonds, except that the City of Marina is the Administrator under the Indenture with certain administrative duties specified in the Indenture. Amounts remitted to the Local Agencies pursuant to the Building Removal Funding Agreements are not pledged to, and will not be available, to make payment of, the debt service on the Bonds.

## **The Pension Obligation**

As described under the heading “INTRODUCTION—The Pension Obligation,” it is expected that the Authority will have a payment obligation to CalPERS in respect of its employee pension plan upon the dissolution of the Authority and the concomitant termination of the Authority’s pension plan with CalPERS. That payment obligation is expected to be in excess of funds set aside by the Authority for that purpose; but the Authority’s total liability to CalPERS (the “CalPERS Obligation”) will not be determined until after the dissolution of the Authority.

In order to ensure that there are sufficient funds to satisfy the CalPERS Obligation, a portion of the proceeds of the Bonds in an amount calculated to be well in excess of the amount needed, together with funds set aside by the Authority for that purpose, to fully discharge the CalPERS Obligation, will be deposited to a CalPERS Obligation Fund held by the Trustee under the Indenture. Following payment of the CalPERS Obligation, any funds in the CalPERS Obligation Fund will be allocated and remitted by the Trustee to the Local Agencies to fund Building Removal Costs.

## **Escrow Fund**

As described under the heading “INTRODUCTION—Escrow Term Bonds,” portions of the proceeds of the Bonds will be deposited to an Escrow Fund and an Escrow Interest Account, both of which are established and held by the Trustee under the Indenture. Amounts in the Escrow Fund may be released from time to time upon satisfaction of certain requirements set forth in the Indenture to be remitted to the City of Marina to be used to pay Building Removal Costs of the City of Marina. Any funds remaining in the Escrow Fund on the Escrow Termination Date will be used to redeem Escrow Term Bonds on \_\_\_\_\_ 1, \_\_\_\_\_. Amounts in the Escrow Interest Account will be used to pay interest on the Escrow Term Bonds to and including their redemption date.

## Sources and Uses of Funds

The sources and uses of funds for the financing are summarized below.

<b>Sources:</b>	
Principal Amount of Bonds	\$
Plus (Minus): Original Issue Premium (Discount)	_____
Total Sources	\$ _____
 <b>Uses:</b>	
Deposit to Project Fund <sup>(1)</sup>	\$
Deposit to CalPERS Obligation Fund <sup>(2)</sup>	
Deposit to Escrow Fund <sup>(3)</sup>	
Deposit to the Escrow Interest Account <sup>(4)</sup>	
Deposit to Debt Service Fund <sup>(5)</sup>	
Costs of Issuance <sup>(6)</sup>	
Total Uses	\$ _____

(1) To be used to pay Building Removal Costs. See "FINANCING PLAN— The Building Removal Program."

(2) To be used to satisfy the CalPERS Obligation. SEE "INTRODUCTION—The Pension Obligation" and "FINANCING PLAN—The Pension Obligation."

(3) Available to pay Building Removal Costs of the City of Marina upon satisfaction of certain conditions set forth in the Indenture. See "INTRODUCTION—Escrow Term Bonds" and "FINANCING PLAN—Escrow Fund."

(4) To be used to pay interest on the Escrow Term Bonds to and including \_\_\_\_\_ 1, \_\_\_\_\_. See "FINANCING PLAN—Escrow Fund."

(5) To be used to pay the September 1, 2020 debt service due on the Bonds.

(6) Costs of issuance include the Underwriters' discount, fees and expenses of Bond Counsel, Disclosure Counsel, the Municipal Advisor, the Fiscal Consultant, the Trustee, the Administrator, the Authority and Authority counsel, printing expenses, premiums for the Municipal Bond Insurance Policy and the Reserve Account Insurance Policy and other costs related to the issuance of the Bonds.

## Debt Service Schedule

The following table shows the annual debt service schedule for the Bonds, assuming no redemption of the Escrow Term Bonds prior to their stated maturity.

Bond Year Ending	Principal	Interest	Total
1			

Totals			
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\* Indicates a mandatory sinking fund payment. See “THE BONDS—Redemption—Mandatory Sinking Account Redemption.”

## THE BONDS

### Authority for Issuance

The Bonds were authorized to be issued, and the Indenture was authorized to be executed, by the Authority pursuant to Resolution No. 19-13, adopted by the Board of Directors of the Authority on December 13, 2019. The issuance of the Bonds by the Authority was approved by the Board of Supervisors of the County, following the conduct of a public hearing, pursuant to its Resolution No. 19-412, adopted on December 10, 2019.

### Description of the Bonds

The Bonds will be issued and delivered in fully-registered form without coupons in the denomination of \$5,000 or any integral multiple thereof for each maturity of each series of the Bonds, initially in the name of Cede & Co., as nominee for The Depository Trust Company (“DTC”), as registered owner of all of the Bonds. The initially executed and delivered Bonds will be dated the date of delivery (the “Closing Date”) and will mature on September 1 in the years and in the principal amounts shown on the inside cover page of this Official Statement.

Interest on the Bonds will be calculated on the basis of a 360-day year of twelve 30-day months at the rates shown on the inside cover page of this Official Statement, payable semiannually on March 1 and September 1 in each year, commencing on September 1, 2020, by check mailed to the registered owners thereof or upon the request of the Owners of \$1,000,000 or more in principal amount of Bonds, by wire transfer to an account in the United States which shall be designated in written instructions by such Owner to the Trustee on or before the applicable Record Date. Record Date is defined in the Indenture as, with respect to any Interest Payment Date, the close of business on the fifteenth (15th) calendar day of the month preceding such Interest Payment Date, whether or not such fifteenth (15th) calendar day is a Business Day.

One fully-registered certificate will be issued for each maturity of the Bonds, each in the aggregate principal amount of such maturity, and will be deposited with DTC. See APPENDIX C—BOOK-ENTRY ONLY SYSTEM.

## Redemption

*Mandatory Sinking Account Redemption.* The Bonds maturing on September 1, \_\_\_\_ (the “\_\_\_\_ Term Bonds”), are subject to mandatory redemption, in part by lot, from Sinking Account payments set forth in the following schedule on September 1, \_\_\_\_, and on each September 1 thereafter to and including September 1, \_\_\_\_, at a redemption price equal to the principal amount thereof to be redeemed (without premium), together with interest accrued thereon to the date fixed for redemption.

<u>Redemption Date</u> (September 1)	<u>Principal</u> <u>Amount</u>
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The Bonds maturing on September 1, \_\_\_\_ (the “\_\_\_\_ Term Bonds”), are subject to mandatory redemption, in part by lot, from Sinking Account payments set forth in the following schedule on September 1, \_\_\_\_, and on each September 1 thereafter to and including September 1, \_\_\_\_, at a redemption price equal to the principal amount thereof to be redeemed (without premium), together with interest accrued thereon to the date fixed for redemption.

<u>Redemption Date</u> (September 1)	<u>Principal</u> <u>Amount</u>
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The Escrow Term Bonds maturing on September 1, \_\_\_\_, are subject to mandatory redemption, in part by lot, from Sinking Account payments set forth in the following schedule on September 1, \_\_\_\_, and on each September 1 thereafter to and including September 1, \_\_\_\_, at a redemption price equal to the principal amount thereof to be redeemed (without premium), together with interest accrued thereon to the date fixed for redemption; *provided, however*, that if some but not all of the Escrow Term Bonds have been redeemed pursuant to the provisions of the Indenture for the mandatory redemption of the Escrow Term Bonds described below, the total amount of Sinking Account payments to be made subsequent to such redemption shall be reduced in an amount equal to the principal amount of the Escrow Term Bonds so redeemed by reducing each such future Sinking Account payment on a pro rata basis (as nearly as practicable) in integral multiples of \$5,000, as shall be designated pursuant to written notice filed by the Authority with the Trustee.

Redemption Date  
(September 1)

Principal  
Amount

*Mandatory Redemption of Escrow Term Bonds.* The Escrow Term Bonds are subject to mandatory redemption on \_\_\_\_\_ 1, \_\_\_\_\_, in whole or in part, at a redemption price equal to the principal amount thereof to be redeemed, together with accrued interest to the date fixed for redemption, without premium, from amounts transferred from the Escrow Fund to the Redemption Fund pursuant to the Indenture. See "SECURITY FOR THE BONDS – Escrow Fund."

*Notice of Redemption.* The Trustee on behalf of and at the expense of the Authority will mail (by first class mail, postage prepaid) notice of any redemption at least thirty but not more than sixty days prior to the redemption date, to (i) the Owners of any Bonds designated for redemption at their respective addresses appearing on the Registration Books, and (ii) to the Securities Depositories and to the Information Services designated in a Written Request of the Authority filed with the Trustee at the time the Authority notifies the Trustee of its intention to redeem Bonds; but such mailing is not a condition precedent to such redemption and neither failure to receive any such notice nor any defect therein will affect the validity of the proceedings for the redemption of such Bonds or the cessation of the accrual of interest thereon. Such notice will state the redemption date and the redemption price, will designate the CUSIP number of the Bonds to be redeemed, state the individual number of each Bond to be redeemed or state that all Bonds between two stated numbers (both inclusive) or all of the Bonds Outstanding (or all Bonds of a maturity) are to be redeemed, and will require that such Bonds be then surrendered (except for mandatory Sinking Account redemptions) at the Principal Corporate Trust Office of the Trustee for redemption at the said redemption price, giving notice also that further interest on such Bonds will not accrue from and after the redemption date.

Upon the payment of the redemption price of Bonds being redeemed, each check or other transfer of funds issued for such purpose shall, to the extent practicable, bear the CUSIP number identifying, by issue and maturity, the Bonds being redeemed with the proceeds of such check or other transfer.

*Effect of Redemption.* From and after the date fixed for redemption, if funds available for the payment of the redemption price of and interest on the Bonds so called for redemption shall have been duly deposited with the Trustee, such Bonds so called shall cease to be entitled to any benefit under the Indenture other than the right to receive payment of the redemption price and accrued interest to the redemption date, and no interest shall accrue thereon from and after the redemption date specified in such notice.

*Manner of Redemption.* Whenever any Bonds or portions thereof are to be selected for redemption by lot, the Trustee shall make such selection in such manner as the Trustee shall deem appropriate and shall notify the Authority thereof. All Bonds redeemed shall be canceled.

## THE DISSOLUTION ACT

The Dissolution Act requires the County Auditor-Controller to determine the amount of property taxes that would have been allocated to each former redevelopment agency (pursuant

to subdivision (b) of section 16 of Article XVI of the State Constitution) had the respective former agency not been dissolved pursuant to the operation of AB 1X 26, using current assessed values on the last equalized roll on August 20, and to deposit that amount in the Redevelopment Property Tax Trust Fund for the successor agency established and held by the County Auditor-Controller pursuant to the Dissolution Act.

Pursuant to subdivision (b) of section 33670 of the Health and Safety Code and section 16 of Article XVI of the State Constitution and as provided in the redevelopment plans for each of the Project Areas, taxes levied upon taxable property in the Project Areas each year by or for the benefit of the State, any city, county, city and county, district, or other public corporation (herein sometimes collectively called "taxing agencies") after the effective date of the respective ordinances approving the several redevelopment plans, or the effective dates of ordinances approving amendments to the several redevelopment plans that added territory are to be divided as follows:

(a) To Taxing Agencies: That portion of the taxes which would be produced by the rate upon which the tax is levied each year by or for each of the taxing agencies upon the total sum of the assessed value of the taxable property in the respective redevelopment project as shown upon the assessment roll used in connection with the taxation of such property by such taxing agency last equalized prior to the effective date of the ordinance adopting the related redevelopment plan, or the respective effective dates of ordinances approving amendments to the respective redevelopment plan that added territory to the related redevelopment project, as applicable (each, a "base year valuation"), will be allocated to, and when collected will be paid into, the funds of the respective taxing agencies as taxes by or for the taxing agencies on all other property are paid; and

(b) To the Former Agency/Successor Agency: Except for that portion of the taxes in excess of the amount identified in (a) above which are attributable to a tax rate levied by a taxing agency for the purpose of producing revenues in an amount sufficient to make annual repayments of the principal of, and the interest on, any bonded indebtedness approved by the voters of the taxing agency on or after January 1, 1989 for the acquisition or improvement of real property, which portion shall be allocated to, and when collected shall be paid into, the fund of that taxing agency, that portion of the levied taxes each year in excess of such amount, annually allocated within limitations established by the applicable redevelopment plan, following the date of issuance of the Bonds, when collected will be paid into the Redevelopment Property Tax Trust Fund.

That portion of the levied taxes described in paragraph (b) above, less amounts deducted pursuant to section 34183(a) of the Dissolution Act for permitted administrative costs of the County Auditor-Controller, constitute the amounts required under the Dissolution Act to be deposited by the County Auditor-Controller into the Redevelopment Property Tax Trust Fund. In addition, section 34183 of the Dissolution Act effectively eliminates the January 1, 1989 date from paragraph (b) above.

*Order of Priority of Distributions from Redevelopment Property Tax Trust Fund.* Typically, under the Redevelopment Property Tax Trust Fund distribution provisions of the Dissolution Act, a county auditor-controller is to distribute funds for each six-month period after deducting permitted administrative costs of the County Auditor-Controller pursuant to Section 34183(a) of the Dissolution Act (which are deducted from deposits to the Redevelopment Property Tax Trust Fund prior to making distributions), in the following order as specified in section 34183 of the Dissolution Act:

(i) first, subject to certain adjustments for subordinations to the extent permitted under the Dissolution Act, if any (as described above under “SECURITY FOR THE BONDS—Pass-Through Payments”) and no later than each January 2 and June 1, amounts required for pass-through payments such entity would have received under provisions of the Health and Safety Code, as those provisions read on January 1, 2011, including negotiated pass-through agreements and statutory pass-through obligations;

(ii) second, on each January 2 and June 1, to the successor agency for payments listed in its respective recognized obligation payment schedule, with debt service payments scheduled to be made for tax allocation bonds having the highest priority over payments scheduled for other debts and obligations listed on the recognized obligation payment schedule;

(iii) third, on each January 2 and June 1, to the successor agency for the administrative cost allowance, as defined in the Dissolution Act; and

(iv) fourth, on each January 2 and June 1, to taxing entities any moneys remaining in the Redevelopment Property Tax Trust Fund after the payments and transfers authorized by clauses (i) through (iii), in an amount proportionate to such taxing entity’s share of property tax revenues in the tax rate area in that fiscal year (without giving effect to any pass-through obligations that were established under the Redevelopment Law).

The amounts arising from the Project Areas allocated to pay obligations of the Authority under the Health and Safety Code have been classified by the County as a pass-through obligation described in clause (i) above.

## **SECURITY FOR THE BONDS**

### **Pledge Under the Indenture**

The Bonds are equally secured by a pledge of, security interest in and lien on all of the Pledged Tax Revenues, and the Bonds are also secured by a first and exclusive pledge of, security interest in and lien upon all of the moneys in the Debt Service Fund, the Interest Account, the Principal Account, the Redemption Account and the Reserve Account therein without preference or priority for series, issue, number, dated date, sale date, date of execution or date of delivery. The Escrow Term Bonds in an amount equal to the amount of the Deemed Escrow Term Bonds shall be additionally secured by amounts in the Escrow Fund and the Escrow Interest Account. Except for the Pledged Tax Revenues and such moneys, no funds or properties of the Authority, the County or the Administrator are pledged to, or otherwise liable for, the payment of principal of or interest or redemption premium (if any) on the Bonds.

In consideration of the acceptance of the Bonds by owners of the Bonds, the Indenture is deemed to be and constitutes a contract between the Authority and the Administrator, and the



Owners from time to time of the Bonds, and the covenants and agreements set forth in the Indenture to be performed on behalf of the Authority or the Administrator are for the equal and proportionate benefit, security and protection of all Owners of the Bonds without preference, priority or distinction as to security or otherwise of any of the Bonds over any of the others by reason of the number or date thereof or the time of sale, execution and delivery thereof, or otherwise for any cause whatsoever, except as expressly provided therein or in the Indenture.

Amounts in the Project Fund (and the accounts therein), the Administrative Expense Account, the Surplus Account and the CalPERS Obligation Fund are not pledged to the repayment of the Bonds.

### **Pledged Tax Revenues**

As previously described, Tax Revenues from the Project Areas are deposited to the Redevelopment Project Tax Trust Fund maintained by the County Auditor-Controller, who the Authority has irrevocably directed to remit the Pledged Tax Revenues to the Trustee for deposit by the Trustee in the Debt Service Fund held by the Trustee under the Indenture. Payments due on the Bonds are made by the Trustee from the funds in the accounts in the Debt Service Fund.

The term "Pledged Tax Revenues" is defined in the Indenture as all taxes that are allocated, or available to be allocated, to (a) the Authority pursuant to California Health and Safety Code Section 33492.71, subsection (c)(1)(A) or (b) the Administrator, as successor in interest to the Authority upon its dissolution, pursuant to California Health and Safety Code Section 33492.71, subsection (c)(1)(D), as applicable. Pursuant to the Irrevocable Instructions, the County is to remit all of the Pledged Tax Revenues to the Trustee.

### **Flow of Funds Under the Indenture**

There is established under the Indenture a trust fund known as the Debt Service Fund, and within the Debt Service Fund a Principal Account, an Interest Account, a Reserve Account, an Administrative Expense Account, a Redemption Account and a Surplus Account, each which is to be held by the Trustee under the Indenture in trust. Pledged Tax Revenues received by the Trustee pursuant to the Irrevocable Instructions or otherwise shall be deposited by the Trustee in the Debt Service Fund. The Trustee shall transfer from the Debt Service Fund the following amounts, at the following times, to the following respective special accounts, which are hereby established in the Debt Service Fund, and in the following order of priority:

(a) Interest Account. Not later than the fifth (5th) Business Day preceding each Interest Payment Date, commencing with the Interest Payment Date of \_\_\_\_\_ 1, \_\_\_\_ the Trustee shall deposit in the Interest Account an amount which when added to the amount contained in the Interest Account on that date, will be equal to the aggregate amount of the interest becoming due and payable on the Outstanding Bonds on such Interest Payment Date. No such transfer and deposit need be made to the Interest Account if the amount contained therein is at least equal to the interest to become due on the next succeeding Interest Payment Date upon all of the Outstanding Bonds. All moneys in the Interest Account shall be used and withdrawn by the Trustee solely for the purpose of paying the interest on the Bonds as it shall become due and payable (including accrued interest on any Bonds redeemed prior to maturity pursuant to this Indenture).

(b) Principal Account. Not later than the fifth (5th) Business Day preceding September 1 in each year beginning September 1, 2020 the Trustee shall deposit in the Principal Account an amount which, when added to the amount then contained in the Principal Account, will be equal to the principal becoming due and payable on the

Outstanding Serial Bonds and Outstanding Term Bonds, including pursuant to mandatory sinking account redemption, on the next September 1. No such transfer and deposit need be made to the Principal Account if the amount contained therein is at least equal to the principal to become due on the next September 1 on all of the Outstanding Serial Bonds and Term Bonds. All moneys in the Principal Account shall be used and withdrawn by the Trustee solely for the purpose of paying the principal of the Serial Bonds and the Term Bonds, including by mandatory sinking account redemption, as the same shall become due and payable.

(c) Reserve Account. In the event that the amount on deposit in the Reserve Account as of any Interest Payment Date is less than the then Reserve Requirement (taking into account the amount available to be drawn on the Reserve Policy), the Trustee shall transfer to the Reserve Account an amount sufficient to increase the amount in the Reserve Account to the then amount of the Reserve Requirement.

[The Reserve Requirement will be satisfied by the delivery of the Reserve Policy by the Insurer on the Closing Date with respect to the Bonds. Neither the Authority nor the Administrator will have any obligation to replace the Reserve Policy or to fund the Reserve Account with cash if, at any time that the Bonds are Outstanding, any rating assigned to the Insurer is downgraded, suspended or withdrawn or amounts are not available under the Reserve Policy other than in connection with a draw on the Reserve Policy. Notwithstanding anything to the contrary set forth herein the amounts available under the Reserve Policy shall be used and withdrawn by the Trustee solely for the purpose of making transfers to the Interest Account and the Principal Account in such order of priority, in the event of any deficiency at any time in any of such accounts with respect to the payment of debt service on the Bonds.]

The Trustee shall ascertain the necessity for a claim upon the Reserve Policy and provide notice to the Insurer in accordance with the terms of the Reserve Policy at least five Business Days prior to each date upon which interest or principal is due on the Bonds.

If there shall then not be sufficient Pledged Tax Revenues to transfer an amount sufficient to maintain the Reserve Requirement on deposit in the Reserve Account, the Authority shall be obligated to continue making transfers as Pledged Tax Revenues become available until there is an amount sufficient to maintain the Reserve Requirement on deposit in the Reserve Account. No such transfer and deposit need be made to the Reserve Account so long as there shall be on deposit therein a sum at least equal to the Reserve Requirement. All money in the Reserve Account shall be used and withdrawn by the Trustee solely for the purpose of making transfers hereunder to the Interest Account and the Principal Account, in the event of any deficiency at any time in any of such accounts or for the retirement of all the Bonds then Outstanding, except that so long as the Authority (prior to the Dissolution Date) or the Administrator (after the Dissolution Date) is not in default hereunder, any amount in the Reserve Account in excess of the Reserve Requirement shall be withdrawn from the Reserve Account semiannually on or before two (2) Business Days preceding each Interest Payment Date by the Trustee and deposited in the Surplus Account. All amounts in the Reserve Account on the Business Day preceding the final Interest Payment Date shall be withdrawn from the Reserve Account and shall be transferred to the Interest Account and the Principal Account, in such order, to the extent required to make the deposits then required to be made pursuant to the Indenture.

[With the prior written consent of the Insurer, the Administrator shall have the right at any time to direct the Trustee to release funds from the Reserve Account, in whole

or in part, by tendering to the Trustee a Qualified Reserve Account Credit Instrument. Upon tender of such items to the Trustee, and upon delivery by the Administrator to the Trustee of written calculation of the amount permitted to be released from the Reserve Account (upon which calculation the Trustee may conclusively rely), the Trustee shall transfer such funds from the Reserve Account to the Surplus Account to be applied in accordance with the Indenture. The Trustee shall comply with all documentation relating to a Qualified Reserve Account Credit Instrument as shall be required to maintain such Qualified Reserve Account Credit Instrument in full force and effect and as shall be required to receive payments thereunder in the event and to the extent required to make any payment when and as required under this paragraph. Upon the expiration of any Qualified Reserve Account Credit Instrument, the Administrator shall either (i) replace such Qualified Reserve Account Credit Instrument with a new Qualified Reserve Account Credit Instrument, or (ii) deposit or cause to be deposited with the Trustee an amount of funds equal to the Reserve Requirement, to be derived from the first legally available Pledged Tax Revenues. If the Reserve Requirement is being maintained partially in cash and partially with a Qualified Reserve Account Credit Instrument, including the Reserve Policy, the cash shall be first used to meet any deficiency which may exist from time to time in the Interest Account or the Principal Account for the purpose of making payments required pursuant to the Indenture. If the Reserve Requirement is being maintained with two or more Qualified Reserve Account Credit Instruments, including the Reserve Policy, on which there is available coverage, any draw to meet a deficiency which may exist from time to time in the Interest Account or the Principal Account for the purpose of making payments required pursuant to the Indenture shall be pro-rata with respect to each such instrument after applying all cash and investments in the Reserve Account. For the avoidance of doubt, "available coverage" means the coverage then available for disbursement pursuant to the terms of the applicable alternative credit instrument without regarding to the legal or financial ability or willingness of the provider of such instrument to honor a claim or draw thereon or the failure of such provider to honor any such claim or draw.]

(d) Administrative Expense Account. On the Closing Date, the Trustee shall make a deposit to the Administrative Expense Fund as required by Section 3.02(a)(viii). Thereafter, on each September 1, following the deposits required by subsections (a), (b), and (if applicable) (c) of this Section 4.02 on such date, the Trustee shall transfer an amount equal to the Minimum Expense Requirement to the Administrative Expense Fund. Deposits may also be made from the Surplus Account to the Administrative Expense Fund as described in paragraph (f) below.

Amounts in the Administrative Expense Account shall be withdrawn by the Trustee and paid to or as directed by the Administrator upon receipt by the Trustee of a Written Certificate of the Administrator stating the amount to be withdraw, that such amount is to be used to pay an Administrative Expense and the nature of such Administrative Expense.

(e) Redemption Account. On the date on which Escrow Term Bonds are to be redeemed pursuant to the Indenture, the Trustee shall apply any amount transferred from the Escrow Fund to the Redemption Account pursuant to the Indenture to the redemption of Escrow Term Bonds. All moneys in the Redemption Account shall be used and withdrawn by the Trustee solely for the purpose of paying the principal of the Escrow Term Bonds to be redeemed pursuant to the Indenture on the date set for such redemption. Interest due on the Escrow Term Bonds to be redeemed on the date set for redemption shall be paid from funds available therefor in the Interest Account that were transferred from Escrow Interest Account.

(f) Surplus Account. On September 2 of each year, after making the deposits described under subsections (a) through (e) above on the preceding September 1, the Trustee shall transfer all amounts remaining on deposit in the Debt Service Fund to the Surplus Account. Any amounts transferred to the Surplus Account shall be disposed of by the Trustee as follows: (i) transfer to the Administrative Expense Account an amount determined by the Administrator as necessary to pay Administrative Expenses to the extent amounts in the Administrative Expense Account are not sufficient for such purpose as directed in a Written Request of the Administrator delivered to the Trustee by September 12 of each year; and (ii) promptly following the foregoing transfer to the Administrative Expense Fund, and in any event no later than 10 Business Days following the deposit of funds in the Surplus Fund each year, any remaining amount in the Surplus Fund shall be transferred by the Trustee, without further direction, to the County Auditor-Controller for redistribution by the County Auditor-Controller as provided in Section 33492.71(c)(1)(D) of the California Health and Safety Code.

### **Reserve Account**

The Indenture establishes a Reserve Account within the Debt Service Fund, amounts in which only secure payment of the Bonds. On the Closing Date, Bond proceeds in an amount equal to the Reserve Requirement will be deposited to the Reserve Account. Reserve Requirement is defined in the Indenture as an amount, as of any date of calculation, equal to the least of (a) Maximum Annual Debt Service on the Bonds for the then current or every subsequent Bond Year, (b) 125% of average Annual Debt Service on the Bonds for the then current and every subsequent Bond Year, and (c) 10% of the original principal amount of the Bonds.

If, on any Interest Payment Date, the moneys available in the Interest Account or Principal Account of the Debt Service Fund do not equal the amount of the principal and interest on the Bonds then coming due and payable, the Trustee shall apply any moneys available in the Reserve Account to make delinquent amounts with respect to the Bonds by transferring the amount necessary for this purpose to the Interest Account and the Principal Account, in that order, of the Debt Service Fund.

Under the Indenture, amounts in the Reserve Account will be used and withdrawn by the Trustee solely for the purpose of making transfers to the Interest Account and the Principal Account of the Debt Service Fund as described in the preceding paragraph or for the retirement of all the Bonds then Outstanding, except that so long as no Event of Default has occurred and is then continuing under the Indenture, any amount in the Reserve Account in excess of the Reserve Requirement (as determined by the Trustee based upon a valuation of investments held in such account performed in accordance with the Indenture) will be withdrawn from the Reserve Account semiannually on or before the second Business Day preceding each Interest Payment Date by the Trustee and deposited in the Interest Account of the Debt Service Fund. Pursuant to the Indenture, all amounts in the Reserve Account on the second Business Day preceding the final Interest Payment Date will be withdrawn from the Reserve Account and will be transferred to the Interest Account or the Principal Account of the Debt Service Fund, in such order, to the extent required to make the deposits required to be made on such Interest Payment Date pursuant to the Indenture.

### **Escrow Fund**

The Escrow Fund is established by the Indenture as a separate fund to be held by the Trustee, to which a portion of the proceeds of the Bonds will be deposited on the date of issuance of the Bonds. There is also created within the Escrow Fund a separate Escrow Interest Account

to be held by the Trustee, to the credit of which a deposit shall be made on the date of issuance of the Bonds. Moneys in the Escrow Fund and the Escrow Interest Account are subject to a lien in favor of the Owners of the Escrow Term Bonds.

*Disbursements.* The Trustee will make disbursements from the Escrow Fund to the Marina Bond Proceeds Account of the Project Fund upon receipt of written certificate of an Authorized Officer stating that the requirements described below have been met as to all or a portion of the Escrow Term Bonds, together with the report and other information required by the Indenture. Upon receipt of any such written certificate, the Trustee shall deposit the amount of the requested disbursement to the Marina Bond Proceeds Account of the Project Fund. The transfers referred to in the preceding sentence shall only be made no more than annually, in each case on or about \_\_\_\_\_.

The Trustee shall transfer from the Escrow Interest Account to the Interest Account on the Business Day prior to each Interest Payment Date an amount equal to the interest payable on the Deemed Escrow Bonds on the immediately succeeding Interest Payment Date.

In addition to the foregoing, amounts shall be disbursed from the Escrow Fund and the Escrow Interest Account as described below.

*Release Test.* An Authorized Officer may file with the Trustee a written certificate accompanied by a written report of an Independent Fiscal Consultant which identifies (i) the amount proposed to be released from the Escrow Fund, and (ii) the amount of Maximum Annual Debt Service which results from such release. Such report shall conclude that the amount of Adjusted Tax Revenues which are identified in such written certificate are at least equal to 125% of the amount of Maximum Annual Debt Service identified in such report. Promptly following receipt of such certificate and report, the Trustee shall withdraw from the Escrow Fund the amount identified in such report and transfer such amount to the Marina Bond Proceeds Account and the Trustee shall promptly remit the amount deposited thereto to the City of Marina. Notwithstanding the foregoing, no transfer pursuant to the foregoing provisions shall be allowed in any Bond Year following a Bond Year where the actual receipts of Pledged Tax Revenues in that Bond Year did not exceed Maximum Annual Debt Service (determined without including debt service on the Deemed Escrow Bonds) by 25%.

For purposes of the foregoing paragraph the following capitalized terms shall have the following meanings:

“Marina Pledged Tax Revenues” means, for any Bond Year, the amount of Pledged Tax Revenues from the Marina Project Area No. 3 for such Bond Year based on the assessed valuation of property in the Marina Project Area No. 3 as evidenced in a written document from an appropriate official of the County.

“Original Seaside Pledged Tax Revenues” means \$\_\_\_\_\_ of Pledged Tax Revenues from the Seaside Fort Ord Project Area. If the assessed valuation for the Seaside Fort Ord Project Area has declined since Fiscal Year 2020-21, the Independent Fiscal Consultant shall recalculate the Original Seaside Pledged Tax Revenues based on the latest assessed valuation for the Seaside Fort Ord Project Area.

“Adjusted Pledged Tax Revenues”, means for any Bond Year the sum of (i) the Marina Pledged Tax Revenues, and (ii) the Original Seaside Pledged Tax Revenues.

*Disbursements For Bond Redemption; Closing of Fund.* On and after \_\_\_\_\_ 1, \_\_\_\_\_ (the “Escrow Close Date”), the Trustee shall make no further disbursements from the Escrow

Fund pursuant to the foregoing paragraph, and on \_\_\_\_\_ 1, \_\_\_\_ (the “Escrow Redemption Date”) the Trustee shall transfer all amounts then on deposit in the Escrow Fund to the Redemption Fund, to be applied to the redemption of Escrow Term Bonds to the maximum extent possible on the Escrow Redemption Date, as provided in the Indenture, and shall transfer all amounts then on deposit in the Escrow Interest Account to the Interest Account to be used to pay interest on the Escrow Bonds to be redeemed on the Escrow Redemption Date, with any funds not needed for such purpose deposited to the Interest Account.

*Investment.* Moneys in the Escrow Fund and the Escrow Interest Account shall be invested and deposited in accordance with Section 6.07. Investment earnings and profits from such investment of amounts in the Escrow Fund and Escrow Interest Account shall be transferred by the Trustee to the Interest Account of the Debt Service Fund on the Business Day prior to each Interest Payment Date.

### **Limited Obligation**

The Bonds are not a debt of the City, the County, the State or any of their political subdivisions except the Authority, and none of the City, the County, the State or any of their political subdivisions except the Authority are liable therefor. The Bonds do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction. No member of the Board of Directors of the Authority or of the Oversight Board, or member of the Board of Supervisors of the County, shall be individually or personally liable for the payment of the principal of or interest or redemption premium (if any) on the Bonds. The Bonds are only payable from the Pledged Tax Revenues and investment earnings on amounts in the accounts within the Debt Service Fund. See “SECURITY FOR THE BONDS.”

### **County Administrative Fees**

Chapter 466, Statutes of 1990 (referred to as SB 2557), permits the County to withhold a portion of annual tax revenues otherwise to be deposited to the Redevelopment Property Tax Trust Fund for the recovery of County charges related to property tax administration services to cities in an amount equal to their property tax administration costs proportionately attributable to cities. SB 2557, and subsequent legislation under SB 1559 (Statutes of 1992), permitted counties to charge all jurisdictions, including redevelopment agencies, on a year-to-year basis. Section 34182(a)(3) of the California Health and Safety Code also provides for recovery of county costs in connection with performing duties related to the dissolution of redevelopment agencies. The Fiscal Consultant has deducted such amounts in determining the Pledged Tax Revenues expected to be available to make payments on the Bonds.

### **Pass-Through Payments**

The pass-through payment obligations for the Project Areas constituting Statutory Pass-Through Amounts determined pursuant to the Fort Ord section of California Health and Safety Code sections 33492.71 and 33492.78. [*more to come*]

## **MUNICIPAL BOND INSURANCE**

### **Municipal Bond Insurance Policy**

[to come]

[The Insurer]

[to come]

## PROPERTY TAXATION IN CALIFORNIA

### Property Tax Collection Procedures

*Classification.* In the State, property which is subject to ad valorem taxes is classified as “secured” or “unsecured.” Secured and unsecured property are entered on separate parts of the assessment roll maintained by the County assessor. The secured classification includes property on which any property tax levied by a county becomes a lien on that property. A tax levied on unsecured property does not become a lien against the taxed unsecured property, but may become a lien on certain other property owned by the taxpayer. Every tax which becomes a lien on secured property has priority over all other liens on the secured property arising pursuant to State law, regardless of the time of the creation of other liens.

Generally, ad valorem taxes are collected by a county (the “Taxing Authority”) for the benefit of the various entities (e.g., cities, schools and special districts) that share in the ad valorem tax (each a taxing entity) and successor agencies eligible to receive distributions from the respective Redevelopment Property Tax Trust Funds.

*Collections.* Secured and unsecured property are entered separately on the assessment roll maintained by the county assessor. The method of collecting delinquent taxes is substantially different for the two classifications of property. The taxing authority has four ways of collecting unsecured personal property taxes: (i) initiating a civil action against the taxpayer, (ii) filing a certificate in the office of the county clerk specifying certain facts in order to obtain a judgment lien on certain property of the taxpayer, (iii) filing a certificate of delinquency for record in the county recorder’s office to obtain a lien on certain property of the taxpayer, and (iv) seizing and selling personal property, improvements or possessory interests belonging or assessed to the assessee. The exclusive means of enforcing the payment of delinquent taxes with respect to property on the secured roll is the sale of the property securing the taxes to the State for the amount of taxes which are delinquent.

*Penalty.* A 10% penalty is added to delinquent taxes which have been levied with respect to property on the secured roll. In addition, property on the secured roll on which taxes are delinquent is declared in default by operation of law and declaration of the tax collector on or about June 30 of each fiscal year. Such property may thereafter be redeemed by payment of the delinquent taxes and the delinquency penalty, plus a redemption penalty of 1.5% per month to the time of redemption. If taxes are unpaid for a period of five years or more, the property is deeded to the State and then is subject to sale by the county tax collector. A 10% penalty also applies to delinquent taxes with respect to property on the unsecured roll, and further, an additional penalty of 1.5% per month accrues with respect to such taxes beginning on varying dates related to the tax bill mailing date.

*Delinquencies.* The valuation of property is determined as of the January 1 lien date as equalized in August of each year and equal installments of taxes levied upon secured property become delinquent on the following December 10 and April 10. Taxes on unsecured property are due January 1 and become delinquent August 31.

*Supplemental Assessments.* California Revenue and Taxation Code section 75.70 provides for the reassessment and taxation of property as of the occurrence of a change of ownership or

completion of new construction. Such reassessment is referred to as the Supplemental Assessment and is determined by applying the current year's tax rate to the amount of the increase or decrease in a property's value and prorating the resulting property taxes to reflect the portion of the tax year remaining as determined by the date of the change in ownership or completion of new construction. Supplemental Assessments become a lien against real property. Prior to the enactment of this law, the assessment of such changes was permitted only as of the next tax lien date following the change, and this delayed the realization of increased property taxes from the new assessments for up to 14 months. Since fiscal year 1984-85, revenues derived from Supplemental Assessments have been allocated to redevelopment agencies and taxing entities in the same manner as the general property tax. The receipt of Supplemental Assessment revenues by taxing entities typically follows the change of ownership by a year or more. This statute provides increased revenue to the Redevelopment Property Tax Trust Fund to the extent that supplemental assessments of new construction or changes of ownership occur within the boundaries of redevelopment projects subsequent to the January 1 lien date. If a change in ownership results in a decrease in assessed value, a negative supplemental assessment may occur, requiring a refund of taxes paid to the property owner. Supplemental Assessments have not been included in the Fiscal Consultant's projections of Pledged Tax Revenues to pay debt service on the Bonds.

*County Property Tax Collection and Administrative Costs.* In 1990, the Legislature enacted SB 2557 (Chapter 466, Statutes of 1990) which allows counties to charge for the cost of assessing, collecting and allocating property tax revenues to local government jurisdictions in proportion to the tax-derived revenues allocated to each. SB 1559 (Chapter 697, Statutes of 1992) explicitly includes redevelopment agencies among the jurisdictions which are subject to such charges. In addition, sections 34182(e) and 34183(a) of the Dissolution Act allow administrative costs of the County Auditor-Controller for the costs of administering the provisions of the Dissolution Act. For purposes of the Fiscal Consultant's projections of Pledged Tax Revenues available to pay debt service on the Bonds, the Fiscal Consultant assumed that the County will continue to charge for property tax collection and administration and that such charge will increase proportionally with any increases in Redevelopment Property Tax Trust Fund revenue.

*Levy and Collection of Taxes.* The Authority has no independent power to levy and collect property taxes. Any reduction in the tax rate or the implementation of any constitutional or legislative property tax decrease could reduce the Tax Revenues, and accordingly, could have an adverse impact on the Pledged Tax Revenues. Likewise, delinquencies in the payment of property taxes and the impact of bankruptcy proceedings on the legal ability of taxing agencies to collect property taxes. Collection of property taxes in the County is not subject to the "Alternative Method of Distribution of Tax Levies and Collections and of Tax Sale Proceeds," as provided for in Section 4701 et seq. of the California Revenue and Taxation Code (known as the "Teeter Plan"). Accordingly, collections of property taxes will reflect actual delinquencies, if any.

See the Fiscal Consultant's Report for a table showing computed tax levies and allocated Redevelopment Property Tax Trust Fund revenues. Substantial delinquencies in the payment of property taxes could impair the timely receipt of Pledged Tax Revenues, although the current Pledged Tax Revenues provide debt service coverage on the Bonds.

## **Unitary Property**

Assembly Bill ("AB") 2890 (Statutes of 1986, Chapter 1457) provides that, commencing with fiscal year 1988-89, tax revenues derived from unitary property and assessed by the State Board of Equalization are accumulated in a single tax rate area for the County. The tax revenues are then to be allocated to each taxing entity county-wide as follows: (i) each taxing entity will receive the same amount as in the previous year plus an increase for inflation of up to 2%; (ii) if



utility tax revenues are insufficient to provide the same amount as in the previous year, each taxing entity's share would be reduced pro rata county wide; and (iii) any increase in revenue above 2% would be allocated in the same proportion as the taxing entity's local secured taxable values are to the local secured taxable values of the County.

AB 454 (Statutes of 1987, Chapter 921) further modified Chapter 1457 regarding the distribution of tax revenues derived from property assessed by the State Board of Equalization. Chapter 921 provides for the consolidation of all State-assessed property, except for regulated railroad property, into a single tax rate area in each county. Chapter 921 further provides for a new method of establishing tax rates on State-assessed property and distribution of property tax revenue derived from State-assessed property to taxing jurisdictions within each county in accordance with a new formula. Railroads will continue to be assessed and revenues allocated to all tax rate areas where railroad property is sited.

Unitary revenues are not included in Pledged Tax Revenues in projections in the Fiscal Consultant's Report of Pledged Tax Revenues.

### **Article XIII A of the State Constitution**

Article XIII A limits the amount of ad valorem taxes on real property to 1% of "full cash value" of such property, as determined by the county assessor. Article XIII A defines "full cash value" to mean "the County Assessor's valuation of real property as shown on the 1975-76 tax bill under 'full cash value,' or, thereafter, the appraised value of real property when purchased, newly constructed, or a change in ownership has occurred after the 1975 assessment." Furthermore, the "full cash value" of all real property may be increased to reflect the rate of inflation, as shown by the consumer price index, not to exceed 2% per year, or may be reduced.

Article XIII A has subsequently been amended to permit reduction of the "full cash value" base in the event of declining property values caused by substantial damage, destruction or other factors, and to provide that there would be no increase in the "full cash value" base in the event of reconstruction of property damaged or destroyed in a disaster and in other special circumstances.

Article XIII A (i) exempts from the 1% tax limitation taxes to pay debt service on (a) indebtedness approved by the voters prior to July 1, 1978 or (b) bonded indebtedness for the acquisition or improvement of real property approved on or after July 1, 1978, by two-thirds of the votes cast by the voters voting on the proposition; (ii) requires a vote of two-thirds of the qualified electorate to impose special taxes, or certain additional ad valorem taxes; and (iii) requires the approval of two-thirds of all members of the State Legislature to change any State tax laws resulting in increased tax revenues.

The validity of Article XIII A has been upheld by both the California Supreme Court and the United States Supreme Court.

In the general election held November 4, 1986, voters of the State approved two measures, Propositions 58 and 60, which further amended Article XIII A. Proposition 58 amended Article XIII A to provide that the terms "purchase" and "change of ownership," for the purposes of determining full cash value of property under Article XIII A, do not include the purchase or transfer of (1) real property between spouses and (2) the principal residence and the first \$1,000,000 of other property between parents and children. This amendment to Article XIII A may reduce the rate of growth of local property tax revenues.

Proposition 60 amended Article XIII A to permit the Legislature to allow persons over the age of 55 who sell their residence and buy or build another of equal or lesser value within two years in the same county, to transfer the old residence assessed value to the new residence. As a result of the Legislature’s action, the growth of property tax revenues may decline.

Legislation enacted by the Legislature to implement Article XIII A provides that all taxable property is shown at full assessed value as described above. In conformity with this procedure, all taxable property value included in this Official Statement is shown at 100% of assessed value and all general tax rates reflect the \$1 per \$100 of taxable value (except as noted). Tax rates for voter-approved bonded indebtedness and pension liabilities are also applied to 100% of assessed value.

Each year the Board of Equalization announces the applicable adjustment factor. Since the adoption of Proposition 13, inflation has, in most years, exceeded 2% and the announced factor has reflected the 2% cap. The changes in the California Consumer Price Index from October of one year and October of the next year are used to determine the adjustment factor for the January assessment date. Through fiscal year 2010-11 there were six occasions when the inflation factor was less than 2%. Until fiscal year 2010-11 the annual adjustment never resulted in a reduction to the assessed values of individual parcels; however, the factor that was applied to real property assessed values for the January 1, 2010 assessment date was -0.237% and this resulted in reductions to the assessed value of parcels. The table below reflects the inflation adjustment factors for the current fiscal year and 10 prior fiscal years.

Historical Inflation Adjustment Factors	
Fiscal Year	Inflation Adj. Factor
2010-11	-0.237%
2011-12	0.753
2012-13	2.000
2013-14	2.000
2014-15	0.454
2015-16	1.998
2016-17	1.525
2017-18	2.000
2018-19	2.000
2019-20	2.000
2020-21	2.000

**Appropriations Limitation—Article XIII B**

Article XIII B limits the annual appropriations of the State and its political subdivisions to the level of appropriations for the prior fiscal year, as adjusted for changes in the cost of living, population and services rendered by the government entity. The “base year” for establishing such appropriations limit is the 1978/79 fiscal year, and the limit is to be adjusted annually to reflect changes in population, consumer prices and certain increases in the cost of services provided by these public agencies.

Section 33678 of the Redevelopment Government Code provides that the allocation of taxes to a redevelopment agency for the purpose of paying principal of, or interest on, loans, advances, or indebtedness shall not be deemed the receipt by a redevelopment agency of proceeds of taxes levied by or on behalf of a redevelopment agency within the meaning of Article XIII B, nor shall such portion of taxes be deemed receipt of proceeds of taxes by, or an appropriation subject to the limitation of, any other public body within the meaning or for the purpose of the Constitution and laws of the State, including section 33678 of the Redevelopment

Government Code. The constitutionality of section 33678 has been upheld in two California appellate court decisions. On the basis of these decisions, the Authority has not adopted an appropriations limit.

### **Proposition 87**

On November 8, 1988, the voters of the State approved Proposition 87, which amended Article XVI, section 16 of the State Constitution to provide that property tax revenue attributable to the imposition of taxes on property within a redevelopment project for the purpose of paying debt service on certain bonded indebtedness issued by a taxing entity (not the Former Agency or the Authority) and approved by the voters of the taxing entity after January 1, 1989 will be allocated solely to the payment of such indebtedness and not to redevelopment agencies.

### **Appeals of Assessed Values**

Pursuant to California law, a property owner may apply for a reduction of the property tax assessment for such owner's property by filing a written application, in a form prescribed by the State Board of Equalization, with the appropriate county board of equalization or assessment appeals board.

In the County, a property owner desiring to reduce the assessed value of such owner's property in any one year must submit an application to the County Assessment Appeals Board (the "Appeals Board"). Applications for any fiscal year must be submitted between July 2 and November 30. Following a review of each application by the staff of the County Assessor's Office, the staff makes a recommendation to the Appeals Board on each application which has not been rejected for incompleteness or untimeliness or withdrawn. The Appeals Board holds a hearing and either reduces the assessment or confirms the assessment. The Appeals Board generally is required to determine the outcome of appeals within two years of each appeal's filing date. Any reduction in the assessment ultimately granted applies only to the year for which application is made and during which the written application is filed. The assessed value increases to its pre-reduction level for fiscal years following the year for which the reduction application is filed. However, if the taxpayer establishes through proof of comparable values that the property continues to be overvalued (known as "ongoing hardship"), the Assessor has the power to grant a reduction not only for the year for which application was originally made, but also for then current year as well. Appeals for reduction in the "base year" value of an assessment, which generally must be made within three years of the date of change in ownership or completion of new construction that determined the base year, if successful, reduce the assessment for the year in which the appeal is taken and prospectively thereafter. Moreover, in the case of any reduction in any one year of assessed value granted for "ongoing hardship" in the then current year, and also in any cases involving stipulated appeals for prior years relating to base year and personal property assessments, the property tax revenues from which Tax Revenues are derived attributable to such properties will be reduced in the then current year. In practice, such a reduced assessment may remain in effect beyond the year in which it is granted. See the Fiscal Consultant's Report for a description of appeals activity in the Marina Redevelopment Project No. 3.

### **Propositions 218 and 26**

On November 5, 1996, California voters approved Proposition 218—Voter Approval for Local Government Taxes—Limitation on Fees, Assessments, and Charges—Initiative Constitutional Amendment. Proposition 218 added Articles XIII C and XIII D to the State Constitution, imposing certain vote requirements and other limitations on the imposition of new or increased taxes, assessments and property-related fees and charges. On November 2, 2010,

California voters approved Proposition 26, the “Supermajority Vote to Pass New Taxes and Fees Act.” Proposition 26 amended Article XIII C of the California Constitution by adding an expansive definition for the term “tax,” which previously was not defined under the California Constitution.

Pledged Tax Revenues securing the payment of the Bonds are derived from property taxes that are outside the scope of taxes, assessments and property-related fees and charges which are limited by Proposition 218 and Proposition 26.

### **Future Initiatives**

Article XIII A, Article XIII B, Article XIII C and Article XIII D and certain other propositions affecting property tax levies were each adopted as measures which qualified for the ballot pursuant to California’s initiative process. From time to time other initiative measures could be adopted, further affecting Authority revenues or the Authority’s ability to expend revenues.

## **THE MARINA PROJECT AREA NO. 3**

The City of Marina contains three redevelopment areas, Marina Project Area No. 3 (located outside the boundaries of the former Fort Ord), Marina Airport, and Marina Project Area No. 3. Only FORA funds received from Marina Project Area No. 3 are pledged to the Bonds. Funds from Marina Project Area No. 1 and Marina Airport are not pledged for payment of the Bonds. However, the three Marina redevelopment project areas were fiscally merged in 2009 by the adoption of City of Marina Ordinances 2009-8, 2009-9, and 2009-10. The merged project areas have a combined tax increment limit, discussed below.

Marina Project Area No. 3 was formed in 1999 by adoption of the Marina Redevelopment Project Area No. 3 Redevelopment Plan by the City of Marina. The Marina Project Area No. 3 consists of 1,391 acres located on the former Fort Ord.

### **Plan Limits**

The table below summarizes the Marina Redevelopment Project Area No. 3 (Marina Project Area No. 3) Redevelopment Plan limits and the base years and assessed values that are used in projecting tax increment to be pledged for debt service payment on the Bonds. The information in this table is obtained from the Marina Project Area No. 3 Redevelopment Plan and the County Auditor-Controller.

**TABLE 1**  
**Plan Limits**

Item	Total
<b>Redevelopment Plan Limits</b>	
Adoption Date	11/2/1999
Maximum Tax Increment <sup>(1)</sup>	\$4,000,000,000
Last Fiscal Year of Tax Increment	2047-48
<b>Tax Increment Base Fiscal Years and Assessed Values</b>	
Base Year	11/2/1999
Base Year Assessed Value	\$30,389
First Year of Tax Increment	2000-01
Tier 2 Base Year	2009-10
Tier 2 Base Year Assessed Value	\$14,059,736
Tier 3 Base Year	2029-30

(1) Combined limit for Merged Project Areas, including Marina Project No. 3, Marina Airport, and Marina Project #1.

The three Marina redevelopment project areas have a combined tax increment limit of \$4.0 billion. Approximately \$58.1 million of property tax increment has been collected for the Marina redevelopment project areas through the 2018-19 fiscal year. Based on the most recent Fiscal Year 2019-20 Recognized Obligation Payment Schedule (ROPS) from the County Auditor Controller, the last of Marina Project Area No. 3's enforceable obligations will be paid in Fiscal Year 2047-48, making that the last year in which FORA can receive property tax increment from Marina Project Area No. 3. It is possible that the enforceable obligations could be paid off earlier, in which case Marina Project Area No. 3 would be terminated earlier. However, the Marina Project No. 3 bond debt service payments are scheduled to end in 2038, so it is likely that the redevelopment project area will be in effect at least through that year.

To reach the \$4.0 billion tax increment limit, the Marina redevelopment project areas would need to generate an additional \$3.94 billion by Fiscal Year 2047-48. In Fiscal Year 2018-19, approximately \$5.8 million of property tax increment was collected. Revenues would need to increase at a compounded rate of over 17 percent annually to reach the \$4 billion limit by Fiscal Year 2047-48. The increases in annual revenue that have occurred in recent years are expected to decline as the areas build out, and it is unlikely that the Marina redevelopment project areas will have collected the maximum \$4 billion in tax increment by 2048. The analysis performed for this report projects a total of \$705 million generated through from 2020 through 2048 for Marina Project No. 3. Consequently, FORA should be able to receive Marina Project Area No. 3 tax increment for as long a time period as the redevelopment project area exists.

### Land Use

The aggregate designated land use in the Redevelopment Project No. 3 Project Area for fiscal year 2019-20 is set forth in the following table.

**TABLE 2**  
**Taxable Value by Land Use**  
**Fiscal Year 2019-20**

Land Use	Number of Parcels	Assessed Value	Pct. of Total AV
<b>Residential</b>			
Single Family	436	\$318,728,733	50.9%
Multifamily	12	286,316	0.0
Vacant	184	79,127,003	12.6
Subtotal Residential	632	\$398,142,052	63.6%
<b>Commercial</b>			
Office	3	\$5,808,695	0.9%
Shell Buildings	5	6,685,462	1.1
Hotel and Motel	1	19,979,845	3.2
Medical	3	73,295,065	11.7
Shopping Centers	9	58,580,000	9.4
Theaters	1	8,317,255	1.3
Parking Lots	5	8,420,000	1.3
Miscellaneous	1	0	0.0
Vacant	22	13,132,615	2.1
Subtotal Commercial	50	\$194,218,937	31.0%
<b>Institutional</b>			
Churches	1	\$0	0.0%
Taxable Schools	3	16,828	0.0
Subtotal Institutional	4	\$16,828	0.0%
<b>Miscellaneous</b>			
Private Roads	12	\$0	0.0%
Condominium Common Areas and Misc. Bldgs.	2	0	0.0
Subtotal Miscellaneous	14	\$0	0.0%
<b>Exempt/Not Buildable</b>			
Exempt	77	\$0	0.0%
Not Buildable	9	0	0.0
Subtotal Exempt/Not Buildable	86	\$0	0.0%
Unsecured	71	\$33,504,227	5.4%
Total Marina Project No. 3	857	\$625,882,044	100.0%

(1) Assessed Value net of exemptions, excluding homeowner's exemption.  
Source: Fiscal Consultant

### Historical Assessed Values

Table 3 below summarizes year-to-year changes in the assessed values for the Dunes development portion of the Redevelopment Project No. 3 Project Area for the past ten years based upon the County Auditor-Controller's annual assessed value reports.

**TABLE 3**  
**Historical Taxable Values and Annual**  
**Percentage Increase or Decrease**  
**Fiscal Years 2010-11 to 2019-20**  
(amounts in dollars)

Year	Assessed Value <sup>(1)</sup>			Percentage Change
	Secured	Unsecured	Total	
2010-11	\$145,561,224	\$25,228,184	\$170,789,408	
2011-12	\$157,863,128	\$24,858,763	\$182,721,891	7.0%
2012-13	\$145,509,402	\$25,271,835	\$170,781,237	(6.5%)
2013-14	\$167,208,950	\$24,849,543	\$192,058,493	12.5%
2014-15	\$183,654,371	\$24,078,888	\$207,733,259	8.2%
2015-16	\$192,884,081	\$26,312,397	\$219,196,478	5.5%
2016-17	\$179,237,588	\$27,684,055	\$206,921,643	(5.6%)
2017-18	\$317,982,320	\$27,442,961	\$345,425,281	66.9%
2018-19	\$463,695,388	\$29,363,947	\$493,059,335	42.7%
2019-20	\$592,377,817	\$33,504,227	\$625,882,044	26.9%
Avg. Ann. Pct. Change	16.9%	3.2%	15.5%	

(1) Assessed values are net of exemptions, excluding Homeowners' Exemption

Source: Fiscal Consultant, based on information obtained from the County Auditor-Controller.

### Largest Taxpayers

In fiscal year 2019-2020, the 10 largest taxpayers in Marina Project Area No. 3 represent 41.6 percent of the total assessed value for Seaside. The top 10 taxpayers own a mix of residential and commercial properties.

**TABLE 4**

Assessee	Primary Use	Number of Parcels			FY 2019-20 Assessed Value <sup>(1)</sup>			Pct. of Total
		Sec.	Unsec.	Total	Secured	Unsecured	Total	
1 HAMSTRA-APPLETON LLC	Medical Center	1	0	1	\$51,781,173	\$0	\$51,781,173	8.3%
2 WATHEN CASTANOS PETERSON HOMES INC ET AL	New Homes	3	0	3	46,009,200	0	46,009,200	7.4
3 PACIFIC COAST HIGHWAY PROPERTY LLC	Shopping Center	13	0	13	36,170,000	0	36,170,000	5.8
4 TARGET CORPORATION	Shopping Center	1	1	2	24,000,000	1,574,710	25,574,710	4.1
5 COMMUNITY HOSPITAL PROPERTIES INC	Medical Center	4	1	5	24,227,509	0	24,227,509	3.9
6 MONTEREY PENINSULA HOTELS GROUP LP	Hotel	1	0	1	19,979,845	0	19,979,845	3.2
7 WC MARINA LLC	Single Family Homes	65	0	65	17,401,409	0	17,401,409	2.8
8 ALLIANCE RESIDENTIAL CO INC	Multifamily Homes	0	2	2	0	15,500,564	15,500,564	2.5
9 MARINA COMMUNITY PARTNERS LLC	New Homes & Comm.	25	0	25	14,862,625	0	14,862,625	2.4
10 KOHLS DEPARTMENT STORES INC	Department Store	1	0	1	8,830,000	0	8,830,000	1.4
Subtotal Ten Largest Assesseees		114	4	118	\$243,261,761	\$17,075,274	\$260,337,035	41.6%
Other Assesseees		672	67	739	\$349,116,056	\$16,428,953	\$365,545,009	58.4%
Total Marina Project No. 3		786	71	857	\$592,377,817	\$33,504,227	\$625,882,044	100.0%

(1) Assessed Value net of exemptions, excluding homeowner's exemption.

## Projected Increase in Assessed Value

**TABLE 5**  
**Fort Ord Reuse Authority**  
**Tax Increment Analysis**  
**Annual Assessed Value - Marina Project Area No. 3**

FY Ending	Assessed Value – Marina Project No. 3			
	Beginning	Annual Value Increase	New Dev.	Ending Value
Source Formula	Table 5.1 A	B=A*2%	Table 3.14 B	C+D+E
Annual Escalation		2.00%		2.00%
2020	\$625,882,044	\$12,517,641	\$62,444,035	\$700,843,720
2021	700,843,720	14,016,874	97,176,100	812,036,694
2022	812,036,694	16,240,734	215,482,891	1,043,760,319
2023	1,043,760,319	20,875,206	178,465,928	1,243,101,454
2024	1,243,101,454	24,862,029	209,440,377	1,477,403,860
2025	1,477,403,860	29,548,077	145,541,069	1,652,493,006
2026	1,652,493,006	33,049,860	159,779,397	1,845,322,263
2027	1,845,322,263	36,906,445	160,511,321	2,042,740,029
2028	2,042,740,029	40,854,801	180,568,876	2,264,163,705
2029	2,264,163,705	45,283,274	59,456,279	2,368,903,258
2030	2,368,903,258	47,378,065	122,437,057	2,538,718,380
2031	2,538,718,380	50,774,368	0	2,589,492,748
2032	2,589,492,748	51,789,855	0	2,641,282,603
2033	2,641,282,603	52,825,652	0	2,694,108,255
2034	2,694,108,255	53,882,165	0	2,747,990,420
2035	2,747,990,420	54,959,808	0	2,802,950,229
2036	2,802,950,229	56,059,005	0	2,859,009,233
2037	2,859,009,233	57,180,185	0	2,916,189,418
2038	2,916,189,418	58,323,788	0	2,974,513,206
2039	2,974,513,206	59,490,264	0	3,034,003,470
2040	3,034,003,470	60,680,069	0	3,094,683,540
2041	3,094,683,540	61,893,671	0	3,156,577,211
2042	3,156,577,211	63,131,544	0	3,219,708,755
2043	3,219,708,755	64,394,175	0	3,284,102,930
2044	3,284,102,930	65,682,059	0	3,349,784,988
2045	3,349,784,988	66,995,700	0	3,416,780,688
2046	3,416,780,688	68,335,614	0	3,485,116,302
2047	3,485,116,302	69,702,326	0	3,554,818,628
2048	3,554,818,628	71,096,373	0	3,625,915,001

## Assessment Appeals

Property values determined by the County Assessor may be subject to an appeal by a property owner. Assessment appeals are filed annually with the County Assessment Appeals Board for a hearing and resolution. A property owner can file for a regular assessment appeal of the current fiscal year assessed valuation between July 2 and November 30. Most appeals heard by an Assessment Appeals Board are scheduled within twelve to eighteen months. Revenue and Taxation Code §1604, however, allows up to two years for an assessment appeal to be decided unless this time limit is waived by the applicant. If the appeal is not decided within the two-year statutory time frame and the time limit is not waived, the assessor is required to use the applicant's opinion of value. See the description in Section 3 of the Fiscal Consultant's Report under the heading "Assessment Appeals Activity" for a description of appeals related to the Marina Redevelopment Project No. 3.



## New Development

See the Fiscal Consultant’s Report for a description of development activities in the Marina Project Area No. 3.

### THE SEASIDE FORT ORD PROJECT AREA

Seaside-Fort Ord was formed in 2002 by adoption of the Seaside-Fort Ord Redevelopment Project Redevelopment Plan by the City of Seaside Ordinance No. 901. Seaside-Fort Ord contains 3,937 acres located on the former Fort Ord.

The table below summarizes the Seaside-Fort Ord Redevelopment Project Area (Seaside-Fort Ord) Redevelopment Plan limits and the base years and assessed values that are used in projecting tax increment to be pledged for debt service payment on the Bonds. The information in this table is obtained from the Seaside Redevelopment Plan and the County Auditor-Controller.

**TABLE 7**  
**Plan Limits**

Item	Total
<b>Tax Increment Limits</b>	
Redevelopment Plan Adoption Date	4/18/2002
RDA Maximum Tax Increment	\$1,065,000,000
Last Fiscal Year of Tax Increment	2046-47
<b>Tax Increment Base Fiscal Years and Assessed Values</b>	
Base Year	1996-97
Base Year Assessed Value	\$3,677,200
First Year of Tax Increment	2003-04
Tier 2 Base Year	2013-14
Tier 2 Base Year Assessed Value	\$287,885,735
Tier 3 Base Year	2033-34

Pursuant to the due diligence reviews, the DOF determined that the Authority was not required to remit any unobligated balance to the County Auditor-Controller.

After receiving a finding of completion, each successor agency is required to submit a Long Range Property Management Plan (a “LRPMP”) detailing what it intends to do with its inventory of properties. The Authority initially thought that it had no properties to dispose of, but recently discovered that the Former Agency owned certain parcels, some of which with little or no value, that it will need to divest. While the time in which to file a LRPMP has passed, the Authority intends to work with the DOF and the Oversight Board in connection with its disposition of such parcels.

### Plan Limits

The Seaside Redevelopment Plan specifies a tax increment limit of \$1.065 billion. Approximately \$47.0 million of property tax increment has been collected through the 2018-19 fiscal year. Based on the most recent fiscal year 2019-20 Recognized Obligation Payment Schedule (ROPS) from the County Auditor Controller, the last of Seaside’s enforceable obligations will be paid in fiscal year 2046-47, making that the last year in which FORA can receive property tax increment from Seaside- Fort Ord. It is possible that Seaside-Fort Ord’s enforceable obligations could be paid off earlier, in which case it would be terminated earlier. However, Seaside-Fort

Ord’s bond debt service payments are scheduled to end in 2033, so it is likely that the Successor Agency will be in effect at least through that year.

To reach the \$1.065 billion tax increment limit, Seaside-Fort Ord would need to generate an additional \$1.02 billion by fiscal year 2046-47. In fiscal year 2018-19, approximately \$3.7 million of property tax increment was collected. To reach the \$1.065 billion limit, revenues would need to increase at a compounded rate of over 13 percent annually through fiscal year 2046-47. The annual increase in property tax increment over the last 5 years has ranged between 2 and 7 percent. Development in Seaside-Fort Ord is expected to increase in the coming years, but it is unlikely that the \$1.065 billion limit will be reached by 2047. The analysis performed for this report projects a total of \$422 million generated through from 2020 through 2047 for Seaside-Fort Ord. Consequently, FORA should be able to receive Seaside-Fort Ord tax increment for as long a time period as redevelopment project area exists.

### Land Use

The aggregate designated land use in the Seaside-Fort Ord Project Area for fiscal year 2019-20 is set forth in the following table.

**TABLE 8**  
**Taxable Value by Land Use**  
**Fiscal Year 2019-20**

Land Use	Number of Parcels	Assessed Value	Pct. of Total AV
Residential			
Single Family	383	\$311,226,858	80.6%
Multifamily	1	37,870,000	9.8
Mobilehome Park	1	5,031,130	1.3
Mobilehomes	223	2,850,995	0.7
Vacant Residential	29	9,218,356	2.4
Subtotal Residential	637	\$366,197,339	94.9%
Institutional			
Taxable Schools	4	\$447,413	0.1%
Miscellaneous			
Private Roads	8	\$0	0.0%
Exempt / Not Buildable			
Exempt	77	\$0	0.0%
Not Buildable	17	0	0.0
Subtotal Exempt / Not Buildable	94	\$0	0.0%
Unsecured	67	\$19,374,390	5.0%
Total Seaside	810	\$386,019,142	100.0%

(1) Assessed Value net of exemptions, excluding homeowner's exemption.

### Historical Assessed Values

Table 3 below summarizes year-to-year changes in the assessed values for the Dunes development portion of the Seaside-Fort Ord Project Area for the past ten years based upon the County Auditor-Controller’s annual assessed value reports.

**TABLE 9**  
**Historical Taxable Values and Annual**  
**Percentage Increase or Decrease**  
**Fiscal Years 2020-11 to 2019-20**  
(amounts in dollars)

Year	Assessed Value <sup>(1)</sup>			Percentage Change
	Secured	Unsecured	Total	
2010-11	\$286,093,764	\$16,841,181	\$302,934,945	
2011-12	274,924,811	19,470,031	294,394,842	(2.8)
2012-13	259,826,136	20,624,430	280,450,566	(4.7)
2013-14	267,657,589	20,228,146	287,885,735	2.7
2014-15	303,787,926	18,464,766	322,252,692	11.9
2015-16	315,626,351	19,278,265	334,904,616	3.9
2016-17	331,787,742	19,961,418	351,749,160	5.0
2017-18	340,502,172	19,424,641	359,926,813	2.3
2018-19	356,190,788	19,070,458	375,261,246	4.3
2019-20	366,644,752	19,374,390	386,019,142	2.9
Avg. Ann. Pct. Change	2.8%	1.6%	2.7%	

(1) Assessed values are net of exemptions, excluding Homeowners' Exemption

### Largest Taxpayers

In fiscal year 2019-2020, the 10 largest taxpayers in Seaside represent 21.6 percent of the total assessed value for Seaside. With the exception of the second largest taxpayer, the top 10 taxpayers own residential properties. The second largest taxpayer, B & B Golf Course Properties, LLC, is a golf course operator.

**TABLE 10**

Assessee	Primary Use	Number of Parcels			FY 2019-20 Assessed Value <sup>(1)</sup>			Pct. of Total
		Sec.	Unsec.	Total	Secured	Unsecured	Total	
1 SUNBAY RESORT ASSOCIATES LLC	Multifamily (31+ units)	1	0	1	\$37,870,000	\$0	\$37,870,000	9.8%
2 B & B GOLF COURSE PROPERTIES LLC	Golf Course Operations	0	3	3	0	16,564,882	16,564,882	4.3
3 BAY VIEW COMMUNITY LLC	Mobile Home Park	223	0	223	7,870,825	0	7,870,825	2.0
4 SEASIDE RESORT ESTATES I LLC	Vacant Single Family	25	0	25	6,550,875	0	6,550,875	1.7
5 MACHADO LAURA C TR	Single Family Homes	6	0	6	4,441,853	0	4,441,853	1.2
6 CHUNG HAI RYONG TR	Single Family Homes	4	0	4	3,398,737	0	3,398,737	0.9
7 TIER GAYLE D TR	Single Family Homes	1	0	1	1,957,754	0	1,957,754	0.5
8 MADDEN DWAIN J TR	Single Family Homes	2	0	2	1,730,542	0	1,730,542	0.4
9 MILOWICKI EDWARD J & PATRICIA M TRS	Single Family Homes	2	0	2	1,597,735	0	1,597,735	0.4
10 AN YU	Single Family Homes	2	0	2	1,454,142	0	1,454,142	0.4%
Subtotal Ten Largest Assesseees		266	3	269	\$66,872,463	\$16,564,882	\$83,437,345	21.6%
Other Assesseees		477	64	541	\$299,772,289	\$2,803,588	\$302,575,877	78.4%
Total Seaside		743	67	810	\$366,644,752	\$19,368,470	\$386,013,222	100.0%

(1) Assessed Value net of exemptions, excluding homeowner's exemption.

## Projected Increase in Assessed Values

**TABLE 11**

FY Ending	Assessed Value – Seaside			
	Beginning	Annual Value Increase	New Dev.	Ending Value
Source Formula	A	B=A*2%	Table 3.12 B	C+D+E
Annual Escalation		2.00%		2.00%
2020	\$386,019,142	\$7,720,383	\$0	\$393,739,525
2021	393,739,525	7,874,790	98,729,294	500,343,609
2022	500,343,609	10,006,872	271,927,889	782,278,370
2023	782,278,370	15,645,567	259,283,168	1,057,207,106
2024	1,057,207,106	21,144,142	115,577,184	1,193,928,431
2025	1,193,928,431	23,878,569	89,398,413	1,307,205,413
2026	1,307,205,413	26,144,108	28,413,123	1,361,762,645
2027	1,361,762,645	27,235,253	27,396,522	1,416,394,419
2028	1,416,394,419	28,327,888	13,602,398	1,458,324,706
2029	1,458,324,706	29,166,494	12,765,949	1,500,257,149
2030	1,500,257,149	30,005,143	12,957,438	1,543,219,730
2031	1,543,219,730	30,864,395	0	1,574,084,125
2032	1,574,084,125	31,481,682	0	1,605,565,807
2033	1,605,565,807	32,111,316	0	1,637,677,123
2034	1,637,677,123	32,753,542	0	1,670,430,666
2035	1,670,430,666	33,408,613	0	1,703,839,279
2036	1,703,839,279	34,076,786	0	1,737,916,065
2037	1,737,916,065	34,758,321	0	1,772,674,386
2038	1,772,674,386	35,453,488	0	1,808,127,874
2039	1,808,127,874	36,162,557	0	1,844,290,431
2040	1,844,290,431	36,885,809	0	1,881,176,240
2041	1,881,176,240	37,623,525	0	1,918,799,765
2042	1,918,799,765	38,375,995	0	1,957,175,760
2043	1,957,175,760	39,143,515	0	1,996,319,275
2044	1,996,319,275	39,926,386	0	2,036,245,661
2045	2,036,245,661	40,724,913	0	2,076,970,574
2046	2,076,970,574	41,539,411	0	2,118,509,985
2047	2,118,509,985	42,370,200	0	2,160,880,185
2048	2,160,880,185	43,217,604	0	2,204,097,789

## Assessment Appeals

The Fiscal Consultant has advised that there are no open appeals with the respect to the property in the Seaside-Fort Ord Project Area.

**TABLE 12B**  
**Estimated Reduction in Assessed Value from Pending Appeals**

	Unique Pending Appeals*	Contested Value Represented (\$Millions)	Applicant Opinion of Value (\$Millions)	Est. of Resolved Value (\$Millions)	Est. of Net Reduction in Assessed Value (\$Millions)	%Reduction from Contested Value
Developer Appeals						
Developer Property*			[to come]			
3rd Party Property						
Other Appeals						
Total Appeals						

\* \_\_\_\_\_  
 Source: Fiscal Consultant.

Actual resolution of appeals is determined by many factors including vacancy and rental rates, circumstances of hardship and real estate comparables, all of which are unique to the individual assessment. Therefore, actual reductions, if any, may be higher or lower than the reductions incorporated in the projection. An appeal may be withdrawn by the applicant, the County Appeals Board may deny or modify the appeal at hearing or by stipulation, or the final value may be adjusted to an amount other than the stated opinion of value.

**New Development**

[to come]

**THE COUNTY EAST GARRISON PROJECT AREA**

East Garrison is one of two County redevelopment project areas that together were originally one redevelopment project area referred to as the Fort Ord Redevelopment Project Area. The Redevelopment Plan that established this redevelopment project area was adopted in 2002. The County Fort Ord Redevelopment Project Area encompassed the unincorporated portions of the former Fort Ord, including the East Garrison site. In 2003, the County Redevelopment Agency conveyed the East Garrison site to a private developer pursuant to a Disposition and Development Agreement (DDA) between the County and the East Garrison Partners I, LLC. The East Garrison site is governed by the County Redevelopment Plan for the Fort Ord Redevelopment Project Area, but it has different parameters for use in the calculation of property tax revenue available to the Authority, including different base years and values. The East Garrison site consists of approximately 244 acres located on the former Fort Ord.

The table below summarizes the East Garrison Redevelopment Project Area (East Garrison) Redevelopment Plan limits and the base years and assessed values that are used in projecting tax increment to be pledged for debt service payment on the Bonds. The information in this table is obtained from the County Redevelopment Plan for the Fort Ord Redevelopment Project Area, the Disposition and Development Agreement between the County and East Garrison Partners I, LLC., and the County Auditor-Controller.

**TABLE 13  
Plan Limits**

Item	Total
<b>Redevelopment Plan Limits</b>	
Adoption Date	1 / 4 / 2002
Maximum Tax Increment <sup>(1)</sup>	\$1,700,000,000
Last Fiscal Year of Tax Increment	2047-48
<b>Tax Increment Base Fiscal Years and Assessed Values</b>	
Base Year	2006-07
Base Year Assessed Value	\$61,250
First Year of Tax Increment	2007-08
Tier 2 Base Year	2018-19
Tier 2 Base Year Assessed Value	\$358,203,605
Tier 3 Base Year	2038-39

(1) Combined limit for the two County RDAs: East Garrison and County Fort Ord

### Plan Limits

The two County redevelopment project areas have a combined tax increment limit of \$1.7 billion. Approximately \$12.0 million of property tax increment has been collected from the County redevelopment project areas through the 2018-19 fiscal year. Based on the most recent Fiscal Year 2019-20 Recognized Obligation Payment Schedule (ROPS) from the County Auditor Controller, the last of the County’s enforceable obligations will be paid in Fiscal Year 2034-2035, making that the last year in which FORA can receive property tax increment from East Garrison. However, it is possible that East Garrison’s enforceable obligations could be paid off earlier, particularly since East Garrison does not have any outstanding bond debt. If the enforceable obligations are paid off earlier than indicated in the ROPS, the Successor Agency would be terminated earlier. For the purposes of this report, it is conservatively estimated that the East Garrison obligations will be satisfied in Fiscal Year 2031-32.

To reach the \$1.7 billion tax increment limit, the County redevelopment project areas would need to generate an additional \$1.69 billion by Fiscal Year 2031-32. In Fiscal Year 2018-19, approximately \$4.1 million of property tax increment was collected. To reach the \$1.7 billion limit, revenues would need to increase at a compounded rate of over 45 percent annually through Fiscal Year 2031-32. The increases in annual revenue that have occurred in recent years are expected to decline as the area builds out, and it is unlikely that the County RDAs will have collected the maximum \$1.7 billion in tax increment by 2032. The analysis performed for this report projects a total of \$95 million generated through from 2020 through 2032 for Marina Project #3. Consequently, FORA should be able to receive East Garrison tax increment for as long a time period as the redevelopment project area exists.

### Land Use

The aggregate designated land use in the East Garrison Project Area for fiscal year 2019-20 is set forth in the following table.

**TABLE 14**  
**Taxable Value by Land Use**  
**Fiscal Year 2019-20**

Land Use	Number of Parcels	Assessed Value	Pct. of Total AV
Residential			
Single Family	650	\$382,345,806	86.3%
Multifamily	88	22,885,582	5.2
Vacant	244	20,688,395	4.7
Subtotal Residential	982	\$425,919,783	96.2%
Rural	11	\$0	0.0%
Commercial			
Parking Lots	2	\$1,735,721	0.4%
Vacant	4	520,699	0.1
Subtotal Commercial	6	\$2,256,420	0.5%
Institutional			
Publicly Owned, Nontaxable	1	\$0	0.0%
Possessory Interest, Secured	49	13,201,208	
Subtotal Institutional	50	\$13,201,208	3.0%
Miscellaneous			
Private Roads	154	\$0	0.0%
Condominium Common Areas and Misc. Bldgs.	24	0	0.0
Subtotal Miscellaneous	178	\$0	0.0%
Exempt / Not Buildable			
Exempt	146	\$0	0.0%
Not Buildable	7	\$0	0.0
Subtotal Exempt / Not Buildable	153	\$0	0.0%
Unsecured	20	\$1,430,160	0.3%
Total County East Garrison	1,400	\$442,807,571	100.0%

(1) Assessed Value net of exemptions, excluding homeowner's exemption.

### Historical Assessed Values

Table 3 below summarizes year-to-year changes in the assessed values for the Dunes development portion of the East Garrison Project Area for the past ten years based upon the County Auditor-Controller's annual assessed value reports.

**TABLE 15**  
**Historical Taxable Values and Annual**  
**Percentage Increase or Decrease**  
**Fiscal Years 2010-11 to 2019-20**  
(amounts in dollars)

Year	Assessed Value <sup>(1)</sup>			Percentage Change
	Secured	Unsecured	Total	
2010-11	\$7,317,774	\$8,888,670	\$16,206,444	
2011-12	7,372,872	8,024,311	15,397,183	(5.0)%
2012-13	5,679,382	7,150,878	12,830,260	(16.7)
2013-14	5,792,966	6,800,498	12,593,464	(1.8)
2014-15	88,934,984	3,396,386	92,331,370	633.2
2015-16	88,934,984	1,898,293	90,833,277	(1.6)
2016-17	152,185,742	1,802,986	153,988,728	69.5
2017-18	240,965,685	1,915,675	242,881,360	57.7
2018-19	356,756,865	1,446,740	358,203,605	47.5
2019-20	441,377,411	1,430,160	442,807,571	23.6
Avg. Ann. Pct. Change	57.7%	(18.4%)	44.4%	

(1) Assessed values are net of exemptions, excluding Homeowners' Exemption

### Largest Taxpayers

In fiscal year 2019-2020, the 10 largest taxpayers in East Garrison represent only 6.7 percent of the total assessed value for East Garrison. These top taxpayers all own residential properties. As summarized in a previous table, most of the property in East Garrison is residential, with residential property in fiscal year 2019-2020 accounting for over 96 percent of the East Garrison total assessed value.

**TABLE 16**

Assessee	Primary Use	Number of Parcels			FY 2019-20 Assessed Value <sup>(1)</sup>			Pct. of Total
		Sec.	Unsec.	Total	Secured	Unsecured	Total	
<b>Ten Largest Assesseees</b>								
1 BMC EG GROVE LLC	New Homes	80	0	80	\$8,156,841	\$0	\$8,156,841	1.8%
2 BMC EG GARDEN LLC	New Homes	50	0	50	5,820,100	0	5,820,100	1.3
3UCP EAST GARRISON LLC	New Homes	132	0	132	4,147,090	0	4,147,090	0.9
4 BMC EG TOWNS LLC	New Homes	48	0	48	3,235,176	0	3,235,176	0.7
5 BMC EG BUNGALOW LLC	New Homes	9	0	9	1,977,482	0	1,977,482	0.4
6 SMITH DWAYNE C & JEANNIE A TRS	Single Family Homes	3	0	3	1,870,335	0	1,870,335	0.4
7 SILVA JOHN J & ELIZABETH	Single Family Homes	2	0	2	1,254,650	0	1,254,650	0.3
8 SUNDARANATHA VENKATAKRISHNAN ET AL	Single Family Homes	2	0	2	1,220,115	0	1,220,115	0.3
9 MORITZ WILLIAM TR	Single Family Homes	2	0	2	1,079,587	0	1,079,587	0.2
10 DEFONZO LOUIS J & LISA M TRS	Single Family Home	1	0	1	978,323	0	978,323	0.2
Subtotal Ten Largest Assesseees		329	0	329	\$29,739,699	\$0	\$29,739,699	6.7%
Other Assesseees		1,051	20	1,071	\$411,637,712	\$1,430,160	\$413,067,872	93.3%
Total County Fort Ord - East Garrison		1,380	20	1,400	\$441,377,411	\$1,430,160	\$442,807,571	100.0%

(1) Assessed Value net of exemptions, excluding homeowner's exemption.



**TABLE 17**

Assessed Value – County				
FY Ending	Beginning	Annual Value Increase	New Dev.	Ending Value
Source Formula	Table 5.1 A	B=A*2%	Table 3.17 B	C+D+E
Annual Escalation		2.00%		2.00%
2020	\$442,807,571	\$8,856,151	\$48,342,748	\$500,006,470
2021	500,006,470	10,000,129	62,150,480	572,157,080
2022	572,157,080	11,443,142	83,271,026	666,871,248
2023	666,871,248	13,337,425	37,931,983	718,140,656
2024	718,140,656	14,362,813	39,877,551	772,381,020
2025	772,381,020	15,447,620	0	787,828,641
2026	787,828,641	15,756,573	0	803,585,213
2027	803,585,213	16,071,704	0	819,656,918
2028	819,656,918	16,393,138	0	836,050,056
2029	836,050,056	16,721,001	0	852,771,057
2030	852,771,057	17,055,421	0	869,826,478
2031	869,826,478	17,396,530	0	887,223,008
2032	887,223,008	17,744,460	0	904,967,468
2033	904,967,468	18,099,349	0	923,066,817
2034	923,066,817	18,461,336	0	941,528,154
2035	941,528,154	18,830,563	0	960,358,717
2036	960,358,717	19,207,174	0	979,565,891
2037	979,565,891	19,591,318	0	999,157,209
2038	999,157,209	19,983,144	0	1,019,140,353
2039	1,019,140,353	20,382,807	0	1,039,523,160
2040	1,039,523,160	20,790,463	0	1,060,313,623
2041	1,060,313,623	21,206,272	0	1,081,519,896
2042	1,081,519,896	21,630,398	0	1,103,150,294
2043	1,103,150,294	22,063,006	0	1,125,213,300
2044	1,125,213,300	22,504,266	0	1,147,717,566
2045	1,147,717,566	22,954,351	0	1,170,671,917
2046	1,170,671,917	23,413,438	0	1,194,085,355
2047	1,194,085,355	23,881,707	0	1,217,967,062
2048	1,217,967,062	24,359,341	0	1,242,326,404

**Assessment Appeals**

Property values determined by the County Assessor may be subject to an appeal by a property owner. Assessment appeals are filed annually with the County Assessment Appeals Board for a hearing and resolution. A property owner can file for a regular assessment appeal of the current fiscal year assessed valuation between July 2 and November 30. Most appeals heard by an Assessment Appeals Board are scheduled within twelve to eighteen months. Revenue and Taxation Code §1604, however, allows up to two years for an assessment appeal to be decided unless this time limit is waived by the applicant. If the appeal is not decided within the two-year statutory time frame and the time limit is not waived, the assessor is required to use the applicant’s opinion of value.

The resolution of an appeal may result in a reduction to the County Assessor's taxable value and a tax refund to the property owner. The Fiscal Consultant reports that the County allocates tax refunds resulting from assessment appeals on a proportionate basis to all taxing agencies and Redevelopment Property Tax Trust Fund funds Countywide without regard to the area within which the parcel associated with the successful appeal filing is located. Thus, the impact of tax refunds associated with appeals is shared by all taxing agencies and Redevelopment Property Tax Trust Fund funds within the County, which lessens the potential impact that any individual appeal has on Merged Project Area Redevelopment Property Tax Trust Fund revenues for the Authority. Inclusive of the impact of a proportionate share of County-wide assessment

appeal refunds allocated to the Authority, the overall collections rate for secured and unsecured taxes by the Authority has averaged 99.9% over the past five years (see Table 5.4 in the Fiscal Consultant’s Report in Appendix G). The primary risk from appeals within the Dunes development is the potential future reduction in assessed value and thereby in future Available Non-Housing Tax Increment Funds.

*Historic Appeals Filing Outcomes: 2012-13 to 2017-18.* Table 18 below summarizes assessment appeal filing outcomes during the years 2012-13 to 2017-18 including Secured and Unsecured Roll appeals as determined based on research by the Fiscal Consultant.

**TABLE 18**  
**Historical Assessment Appeal Summary**  
**Fiscal Years 2012-13 through 2017-18**

**Historic Assessment Appeal Resolutions:**

Fiscal Year	Total No. of Filings	Open Filings	Resolved Appeal Outcomes			Assessed Valuation: Resolved Appeals (\$Millions)				
			Resolved Filings	Denied or With-drawn	Stipulated or Reduced	Contested Value	Applicant Opinion of Value	Final Resolved Value	Reduction from Assessor Value	Percent Reduction
FY 2012-13										
FY 2013-14										
FY 2014-15					[to come]					
FY 2015-16										
FY 2016-17										
FY 2017-18										
Totals										

% of Total

Source: Monterey County Assessment Appeals Database, as reported by the Fiscal Consultant

*Summary of Pending Appeals.* The Fiscal Consultant has advised that there are \_\_\_ open appeals of which \_\_\_ are to contest fiscal year 2017-18 assessed values. The aggregate contested value for the fiscal year 2017-18 pending appeals totals \$\_\_\_\_\_ million. A combined \$\_\_\_\_\_ million net reduction in assessed value is requested for fiscal year 2017-18.

**TABLE 18A**  
**Summary of Pending Appeals**

	No. of Open Appeals	Contested Value Represented (\$Millions)	Applicant Opinion of Value (\$Millions)	Applicant Requested Net Reduction in Value (\$Millions)
Fiscal Year 2017-18 Filings				
Prior Fiscal Year Filings (FY 12-13 to 16-17)				
Totals		[to come]		

Source: Fiscal Consultant.

*Estimated Assessed Value Impact from Appeals.* The Fiscal Consultant has estimated pending appeals will result in an assessed value reduction of approximately \$\_\_\_\_\_ million, which represents an average percentage reduction of \_\_\_\_%. The estimated reduction in assessed values reflects the 31 pending appeals pertaining to fiscal years 2014-15 through fiscal year 2017-18. For properties with pending appeal filings for multiple years, only the most recent appeal filing was considered by the Fiscal Consultant for purposes of estimating the potential assessed

value impact. An additional 16 appeal filings by the Developer were not included for purposes of estimating the impact of pending appeals because they were not the most recent filing for the applicable parcel. See Table 7B below for additional detail.

**TABLE 18B**  
**Estimated Reduction in Assessed Value from Pending Appeals**

	Unique Pending Appeals*	Contested Value Represented (\$Millions)	Applicant Opinion of Value (\$Millions)	Est. of Resolved Value (\$Millions)	Est. of Net Reduction in Assessed Value (\$Millions)	%Reduction from Contested Value
Developer Appeals						
Developer Property*			[to come]			
3rd Party Property						
Other Appeals						
Total Appeals						

\* Excludes 16 appeal filings by the Developer that represent repeat filings for the same parcel over multiple years. For purposes of this Table 7B, only the most recent appeal filing for a given parcel is included.  
Source: Fiscal Consultant.

Actual resolution of appeals is determined by many factors including vacancy and rental rates, circumstances of hardship and real estate comparables, all of which are unique to the individual assessment. Therefore, actual reductions, if any, may be higher or lower than the reductions incorporated in the projection. An appeal may be withdrawn by the applicant, the County Appeals Board may deny or modify the appeal at hearing or by stipulation, or the final value may be adjusted to an amount other than the stated opinion of value.

**New Development**

[to come]

**PROJECTED PLEDGED TAX REVENUES AND  
ESTIMATED DEBT SERVICE COVERAGE**

Table 19 below shows expected Pledged Tax Revenues assuming no growth in assessed values except as noted below, and includes projected debt service on the Bonds. The projection incorporates the valuation assumptions made in the Fiscal Consultant’s Report.

**TABLE 19**  
**Projection of Pledged Tax Revenues  
and Debt Service Coverage**  
**Assumes No Growth on Assessed Value After 2020-21**  
(dollars in thousands)

[to come]

## RISK FACTORS

The following information should be considered by prospective investors in evaluating the Bonds. However, the following does not purport to be an exhaustive listing of risks and other considerations which may be relevant to investing in the Bonds. In addition, the order in which the following information is presented is not intended to reflect the relative importance of any such risks.

The various legal opinions to be delivered concurrently with the issuance of the Bonds will be qualified as to the enforceability of the various legal instruments by limitations imposed by State and federal laws, rulings and decisions affecting remedies, and by bankruptcy, reorganization or other laws of general application affecting the enforcement of creditors' rights, including equitable principles.

### Limited Source of Funds to Repay Bonds

The Bonds are payable from the Pledged Tax Revenues, which are derived solely from increases in the property tax revenues arising from the Project Areas. See "SECURITY FOR THE BONDS." Reductions in the assessed value of the property in the Project Areas would result in a reduction in the Pledged Tax Revenues, and could result in a failure to make timely payment of the debt service due on the Bonds. See "RISK FACTORS—Reduction in Taxable Value."

### Covid-19

The outbreak of COVID-19, a respiratory disease caused by a new strain of coronavirus, has been characterized as a pandemic (the "COVID-19 Pandemic") by the World Health Organization and is currently affecting many parts of the world, including the State of California and local governmental agencies within the State, as well as the entire United States. On January 31, 2020, the Secretary of the United States Health and Human Services Department declared a public health emergency for the United States and on March 13, 2020, the President of the United States declared the outbreak of COVID-19 in the United States a national emergency. Subsequently, the President's Coronavirus Guidelines for America and the United States Centers for Disease Control and Prevention called upon Americans to take actions to slow the spread of COVID-19 in the United States.

The COVID-19 Pandemic has resulted in the imposition of restrictions on mass gatherings and widespread temporary closings of businesses, universities and schools. The United States is restricting certain non-US citizens and permanent residents from entering the country. In addition, stock markets in the U.S. and globally have been volatile, with significant declines attributed to coronavirus concerns.

On March 4, 2020, the Governor of California proclaimed a state of emergency in California as a result of the threat of COVID-19. Under the California Emergency Services Act, during a state of emergency, the Governor has authority over all agencies of the state government and can exercise the State's police powers. His powers also include the power to promulgate, issue, and enforce orders and regulations as he deems necessary.

Since declaring the emergency, the Governor has issued a number of executive orders relating to COVID-19 preparedness and mitigation. These include his March 19, 2020 Executive Order N-33-20, which orders all individuals living in the State of California to stay home or at their place of residence except as needed to maintain continuity of operations of certain critical infrastructure sectors, as described in that order and later designations. The County has also declared a local public health emergency and issued a series of orders which align with the

Governor's orders. These actions are focused on "social distancing," or limiting instances where the public can congregate or interact with each other, which affects the operation of businesses and impacts enterprise operations and the economy. The shelter in place orders from the State and the County are ongoing and are expected to continue to be enforced until the threat to public health from the COVID-19 pandemic can be adequately managed.

The Governor issued Executive Orders N-29-20 and N-35-20 relaxing state and local agency open meeting laws to accommodate social distancing. The Authority has held recent meetings of its Board of Directors remotely, unhindered by the COVID-19 Pandemic. The Authority's employees and its consultants have continued to work remotely, leveraging available technology to continue operations. The Cities do not expect their business operations related to the Authority to be materially curtailed; however, the Authority offers no assurances that Board member or employee absences due to COVID-19 illnesses will not materially and adversely impact its operations.

At present all construction activities in the County, other than with respect to projects 100% of the units in which are to be rented to low income persons and families, have been suspended by order of the County's Public Health Officer. No prediction can be made as to when the suspension of construction activities will be lifted.

On May 6, 2020 the Governor issued Executive Order N-61-20 to address the financial hardships on certain taxpayers resulting from the March 4, 2020 proclamation of the state of emergency. Executive Order N-61-20 directs County Tax Collectors to cancel such penalties, costs or interests on delinquent property tax payments for residential property or that qualifies as a small business if certain conditions are met and hardship resulting from the pandemic is demonstrated. Property owners qualifying for relief under Executive Order N-61-20 are not relieved of their obligation to pay property taxes, only penalties and interest on late payments are eliminated. On May 7, 2020, the County Treasurer-Tax Collector indicated that they are beginning the process of complying with Executive Order N-61-20.

Future property taxes, and therefore Pledged Tax Revenues, could be impacted. The initial impact could occur because upcoming property tax installments could be deferred, or some taxpayers may be unable to make their property tax payments. Through \_\_\_\_\_, 2020, the County reports it has received \_\_\_\_ percent of the 2019-20 property tax levy, which results in a delinquency rate of approximately \_\_\_\_ percent. The value of property on the 2020-21 and future tax rolls could be reduced, which will not be known until the tax roll is released sometime in late July of 2020. At this time, there is no way to provide an estimate of the impact that the pandemic could have on future property taxes and therefore Available Tax Revenues.

### **Challenges to Dissolution Act**

Several successor agencies, cities and other entities have filed judicial actions challenging the legality of various provisions of the Dissolution Act. One such challenge is an action filed on August 1, 2012, by Syncora Guarantee Inc. and Syncora Capital Assurance Inc. (collectively, "Syncora") against the State, the State Controller, the State Director of Finance, and the Auditor-Controller of San Bernardino County on his own behalf and as the representative of all other County Auditors in the State (Superior Court of the State of California, County of Sacramento, Case No. 34-2012-80001215). Syncora are monoline financial guaranty insurers domiciled in the State of New York, and as such, provide credit enhancement on bonds issued by state and local governments and do not sell other kinds of insurance such as life, health, or property insurance. Syncora provided bond insurance and other related insurance policies for bonds issued by former California redevelopment agencies.

The complaint alleged that the Dissolution Act, and specifically the “Redistribution Provisions” thereof (i.e., California Health and Safety Code sections 34172(d), 34174, 34177(d), 34183(a)(4), and 34188) violate the “contract clauses” of the United States and California Constitutions (U.S. Const. art. 1, §10, cl.1; Cal. Const. art. 1, §9) because they unconstitutionally impair the contracts among the former redevelopment agencies, bondholders and Syncora. The complaint also alleged that the Redistribution Provisions violate the “Takings Clauses” of the United States and California Constitutions (U.S. Const. amend. V; Cal Const. art. 1 § 19) because they unconstitutionally take and appropriate bondholders’ and Syncora’s contractual right to critical security mechanisms without just compensation.

After hearing by the Sacramento County Superior Court on May 3, 2013, the Superior Court ruled that Syncora’s constitutional claims based on contractual impairment were premature. The Superior Court also held that Syncora’s takings claims, to the extent based on the same arguments, were also premature. Pursuant to a Judgment stipulated to by the parties, the Superior Court on October 3, 2013, entered its order dismissing the action. The Judgment, however, provides that Syncora preserves its rights to reassert its challenges to the Dissolution Act in the future. The Authority does not guarantee that any reassertion of challenges by Syncora or that the final results of any of the judicial actions brought by others challenging the Dissolution Act will not result in an outcome that may have a material adverse effect on the Authority’s ability to timely pay debt service on the Bonds.

### **Reduction in Taxable Value**

Pledged Tax Revenues allocated to the Redevelopment Property Tax Trust Fund and thereby available to pay principal of and interest on the Bonds are determined by the amount of incremental taxable value in the Project Areas and the current rate or rates at which property in the Project Areas is taxed. The reduction of taxable values of property in the Project Areas caused by economic factors such as sale of property to a non-profit corporation or governmental entity exempt from property taxation, or the complete or partial destruction of such property caused by, among other eventualities, earthquake or other natural disaster, could cause a reduction in the Pledged Tax Revenues available to pay debt service on the Bonds. Such reduction of Pledged Tax Revenues to pay debt service on the Bonds could have an adverse effect on the ability to make timely payments of principal of and interest on the Bonds.

As described in greater detail under the heading “PROPERTY TAXATION IN CALIFORNIA – Article XIII A of the State Constitution,” Article XIII A provides that the full cash value base of real property used in determining taxable value may be adjusted from year to year to reflect the inflation rate, not to exceed a two percent increase for any given year, or may be reduced to reflect a reduction in the consumer price index, comparable local data or any reduction in the event of declining property value caused by damage, destruction or other factors (as described above). Such measure is computed on a calendar year basis. Any resulting reduction in the full cash value base over the term of the Bonds with respect to property in the Project Areas could reduce the Pledged Tax Revenues available to pay debt service on the Bonds.

In addition to the other limitations on, and required application under the Dissolution Act of Tax Revenues on deposit in the Redevelopment Property Tax Trust Fund, the State electorate or Legislature could adopt a constitutional or legislative property tax reduction with the effect of reducing Tax Revenues allocated to the Redevelopment Property Tax Trust Fund and thereby the Pledged Tax Revenues. Although the federal and State Constitutions include clauses generally prohibiting the Legislature’s impairment of contracts, there are also recognized exceptions to these prohibitions. There is no assurance that the State electorate or Legislature will not at some future time approve additional limitations that could reduce the Tax Revenues and adversely affect the source of repayment and security of the Bonds.

## **Limitations on Remedies**

The enforceability of the rights and remedies of the owners of the Bonds and the obligations of the Authority may become subject to the following: the federal bankruptcy code and applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws relating to or affecting the enforcement of creditors' rights generally, now or hereafter in effect; equitable principles which may limit the specific enforcement under state law of certain remedies: the exercise by the United States of America of the powers delegated to it by the federal Constitution; and the reasonable and necessary exercise, in certain exceptional situations of the police power inherent in the sovereignty of the State and its governmental bodies in the interest of servicing a significant and legitimate public purpose. Bankruptcy proceedings, or the exercise of powers by the federal or state government, if initiated, could subject the owners of the Bonds to judicial discretion and interpretation of their rights in bankruptcy or otherwise and consequently may entail risks of delay, limitation, or modification of their rights.

Bond Counsel has limited its opinion as to the enforceability of the Bonds and of the Indenture to the extent that enforceability may be limited by bankruptcy, insolvency, reorganization, fraudulent conveyance or transfer, moratorium or other similar laws affecting generally the enforcement of creditors' rights, by equitable principles and by the exercise of judicial discretion. The lack of availability of certain remedies or the limitation of remedies may entail risks of delay, limitation or modification of the rights of the Bond Owners.

## **Risks to Real Estate Market**

The ability to make payments on the Bonds will be dependent upon the economic strength of the property in the Project Areas. The general economy of the property in the Project Areas will be subject to all of the risks generally associated with urban real estate markets. Real estate prices and development may be adversely affected by changes in general economic conditions, fluctuations in the real estate market and interest rates, unexpected increases in development costs and by other similar factors. Further, real estate development within the Project Areas could be adversely affected by limitations of infrastructure or future governmental policies, including governmental policies to restrict or control development. In addition, if there is a significant decline in the general economy of the County, the owners of property within the Project Areas may be less able or less willing to make timely payments of property taxes or may petition for reduced assessed valuation causing a delay or interruption in the receipt of Tax Revenues by the County, and thereby the Pledged Tax Revenues. See "THE DUNES PORTION OF THE PROJECT AREAS—Projected Pledged Tax Revenues and Estimated Debt Service Coverage" for a description of the projected debt service coverage on the Bonds.

## **Reduction in Inflationary Rate**

As described in greater detail below, Article XIII A of the State Constitution provides that the full cash value of real property used in determining taxable value may be adjusted from year to year to reflect the inflationary rate, not to exceed a 2% increase for any given year, or may be reduced to reflect a reduction in the consumer price index or comparable local data. Such measure is computed on a calendar year basis. Because Article XIII A limits inflationary assessed value adjustments to the lesser of the actual inflationary rate or 2%, there have been years in which the assessed values were adjusted by actual inflationary rates, which were less than 2%. See "PROPERTY TAXATION IN CALIFORNIA – Article XIII A of the State Constitution." The Authority is unable to predict if any further adjustments to the full cash value base of real property within the Project Areas, whether an increase or a reduction, will be realized in the future.

## **Development Risks**

The general economy of a redevelopment project will be subject to all the risks generally associated with real estate development. Projected development may be subject to unexpected delays, disruptions and changes. Real estate development operations may be adversely affected by changes in general economic conditions, fluctuations in the real estate market and interest rates, unexpected increases in development costs and by other similar factors. Further, real estate development operations within a redevelopment project could be adversely affected by future governmental policies, including governmental policies to restrict or control development. If projected development in a redevelopment project is delayed or halted, the economy of the redevelopment project could be affected. If such events lead to a decline in assessed values they could cause a reduction in incremental property tax revenues.

A decline in development activity in the Project Areas may not, in itself, adversely impact the Authority's ability to pay debt service on the Bonds in light of the debt service coverage provided by fiscal year 2019-20 Pledged Tax Revenues.

## **Future Land Use Regulations and Growth Control Initiatives**

In the past, citizens of a number of local communities in California have placed measures on the ballot designed to limit the issuance of building permits or impose other restrictions to control the rate of future growth in those areas. It is possible that future initiatives could be enacted that could be applicable to the City and have a negative impact on the ability of developers in the Project Areas to complete any existing or proposed development. Bond Owners should assume that any event that significantly affects the ability to develop land in the County could cause the land values within the Project Areas to decrease substantially and could affect the willingness and ability of the owners of land within the Project Areas to pay property taxes when due.

There can be no assurance that land development within the Project Areas will not be adversely affected by future governmental policies, including, but not limited to, government policies to restrict or control development. Under current State law, it is generally accepted that proposed development is not exempt from future land use regulations until building permits have been issued and substantial work has been performed and substantial liabilities have been incurred in good faith reliance on the permits prior to the adoption of such regulations.

## **Assessment Appeals**

Property taxable values may be reduced as a result of a successful appeal of the taxable value determined by the County Assessor. An appeal may result in a reduction to the County Assessor's original taxable value and a tax refund to the applicant property owner. A reduction in taxable values within the Project Areas and the refund of taxes which may arise out of successful appeals by property owners will affect the amount of Pledged Tax Revenues. The Reductions have occurred in tax increment revenues as a result of assessment appeals. The actual impact to tax increment is dependent upon the actual revised value of assessments resulting from values determined by the County Assessment Appeals Board or through litigation and the ultimate timing of successful appeals. See the Fiscal Consultant's Report for a discussion of assessment appeal activity in the Marina Redevelopment Project No. 3.



## **Levy and Collection of Taxes**

The Authority has no independent power to levy or collect property taxes. Any reduction in the tax rate or the implementation of any constitutional or legislative property tax decrease could reduce the Pledged Tax Revenues used to pay debt service on the Bonds.

Delinquencies in the payment of property taxes by the owners of land in the Project Areas, and the impact of bankruptcy proceedings on the ability of taxing agencies to collect property taxes, could have an adverse effect on the ability to make timely payments on the Bonds.

## **Bankruptcy and Foreclosure**

The payment of the property taxes from which the Pledged Tax Revenues are derived and the ability of the County to foreclose the lien of a delinquent unpaid tax may be limited by bankruptcy, insolvency, or other laws generally affecting creditors' rights or by the laws of the State relating to judicial foreclosure. The various legal opinions to be delivered concurrently with the delivery of the Bonds (including Bond Counsel's approving legal opinion) will be qualified as to the enforceability of the various legal instruments by bankruptcy, insolvency, reorganization, moratorium, or other similar laws affecting creditors' rights, by the application of equitable principles and by the exercise of judicial discretion in appropriate cases.

Although bankruptcy proceedings would not cause the liens to become extinguished, bankruptcy of a property owner could result in a delay in prosecuting superior court foreclosure proceedings. Although such delay would increase the possibility of delinquent tax installments not being paid in full and thereby increase the likelihood of a delay or default in payment of the principal of and interest on the Bonds, the Authority believes any such adverse impact is unlikely in light of the debt service coverage provided by fiscal year 2019-20 Pledged Tax Revenues. See "THE DUNES PORTION OF THE PROJECT AREAS—Projected Pledged Tax Revenues and Estimated Debt Service Coverage" for a description of the debt service coverage on the Bonds.

## **Estimated Revenues**

In estimating that Pledged Tax Revenues will be sufficient to pay debt service on the Bonds, the Fiscal Consultant has made certain assumptions with regard to present and future assessed valuation in the Dunes development, future tax rates and percentage of taxes collected. The Authority believes these assumptions to be reasonable, but there is no assurance these assumptions will be realized and to the extent that the assessed valuation and the tax rates are less than expected, the Pledged Tax Revenues available to pay debt service on the Bonds will be less than those projected and such reduced revenues may be insufficient to provide for the payment of principal of and interest on the Bonds. See "Projected Pledged Tax Revenues and Estimated Debt Service Coverage."

## **Seismic Factors and Flooding**

The occurrence of severe seismic activity and/or flooding in the Project Areas could result in substantial damage to property located in the Dunes development, and could lead to successful appeals for reduction of assessed values of such property. Such a reduction could result in a decrease in Pledged Tax Revenues.

The San Andreas Fault runs through the southeastern portion of the County for approximately 30 miles and poses the single greatest seismic risk to the City. Two other active faults include the Palo Colorado-San Gregorio Fault zone and the Monterey Bay Fault zone, which lies seaward of the City of Marina extending northwesterly to the Pacific Ocean. The

western boundary of the City of Marina is located on the Pacific Ocean and the City of Marina is at risk of tsunami inundation along the shoreline and in the Salinas River flood plain to the north of the City; however, the property in the Redevelopment Project No. 3 is not located in any Federal Emergency Management Agency flood zone.

### **Hazardous Substances**

An environmental condition that may result in the reduction in the assessed value of parcels in the Dunes development would be the discovery of a hazardous substance that would limit the beneficial use of the property. In general, the owners and operators of an assessed parcel may be required by law to remedy conditions of the parcel relating to releases or threatened releases of hazardous substances. The federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, sometimes referred to as CERCLA or the Superfund Act, is the most well known and widely applicable of these laws but California laws with regard to hazardous substances are also stringent and similar. Under many of these laws, the owner (or operator) is obligated to remedy a hazardous substance condition on the property whether or not the owner (or operator) has anything to do with creating or handling the hazardous substance. The effect, therefore, should any of the assessed parcels be affected by a hazardous substance would be to reduce the marketability and value of the parcel by the costs of remedying the condition, since the purchaser, upon becoming owner, will become obligated, along with the seller, to remedy the condition.

The property in the Project Areas is being developed on portions of the former Fort Ord army base.

### **Changes in the Government Code**

There can be no assurance that the California electorate will not at some future time adopt initiatives or that the Legislature will not enact legislation that will amend the Dissolution Act, the Redevelopment Government Code or other laws or the Constitution of the State resulting in a reduction of the Pledged Tax Revenues available to pay debt service on the Bonds.

Should such an event of taxability occur, the Bonds are not subject to special redemption and will remain outstanding until maturity or until redeemed under other provisions set forth in the Indenture.

### **Secondary Market**

There can be no guarantee that there will be a secondary market for the Bonds, or, if a secondary market exists, that the Bonds can be sold for any particular price. Occasionally, because of general market conditions or because of adverse history or economic prospects connected with a particular issue, secondary marketing practices in connection with a particular issue are suspended or terminated. Additionally, prices of issues for which a market is being made will depend upon then prevailing circumstances. Finally, the Authority does not intend to make an application for the assignment of a rating for the Bonds, which may further limit a secondary market for the Bonds. See "NO RATING."

## **TAX MATTERS**

In the opinion of Quint & Thimmig LLP, Bond Counsel, under existing law, interest on the Bonds is exempt from State of California personal income taxes. Bond Counsel expresses no

opinion as to any other tax consequences regarding the Bonds. INTEREST ON THE BONDS IS NOT EXCLUDED FROM GROSS INCOME FOR FEDERAL INCOME TAX PURPOSES.

The complete text of the final opinion that Bond Counsel expects to deliver upon the issuance of the Bonds is set forth in APPENDIX B—FORM OF OPINION OF BOND COUNSEL.

### **VALIDATION**

On January 28, 2020, the Authority, acting pursuant to the provisions of sections 860 et seq. of the California Code of Civil Procedure and Section 53511 of the Government Code, filed a complaint in the Superior Court of the State of California for the County of Monterey seeking judicial validation of the Bonds and certain other matters, including the pledge and use of the Pledged Tax Revenues to repay the Bonds. On March 12, 2020, the Court entered a judgment to the effect, among other things, that the Bonds and the Indenture were valid, legal and binding obligations of the Authority; that the payments to the Authority under Section 33492.71(c)(1)(A) and (D) of the California Health and Safety Code are valid payments and shall continue as necessary to repay the Bonds; and that the County Auditor-Controller is entitled and obligated to distribute amounts described in Section 33492.71, subdivisions (c)(1)(A) or (D), as applicable, of the Health and Safety Code to the Authority to repay the Bonds until the Bonds have been paid in full. [The time period for the filing of appeals with respect to the judgment expired on May \_\_\_, 2020 and no appeals were filed, therefore the judgment is final and unappealable.] In issuing its opinion as to the validity of the Bonds, Bond Counsel has relied upon the entry of the foregoing judgment.

### **UNDERWRITING**

The Bonds are being purchased by Stifel, Nicolaus & Company, Incorporated and Citibank, N.A. (collectively, the “Underwriters”). The Underwriters have agreed to purchase the Bonds at a price of \$\_\_\_\_\_ (being the principal amount of the Bonds of \$\_\_\_\_\_, less an Underwriter’s discount of \$\_\_\_\_\_, and plus (minus) an original issue premium (discount) of \$\_\_\_\_\_). The Underwriters will purchase all of the Bonds if any are purchased.

The Underwriters may offer and sell Bonds to certain dealers and others at a price lower than the offering price stated on the inside cover page of this Official Statement. The offering prices may be changed from time to time by the Underwriters.

### **MUNICIPAL ADVISOR**

NHA Advisors, LLC, San Rafael, California, has served as municipal advisor (the “Municipal Advisor”) to the Authority in connection with the issuance of the Bonds. The Municipal Advisor is not obligated to undertake, and has not undertaken to make, an independent verification or to assume responsibility for the accuracy, completeness or fairness of the information contained in the Official Statement. The fees of the Municipal Advisor are contingent upon the sale and delivery of the Bonds.

## LEGAL OPINIONS

The proposed form of Bond Counsel's approving opinion with respect to the Bonds is attached hereto in APPENDIX B—FORM OF OPINION OF BOND COUNSEL. In addition to those matters opined on by Bond Counsel, certain legal matters will be passed on for the Authority by Quint & Thimmig LLP, in its capacity as Disclosure Counsel to the Authority for the Bonds and by Kennedy, Archer & Giffen, Monterey, California, in its capacity as general counsel to the Authority. Certain legal matters will be passed on for the Underwriters by Stradling, Yocca, Carlson & Rauth, a Professional Corporation, Newport Beach, California, in its capacity as Underwriters' Counsel.

## LITIGATION

There is no action, suit or proceeding known to the Authority to be pending and notice of which has been served upon and received by the Authority, or threatened, restraining or enjoining the execution or delivery of the Bonds or the Indenture or in any way contesting or affecting the validity of the foregoing or any proceedings of the Authority taken with respect to any of the foregoing. See, however, "RISK FACTORS—Challenges to Dissolution Act."

## RATINGS

S&P is expected to assign the rating of "\_\_\_\_" to the Insured Bonds based on the issuance of a Municipal Bond Insurance Policy by the Municipal Bond Insurer at the time of delivery of the Bonds. See "MUNICIPAL BOND INSURANCE." In addition, S&P has assigned the underlying rating of "BBB+" to the Bonds without regard to the issuance of the Municipal Bond Insurance Policy. These ratings reflect only the views of S&P and an explanation of the significance of such ratings may be obtained from S&P. There is no assurance that such ratings will continue for any given period of time or that such ratings will not be revised downward or withdrawn entirely by S&P, if in the judgment of the S&P, circumstances so warrant. Any such downward revision or withdrawal of such ratings may have an adverse effect on the market price of the Bonds.

## CONTINUING DISCLOSURE

The Authority and the Administrator have covenanted for the benefit of owners and Beneficial Owners of the Bonds to provide certain financial information and operating data relating to the Authority (the "Annual Report") by not later than April 1 after the end of the Administrator's fiscal year (the current end of the Administrator's fiscal year is on June 30), commencing with the report for the 2019-20 fiscal year, and to provide notices of the occurrence of certain enumerated events. The Annual Report will be filed by the Administrator with the Municipal Securities Rulemaking Board (the "MSRB"). The notices of enumerated events will be filed by the Administrator with the MSRB. The specific nature of the information to be made available and to be contained in the notices of material events is summarized below under the caption APPENDIX D—FORM OF CONTINUING DISCLOSURE CERTIFICATE. These covenants have been made in order to assist the Underwriters in complying with S.E.C. Rule 15c2-12(b)(5) (the "Rule").

The Authority has not incurred any prior continuing disclosure obligations under the Rule.

## MISCELLANEOUS

All of the preceding summaries of the Indenture, the Health and Safety Code, the Government Code, other applicable legislation, agreements and other documents are made subject to the provisions of such documents respectively and do not purport to be complete statements of any or all of such provisions. Reference is hereby made to such documents on file with the Authority for further information in connection therewith.

This Official Statement does not constitute a contract with the purchasers of the Bonds. Any statements made in this Official Statement involving matters of opinion or estimates, whether or not so expressly stated, are set forth as such and not as representations of fact, and no representation is made that any of the estimates will be realized.

The execution and delivery of this Official Statement by the Executive Officer of the Authority, has been duly authorized by the Authority.

FORT ORD REUSE AUTHORITY

By \_\_\_\_\_  
*Executive Officer*

## APPENDIX A

### SUMMARY OF CERTAIN PROVISIONS OF THE INDENTURE

[to be updated]

*The following is a brief summary of certain provisions of the Indenture of Trust for the Bonds. The following also includes definitions of certain terms used therein and in this Official Statement. This summary is not intended to be definitive. Reference is made to the Indenture of Trust for the complete terms thereof.*

#### Definitions

Unless the context otherwise requires, the terms defined in the Indenture will, for all purposes of the Indenture, of any Supplemental Indenture, and of any certificate, opinion or other document mentioned in the Indenture, have the meanings specified.

*“Administrative Expense Account”* means the account by that name established in the Debt Service Fund pursuant to the Indenture.

*“Administrative Expenses”* means the following actual or reasonably estimated costs directly related to the administration of the Indenture and the Bonds: fees and costs of the Trustee (including its legal counsel) in the discharge of the duties required of it under the Indenture; any fees or expenses of the County under or in connection with the Irrevocable Instructions; any [Policy Costs] (other than in respect of the reimbursement of draws under the Reserve Policy); the costs incurred by the Authority or the Administrator to comply with or implement any provision of the Indenture, the Continuing Disclosure Certificate or any provision of the Marks-Roos Act or the Fort Ord Reuse Authority Act relating to the Bonds or the payment thereof; an allocable share of the salaries of Authority and Administrator staff related to the foregoing and a proportionate amount of Authority or Administrator general administrative overhead related thereto.

*“Administrator”* means the City of Marina, California, in its capacity as Administrator under the Indenture.

*“Annual Debt Service”* means, for each Bond Year, the sum of (a) the interest payable on the Outstanding Bonds in such Bond Year, assuming that the Outstanding Bonds are retired as scheduled, and (b) the principal or sinking fund amount of the Outstanding Bonds payable by their terms in such Bond Year.

*“Authority”* means the Fort Ord Reuse Authority, a public corporation formed pursuant to the Fort Ord Reuse Authority Act, Title 7.85 of the California Government Code, commencing with Section 67650.

*“Authorized Denomination”* means \$5,000 or any integral multiple thereof.

*“Bond Counsel”* means (a) Quint & Thimmig LLP, or (b) any other attorney or firm of attorneys appointed by or acceptable to the Authority, of nationally-recognized experience in the issuance of obligations the interest on which is excludable from gross income for federal income tax purposes.

*“Bond Year”* means each twelve (12) month period extending from September 2 in one calendar year to September 1 of the succeeding calendar year, both dates inclusive; provided that the first Bond Year with respect to the Bonds will commence on the Closing Date and end on September 1, 2020.

*“Bonds”* means the Fort Ord Reuse Authority Tax Allocation Bonds, Series 2020 (Federally Taxable) issued and Outstanding under the Indenture.

*“Building Removal”* means any or all of the following: waste characterization, abatement, building demolition, building removal, building repair, waste disposal, and remediation of buildings and building sites located at certain parcels of property within the boundaries of the former Fort Ord listed on Exhibit B to the Indenture.

*“Building Removal Costs”* means the costs of Building Removal, including, without limitation, all costs of planning, engineering, management, risk management (including insurance premiums, legal fees and litigation costs associated with the Building Removal), and associated administrative services required to remove blighted buildings from certain parcels of property within the boundaries of the former Fort Ord listed on Exhibit B to the Indenture.

*“Business Day”* means any day, other than a Saturday or Sunday or a day on which commercial banks in New York, New York, or any other city or cities where the Principal Corporate Trust Office of the Trustee is located are required or authorized by law to close or a day on which the Federal Reserve System is closed.

*“Closing Date”* means the date on which a series of Bonds is delivered by the Authority to the original purchaser thereof.

*“Continuing Disclosure Certificate”* means the Continuing Disclosure Certificate, dated as of June 1, 2020, executed by the Authority and the Administrator, as originally executed and as it may be amended from time to time in accordance with the terms thereof.

*“Costs of Issuance”* means all items of expense directly or indirectly payable by or reimbursable to the Authority relating to the authorization, issuance, sale and delivery of the Bonds, including but not limited to printing expenses, bond insurance and surety bond premiums, if any, rating Authority fees, filing and recording fees, initial fees and charges and first annual administrative fee of the Trustee and fees and expenses of its counsel, fees, charges and disbursements of attorneys, financial advisors, accounting firms, consultants and other professionals, fees and charges for preparation, execution and safekeeping of the Bonds, administrative costs of the Authority and the Administrator incurred in connection with the issuance of the Bonds, expenses of the underwriters of the Bonds, the fees and expenses of counsel to the underwriters of the Bonds, and any other cost, charge or fee in connection with the original issuance of the Bonds.

*“Costs of Issuance Fund”* means the fund by that name established and held by the Trustee pursuant to the Indenture.

*“County”* means the County of Monterey, California.

*“County Auditor-Controller”* means the Auditor-Controller of the County.

*“Debt Service Fund”* means the fund by that name established and held by the Trustee pursuant to the Indenture.

*“Defeasance Obligations”* means any of the following which, at the time of investment, are legal investments under the laws of the State for the moneys proposed to be invested therein and are in compliance with the Authority’s investment policies then in effect (provided that the Trustee will be entitled to rely upon any investment direction from the Authority as conclusive certification to the Trustee that investments described therein are legal and are in compliance with the Authority’s investment policies then in effect): (a) Cash; (b) non-callable, direct obligations of the United States of America; (c) securities fully and unconditionally guaranteed as to the timely payment of principal and interest by the United States of America; and (d) other investments approved by the Insurer.

*“Depository”* means (a) initially, DTC, and (b) any other Securities Depository acting as Depository pursuant to the Indenture.

*“Depository System Participant”* means any participant in the Depository’s book-entry system.

*“DTC”* means The Depository Trust Company, New York, New York, and its successors and assigns.

*“Dissolution Date”* means June 30, 2020, the day on which the Authority will be dissolved.

*“Event of Default”* means any of the events described in the Indenture.

*“Federal Securities”* means any direct, noncallable general obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of the Treasury of the United States of America and CATS and TGRS), or obligations the payment of principal of and interest on which are directly or indirectly guaranteed by the United States of America.

*“Fiscal Year”* means any twelve-month period beginning on July 1 in any year and extending to the next succeeding June 30, both dates inclusive, or any other twelve month period selected and designated by the Authority to the Trustee in writing as its official fiscal year period.

*“Fort Ord Reuse Authority Act”* means the Fort Ord Reuse Authority Act, codified at Title 7.85 of the California Government Code, commencing with Section 67650, and the acts amendatory thereof and supplementary thereto.

*“Funding Agreements”* means, collectively, the Building Removal Funding Agreements, each dated as of June 1, 2020, each among a Local Agency, the Authority and the Administrator.

*“Indenture”* means the Indenture of Trust by and among the Authority, the Administrator and the Trustee, as originally entered into or as it may be amended or supplemented by any Supplemental Indenture entered into pursuant to the provisions of the Indenture.

*“Independent Accountant”* means any accountant or firm of such accountants duly licensed or registered or entitled to practice as such under the laws of the State, appointed by the Administrator, and who, or each of whom: (a) is in fact independent and not under domination of the Authority or the Administrator; (b) does not have any substantial interest, direct or indirect, with the Authority or the Administrator; and (c) is not connected with the Authority or the Administrator as an officer or employee of the Authority or the Administrator, but who may be regularly retained to make reports to the Authority or the Administrator.

*“Independent Fiscal Consultant”* means any consultant or firm of such consultants appointed by the Administrator, and who, or each of whom: (a) is judged by the Administrator to have experience in matters relating to the collection of Pledged Tax Revenues or otherwise with respect to the financing of redevelopment projects; (b) is in fact independent and not under domination of the Authority or the Administrator; (c) does not have any substantial interest, direct or indirect, with the Authority or the Administrator; and (d) is not connected with the Authority or the Administrator as an officer or employee of the Authority or the Administrator, but who may be regularly retained to make reports to the Authority or the Administrator.

*“Information Services”* means, in accordance with then current guidelines of the Securities and Exchange Commission, such services providing information with respect to the redemption of bonds as the Administrator may designate in a Written Request of the Administrator filed with the Trustee.

*“Insurance Policy”* means the insurance policy issued by the Insurer guaranteeing the scheduled payment of principal of and interest on the Bonds when due.

*“Insurer”* means \_\_\_\_\_.



*"Interest Account"* means the account by that name established and held by the Trustee pursuant to the Indenture.

*"Interest Payment Date"* means each March 1 September 1, commencing September 1, 2020, for so long as any of the Bonds remain Outstanding under the Indenture.

*"Irrevocable Instructions"* means that certain Irrevocable Direction to Transfer of the Authority to, and acknowledged by, the County Auditor-Controller and the County Treasurer and Tax Collector and the Administrator, dated as of the Closing Date for the Bonds.

*"Local Agency"* and *"Local Agencies"* means, individually and collectively, the County, the City of Marina, California, the City of Seaside, California, TAMC, MCWD and MST.

*"Marina Bond Proceeds Account"* means the account of that name established within the Project Fund.

*"Marina Project Area No. 3"* means the redevelopment project area by that name established by the former Marina Redevelopment Agency.

*"Marks-Roos Act"* means the Marks-Roos Local Bond Pooling Act of 1985, codified at Article 4 of Chapter 6 of Division 7 of Title 1 of the California Government Code, commencing with Section 6584, and the acts amendatory thereof and supplementary thereto.

*"MCWD"* means the Marina Coast Water District.

*"MCWD Bond Proceeds Account"* means the account of that name established within the Project Fund.

*"Maximum Annual Debt Service"* means, as of the date of calculation, the largest amount for the current or any future Bond Year payable on the Bonds in such Bond Year. For purposes of such calculation, (i) the amount of interest on any Bonds that is payable from the proceeds of such Bonds that is set aside solely for such purpose will not be included in the calculation of Maximum Annual Debt Service; and (ii) there also will be excluded payments with respect to the Bonds to the extent that amounts due with respect to the Bonds are prepaid or otherwise discharged in accordance with the Indenture.

*"MST"* means Monterey-Salinas Transit.

*"MST Bond Proceeds Account"* means the account of that name established within the Project Fund.

*"Minimum Administrative Expense Requirement"* means \$\_\_\_\_\_ per Fiscal Year.

*"Moody's"* means Moody's Investors Service and its successors.

*"Nominee"* means (a) initially, Cede & Co., as nominee of DTC, and (b) any other nominee of the Depository designated pursuant to Section 2.11(a).

*"Original Purchasers"* means, collectively, Stifel Nicolaus & Company Incorporated and Citibank, N.A.

*"Outstanding"* when used as of any particular time with reference to Bonds, means (subject to the provisions of the Indenture) all Bonds except: (a) Bonds theretofore canceled by the Trustee or surrendered to the Trustee for cancellation; (b) Bonds paid or deemed to have been paid pursuant to

the terms of the Indenture; and (c) Bonds in lieu of or in substitution for which other Bonds will have been authorized, executed, issued and delivered by the Authority pursuant to the Indenture.

“*Owner*” or “*Bondowner*” means, with respect to any Bond, the person in whose name the ownership of such Bond will be registered on the Registration Books.

“*Participating Underwriter*” has the meaning ascribed thereto in the Continuing Disclosure Certificate.

“*Permitted Investments*” means any of the following which, at the time of investment, are legal investments under the laws of the State for the moneys proposed to be invested therein and are in compliance with the Authority’s investment policies then in effect (provided that the Trustee will be entitled to rely upon any investment direction from the Authority as conclusive certification to the Trustee that investments described therein are legal and are in compliance with the Authority’s investment policies then in effect):

(a) Federal Securities;

(b) Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following federal agencies and provided such obligations are backed by the full faith and credit of the United States of America (stripped securities are only permitted if they have been stripped by the Authority itself): (i) direct obligations or fully guaranteed certificates of beneficial ownership of the U.S. Export-Import Bank; (ii) certificates of beneficial ownership of the Farmers Home Administration; (iii) Federal Housing Administration debentures; (iv) participation certificates of the General Services Administration; (v) Federal Financing Bank bonds and debentures; (vi) guaranteed mortgage-backed bonds or guaranteed pass-through obligations of Ginnie Mae (formerly known as the Government National Mortgage Association); (vii) guaranteed Title XI financings of the U.S. Maritime Administration; and (viii) project notes, local authority bonds, new communities debentures and U.S. public housing notes and bonds of the U.S. Department of Housing and Urban Development;

(c) Bonds, debentures, notes or other evidence of indebtedness issued or guaranteed by any of the following non-full faith and credit U.S. government agencies (stripped securities only as stripped by the Authority itself): (i) senior debt obligations of the Federal Home Loan Bank System; (ii) participation certificates and senior debt obligations of the Federal Home Loan Mortgage Corporation; (iii) mortgaged-backed securities and senior debt obligations of Fannie Mae; (iv) senior debt obligations of Sallie Mae (formerly known as the Student Loan Marketing Association); (v) obligations of the Resolution Funding Corporation; and (vi) consolidated system-wide bonds and notes of the Farm Credit System;

(d) Money market funds registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and having a rating by S&P of at least AAAM-G, AAAM or AAM, and a rating by Moody’s of Aaa, Aa1 or Aa2, including such funds for which the Trustee, its affiliates or subsidiaries provide investment advisory or other management services or for which the Trustee or an affiliate of the Trustee serves as investment administrator, shareholder servicing agent, and / or custodian or subcustodian, notwithstanding that (i) the Trustee or an affiliate of the Trustee receives fees from funds for services rendered, (ii) the Trustee collects fees for services rendered pursuant to the Indenture, which fees are separate from the fees received from such funds, and (iii) services performed for such funds and pursuant to the Indenture may at times duplicate those provided to such funds by the Trustee or an affiliate of the Trustee;

(e) Certificates of deposit (including those of the Trustee, its parent and its affiliates) secured at all times by collateral described in (a) or (b) above or by collateral that may be used by a national bank for purposes of satisfying its obligations to collateralize

pursuant to federal law, which have a maturity not greater than one year from the date of investment and which are issued by commercial banks, savings and loan associations or mutual savings banks;

(f) Certificates of deposit, savings accounts, deposit accounts or money market deposits (including those of the Trustee and its affiliates), but only to the extent that the amount being invested in such certificates of deposit, savings accounts, deposit accounts or money market deposits are fully insured by FDIC, including BIF and SAIF, secured at all times by collateral described in (a) or (b) above or by collateral that may be used by a national bank for purposes of satisfying its obligations to collateralize pursuant to federal law;

(g) Investment agreements, including guaranteed investment contracts, forward purchase agreements, reserve fund put agreements and collateralized investment agreements with an entity rated "A" or better by Moody's and "A" or better by S&P, or unconditionally guaranteed by an entity rated "A" or better by Moody's and "A" or better by S&P;

(h) Commercial paper rated, at the time of purchase, "Prime-1" by Moody's and "A-1+" or better by S&P;

(i) Bonds or notes issued by any state or municipality which are rated by Moody's and S&P in one of the two highest rating categories assigned by such agencies;

(j) Federal funds or bankers acceptances with a maximum term of one year of any bank which has an unsecured, uninsured and unguaranteed obligation rating of "Prime-1" or "A3" or better by Moody's, and "A-1+" by S&P; and

(k) The Local Authority Investment Fund that is administered by the California Treasurer for the investment of funds belonging to local agencies within the State of California, provided that for investment of funds held by the Trustee, the Trustee is entitled to make investments and withdrawals in its own name as Trustee.

*"Pledged Tax Revenues"* means all taxes attributable to the Seaside-Fort Ord Project Area and the Marina Project Area No. 3 that are allocated, or available to be allocated, to (a) the Authority pursuant to California Health and Safety Code Section 33492.71, subsection (c)(1)(A) or (b) the Administrator, as successor in interest to the Authority upon its dissolution, pursuant to California Health and Safety Code Section 33492.71, subsection (c)(1)(D), as applicable.

*"Principal Account"* means the account by that name established and held by the Trustee pursuant to the Indenture.

*"Principal Corporate Trust Office"* means the corporate trust office of the Trustee in Los Angeles, California, or such other or additional offices as the Trustee may designate in writing to the Authority from time to time as the corporate trust office for purposes of the Indenture; except that with respect to presentation of Bonds for payment or for registration of transfer and exchange, such term means the office or Authority of the Trustee at which, at any particular time, its corporate trust Authority business is conducted.

*"Project Fund"* means the fund by that name established and held by the Trustee pursuant to the Indenture.

*"Qualified Reserve Account Credit Instrument"* means (i) the Reserve Policy, and (ii) an irrevocable standby or direct-pay letter of credit, insurance policy, or surety bond issued by a commercial bank or insurance company and deposited with the Trustee, provided that all of the following requirements are met at the time of acceptance thereof by the Trustee: (a) S&P or Moody's have assigned a long-term credit rating at the time of issuance of such Qualified Reserve Account Credit Instrument to such bank or insurance company of "A" (without regard to modifier) or higher;

(b) such letter of credit, insurance policy or surety bond has a term of at least 12 months; (c) such letter of credit, insurance policy or surety bond has a stated amount at least equal to the portion of the Reserve Requirement with respect to which funds are proposed to be released; and (d) the Trustee is authorized pursuant to the terms of such letter of credit, insurance policy or surety bond to draw thereunder an amount equal to any deficiencies which may exist from time to time in the Interest Account or the Principal Account for the purpose of making payments required by the Indenture.

*"Record Date"* means, with respect to any Interest Payment Date, the close of business on the fifteenth (15th) calendar day of the month preceding such Interest Payment Date, whether or not such fifteenth (15th) calendar day is a Business Day.

*"Redemption Account"* means the account by that name established and held by the Trustee pursuant to the Indenture.

*"Registration Books"* means the records maintained by the Trustee for the registration and transfer of ownership of the Bonds pursuant to the Indenture.

*"Report"* means a document in writing signed by an Independent Fiscal Consultant and including: (a) a statement that the person or firm making or giving such Report has read the pertinent provisions of the Indenture to which such Report relates; (b) a brief statement as to the nature and scope of the examination or investigation upon which the Report is based; and (c) a statement that, in the opinion of such person or firm, sufficient examination or investigation was made as is necessary to enable said consultant to express an informed opinion with respect to the subject matter referred to in the Report.

*"Reserve Account"* means the account by that name established and held by the Trustee pursuant to the Indenture.

*"Reserve Policy"* means the Municipal Bond Debt Service Reserve Insurance Policy issued by the Insurer for the Bonds.

*"Reserve Requirement"* means, subject to the terms specified in the Indenture, the lesser of (i) 125% of the average Annual Debt Service, (ii) Maximum Annual Debt Service, or (iii) 10% of the original principal amount of the Bonds; provided, that the Authority may meet all or a portion of the Reserve Requirement by providing to the Trustee for deposit to the Reserve Account a Qualified Reserve Account Credit Instrument meeting the requirements thereof under the Indenture.

*"Reuse Plan"* means the Fort Ord Reuse Plan prepared by the Authority, dated May 1996, as amended and supplemented from time to time.

*"S&P"* means S&P Global Ratings, LLC, a Standard & Poor's Financial Services LLC business, and its successors.

*"Seaside-Fort Ord Project"* means the redevelopment project area by that name established by the former Redevelopment Agency of the City of Seaside.

*"Seaside Bond Proceeds Account"* means the account of that name established within the Project Fund.

*"Securities Depositories"* means The Depository Trust Company, New York, New York 10041-0099, Fax-(212) 855-7232; or, in accordance with then current guidelines of the Securities and Exchange Commission, such other addresses and/or such other securities depositories as the Authority may designate in a Written Request of the Authority delivered to the Trustee.

*"Serial Bonds"* means all Bonds other than Term Bonds.

*“State”* means the State of California.

*“Supplemental Indenture”* means any resolution, agreement or other instrument which has been duly adopted or entered into by the Authority and the Administrator (if prior to the Dissolution Date), or by the Administrator (after the Dissolution Date), but only if and to the extent that such Supplemental Indenture is specifically authorized under the Indenture.

*“Surplus Account”* means the account by that name established and held by the Trustee pursuant to the Indenture.

*“TAMC”* means the Transportation Agency of Monterey County.

*“TAMC Bond Proceeds Account”* means the account of that name established within the Project Fund.

*“Term Bonds”* means (i) the Bonds maturing on \_\_\_\_\_ 1, 20\_\_ and \_\_\_\_\_ 1, 20\_\_, payable from mandatory sinking account payments.

*“Trustee”* means U.S. Bank National Association, as trustee under the Indenture, or any successor thereto appointed as trustee under the Indenture in accordance with the provisions thereof.

*“Written Request of the Administrator”* or *“Written Certificate of the Administrator”* means a request or certificate, in writing signed by the City Manager of the Administrator, or the designee of either, or by any other officer of the Administrator or the City duly authorized by the Administrator for that purpose.

*“Written Request of the Authority”* or *“Written Certificate of the Authority”* means a request or certificate, in writing signed by the Executive Officer or Treasurer of the Authority, or the designee of either, or by any other officer of the Authority duly authorized by the Authority for that purpose.

### **Security of Bonds; Equal Security**

Except as may otherwise be provided in the Indenture, the Bonds will be equally secured by a pledge of, security interest in and lien on all of the Pledged Tax Revenues, and the Bonds will also be secured by a first and exclusive pledge of, security interest in and lien upon all of the moneys in the Debt Service Fund, the Interest Account, the Principal Account, the Redemption Account and the Reserve Account without preference or priority for series, issue, number, dated date, sale date, date of execution or date of delivery. Except for the Pledged Tax Revenues and such moneys, no funds or properties of the Authority, the County or the Administrator will be pledged to, or otherwise liable for, the payment of principal of or interest or redemption premium (if any) on the Bonds.

In the event the Administrator receives any moneys that constitute Pledged Tax Revenues, the Administrator will promptly transfer to the Trustee such Pledged Tax Revenues for deposit by the Trustee in the Debt Service Fund. Prior to the payment in full of the principal of and interest and redemption premium (if any) on the Bonds and the payment in full of all other amounts payable under the Indenture, neither the Authority nor the Administrator will have any beneficial right to or interest in the Pledged Tax Revenues, except as may be provided in the Indenture.

The Authority and the Administrator will not be obligated to make any payments required under the Indenture or under any Bond, or be deemed to incur any liability under the Indenture or by reason thereof or arising out of any of the transactions contemplated thereby, payable from any funds or assets other than the Pledged Tax Revenues as provided in the Indenture. The Bonds and the obligation to pay principal of and interest thereon and any redemption premium with respect thereto will not constitute an indebtedness or an obligation of the Authority, the members and officers of the Authority, the Administrator, any agency, any district, any city, the County, the State or any other political subdivision thereof, within the meaning of any constitutional or statutory debt limitation, or

a charge against the general credit or taxing powers of any of them. The Bonds will be limited obligations of the Authority, payable solely from the Pledged Tax Revenues duly pledged therefor. Neither the faith and credit nor the taxing power of the Authority, any member of the Authority, the Administrator, any agency, any district, any city, the County, the State or any political subdivision thereof is pledged to the payment of the Bonds.

In consideration of the acceptance of the Bonds by those who will hold the same from time to time, the Indenture will be deemed to be and will constitute a contract between the Authority and the Administrator, and the Owners from time to time of the Bonds, and the covenants and agreements in the Indenture set forth to be performed on behalf of the Authority or the Administrator will be for the equal and proportionate benefit, security and protection of all Owners of the Bonds without preference, priority or distinction as to security or otherwise of any of the Bonds over any of the others by reason of the number or date thereof or the time of sale, execution and delivery thereof, or otherwise for any cause whatsoever, except as expressly provided therein or in the Indenture.

### **Funds and Accounts**

**Costs of Issuance Fund.** The Indenture establishes a separate fund to be known as the "Costs of Issuance Fund," which will be held by the Trustee in trust. The moneys in the Costs of Issuance Fund will be used and withdrawn by the Trustee from time to time to pay the Costs of Issuance with respect to the Bonds, upon submission of a Written Request of the Authority (delivered to the Trustee prior to the Dissolution Date) or the Written Request of the Administrator (delivered to the Trustee on or after the Dissolution Date), stating the person to whom payment is to be made, the amount to be paid, the purpose for which the obligation was incurred and that such payment is a proper charge against said fund. On the date which is six (6) months following the Closing Date with respect to the Bonds, or upon the earlier Written Request of the Administrator, all amounts (if any) remaining in the Costs of Issuance Fund will be withdrawn therefrom by the Trustee and transferred to the Administrative Expense Account and the Costs of Issuance Fund will be closed.

**Project Fund.** The Indenture establishes a separate and segregated fund to be known as the Project Fund and within the Project Fund a Marina Bond Proceeds Account, a Seaside Bond Proceeds Account, a MCWD Bond Proceeds Account, a MST Bond Proceeds Account, and a TAMC Bond Proceeds Account.

On the Closing Date, the Trustee will remit the amount deposited in the respective Accounts of the Project Fund to the applicable Local Agency as directed in the Funding Agreement for the Local Agency, to be applied by the Local Agencies to the payment of the costs of the Building Removal and of expenses incidental thereto pursuant to the Funding Agreements.

None of the Authority, the Administrator, the County (except only with respect to the County's obligations set forth in the Funding Agreement to which it is a party) or the Trustee will be under any liability of any kind or character whatsoever with respect to the use by the Local Agencies of the amounts remitted to them, or the payment of any Building Removal Costs, and that any such Building Removal Costs will be the responsibility of the applicable Local Agency.

Amounts in the Project Fund (and the accounts therein) are not pledged to the repayment of the Bonds.

**Debt Service Fund.** The Indenture establishes a trust fund to be known as the Debt Service Fund, and within the Debt Service Fund a Principal Account, an Interest Account, a Reserve Account, an Administrative Expense Account, a Redemption Account and a Surplus Account, each which will be held by the Trustee in trust under the Indenture. Pledged Tax Revenues received by the Trustee pursuant to the Irrevocable Instructions or otherwise will be deposited by the Trustee in the Debt Service Fund. The Trustee will transfer from the Debt Service Fund the following amounts, at the following times, to the following respective special accounts, which are hereby established in the Debt Service Fund, and in the order of priority described in the Indenture.

## Deposit and Investment of Moneys in Funds

Moneys in the Debt Service Fund, the Interest Account, the Principal Account, the Reserve Account, the Administrative Expense Account, the Redemption Account, the Surplus Account and the Costs of Issuance Fund will be invested by the Trustee in Permitted Investments as directed by the Administrator in the Written Request of the Administrator filed with the Trustee, except that moneys in the Reserve Account will not be invested in Permitted Investments having a maturity of more than five (5) years, unless any such Permitted Investment is described in clause (g) of the definition thereof. In the absence of any such Written Request of the Administrator, the Trustee will invest any such moneys in Permitted Investments described in clause (d) of the definition thereof, which by their terms mature prior to the date on which such moneys are required to be paid out under the Indenture; provided, however, that any such investment will be made by the Trustee only if, prior to the date on which such investment is to be made, the Trustee will have received a Written Request of the Administrator specifying a specific money market fund and, if no such Written Request of the Administrator is so received, the Trustee will hold such moneys uninvested. The Trustee will be entitled to rely conclusively upon the written instructions of the Administrator directing investments in Permitted Investments as to the fact that each such investment is permitted by the laws of the State, and will not be required to make further investigation with respect thereto. Obligations purchased as an investment of moneys in any fund will be deemed to be part of such fund or account. All interest or gain derived from the investment of amounts in any of the funds or accounts held by the Trustee under the Indenture will be retained in the respective fund or account from which the investment was made. The Trustee may act as principal or agent in the acquisition or disposition of any investment and may impose its customary charges therefor. The Trustee will incur no liability for losses arising from any investments made at the direction of the Authority or otherwise made in accordance with the applicable provisions of the Indenture. For investment purposes only, the Trustee may commingle the funds and accounts established by the Indenture, but will account for each separately.

All moneys held by the Trustee will be held in trust, but need not be segregated from other funds unless specifically required by this Indenture. Except as specifically provided in this Indenture, the Trustee will not be liable to pay interest on any moneys received by it, but will be liable only to account for earnings derived from funds that have been invested. Investments of funds on deposit in the Reserve Account will be valued on August of each year at their market value.

## Other Covenants of the Authority and the Administrator

***Punctual Payment.*** The Administrator, on behalf of the Authority, will punctually pay or cause to be paid the principal and interest to become due on the Bonds together with any premium thereon, if applicable, in strict conformity with the terms of the Bonds and of the Indenture, solely from the Pledged Tax Revenues and other amounts pledged to such payments under the Indenture. The Authority will faithfully observe and perform all of the conditions, covenants and requirements of the Indenture, all Supplemental Indentures and the Bonds.

***Limitation on Additional Indebtedness; Against Encumbrances.*** The Authority covenants that, so long as the Bonds are Outstanding, the Authority will not issue any bonds, notes or other obligations, enter into any agreement or otherwise incur any indebtedness, which is in any case payable from all or any part of the Pledged Tax Revenues. Neither the Authority nor the Administrator will encumber, pledge or place any charge or lien upon any of the Pledged Tax Revenues or other amounts pledged to the Bonds.

***Extension of Payment.*** Neither the Authority nor the Administrator will directly or indirectly, extend or consent to the extension of the time for the payment of any Bond or claim for interest on any of the Bonds and will not, directly or indirectly, be a party to or approve any such arrangement by purchasing or funding the Bonds or claims for interest in any other manner. In case the maturity of any such Bond or claim for interest will be extended or funded, whether or not with the consent of the Authority or the Administrator, such Bond or claim for interest so extended or funded will not be

entitled, in case of default under the Indenture, to the benefits of the Indenture, except subject to the prior payment in full of the principal of all of the Bonds then Outstanding and of all claims for interest which will not have been so extended or funded.

***Enforcement of Irrevocable Instructions.*** The Administrator, on behalf of the Authority, covenants to take such actions within its power as may be reasonable and necessary to compel the County Auditor-Controller to comply with the direction set forth in the Irrevocable Instructions to transfer to the Trustee for deposit in the Debt Service Fund, all of the Pledged Tax Revenues in the amounts and at the times provided in the California Health and Safety Code and other applicable law.

***Payment of Claims.*** The Administrator, on behalf of the Authority, will promptly pay and discharge from funds in the Administrative Expense Fund, or cause to be paid and discharged, any and all lawful claims for labor, materials or supplies which, if unpaid, might become a lien or charge upon the Pledged Tax Revenues or any part thereof, or upon any funds in the hands of the Trustee, or which might impair the security of the Bonds. Nothing contained in the Indenture will require the Administrator to make any such payment so long as the Administrator in good faith will contest the validity of said claims or if there are not sufficient funds in the Administrative Expense Fund to make such payment.

***Books and Accounts; Financial Statements.*** The Administrator, on behalf of the Authority, will keep, or cause to be kept, proper books of record and accounts, separate from all other records and accounts of the Administrator, in which complete and correct entries will be made of all transactions relating to the Pledged Tax Revenues and the Administrative Expense Fund. Such books of record and accounts will at all times during business hours be subject to the inspection of the Owners of not less than ten percent (10%) in aggregate principal amount of the Bonds then Outstanding, or their representatives authorized in writing.

***Protection of Security and Rights of Owners.*** The Administrator, on behalf of the Authority, will preserve and protect the security of the Bonds and the rights of the Owners. From and after the Closing Date with respect to the Bonds, the Bonds will be incontestable by the Authority or the Administrator.

***Maintenance of Pledged Tax Revenues.*** The Authority (prior to the Dissolution Date) and the Administrator on behalf of the Authority (after the Dissolution Date) will comply with all requirements of the California Health and Safety Code to ensure the allocation and payment to the Trustee of the Pledged Tax Revenues pursuant to the Irrevocable Instructions or otherwise. The Authority will not undertake proceedings for amendment of the Reuse Plan or the Authority's transition plan if such amendment will result in a reduction in the amount of Pledged Tax Revenues available to pay the Bonds.

***Continuing Disclosure.*** The Administrator covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Certificate. Notwithstanding any other provision of the Indenture, failure of the Administrator to comply with the Continuing Disclosure Certificate will not be considered an Event of Default; however, any Owner or beneficial owner of the Bonds may take such actions as may be necessary and appropriate to compel performance, including seeking mandate or specific performance by court order.

***Further Assurances.*** The Authority and the Administrator, as applicable, will adopt, make, execute and deliver any and all such further resolutions, instruments and assurances as may be reasonably necessary or proper to carry out the intention or to facilitate the performance of the Indenture, and for the better assuring and confirming unto the Owners of the Bonds the rights and benefits provided in the Indenture.



## The Trustee

*Duties, Immunities and Liabilities of Trustee.* The Trustee will, prior to the occurrence of an Event of Default, and after the curing or waiver of all Events of Default which may have occurred, perform such duties and only such duties as are specifically set forth in the Indenture and no implied covenants, duties or obligations will be read into the Indenture against the Trustee. The Trustee will, during the existence of any Event of Default (which has not been cured or waived), exercise such of the rights and powers vested in it by the Indenture, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

The Administrator may remove the Trustee at any time, and will remove the Trustee (i) if at any time requested to do so by an instrument or concurrent instruments in writing signed by the Owners of not less than a majority in aggregate principal amount of the Bonds then Outstanding (or their attorneys duly authorized in writing) or (ii) if at any time the Administrator has knowledge that the Trustee will cease to be eligible in accordance with subsection (f) of this Section, or will become incapable of acting, or will be adjudged a bankrupt or insolvent, or a receiver of the Trustee or its property will be appointed, or any public officer will take control or charge of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation. In each case such removal will be accomplished by the giving of written notice of such removal by the Administrator to the Trustee, whereupon the Administrator will appoint a successor Trustee by an instrument in writing.

The Trustee may at any time resign by giving written notice of such resignation to the Administrator and by giving the Owners notice of such resignation by first class mail, postage prepaid, at their respective addresses shown on the Registration Books. Upon receiving such notice of resignation, the Administrator will promptly appoint a successor Trustee by an instrument in writing, with notice of such appointment to be furnished to any Insurer.

Any removal or resignation of the Trustee and appointment of a successor Trustee will become effective only upon acceptance of appointment by the successor Trustee. If no successor Trustee will have been appointed and have accepted appointment within forty-five (45) days of giving notice of removal or notice of resignation as aforesaid, the resigning Trustee or any Owner (on behalf of such Owner and all other Owners) may petition any court of competent jurisdiction at the expense of the Administrator for the appointment of a successor Trustee, and such court may thereupon, after such notice (if any) as it may deem proper, appoint such successor Trustee. Any successor Trustee appointed under the Indenture will signify its acceptance of such appointment by executing, acknowledging and delivering to the Administrator and to its predecessor Trustee a written acceptance thereof, and thereupon such successor Trustee, without any further act, deed or conveyance, will become vested with all the moneys, estates, properties, rights, powers, trusts, duties and obligations of such predecessor Trustee, with like effect as if originally named Trustee in the Indenture; but, nevertheless at the Written Request of the Administrator or the request of the successor Trustee, such predecessor Trustee will execute and deliver any and all instruments of conveyance or further assurance and do such other things as may reasonably be required for more fully and certainly vesting in and confirming to such successor Trustee all the right, title and interest of such predecessor Trustee in and to any property held by it under the Indenture and will pay over, transfer, assign and deliver to the successor Trustee any money or other property subject to the trusts and conditions in the Indenture set forth. Upon request of the successor Trustee, the Administrator will execute and deliver any and all instruments as may be reasonably required for more fully and certainly vesting in and confirming to such successor Trustee all such moneys, estates, properties, rights, powers, trusts, duties and obligations. Upon acceptance of appointment by a successor Trustee as provided in this subsection, the Administrator will cause either the predecessor Trustee or the successor Trustee to mail a notice of the succession of such Trustee to the trusts under the Indenture to each rating agency which then has a current rating on the Bonds and to the Owners at their respective addresses shown on the Registration Books.

If an Event of Default under the Indenture occurs with respect to any Bonds of which the Trustee has been given or is deemed to have notice, as provided under the Indenture, then the Trustee will immediately give written notice thereof, by first-class mail to the Owner of each such Bond, unless such Event of Default will have been cured before the giving of such notice; provided, however, that unless such Event of Default consists of the failure to make any payment on the Bonds when due, the Trustee will, within thirty (30) days of the Trustee's knowledge thereof, give such notice to the Bondowners, provided that the Trustee may elect not to give such notice if and so long as the Trustee in good faith determines that it is in the best interests of the Bondowners not to give such notice.

The Authority and the Administrator agree that, so long as any Bonds are Outstanding, the Trustee will be a financial institution having a trust office in the State, having (or in the case of a corporation or trust company included in a bank holding company system, the related bank holding company will have) a combined capital and surplus of at least \$75,000,000, and subject to supervision or examination by federal or state authority. If such financial institution publishes a report of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority above referred to, then for the purpose of this subsection the combined capital and surplus of such financial institution will be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. In case at any time the Trustee will cease to be eligible in accordance with the provisions of this subsection (f), the Trustee will resign immediately in the manner and with the effect specified in this Section.

***Merger or Consolidation.*** Any company into which the Trustee may be merged or converted or with which it may be consolidated or any company resulting from any merger, conversion or consolidation to which it will be a party or any company to which the Trustee may sell or transfer all or substantially all of its corporate trust business, provided such company will be eligible under the applicable provision of the Indenture, will be the successor to such Trustee without the execution or filing of any paper or any further act, anything in the Indenture to the contrary notwithstanding.

***Liability of Trustee.*** The recitals of facts in the Indenture and in the Bonds contained will be taken as statements of the Authority and the Trustee will not assume responsibility for the correctness of the same, nor make any representations as to the validity or sufficiency of the Indenture or of the security for the Bonds nor will incur any responsibility in respect thereof, other than as expressly stated in the Indenture. The Trustee will, however, be responsible for its representations contained in its certificate of authentication on the Bonds. The Trustee will not be liable in connection with the performance of its duties under the Indenture, except for its own negligence or misconduct. The Trustee will not be liable for the acts of any agents of the Trustee selected by it with due care. The Trustee and its officers and employees may become the Owner of any Bonds with the same rights it would have if they were not Trustee and, to the extent permitted by law, may act as depository for and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of the Owners, whether or not such committee will represent the Owners of a majority in principal amount of the Bonds then Outstanding.

The Trustee will not be liable with respect to any action taken or omitted to be taken by it in accordance with the direction of the Owners of not less than a majority in aggregate principal amount of the Bonds at the time Outstanding relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under the Indenture.

The Trustee will not be liable for any action taken by it and believed by it to be authorized or within the discretion or rights or powers conferred upon it by the Indenture, except for actions arising from the negligence or misconduct of the Trustee. Where the Trustee is given the permissive right to do things enumerated in the Indenture, such right will not be construed as a mandatory duty.

The Trustee will not be deemed to have knowledge of any Event of Default under the Indenture unless and until a responsible officer will have actual knowledge thereof, or will have received written notice thereof from the Administrator at its Principal Corporate Trust Office. In the

absence of such actual knowledge or notice, the Trustee may conclusively assume that no Event of Default has occurred and is continuing under the Indenture. Except as otherwise expressly provided in the Indenture, the Trustee will not be bound to ascertain or inquire as to the performance or observance by any other party of any of the terms, conditions, covenants or agreements in the Indenture or of any of the documents executed in connection with the Bonds, or as to the existence of an Event of Default thereunder. The Trustee will not be responsible for the validity or effectiveness of any collateral given to or held by it. Without limiting the generality of the foregoing, the Trustee may rely conclusively on the Administrator's certificates to establish the Administrator's compliance with its financial covenants under the Indenture, including, without limitation, its covenants regarding the deposit of Pledged Tax Revenues into the Debt Service Fund.

The Trustee will have no liability or obligation to the Bondowners with respect to the payment of debt service on the Bonds or with respect to the observance or performance by the Authority or the Administrator of the other conditions, covenants and terms contained in the Indenture.

No provision of the Indenture will require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties under the Indenture, or in the exercise of any of its rights or powers. The Trustee will be entitled to interest on all amounts advanced by it at the maximum rate permitted by law.

The Trustee may execute any of the trusts or powers under the Indenture or perform any duties under the Indenture either directly or by or through agents, attorneys or receivers and the Trustee will not be responsible for any intentional misconduct or negligence on the part of any agent, attorney or receiver appointed with due care by it under the Indenture.

The Trustee will have no responsibility, opinion, or liability with respect to any information, statements or recital in any offering memorandum or other disclosure material prepared or distributed with respect to the issuance of the Bonds.

Before taking any action at the request of the Owners, the Trustee may require that a satisfactory indemnity bond be furnished by the Owners for the reimbursement of all expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from its negligence or willful misconduct in connection with any action so taken.

The Trustee agrees to accept and act upon instructions or directions pursuant to the Indenture sent by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods, provided, however, that, the Trustee will have received an incumbency certificate listing persons designated to give such instructions or directions and containing specimen signatures of such designated persons, which such incumbency certificate will be amended and replaced whenever a person is to be added or deleted from the listing. If the Authority or the Administrator elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions will be deemed controlling. The Trustee will not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The Authority or the Administrator, as applicable, agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

The Trustee will not be liable to the parties to the Indenture or deemed in breach or default under the Indenture if and to the extent its performance under the Indenture is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the Trustee and could not have been avoided by exercising due care. Force majeure will include but not be limited to acts of God, terrorism, war, riots, strikes, fire, floods, earthquakes, epidemics or other similar occurrences.

The Trustee will not be responsible for or accountable to anyone for the subsequent use or application of any moneys which will be released or withdrawn in accordance with the provisions thereof.

***Right to Rely on Documents and Opinions.*** The Trustee will have no liability in acting upon any notice, resolution, request, consent, order, certificate, report, opinion, facsimile transmission, electronic mail, or other paper or document reasonably believed by it to be genuine and to have been signed or prescribed by the proper party or parties, and will not be required to make any investigation into the facts or matters contained thereon. The Trustee may consult with counsel, including, without limitation, counsel of or to the Authority, with regard to legal questions, and, in the absence of negligence or intentional misconduct by the Trustee, the opinion of such counsel will be full and complete authorization and protection in respect of any action taken or suffered by the Trustee under the Indenture in accordance therewith.

The Trustee will not be bound to recognize any person as the Owner of a Bond unless and until such Bond is submitted for inspection, if required, and his title thereto is established to the satisfaction of the Trustee.

Whenever in the administration of the trusts imposed upon it by the Indenture the Trustee will deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action under the Indenture, such matter (unless other evidence in respect thereof be in the Indenture specifically prescribed) may be deemed to be conclusively proved and established by a Written Certificate of the Authority or a Written Certificate of the Administrator, which will be full warrant to the Trustee for any action taken or suffered under the provisions of the Indenture in reliance upon such written certificate, but in its discretion the Trustee may, in lieu thereof, accept other evidence of such matter or may require such additional evidence as it may deem reasonable. The Trustee may conclusively rely on any certificate or report of any Independent Accountant or Independent Fiscal Consultant appointed by the Administrator.

***Preservation and Inspection of Documents.*** All documents received by the Trustee under the provisions of the Indenture will be retained in its possession and will be subject at all reasonable times upon reasonable notice to the inspection of and copying by the Administrator and any Owner, and their agents and representatives duly authorized in writing, during regular business hours and under reasonable conditions.

***Compensation and Indemnification.*** The Administrator will pay to the Trustee from time to time, solely from amounts in the Administrative Expense Account, reasonable compensation for all services rendered under the Indenture in accordance with the letter proposal from the Trustee approved by the Authority and/or the Administrator, as applicable, and also all reasonable expenses, charges, legal and consulting fees and other disbursements and those of its attorneys (including the allocated costs and disbursement of in-house counsel to the extent such services are not redundant with those provided by outside counsel), agents and employees, incurred in and about the performance of its powers and duties under the Indenture. The Trustee will have a lien on the Pledged Tax Revenues and all funds and accounts held by the Trustee under the Indenture, subordinate to the lien of the Bondowners thereon, to secure the payment to the Trustee of all fees, costs and expenses, including reasonable compensation to its experts, attorneys and counsel (including the allocated costs and disbursement of in-house counsel to the extent such services are not redundant with those provided by outside counsel).

The Administrator further covenants and agrees to indemnify, defend and save the Trustee and its officers, directors, agents and employees, harmless against any loss, expense and liabilities including legal fees and expenses which it may incur to the extent arising out of or in connection with the exercise and performance of its powers and duties under the Indenture, including the costs and expenses of defending against any claim of liability, but excluding any and all losses, expenses and liabilities which are due to the negligence or misconduct of the Trustee, its officers, directors, agents

or employees. The obligations of the Administrator and the rights of the Trustee under this Section 6.06 will survive resignation or removal of the Trustee under the Indenture and payment of the Bonds and discharge of the Indenture.

The Trustee's compensation under the Indenture will constitute an Administrative Expense.

**Accounting Records and Financial Statements.** The Trustee will at all times keep, or cause to be kept, proper books of record and account, prepared in accordance with corporate trust industry standards, in which complete and accurate entries will be made of all transactions relating to the proceeds of the Bonds made by it and all funds and accounts held by the Trustee established pursuant to the Indenture. Such books of record and account maintained by the Trustee will be available for inspection by the Administrator upon reasonable prior notice, at reasonable hours and under reasonable circumstances. The Trustee will furnish to the Administrator, on at least a monthly basis, an accounting of all transactions in the form of its customary statements relating to the proceeds of the Bonds and all funds and accounts held by the Trustee pursuant to the Indenture.

**Other Transactions with Administrator.** The Trustee, either as principal or agent, may engage in or be interested in any financial or other transaction with the Administrator.

### **Modification and Amendment**

The Indenture and the rights and obligations of the Authority, the Administrator, the Trustee and of the Owners may be modified or amended at any time by a Supplemental Indenture which will become binding upon adoption without the consent of any Owners to the extent permitted by law, but only for any one or more of the following purposes:

(a) to add to the covenants and agreements of the Authority, or of the Administrator for itself or on behalf of the Authority, in the Indenture contained, other covenants and agreements thereafter to be observed, including any covenant or agreement that provides for additional security for the Bonds, or to limit or surrender any rights or powers in the Indenture reserved to or conferred upon the Authority or the Administrator; or

(b) to make such provisions for the purpose of curing any ambiguity, or of curing, correcting or supplementing any defective provision contained in the Indenture, or in any other respect whatsoever as the Administrator may deem necessary or desirable, provided under any circumstances that such modifications or amendments will not, in the reasonable determination of the Administrator, materially adversely affect the interests of the Owners; or

(c) to comply with additional requirements of a provider of a Qualified Reserve Account Credit Instrument; provided that such amendment does not have an adverse impact on the Insurer's rights under the Indenture or the availability of Pledged Tax Revenues for the Bonds.

Except as set forth in the preceding paragraph, the Indenture and the rights and obligations of the Authority, or of the Administrator for itself or on behalf of the Authority, and of the Owners may be modified or amended at any time by a Supplemental Indenture which will become binding when the prior written consent of the Owners of a majority in aggregate principal amount of the Bonds then Outstanding are filed with the Trustee. No such modification or amendment will (a) extend the maturity of or reduce the interest rate on any Bond or otherwise alter or impair the obligation of the Authority, or of the Administrator on behalf of the Authority, to pay the principal, interest, or redemption premiums (if any) at the time and place and at the rate and in the currency provided therein of any Bond without the express written consent of the Owner of such Bond, or (b) reduce the percentage of Bonds required for the written consent to any such amendment or modification. In no event will any Supplemental Indenture modify any of the rights or obligations of the Trustee without its prior written consent. In no event will any Supplemental Indenture modify any of the rights or obligations of any Insurer without its prior written consent.

***Effect of Supplemental Indenture.*** From and after the time any Supplemental Indenture becomes effective, the Indenture will be deemed to be modified and amended in accordance therewith, the respective rights, duties and obligations of the parties to the Indenture or thereto and all Owners, as the case may be, will thereafter be determined, exercised and enforced under the Indenture subject in all respects to such modification and amendment, and all the terms and conditions of any Supplemental Indenture will be deemed to be part of the terms and conditions of the Indenture for any and all purposes.

***Endorsement or Replacement of Bonds After Amendment.*** After the effective date of any amendment or modification thereof pursuant to this Article VII, the Administrator may determine that any or all of the Bonds will bear a notation, by endorsement in form approved by the Administrator, as to such amendment or modification and in that case upon demand of the Administrator the Owners of such Bonds will present such Bonds for that purpose at the Principal Corporate Trust Office of the Trustee, and thereupon a suitable notation as to such action will be made on such Bonds. In lieu of such notation, the Administrator may determine that new Bonds will be prepared at the expense of the Administrator and executed in exchange for any or all of the Bonds, and in that case, upon demand of the Administrator, the Owners of the Bonds will present such Bonds for exchange at the Principal Corporate Trust Office of the Trustee, without cost to such Owners.

***Amendment by Mutual Consent.*** The Indenture does not prevent any Owner from accepting any amendment as to the particular Bond held by such Owner, provided that due notation thereof is made on such Bond and, provided further that written consent to such amendment will first be obtained from any Insurer.

***Opinion of Counsel.*** Prior to executing any Supplemental Indenture, the Trustee will be furnished an opinion of counsel, upon which it may conclusively rely to the effect that all conditions precedent to the execution of such Supplemental Indenture under the Indenture have been satisfied and such Supplemental Indenture is authorized and permitted under the Indenture and does not adversely affect the exclusion of interest on the Bonds issued as tax-exempt bonds from gross income for federal income tax purposes or adversely affect the exemption of interest on the Bonds from personal income taxation by the State.

***Copy of Supplemental Indenture to S&P and Moody's.*** The Trustee will provide to S&P and Moody's, for so long as S&P and Moody's, as the case may be, maintain a rating on any of the Bonds (without regard to any municipal bond or financial guaranty insurance), a copy of any Supplemental Indenture at least fifteen (15) days prior to its proposed effective date.

## **Events of Default and Remedies**

The following events will constitute Events of Default under the Indenture:

(a) if default will be made in the due and punctual payment of the principal of or interest or redemption premium (if any) on any Bond when and as the same will become due and payable, whether at maturity as therein expressed, by declaration or otherwise;

(b) if default will be made by the Authority or the Administrator in the observance of any of the covenants, agreements or conditions on its respective part in the Indenture or in the Bonds contained, other than a default described in the preceding clause (a), and such default will have continued for a period of thirty (30) days following receipt by the Authority and the Administrator (prior to the Dissolution Date), or to the Administrator (from and after the Dissolution Date) of written notice from the Trustee or written notice from any Owner (with a copy of said notice delivered to the Trustee) of the occurrence of such default, provided that if in the reasonable opinion of the Administrator the failure stated in the notice can be corrected, but not within such thirty (30) day period, such failure will not constitute an event of default if corrective action is instituted by the Administrator within such thirty (30) day

period and the Administrator thereafter diligently and in good faith cures such failure in a reasonable period of time; or

(c) If the Authority or the Administrator files a petition seeking reorganization or arrangement under the federal bankruptcy laws or any other applicable law of the United States of America, or if a court of competent jurisdiction will approve a petition by the Administrator seeking reorganization under the federal bankruptcy laws or any other applicable law of the United States of America, or, if under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction will approve a petition by the Authority or the Administrator, seeking reorganization under the federal bankruptcy laws or any other applicable law of the United States of America, or, if under the provisions of any other law for the relief or aid of debtors, any court of competent jurisdiction will assume custody or control of the Authority or the Administrator or of the whole or any substantial part of its respective property.

Immediately upon receiving notice or actual knowledge of the occurrence of an Event of Default, the Trustee will give notice of such Event of Default to the Authority and the Administrator (if prior to the Dissolution Date) or the Administrator (from and after the Dissolution Date) confirmed in writing. With respect to any Event of Default described in subsections (a) or (c) above the Trustee will, and with respect to any Event of Default described in subsection (b) above the Trustee in its sole discretion may, also give such notice to the Owners by mail.

If an Event of Default has occurred under the Indenture and is continuing, the Trustee, may, and, if requested in writing by the Owners of a majority in aggregate principal amount of the Bonds then Outstanding, the Trustee will, subject to applicable provision of the Indenture, exercise any remedies available to the Trustee and the Bondowners in law or at equity, including mandamus.

Any Bondowner will have the right, for the equal benefit and protection of all Bondowners similarly situated:

(a) by mandamus, suit, action or proceeding, to compel the Successor Agency and its Board members, officers, agents or employees to perform each and every term, provision and covenant contained in the Indenture and in the Bonds, and to require the carrying out of any or all such covenants and agreements of the Successor Agency and the fulfillment of all duties imposed upon it;

(b) by suit, action or proceeding in equity, to enjoin any acts or things which are unlawful, or the violation of any of the Bondowners' rights; or

(c) upon the happening of any Event of Default, by suit, action or proceeding in any court of competent jurisdiction, to require the Successor Agency and its Board members and employees to account as if it and they were the trustees of an express trust.

***Application of Funds Upon Default.*** So long as an Event of Default has occurred and is continuing, all amounts received by the Trustee pursuant to any right given or action taken by the Trustee under the provisions of the Indenture (including any Pledged Tax Revenues) and all sums in the funds and accounts established and held by the Trustee under the Indenture, and all sums thereafter received by the Trustee under the Indenture, will be applied by the Trustee in the following order upon presentation of the Bonds, and the stamping thereon of the payment if only partially paid, or upon the surrender thereof if fully paid:

First, to the payment of the fees, costs and expenses of the Trustee in declaring such Event of Default and in exercising the rights and remedies set forth in the Indenture, including reasonable compensation to its agents, attorneys (including the allocated costs and disbursements of its in-house counsel to the extent such services are not redundant with those

provided by outside counsel) and counsel and any outstanding fees and expenses of the Trustee; and

Second, to the payment of the whole amount then owing and unpaid upon the Bonds for principal and interest, as applicable, with interest on the overdue principal, and installments of interest at the net effective rate then borne by the Outstanding Bonds (to the extent that such interest on overdue installments of principal and interest will have been collected), and in case such moneys will be insufficient to pay in full the whole amount so owing and unpaid upon the Bonds, then to the payment of such principal and interest without preference or priority, ratably to the aggregate of such principal and interest.

***Power of Trustee to Control Proceedings.*** In the event that the Trustee, upon the happening of an Event of Default, will have taken any action, by judicial proceedings or otherwise, pursuant to its duties under the Indenture, whether upon its own discretion or upon the request of the Owners of a majority in principal amount of the Bonds then Outstanding, it will have full power, in the exercise of its discretion for the best interests of the Owners of the Bonds, with respect to the continuance, discontinuance, withdrawal, compromise, settlement or other disposal of such action; provided, however, that the Trustee will not, unless there no longer continues an Event of Default, discontinue, withdraw, compromise or settle, or otherwise dispose of any litigation pending at law or in equity, if at the time there has been filed with it a written request signed by the Owners of a majority in principal amount of the Outstanding Bonds under the Indenture opposing such discontinuance, withdrawal, compromise, settlement or other disposal of such litigation.

***Limitation on Owner's Right to Sue.*** No Owner of any Bond issued under the Indenture will have the right to institute any suit, action or proceeding at law or in equity, for any remedy under or upon the Indenture, unless (a) such Owner will have previously given to the Authority and the Administrator (prior to the Dissolution Date) or the Administrator (from and after the Dissolution Date), and the Trustee written notice of the occurrence of an Event of Default; (b) the Owners of a majority in aggregate principal amount of all the Bonds then Outstanding will have made written request upon the Trustee to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name; (c) said Owners will have tendered to the Trustee indemnity reasonably acceptable to the Trustee against the costs, expenses and liabilities to be incurred in compliance with such request; and (d) the Trustee will have refused or omitted to comply with such request for a period of sixty (60) days after such written request will have been received by, and said tender of indemnity will have been made to, the Trustee.

Such notification, request, tender of indemnity and refusal or omission are hereby declared, in every case, to be conditions precedent to the exercise by any Owner of any remedy under the Indenture; it being understood and intended that no one or more Owners will have any right in any manner whatever by his or their action to enforce any right under the Indenture, except in the manner in the Indenture provided, and that all proceedings at law or in equity to enforce any provision of the Indenture will be instituted, had and maintained in the manner in the Indenture provided and for the equal benefit of all Owners of the Outstanding Bonds.

The right of any Owner of any Bond to receive payment of the principal of (and premium, if any) and interest on such Bond as in the Indenture provided, will not be impaired or affected without the written consent of such Owner, notwithstanding the foregoing provisions of this Section or any other provision of the Indenture.

***Non-Waiver.*** Nothing in the Indenture or in the Bonds will affect or impair the obligation of the Authority, and the Administrator on behalf of the Authority, which is absolute and unconditional, to pay from the Pledged Tax Revenues and other amounts pledged under the Indenture, the principal of and interest and redemption premium (if any) on the Bonds to the respective Owners on the respective Interest Payment Dates, as in the Indenture provided, or affect or impair the right of action, which is also absolute and unconditional, of the Owners or the Trustee to institute suit to enforce such payment by virtue of the contract embodied in the Bonds.



A waiver of any default by any Owner or the Trustee will not affect any subsequent default or impair any rights or remedies on the subsequent default. No delay or omission of any Owner to exercise any right or power accruing upon any default will impair any such right or power or will be construed to be a waiver of any such default or an acquiescence therein, and every power and remedy conferred upon the Owners and the Trustee by the Marks-Roos Act or by the Indenture may be enforced and exercised from time to time and as often as will be deemed expedient by the Owners and the Trustee.

If a suit, action or proceeding to enforce any right or exercise any remedy will be abandoned or determined adversely to the Owners or the Trustee, the Authority, the Administrator, the Trustee and the Owners will be restored to their former positions, rights and remedies as if such suit, action or proceeding had not been brought or taken.

**Remedies Not Exclusive.** No remedy in the Indenture conferred upon or reserved to the Owners is intended to be exclusive of any other remedy. Every such remedy will be cumulative and will be in addition to every other remedy given under the Indenture or now or hereafter existing, at law or in equity or by statute or otherwise, and may be exercised without exhausting and without regard to any other remedy conferred by the Marks-Roos Act or any other law.

## **The Administrator**

**Duties, Immunities and Liabilities of Administrator.** The Administrator is entering into the Indenture solely as an accommodation to the Authority, the Trustee and the Bondowners in light of the dissolution of the Authority on the Dissolution Date. To that end, the Administrator will be obligated to perform such duties and only such duties as are specifically set forth in the Indenture to be performed by it and no implied covenants, duties or obligations will be read into the Indenture against the Administrator. Where the Administrator is given the permissive right to do things enumerated in the Indenture, such right will not be construed as a mandatory duty.

**Liability of Administrator.** The Administrator will have no obligation to use any of its own funds (i) to make payments on the Bonds or to the Trustee in respect thereof, or (ii) to pay any costs or expenses of the Trustee, except from amounts in the Administrative Expense Account. The recitals of facts in the Indenture and in the Bonds contained will be taken as statements of the Authority, and the Administrator will not assume responsibility for the correctness of the same, nor make any representations as to the validity or sufficiency of the Indenture or of the security for the Bonds nor will incur any responsibility in respect thereof. The Administrator will not be liable in connection with the performance of its duties under the Indenture, except for its own negligence or misconduct.

The Administrator will not be liable for any action taken by it and believed by it to be authorized or within the discretion or rights or powers conferred upon it by the Indenture, except for actions arising from the negligence or misconduct of the Administrator.

The Administrator will not be deemed to have knowledge of any Event of Default under the Indenture unless and until it will have received written notice thereof from the Trustee or an owner of the Bonds. In the absence of such actual knowledge or notice, the Administrator may conclusively assume that no Event of Default has occurred and is continuing under the Indenture. Except as otherwise expressly provided in the Indenture, the Administrator will not be bound to ascertain or inquire as to the performance or observance by any other party of any of the terms, conditions, covenants or agreements in the Indenture or of any of the documents executed in connection with the Bonds, or as to the existence of any default thereunder.

No provision of the Indenture will require the Administrator to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties under the Indenture, or in the exercise of any of its rights or powers, if amounts in the Administrative Expense Account are

not available for that purpose. Nonetheless, the Administrator will be entitled to interest on any amounts voluntarily advanced by it from its own funds at the maximum rate permitted by law.

The Administrator will have no responsibility, opinion, or liability with respect to any information, statements or recital in any offering memorandum or other disclosure material prepared or distributed with respect to the issuance of the Bonds.

The Administrator will not be liable to the parties to the Indenture or deemed in breach or default under the Indenture if and to the extent its performance under the Indenture is prevented by reason of force majeure. The term "force majeure" means an occurrence that is beyond the control of the Administrator and could not have been avoided by exercising due care. Force majeure will include but not be limited to acts of God, terrorism, war, riots, strikes, fire, floods, earthquakes, epidemics or other similar occurrences.

The Administrator will not be responsible for or accountable to anyone for the subsequent use or application of any moneys which are transferred to Local Agencies in accordance with the provisions thereof.

### **Discharge of Indenture**

If the Administrator will cause to be paid from the Pledged Tax Revenues or amounts in the funds and accounts created under the Indenture and discharge the entire indebtedness on all Bonds or any portion thereof in any one or more of the following ways:

(a) by well and truly paying or causing to be paid the principal of and interest and premium (if any) on all or the applicable portion of Outstanding Bonds, as and when the same become due and payable;

(b) by irrevocably depositing with the Trustee or an escrow agent, in trust, at or before maturity, money which, together with the available amounts then on deposit in the funds and accounts established pursuant to the Indenture, is fully sufficient to pay all or the applicable portion of Outstanding Bonds, including all principal, interest and redemption premiums, or;

(c) by irrevocably depositing with the Trustee or an escrow agent, in trust, Defeasance Obligations in such amount as an Independent Accountant will determine will, together with such other money as may be deposited with the Trustee plus the interest to accrue thereon and available moneys then on deposit in the funds and accounts established pursuant to the Indenture, be fully sufficient to pay and discharge the indebtedness on all Bonds or the applicable portion thereof (including all principal, interest and redemption premiums) at or before maturity;

and, if such Bonds are to be redeemed prior to the maturity thereof, notice of such redemption will have been given pursuant to the applicable provision of the Indenture or provision satisfactory to the Trustee will have been made for the giving of such notice, then, at the election of the Administrator, and notwithstanding that any Bonds will not have been surrendered for payment, the pledge of the Pledged Tax Revenues and other funds provided for in the Indenture and all other obligations of the Trustee, the Authority and the Administrator under the Indenture will cease and terminate with respect to all Outstanding Bonds or, if applicable, with respect to that portion of the Bonds which has been paid and discharged, except only (A) the obligation of the Trustee to transfer and exchange Bonds under the Indenture, (B) the obligations of the Administrator under the Indenture, and (C) the obligation of the Administrator to pay or cause to be paid to the Owners from the amounts so deposited with the Trustee, all sums due thereon and to pay the Trustee all fees, expenses and costs of the Trustee. In the event the Administrator will, pursuant to the foregoing provision, pay and discharge any portion or all of the Bonds then Outstanding, the Trustee will be authorized to take such actions and execute and deliver to the Administrator all such instruments as may be necessary

or desirable to evidence such discharge, including, without limitation, selection by lot of Bonds of any maturity of the Bonds that the Administrator has determined to pay and discharge in part.

In the case of a defeasance or payment of all of the Bonds Outstanding, any funds thereafter held by the Trustee which are not required for said purpose or for payment of amounts due the Trustee will be paid over to the Administrator and applied by the Administrator consistent with the Fort Ord Reuse Authority Act and the Marks-Roos Act, as applicable.

**The Insurance Policy**

[To come]

**The Reserve Policy**

[To come]

## APPENDIX B

### FORM OF OPINION OF BOND COUNSEL

June \_\_, 2020

Fort Ord Reuse Authority  
920 2nd Avenue, Suite A  
Marina, California 93933

**OPINION:** \$\_\_\_\_\_ Fort Ord Reuse Authority Tax Allocation Bonds, Series 2020  
(Federally Taxable)

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Members of the Authority:

We have acted as bond counsel in connection with the issuance by the Fort Ord Reuse Authority (the "Authority"), of its \$\_\_\_\_\_ Fort Ord Reuse Authority Tax Allocation Bonds, Series 2020 (Federally Taxable) (the "2020A Bonds"), pursuant to the provisions of Section 67679(d)(9) of the California Government Code (the "Law"), Resolution No. 19-13 adopted by the Board of Directors of the Authority on December 13, 2019, and an Indenture of Trust, dated as of June 1, 2020 (the "Indenture"), by and among the Authority, the City of Marina, California, as administrator, and U.S. Bank National Association, as trustee.

In connection with this opinion, we have examined the law and such certified proceedings and other papers as we deem necessary to render this opinion. As to questions of fact material to our opinion, we have relied upon representations of the Authority contained in the Indenture and in the certified proceedings and certifications of public officials and others furnished to us, without undertaking to verify the same by independent investigation.

Based upon the foregoing we are of the opinion, under existing law, as follows:

1. The Authority is a public corporation of the State of California, duly created and validly existing, with the power to enter into the Indenture, perform the agreements on its part contained therein and issue the Bonds.
2. The Indenture has been duly approved by the Authority and constitutes a valid and binding obligation of the Authority enforceable upon the Authority in accordance with its terms.
3. Pursuant to the Law, the Indenture creates a valid lien on the funds pledged by the Indenture for the security of the Bonds.
4. The Bonds have been duly authorized, executed and delivered by the Authority and are valid and binding special obligations of the Authority, payable solely from the sources provided therefor in the Indenture.
5. The interest on the Bonds is exempt from personal income taxation imposed by the State of California.

Ownership of the Bonds may result in other tax consequences to certain taxpayers, and we express no opinion regarding any such collateral consequences arising with respect to the Bonds.

The rights of the owners of the Bonds and the enforceability of the Bonds and the Indenture may be subject to bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors' rights heretofore or hereafter enacted and also may be subject to the exercise of judicial discretion in accordance with general principles of equity.

In rendering this opinion, we have relied upon certifications of the Authority and others with respect to certain material facts. Our opinion represents our legal judgment based upon such review of the law and the facts that we deem relevant to render our opinion and is not a guarantee of a result. This opinion is given as of the date hereof and we assume no obligation to revise or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention or any changes in law that may hereafter occur.

Respectfully submitted,

## APPENDIX C

### BOOK-ENTRY ONLY SYSTEM

The information in this Appendix C concerning The Depository Trust Company (“DTC”), New York, New York, and DTC’s book-entry system has been obtained from DTC and the Authority takes no responsibility for the completeness or accuracy thereof. The Authority cannot and does not give any assurances that DTC, DTC Participants or Indirect Participants will distribute to the Beneficial Owners (a) payments of interest, principal or premium, if any, with respect to the Bonds, (b) certificates representing ownership interest in or other confirmation or ownership interest in the Bonds, or (c) redemption or other notices sent to DTC or Cede & Co., its nominee, as the registered owner of the Bonds, or that they will so do on a timely basis, or that DTC, DTC Participants or DTC Indirect Participants will act in the manner described in this Appendix. The current “Rules” applicable to DTC are on file with the Securities and Exchange Commission and the current “Procedures” of DTC to be followed in dealing with DTC Participants are on file with DTC.

The Depository Trust Company (“DTC”), New York, NY, will act as securities depository for the Bonds. The Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered certificate will be issued for each maturity of the Bonds, each in the aggregate principal amount of such maturity, and will be deposited with DTC.

DTC, the world’s largest securities depository, is a limited-purpose trust company organized under the New York Banking Government Code, a “banking organization” within the meaning of the New York Banking Government Code, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC’s participants (“Direct Participants”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“DTCC”). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“Indirect Participants”). DTC has a Standard & Poor’s rating of AA+. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at [www.dtcc.com](http://www.dtcc.com). The information set forth on such website is not incorporated herein by reference.

Purchases of Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Bonds on DTC’s records. The ownership interest of each actual purchaser of each Bond (“Beneficial Owner”) is in turn to be recorded on the Direct and Indirect Participants’ records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates

representing their ownership interests in Bonds, except in the event that use of the book-entry system for the Bonds is discontinued.

To facilitate subsequent transfers, all Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not affect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Bonds, such as redemptions, tenders, defaults, and proposed amendments to the Bond documents. For example, Beneficial Owners of Bonds may wish to ascertain that the nominee holding the Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

Redemption notices shall be sent to DTC. If less than all of the Bonds within a maturity are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such maturity to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to Bonds unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the Authority as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Principal, premium (if any), and interest payments on the Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the Authority or the Trustee, on payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Trustee, or the Authority, subject to any statutory or regulatory requirements as may be in effect from time to time. Principal, premium (if any), and interest payments with respect to the Bonds to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Authority or the Trustee, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as depository with respect to the Bonds at any time by giving reasonable notice to the Authority or the Trustee. Under such circumstances, in the event that a successor depository is not obtained, certificates representing the Bonds are required to be printed and delivered.

The Authority may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, representing the Bonds will be printed and delivered to DTC in accordance with the provisions of the Indenture.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that the Authority believes to be reliable, but the Authority takes no responsibility for the accuracy thereof.



## APPENDIX D

### FORM OF CONTINUING DISCLOSURE CERTIFICATE

This CONTINUING DISCLOSURE CERTIFICATE (the "Disclosure Certificate") is executed and delivered by the FORT ORD REUSE AUTHORITY (the "Authority") and the CITY OF MARINA, CALIFORNIA, in its capacity as Administrator under the Indenture defined below (the "Administrator"), in connection with the issuance of \$\_\_\_\_\_ Fort Ord Reuse Authority Tax Allocation Bonds, Series 2020 (Federally Taxable) (the "Bonds"). The Bonds are being issued pursuant to an Indenture of Trust, dated as of May 1, 2020 (the "Indenture"), by and among the Authority, the Administrator, and U.S. Bank National Association, as trustee (the "Trustee"). The Authority and the Administrator covenant and agree as follows:

Section 1. Definitions. In addition to the definitions set forth in the Indenture, which apply to any capitalized term used in this Disclosure Certificate, unless otherwise defined in this Section 1, the following capitalized terms shall have the following meanings when used in this Disclosure Certificate:

*"Annual Report"* shall mean any Annual Report provided by the Authority pursuant to, and as described in, Sections 3 and 4 of this Disclosure Certificate.

*"Beneficial Owner"* shall mean any person who (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Bonds for federal income tax purposes.

*"Dissemination Agent"* shall mean \_\_\_\_\_, or any successor Dissemination Agent designated in writing by the Administrator and which has filed with the Authority a written acceptance of such designation. In the absence of such a designation, the Administrator shall act as the Dissemination Agent.

*"EMMA"* or *"Electronic Municipal Market Access"* means the centralized on-line repository for documents to be filed with the MSRB, such as official statements and disclosure information relating to municipal bonds, notes and other securities as issued by state and local governments.

*"Listed Events"* shall mean any of the events listed in Section 5(a) or 5(b) of this Disclosure Certificate.

*"MSRB"* means the Municipal Securities Rulemaking Board, which has been designated by the Securities and Exchange Commission as the sole repository of disclosure information for purposes of the Rule, or any other repository of disclosure information which may be designated by the Securities and Exchange Commission as such for purposes of the Rule in the future.

*"Official Statement"* means the Official Statement with respect to the Bonds, dated June \_\_, 2020.

*"Participating Underwriter"* shall mean, collectively, the original underwriters of the Bonds required to comply with the Rule in connection with the offering of the Bonds.

*"Rule"* shall mean Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

Section 2. Purpose of the Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the Authority and the Administrator for the benefit of the owners and Beneficial Owners of the Bonds and in order to assist the Participating Underwriter in complying with Securities and Exchange Commission Rule 15c2-12(b)(5).

Section 3. Provision of Annual Reports.

(a) *Delivery of Annual Report*. The Administrator shall, or shall cause the Dissemination Agent to, not later than the April 1 occurring after the end of each fiscal year of the Administrator (which currently ends on June 30), commencing with the report for the 2019-20 Fiscal Year, which is due not later than April 1, 2021, file with EMMA, in a readable PDF or other electronic format as prescribed by the MSRB, an Annual Report that is consistent with the requirements of Section 4 of this Disclosure Certificate. The Annual Report may be submitted as a single document or as separate documents comprising a package and may cross-reference other information as provided in Section 4 of this Disclosure Certificate; provided that the audited financial statements of \_\_\_\_\_ may be submitted separately from the balance of the Annual Report and later than the date required above for the filing of the Annual Report if they are not available by that date.

(b) *Change of Fiscal Year*. If the Administrator's fiscal year changes, it shall give notice of such change in the same manner as for a Listed Event under Section 5(c), and subsequent Annual Report filings shall be made no later than nine months after the end of such new fiscal year end.

(c) *Delivery of Annual Report to Dissemination Agent*. Not later than fifteen (15) Business Days prior to the date specified in subsection (a) (or, if applicable, subsection (b)) of this Section 3 for providing the Annual Report to EMMA, the Administrator shall provide the Annual Report to the Dissemination Agent (if other than the Authority). If by such date, the Dissemination Agent has not received a copy of the Annual Report, the Dissemination Agent shall notify the Authority. If the Dissemination Agent has not received an Annual Report and Certification by 6:00 p.m. Eastern time on annual filing date (or, if such annual filing date falls on a Saturday, Sunday or holiday, then the first business day thereafter) for the Annual Report, a failure to file event shall have occurred and the Authority irrevocably directs the Dissemination Agent in a timely manner to send a notice to the MSRB in substantially the form attached as Exhibit A.

(d) *Report of Non-Compliance*. If the Authority is the Dissemination Agent and is unable to file an Annual Report by the date required in subsection (a) (or, if applicable, subsection (b)) of this Section 3, the Authority shall send, in a timely manner, a notice to EMMA substantially in the form attached hereto as Exhibit A. If the Authority is not the Dissemination Agent and is unable to provide an Annual Report to the Dissemination Agent by the date required in subsection (c) of this Section 3, the Dissemination Agent shall send, in a timely manner, a notice to EMMA in substantially the form attached hereto as Exhibit A.

(e) *Annual Compliance Certification*. The Dissemination Agent shall, if the Dissemination Agent is other than the Authority, file a report with the Authority certifying that the Annual Report has been filed with EMMA pursuant to Section 3 of this Disclosure Certificate, stating the date it was so provided and filed.

Section 4. Content of Annual Reports. The Annual Report shall contain or incorporate by reference the following:

(a) *Financial Statements*. Audited financial statements of \_\_\_\_\_ for the preceding fiscal year (which include financial information for the Authority), prepared in accordance with generally accepted accounting principles. If the Authority's audited financial

statements are not available by the time the Annual Report is required to be filed pursuant to Section 3(a), the Annual Report shall contain unaudited financial statements in a format similar to the financial statements contained in the final Official Statement, and the audited financial statements shall be filed in the same manner as the Annual Report when they become available.

(b) *Other Annual Information.* To the extent not included in the audited financial statements of the Authority, the Annual Report for each fiscal year shall also include financial and operating data with respect to the Authority for the most recent full fiscal year (except as provided in (4) below), as follows:

- (1) Outstanding Bond principal.
- (2) Ten Largest Property Taxpayers (substantially in the form of Table 4 in the Official Statement).
- (3) Historical Pledged Tax Revenues (substantially in the form of Table 5 in the Official Statement).
- (4) Projection of Pledged Tax Revenues available for Debt Service and Debt Service Coverage for the Bonds (and any outstanding Parity Debt) in a format similar to Table 8 in the Official Statement for the current fiscal year, but with no requirement to project future years' values and coverage.
- (5) The issuance of any Parity Debt related to the Bonds, including a description of the date of issuance, the principal amount issued and the use of proceeds thereof.
- (6) The amount of the Reserve Requirement for the Bonds as of the end of such fiscal year and the amount on deposit as of such date in the Reserve Account of the Debt Service Fund.
- (7) The amount of any reserve requirement for any outstanding Parity Debt as of the end of such fiscal year and the amount on deposit as of such date in any reserve account for such Parity Debt.

(c) *Cross References.* Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues of the Authority or related public entities, which are available to the public on EMMA. The Authority shall clearly identify each such other document so included by reference.

If the document included by reference is a final official statement, it must be available from EMMA.

(d) *Further Information.* In addition to any of the information expressly required to be provided under paragraph (b) of this Section 4, the Authority shall provide such further information, if any, as may be necessary to make the specifically required statements, in the light of the circumstances under which they are made, not misleading.

## Section 5. Reporting of Listed Events.

(a) *Reportable Events.* The Authority shall, or shall cause the Dissemination Agent (if not the Authority) to, give notice of the occurrence of any of the following events with respect to the Bonds:

- (1) Principal and interest payment delinquencies.
- (2) Unscheduled draws on debt service reserves reflecting financial difficulties.
- (3) Unscheduled draws on credit enhancements reflecting financial difficulties.
- (4) Substitution of credit or liquidity providers, or their failure to perform.
- (5) Defeasances.
- (6) Rating changes.
- (7) Tender offers.
- (8) Bankruptcy, insolvency, receivership or similar event of the obligated person.
- (9) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security.

Note: For the purposes of the event identified in subparagraph (8), the event is considered to occur when any of the following occur: the appointment of a receiver, trustee or similar officer for an obligated person in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the obligated person, or if such jurisdiction has been assumed by leaving the existing governmental body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the obligated person.

(b) *Material Reportable Events.* The Authority shall give, or cause to be given, notice of the occurrence of any of the following events with respect to the Bonds, if material:

- (1) Non-payment related defaults.
- (2) Modifications to rights of security holders.
- (3) Bond calls.

- (4) The release, substitution, or sale of property securing repayment of the securities.
- (5) The consummation of a merger, consolidation, or acquisition involving an obligated person or the sale of all or substantially all of the assets of the obligated person, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms.
- (6) Appointment of a successor or additional trustee, or the change of name of a trustee.

(c) *Time to Disclose.* The Authority shall, or shall cause the Dissemination Agent (if not the Authority) to, file a notice of such occurrence with EMMA, in an electronic format as prescribed by the MSRB, in a timely manner not in excess of 10 business days after the occurrence of any Listed Event. Notwithstanding the foregoing, notice of Listed Events described in subsection (b)(3) above need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to owners of affected Bonds under the Indenture.

Section 6. Identifying Information for Filings with EMMA. All documents provided to EMMA under this Disclosure Certificate shall be accompanied by identifying information as prescribed by the MSRB.

Section 7. Termination of Reporting Obligation. The Authority's obligations under this Disclosure Certificate shall terminate upon the defeasance, prior redemption or payment in full of all of the Bonds. If such termination occurs prior to the final maturity of the Bonds, the Authority shall give notice of such termination in the same manner as for a Listed Event under Section 5(c).

Section 8. Dissemination Agent.

(a) *Appointment of Dissemination Agent.* The Authority has initially appointed \_\_\_\_\_ as the Dissemination Agent. The Authority may, from time to time, appoint or engage a successor Dissemination Agent to assist it in carrying out its obligations under this Disclosure Certificate and may discharge any such agent, with or without appointing a successor Dissemination Agent. If the Dissemination Agent is not the Authority, the Dissemination Agent shall not be responsible in any manner for the content of any notice or report prepared by the Authority pursuant to this Disclosure Certificate. It is understood and agreed that any information that the Dissemination Agent may be instructed to file with EMMA shall be prepared and provided to it by the Authority. The Dissemination Agent has undertaken no responsibility with respect to the content of any reports, notices or disclosures provided to it under this Disclosure Certificate and has no liability to any person, including any Bond owner, with respect to any such reports, notices or disclosures. The fact that the Dissemination Agent or any affiliate thereof may have any fiduciary or banking relationship with the Authority shall not be construed to mean that the Dissemination Agent has actual knowledge of any event or condition, except as may be provided by written notice from the Authority.

(b) *Compensation of Dissemination Agent.* The Dissemination Agent shall be paid compensation by the Authority for its services provided hereunder in accordance with its schedule of fees as agreed to between the Dissemination Agent and the Authority from time to time and all expenses, legal fees and expenses and advances made or incurred by the Dissemination Agent in the performance of its duties hereunder. The Dissemination Agent shall

not be deemed to be acting in any fiduciary capacity for the Authority, owners or Beneficial Owners, or any other party. The Dissemination Agent may rely, and shall be protected in acting or refraining from acting, upon any direction from the Authority or an opinion of nationally recognized bond counsel. The Dissemination Agent may at any time resign by giving written notice of such resignation to the Authority. The Dissemination Agent shall not be liable hereunder except for its negligence or willful misconduct.

Section 9. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate, the Authority may amend this Disclosure Certificate (and the Dissemination Agent shall agree to any amendment so requested by the Authority that does not impose any greater duties or risk of liability on the Dissemination Agent), and any provision of this Disclosure Certificate may be waived, provided that all of the following conditions are satisfied:

(a) *Change in Circumstances.* If the amendment or waiver relates to the provisions of Sections 3(a), 4 or 5(a) or (b), it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature, or status of an obligated person with respect to the Bonds, or the type of business conducted.

(b) *Compliance as of Issue Date.* The undertaking, as amended or taking into account such waiver, would, in the opinion of a nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the original issuance of the Bonds, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances.

(c) *Consent of Holders; Non-impairment Opinion.* The amendment or waiver either (i) is approved by the Bond owners in the same manner as provided in the Indenture for amendments to the Indenture with the consent of Bond owners, or (ii) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the Bond owners or Beneficial Owners.

If this Disclosure Certificate is amended or any provision of this Disclosure Certificate is waived, the Authority shall describe such amendment or waiver in the next following Annual Report and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the Authority. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (i) notice of such change shall be given in the same manner as for a Listed Event under Section 5(c), and (ii) the Annual Report for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

Section 10. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the Authority from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the Authority chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Certificate, the Authority shall have no obligation under this Disclosure Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

Section 11. Default. In the event of a failure of the Authority to comply with any provision of this Disclosure Certificate, any Certificate owner or Beneficial Owner may take such actions as

may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Authority to comply with their obligations under this Disclosure Certificate. The sole remedy under this Disclosure Certificate in the event of any failure of the Authority to comply with this Disclosure Certificate shall be an action to compel performance.

Section 12. Duties, Immunities and Liabilities of Dissemination Agent. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Certificate, and no implied covenants or obligations shall be read into this Disclosure Certificate against the Dissemination Agent, and the Authority agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including attorneys' fees and expenses) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct. The obligations of the Authority under this Section 12 shall survive resignation or removal of the Dissemination Agent and payment of the Bonds.

Section 13. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the Authority, the Dissemination Agent, the Participating Underwriter and the owners and Beneficial Owners from time to time of the Bonds, and shall create no rights in any other person or entity.

Date: June \_\_, 2020

FORT ORD REUSE AUTHORITY

By: \_\_\_\_\_  
Executive Officer

CITY OF MARINA, CALIFORNIA

By: \_\_\_\_\_  
City Manager

EXHIBIT A

NOTICE TO MSRB OF FAILURE TO FILE ANNUAL REPORT

Name of Obligor: Fort Ord Reuse Authority  
Names of Issue: Fort Ord Reuse Authority Tax Allocation Bonds, Series 2020 (Federally Taxable)  
Date of Issuance: June \_\_, 2020

NOTICE IS HEREBY GIVEN that the Obligor has not provided an Annual Report with respect to the above-named Issue as required by the Continuing Disclosure Certificate, dated the Date of Issuance, furnished by the Obligor in connection with the Issue. The Obligor anticipates that the Annual Report will be filed by \_\_\_\_\_.

Date: \_\_\_\_\_

\_\_\_\_\_, as Dissemination Agent

By \_\_\_\_\_  
Authorized Officer



**APPENDIX E**  
**FISCAL CONSULTANT'S REPORT**

## APPENDIX F

### GENERAL INFORMATION ABOUT THE CITY OF MARINA, THE CITY OF SEASIDE AND THE COUNTY OF MONTEREY

*The following information is provided for background purposes only. The City of Marina, the City of Seaside, and the County of Monterey have no liability or responsibility whatsoever with respect to the Bonds or the Indenture.*

#### **Introduction**

*The City of Marina.* The City of Marina (“Marina”) is a city in Monterey County (the “County”), California, United States. Marina is located along the central coast of California, 8 miles (13 km) west of Salinas, and 8 miles north of Monterey. Marina is also connected to Monterey, California by California State Route 1, which also connects it with Santa Cruz, California, after driving for about 35 miles. Marina lies is at an elevation of 43 feet (13 m). Marina was incorporated in 1975 and is the newest city on the Monterey Peninsula. Marina includes part of the California State University, Monterey Bay campus, the UCMBEST branch research center of UC Santa Cruz, and the Veterans Transition Center (VTC). According to the United States Census Bureau, Marina has a total area of 9.8 square miles (25 km<sup>2</sup>), of which 8.9 square miles (23 km<sup>2</sup>) is land and 0.9 square miles (2.3 km<sup>2</sup>) (9.02%) is water.

Marina’s history is intertwined with that of Fort Ord. Fort Ord lands were used as an infantry training center since the Mexican–American War. Major growth took place in 1938 with the first joint Army and Navy maneuvers held in 1940. Fort Ord was selected in 1991 for decommissioning and the post formally closed after troop reassignment in 1994. In July 1994 the first academic year of California State University, Monterey Bay opened, and barracks were soon transformed into dorms. As a result of base closure, some of the last undeveloped natural wildlands on the Monterey Peninsula are now overseen by the Bureau of Land Management, including 86 miles of trails for the public to explore on foot, bike or horseback. In 2012, President Barack Obama designated 14,000 acres of the closed base as a National Monument managed by the BLM.

*The City of Seaside.* The City of Seaside (“Seaside”) was founded in 1887 and incorporated on October 13, 1954 as a general law city. Seaside is an approximately ten-square mile ocean-side community located on the Monterey Peninsula in the County on the central coast of California. A portion of Fort Ord is located in the City. Located on the site of the former Fort Ord military base are the Monterey Bay campus of California State University and the Monterey College of Law. Seaside’s Bayonet and Black Horse Golf Courses, a host to PGA Tour events (including the 2012 PGA Professional National Championship, the 2015 Senior PGA Professional National Championship, and the 2018 PGA Professional National Championship), are also located on the site of the former Fort Ord military base.

*The County.* Monterey County, described as the “greatest meeting of land and sea” celebrated its quadricentennial in 2002. In 1602, Spanish merchant Sebastian Vizcaino became the first European on the Monterey Peninsula. He christened Monterey after the viceroy of New Spain, Count de Monte Rey. Eventually, the City of Monterey served as California’s first capital, where the State constitution was signed in 1849. The County is one of the 27 original California counties, incorporating in 1850.

With an area of about 3,300 square miles, the County borders the Pacific Ocean al-most at the midpoint of California with 99 miles of coastline. The County is located about 100 miles south

of San Francisco and 240 miles north of Los Angeles. It is bordered by Santa Cruz County to the north, San Benito (originally part of Monterey County), Fresno and Kings Counties to the east and San Luis Obispo County to the south.

There are two distinct sub-regions in the County. One is the Monterey Peninsula, world famous for beautiful ocean views, opulent homes, the 17-mile drive, seafood and golf courses. The other, the Marina Valley, is equally renowned as an area full of fertile farmland, running almost the entire length of the County and is one of the world’s major vegetable producing areas.

The Department of Defense has a number of installations located in the County: Fort Hunter-Liggett, Camp Roberts, the Naval Postgraduate School, the Defense Language Institute and some support facilities for the Naval Postgraduate School and the Defense Language Institute and certain other functions at what used to be Fort Ord. The Monterey Peninsula, famed for its scenic beauty, is a year-round tourist attraction. Pebble Beach, Cypress Point, Spyglass Hill, Poppy Hills and The Links at Spanish Bay are well known Monterey Peninsula golf courses. The Monterey Bay Aquarium and the City of Carmel-By-The-Sea also are attractions that draw tourists to the Monterey Peninsula.

The County also benefits from two wilderness areas set aside for recreational enjoyment, consisting of 468,538 total acres. The Los Padres National Forest has 304,035 acres and the Ventana Wilderness totals 164,503 acres.

**Population**

The table below summarizes population of the Marina, Seaside, Monterey County, and California for the last five years.

**CITY OF MARINA, CITY OF SEASIDE, MONTEREY COUNTY, and STATE OF CALIFORNIA  
Population**

Year	City of Marina	City of Seaside	Monterey County	State of California
2015	21,179	34,172	432,964	38,952,462
2016	21,669	34,088	438,159	39,214,803
2017	22,263	34,295	441,898	39,504,609
2018	22,548	34,382	442,940	39,740,508
2019	22,957	33,776	445,414	39,927,315

Source: California Department of Finance, E-4 Population Estimate for Cities, Counties, and the State, 2010-19, with 2010 Census Benchmark.

## Employment

The following table summarizes historical employment and unemployment for the County, the State of California and the United States:

### MONTEREY COUNTY, CALIFORNIA, and UNITED STATES Civilian Labor Force, Employment, and Unemployment (Annual Averages)

Year	Area	Labor Force	Employment	Unemployment	Unemployment Rate <sup>(1)</sup>
2015	Monterey County	221,400	203,500	17,900	8.1%
	California	18,981,800	17,798,600	1,183,200	6.2
	United States	157,130,000	148,834,000	8,296,000	5.3
2016	Monterey County	220,400	203,800	16,700	7.6
	California	19,102,700	18,065,000	1,037,700	5.4
	United States	159,187,000	151,436,000	7,751,000	4.9
2017	Monterey County	220,200	204,400	15,800	7.2
	California	19,312,000	18,393,100	918,900	4.8
	United States	160,320,000	153,337,000	6,982,000	4.4
2018	Monterey County	224,100	210,000	14,000	6.3
	California	19,398,200	18,582,800	815,400	4.2
	United States	162,075,000	155,761,000	6,314,000	3.9
2019 <sup>(2)</sup>	Monterey County	222,500	208,700	13,800	6.2
	California	19,411,600	18,627,400	784,200	4.0
	United States	163,539,000	157,538,000	6,001,000	3.7

Source: California Employment Development Department, Monthly Labor Force Data for Counties, Annual Average 2010-19, and US Department of Labor.

- (1) The unemployment rate is computed from unrounded data; therefore, it may differ from rates computed from rounded figures available in this table.
- (2) Latest available full-year data.

## Major Industries in the County

The table below sets forth a list of major employers in Monterey County in 2020.

### MONTEREY COUNTY 2020 Major Employers

Employer Name	Location	Industry
Al Pak Labor	Soledad	Fruits & Vegetables-Wholesale
Azcona Harvesting	Greenfield	Harvesting-Contract
Bud of California	Soledad	Fruits & Vegetables-Growers & Shippers
Carol Hatton Breast Care Ctr	Monterey	Clinics
Casa Palmero At Pebble Beach	Pebble Beach	Hotels & Motels
County-Monterey Behavioral	King City	Health Services
Hilltown Packing Co	Salinas	Harvesting-Contract
Mann Packing Co	Salinas	Fruits & Vegetables-Growers & Shippers
Middlebury Institute-Intl	Monterey	University-College Dept/Facility/Office
Misionero Vegetables	Gonzales	Fruits & Vegetables-Growers & Shippers
Monterey County Social Svc Dpt	Salinas	Government Offices-County
Monterey Peninsula College	Monterey	Junior-Community College-Tech Institutes
Natividad Medical Ctr	Salinas	Hospitals
Ord Community Commissary	Seaside	Military Bases
Pebble Beach Co	Pebble Beach	Resorts
Premier Raspberry LLC	Royal Oaks	Grocers-Wholesale
Premium Harvesting & Packing	Salinas	Employment Agencies & Opportunities
Presidio of Monterey	Monterey	Military Bases
Quality Farm Labor	Gonzales	Labor Contractors
R C Packing	Gonzales	Packing & Crating Service
Salinas Valley Meml Healthcare	Salinas	Health Care Management
US Defense Manpower Data Ctr	Seaside	Government Offices-Us
Valley Harvesting	Greenfield	Crop Harvesting

Source: America's Labor Market Information System (ALMIS) Employer Database, 2020 1st Edition.

## Construction Activity

The following table reflects the five-year history of building permit valuation for Marina, Seaside, and Monterey County:

### CITY OF MARINA Building Permits and Valuation (Dollars in Thousands)

	2014	2015	2016	2017	2018 <sup>(1)</sup>
<b>Permit Valuation:</b>					
New Single-family	\$ 761	\$ 17,492	\$ 17,793	\$ 25,210	\$ 60,820
New Multi-family	894	4,500	-	8,360	-
Res. Alterations/Additions	507	2,253	841	1,411	15,105
Total Residential	2,162	24,245	18,635	34,982	75,925
Total Nonresidential	45,129	52,155	26,940	3,896	3,237
Total All Building	47,292	76,401	45,575	38,879	79,163
<b>New Dwelling Units:</b>					
Single Family	3	74	70	94	206
Multiple Family	8	12	-	47	-
Total	11	86	70	141	206

**CITY OF SEASIDE**  
**Building Permits and Valuation**  
(Dollars in Thousands)

	2014	2015	2016	2017	2018 <sup>(1)</sup>
<u>Permit Valuation:</u>					
New Single-family	\$ 761	\$ 17,492	\$ 17,793	\$ -	\$ 720
New Multi-family	894	4,500	-	-	-
Res. Alterations/Additions	507	2,253	841	11,016	2,100
Total Residential	<u>2,162</u>	<u>24,245</u>	<u>18,635</u>	<u>11,016</u>	<u>2,820</u>
Total Nonresidential	45,129	52,155	26,940	1,792	6,283
Total All Building	<u>47,292</u>	<u>76,401</u>	<u>45,575</u>	<u>12,809</u>	<u>9,104</u>
<u>New Dwelling Units:</u>					
Single Family	3	74	70	-	2
Multiple Family	8	12	-	-	-
Total	<u>11</u>	<u>86</u>	<u>70</u>	<u>-</u>	<u>2</u>

**MONTEREY COUNTY**  
**Building Permits and Valuation**  
(Dollars in Thousands)

	2014	2015	2016	2017	2018 <sup>(1)</sup>
<u>Permit Valuation:</u>					
New Single-family	\$ 97,600	\$ 116,703	\$ 152,257	\$ 165,341	\$ 199,194
New Multi-family	8,635	38,947	22,331	33,318	51,460
Res. Alterations/Additions	59,820	63,610	67,799	73,317	88,972
Total Residential	<u>166,057</u>	<u>219,262</u>	<u>242,389</u>	<u>271,977</u>	<u>339,627</u>
Total Nonresidential	154,340	223,141	197,865	171,630	151,103
Total All Building	<u>320,398</u>	<u>442,403</u>	<u>440,254</u>	<u>443,608</u>	<u>490,731</u>
<u>New Dwelling Units:</u>					
Single Family	236	374	486	523	611
Multiple Family	85	258	118	178	212
Total	<u>321</u>	<u>632</u>	<u>604</u>	<u>701</u>	<u>823</u>

Source: Construction Industry Research Board: "Building Permit Summary."

Note: Columns may not sum to totals due to independent rounding.

(1) Latest available full year data.

## Median Household Income

The following table summarizes the total effective buying income and the median household effective buying income for Marina, Seaside, the County, the State of California and the nation for the five most recent years.

### CITY OF MARINA, CITY OF SEASIDE, MONTEREY COUNTY, CALIFORNIA and UNITED STATES Effective Buying Income

Year	Area	Total Effective Buying Income (000's Omitted)	Median Household Effective Buying Income
2015	City of Marina	\$ 413,715	\$ 45,436
	City of Seaside	598,870	47,484
	Monterey County	8,776,830	50,389
	California	981,231,666	53,589
	United States	7,757,960,399	46,738
2016	City of Marina	445,280	47,814
	City of Seaside	628,624	48,083
	Monterey County	9,535,558	52,802
	California	1,036,142,723	55,681
	United States	8,132,748,136	48,043
2017	City of Marina	476,851	50,129
	City of Seaside	655,939	49,920
	Monterey County	10,045,200	56,609
	California	1,113,648,181	59,646
	United States	8,640,770,229	50,735
2018	City of Marina	502,179	55,938
	City of Seaside	709,430	53,524
	Monterey County	10,807,771	60,275
	California	1,183,264,399	62,637
	United States	9,017,967,563	52,841
2019	City of Marina	526,229	61,719
	City of Seaside	745,637	60,337
	Monterey County	11,180,302	65,078
	California	1,243,564,816	65,870
	United States	9,487,165,436	55,303

Source: Nielsen Claritas, Inc.

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**BUILDING REMOVAL FUNDING AGREEMENT**

**between the**

**FORT ORD REUSE AUTHORITY,**

**and the**

**CITY OF MARINA, CALIFORNIA**

**Dated as of June 1, 2020**

**Relating to:  
Fort Ord Reuse Authority  
Tax Allocation Bonds,  
Series 2020  
(Federally Taxable)**



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### EXHIBIT A – BUILDING REMOVAL COSTS AND RELATED PARCELS

## BUILDING REMOVAL FUNDING AGREEMENT

THIS BUILDING REMOVAL FUNDING AGREEMENT (the "Agreement"), dated as of June 1, 2020, is by and between the FORT ORD REUSE AUTHORITY (the "Authority") and the CITY OF MARINA, CALIFORNIA (the "Funding Recipient"), and is related to use by the Funding Recipient of proceeds of the Fort Ord Reuse Authority Tax Allocation Bonds, Series 2020 (Federally Taxable) (the "Bonds").

### *RECITALS:*

WHEREAS, the Authority is issuing the Bonds pursuant to an Indenture of Trust, dated as of June 1, 2020 (the "Indenture"), by and among the Authority, the City of Marina, California, as Administrator and U.S. Bank National Association, as trustee (the "Trustee") in order to fund Building Removal Costs of Building Removal to be undertaken by the Local Agencies, as such capitalized terms are defined in the Indenture; and

WHEREAS, the Funding Recipient is one of the Local Agencies, and the Indenture provides for the deposit of a portion of the proceeds of the Bonds to a Marina Bond Proceeds Account of a Project Fund held by the Trustee on the date of issuance of the Bonds (the "Closing Date") as set forth in Section 3.02(a)(iii) of the Indenture, and to the Marina Bond Proceeds Account of the Project Fund held by the Trustee following the Closing Date (a) and payment of the CalPERS Obligation (as defined in the Indenture) as set forth in Section 3.04(c) of the Indenture, or (b) otherwise released from the Escrow Fund pursuant to Section 3.06 of the Indenture; and

WHEREAS, pursuant to Section 3.04(b) of the Indenture, the Trustee will remit the amount deposited in the Marina Bond Proceeds Account to the Funding Recipient on the Closing Date; and pursuant to Sections 3.04(c) and 3.06 of the Indenture, the Trustee will remit the amount deposited to the Marina Bond Proceeds Account pursuant to Sections 3.05 and 3.06 of the Indenture to the Funding Recipient promptly following the deposit of funds thereto, in each case to be used by the Funding Recipient as provided in this Agreement; and

WHEREAS, the Authority and the Funding Recipient now desire to set forth provisions related to the disposition by the Funding Recipient of the amount transferred to it by the Trustee on the Closing Date.

### *AGREEMENT:*

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, and for other consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto do hereby agree as follows:

1. Recitals. Each of the above recitals as applicable to it is true and correct.

2. Issuance of the Bonds. The Authority hereby agrees to (a) issue the Bonds, (b) cause 52.25% of the proceeds of the Bonds available to be used by the Local Agencies (as defined in the Indenture) for Building Removal Costs pursuant to Sections 3.03(b) and (c) of the Indenture to be deposited to the Marina Bond Proceeds Account under the Indenture, and (c) cause the Trustee to remit the amount deposited to the Marina Bond Proceeds Account pursuant to Section 3.02 of the Indenture to the Funding Recipient on the Closing Date, and any amount deposited to the Marina Bond Proceeds Account (i) pursuant to Section 3.02(c) of the Indenture (constituting 52.25% of the funds released from the CalPERS Obligation Fund to the Local Agencies (after payment of the CalPERS Obligation) as defined in the Indenture) to be remitted to the Funding Recipient as provided in Section 3.02(c) of the Indenture, and (ii) pursuant to Section 3.06 of the Indenture (constituting 100% of the funds released from the Escrow Fund to the Marina Bond Proceeds Account to be remitted to the Funding Recipient as provided in Section 3.06 of the Indenture). Notwithstanding the foregoing, this Agreement shall be null and void ab initio if for any reason whatsoever the Authority does not perform its obligations under the preceding sentence prior to its dissolution, and no damages or liability whatsoever shall arise or be incurred by the Authority as a consequence of its failure to perform such obligations. In no event shall the Funding Recipient have a right to compel the issuance of the Bonds.

The Funding Recipient hereby advises that its wire transfer instructions for the transfer of funds provided for in clause (c) of the first sentence of the preceding paragraph will be provided by the Funding Recipient to the Authority, the Administrator and the Trustee prior to the Closing Date for the Bonds.

3. Use of Proceeds. The Funding Recipient hereby agrees to establish an account on its books and records (referred to in this Agreement as the "Building Removal Account") in order to account for its use of the proceeds of the Bonds remitted to it as described in clause (c) of the first sentence of Section 2. Amounts deposited to the Building Removal Account may be comingled with other monies of the Funding Recipient for investment purposes, but the Funding Recipient shall at all times maintain records as to the funds in the Building Removal Account and the investment earnings thereon as provided below.

The Funding Recipient agrees that amounts withdrawn from the Building Removal Account will be used solely to pay costs of the Building Removal Costs, as described in Exhibit A hereto then due and payable by the Funding Recipient, or that have otherwise theretofore been paid by the Funding Recipient after the date of this Agreement. In no event shall the Authority have any responsibility for the use by the Funding Recipient of amounts disbursed from the Building Removal Account, or any Building Removal activities of the Funding Recipient, or for any Building Removal Costs incurred by the Funding Recipient.

The Funding Recipient shall have the sole right to direct the investment of the amounts on deposit in the Building Removal Account. While the Funding Recipient shall have no obligation or liability with respect to any such investment, including any losses with respect thereto, any investment earnings on funds in the Building Removal Account shall be credited to such account and used solely for the purposes thereof as provided in this Section 3.

The Funding Recipient agrees to maintain accounting records relating to the use of amounts disbursed to or upon its order from the Building Removal Account in accordance with Funding Recipient's accounting procedures for similar funds.

In the event that the Funding Recipient determines in its sole discretion that it has funds in the Building Removal Account that it will not expend on Building Removal Costs, it shall remit such amount to the Trustee for deposit in the Surplus Account under the Indenture for disposition from the Surplus Account as provided in the Indenture.

The Authority shall not have any liability or responsibility whatsoever with respect to any Building Removal activities of the Funding Recipient or any Building Removal Costs or other costs incurred for any reason by the Funding Recipient. The Funding Recipient hereby agrees to hold the Authority harmless with respect to any claim by any entity in opposition to the provisions of the preceding sentence.

4. Reimbursement of Administrative Costs. The Funding Recipient hereby agrees to pay, other than from amounts in the Building Removal Account, any and all costs with respect to its review, execution and performance of this Agreement. The Authority shall not have any obligation to pay any costs of the Funding Recipient incurred by it in connection with this Agreement or the Building Removal activities of the Funding Recipient.

Costs of the Authority and the City, in its role of Administrator under the Indenture, with respect to this Agreement and the Indenture (a) incurred on or before the Closing Date, shall be Costs of Issuance to be paid from the Costs of Issuance Fund under the Indenture; (b) incurred from and after the Closing Date shall be Administrative Expenses to be paid from the Administrative Expense Fund under the Indenture (as such capitalized terms used in the preceding clauses (a) and (b) are defined in the Indenture); and the Funding Recipient shall have no responsibility to pay any such costs. The Funding Recipient shall have no responsibility to pay any costs of the Authority or the City, in its role as Administrator under the Indenture incurred by them with respect to the Indenture for the repayment or the administration of the Bonds.

5. Building Removal. The Funding Recipient shall have sole responsibility for all of its Building Removal activities..

6. Limited Obligations. All obligations of the Authority under and pursuant to this Agreement shall be limited to those specified in the first sentence of Section 2, subject in any event to the provisions of the second sentence of Section 2. No Boardmember, officer or employee of the Authority shall in any event be personally liable hereunder. Following any deposit of Bond proceeds in the Building Removal Account as provided in Section 3 above, the Authority shall have no liability with respect to the handling or the investment of such funds by the Funding Recipient, or the disposition of such funds by the Funding Recipient.

The only obligations of the Funding Recipient hereunder shall be to expend amounts in Building Removal Account for Building Removal Costs, and to maintain records as to the use of the amounts withdrawn from the Building Removal Account. If, for any reason whatsoever, there are insufficient funds in the Building Removal Account to pay all of the Building Removal Costs of the Funding Recipient, neither the Funding Recipient nor the Authority shall have any obligation under this Agreement to fund any such shortfall. No member of the City Council, or any officer or employee thereof, shall in any event be personally liable hereunder.

7. Termination. This Agreement shall cease to be effective and shall terminate (a) upon the dissolution of the Authority, if the Authority has not issued the Bonds prior to its dissolution, or (b) if not terminated pursuant to clause (a), upon the disbursement by the Funding Recipient of all amounts in the Building Removal Account. Notwithstanding the foregoing, the provisions of the fourth paragraph of Section 3 and the provisions of Section 6 shall survive such termination.

8. Entire Agreement. This Agreement contains the entire agreement among the parties with respect to the matters provided for herein and supersedes all prior agreements and negotiations between the parties with respect to the subject matter of this Agreement.

9. Notices. Any notice required or permitted by this Agreement to be given or delivered to another party shall be deemed to have been received when personally delivered or seventy-two hours following deposit of the same in any United States Post Office in California, registered or certified, postage prepaid, addressed as follows:

The Authority:	Fort Ord Reuse Authority 920 2 <sup>nd</sup> Avenue, Suite A Marina, California 93933 Attention: Executive Officer
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Funding Recipient:	City of Marina 211 Hillcrest Avenue Marina, California 93933 Attention: City Manager
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Each party may change its address for delivery of notice by delivering written notice of such change of address to the other parties hereto.

10. Exhibit. The exhibit attached hereto is incorporated into this Agreement by this reference.

11. Severability. If any part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent reasonably possible.

12. Governing Law. This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California.

13. Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by another party hereto, or the failure by a party to exercise its rights upon the default of another party, shall not constitute a waiver of such party's right to insist and demand strict compliance by such other party with the terms of this Agreement thereafter.

14. No Third Party Beneficiaries. No person or entity (including but not limited to the Trustee or the owners of the Bonds) shall be deemed to be a third party beneficiary hereof, and nothing in this Agreement (either express or implied) is intended to confer upon any person or entity, other than Authority and Funding Recipient, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

15. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute but one instrument.

16. Prepayment of Bonds. The Funding Recipient hereby agrees to use its best efforts to prevent the Successor Agency to the Marina Redevelopment Agency (the "Successor Agency") from redeeming such entities' outstanding bonds titled Successor Agency to the Marina Redevelopment Agency Tax Allocation Bonds, Series 2018A and Successor Agency to the Marina Redevelopment Agency Housing Tax Allocation Bonds, Series 2018B (collectively, the "2018 Bonds") prior to their final stated maturity date of September 1, 2038; provided that (a) the Successor Agency may redeem 2018 Bonds maturing on September 1, 2038 on September 1, 2037 using funds in the Reserve Account established for the 2018 Bonds; (b) this covenant shall not apply to bonds issued by the Successor Agency to (i) refund the 2018 Bonds ("2018 Refunding Bonds"), or (ii) refund 2018 Refunding Bonds or refund any subsequent series of refunding bonds related thereto, in each case that have a final stated maturity not earlier than September 1, 2038 and that have a funded Reserve Account that can only be used to redeem such refunding bonds no earlier than September 1, 2037; and (c) if the Successor Agency issues additional obligations (the "Additional Bonds") with a final maturity more than a year later that is then September 1, 2038, the September 1, 2038 and September 1, 2037 dates in the preceding clauses shall instead refer to the final maturity of such Additional Bonds and the date that is one year prior to such final maturity date, respectively. To that end, the Funding Recipient agrees to exercise any influence it may have over the Successor Agency or the consultants for the Successor Agency to avoid the early redemption or retirement of the 2018 Bonds or such Additional Bonds except as allowed pursuant to the preceding sentence. The provisions of this Section 16 shall survive any termination of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

FORT ORD REUSE AUTHORITY

By: \_\_\_\_\_

Joshua Metz,  
Executive Director

CITY OF MARINA, CALIFORNIA

By: \_\_\_\_\_

Layne Long,  
City Manager

06006.05:J16867

## EXHIBIT A

### BUILDING REMOVAL COSTS AND RELATED PARCELS

*"Building Removal Costs"* means the costs of Building Removal, including, without limitation, all costs of planning, engineering, management, risk management (including insurance premiums, legal fees and litigation costs associated with the Building Removal), and associated administrative services required to removed blighted buildings from certain parcel(s) of property within the boundaries of the former Fort Ord listed below.

*"Building Removal"* means any or all of the following: waste characterization, abatement, building demolition, building removal, building repair, waste disposal, and remediation of buildings and building sites located at certain parcels of property within the boundaries of the former Fort Ord listed below.

The parcels on which the Building Removal activities of the Funding Recipient may occur are as follows:

- E4.1.1 – Cypress Knolls
- E4.1.2.1 – Cypress Knolls
- E4.1.2.2 – Cypress Knolls
- L5.9.1.1 – Marina Radio Club
- L5.4.2 – Marina Park
- L5.5.1 – Marina Park
- E2b.3.1.1 – Marina Arts District
- E2c.4.2.1 – Commercial/Business Park
- L5.5.1 – PBC parcel 2nd Ave, across from CSBUB
- L23.1.5 – across from FORA on 11st street
- E2d.3.2 – Equestrian Center
- L5.9.1.2 – Equestrian Center
- E2b.2.4 – White Church across from VA/DOD clinic
- L5.4.1 – old pool, water city roller hockey
- E2b.1.5 – old fire station, 2nd ave.

Any other parcel within the boundaries of the former Fort Ord Military Base that is now located within the City of Marina.



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**BUILDING REMOVAL FUNDING AGREEMENT**

among the

**FORT ORD REUSE AUTHORITY,**

and the

**CITY OF MARINA, CALIFORNIA,  
as Administrator,**

and the

**MARINA COAST WATER DISTRICT**

**Dated as of June 1, 2020**

**Relating to:  
Fort Ord Reuse Authority  
Tax Allocation Bonds,  
Series 2020  
(Federally Taxable)**

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### EXHIBIT A – BUILDING REMOVAL COSTS AND RELATED PARCELS

## BUILDING REMOVAL FUNDING AGREEMENT

THIS BUILDING REMOVAL FUNDING AGREEMENT (the "Agreement"), dated as of June 1, 2020, is by and among the FORT ORD REUSE AUTHORITY (the "Authority"), the CITY OF MARINA, CALIFORNIA, as Administrator (the "Administrator") and the MARINA COAST WATER DISTRICT (the "Funding Recipient"), and is related to use by the Funding Recipient of proceeds of the Fort Ord Reuse Authority Tax Allocation Bonds, Series 2020 (Federally Taxable) (the "Bonds").

### *RECITALS:*

WHEREAS, the Authority is issuing the Bonds pursuant to an Indenture of Trust, dated as of June 1, 2020 (the "Indenture"), by and among the Authority, the Administrator and U.S. Bank National Association, as trustee (the "Trustee") in order to fund Building Removal Costs of Building Removal to be undertaken by the Local Agencies, as such capitalized terms are defined in the Indenture; and

WHEREAS, the Funding Recipient is one of the Local Agencies, and the Indenture provides for the deposit of a portion of the proceeds of the Bonds to an MCWD Bond Proceeds Account of a Project Fund held by the Trustee on the date of issuance of the Bonds (the "Closing Date") as set forth in Section 3.02(a)(iv) of the Indenture, and to the MCWD Bond Proceeds Account of the Project Fund held by the Trustee following the Closing Date and payment of the CalPERS Obligation (as defined in the Indenture) as set forth in Section 3.04(c) of the Indenture; and

WHEREAS, pursuant to Section 3.04(b) of the Indenture, the Trustee will remit the amount deposited in the MCWD Bond Proceeds Account to the Funding Recipient on the Closing Date; and pursuant to Section 3.04(c) of the Indenture, the Trustee will remit the amount deposited to the MCWD Bond Proceeds Account pursuant to Section 3.05 of the Indenture to the Funding Recipient promptly following the deposit of funds thereto, in each case to be used by the Funding Recipient as provided in this Agreement; and

WHEREAS, the Authority will be dissolved on June 30, 2020, and the Administrator is entering into this Agreement as assignee of the Authority under the Indenture solely to perform certain limited administrative activities as expressly set forth in the Indenture;

WHEREAS, the Authority, the Administrator and the Funding Recipient now desire to set forth provisions related to the disposition by the Funding Recipient of the amount transferred to it by the Trustee on the Closing Date, and to specify the rights and limited liability of the Administrator hereunder.

## ***AGREEMENT:***

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, and for other consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto do hereby agree as follows:

1. Recitals. Each of the above recitals as applicable to it is true and correct.

2. Issuance of the Bonds. The Authority hereby agrees to (a) issue the Bonds, (b) cause 5.25% of the proceeds of the Bonds available to be used by the Local Agencies (as defined in the Indenture) for Building Removal Costs pursuant to Sections 3.03(b) and (c) of the Indenture to be deposited to the MCWD Bond Proceeds Account under the Indenture, and (c) cause the Trustee to remit the amount deposited to the MCWD Bond Proceeds Account pursuant to Section 3.02 of the Indenture to the Funding Recipient on the Closing Date, and any amount deposited to the MCWD Bond Proceeds Account pursuant to Section 3.02(c) of the Indenture (constituting 5.25% of the funds released from the CalPERS Obligation Fund to the Local Agencies (after payment of the CalPERS Obligation) as defined in the Indenture) to be remitted to the Funding Recipient as provided in Section 3.02(c) of the Indenture. Notwithstanding the foregoing, this Agreement shall be null and void ab initio if for any reason whatsoever the Authority does not perform its obligations under the preceding sentence prior to its dissolution, and no damages or liability whatsoever shall arise or be incurred by the Authority as a consequence of its failure to perform such obligations. In no event shall the Funding Recipient have a right to compel the issuance of the Bonds.

The Funding Recipient hereby advises that its wire transfer instructions for the transfer of funds provided for in clause (c) of the first sentence of the preceding paragraph will be provided by the Funding Recipient to the Authority, the Administrator and the Trustee prior to the Closing Date for the Bonds.

3. Use of Proceeds. The Funding Recipient hereby agrees to establish an account on its books and records (referred to in this Agreement as the "Building Removal Account") in order to account for its use of the proceeds of the Bonds remitted to it as described in clause (c) of the first sentence of Section 2. Amounts deposited to the Building Removal Account may be comingled with other monies of the Funding Recipient for investment purposes, but the Funding Recipient shall at all times maintain records as to the funds in the Building Removal Account and the investment earnings thereon as provided below.

The Funding Recipient agrees that amounts withdrawn from the Building Removal Account will be used solely to pay costs of the Building Removal Costs, as described in Exhibit A hereto then due and payable by the Funding Recipient, or that have otherwise theretofore been paid by the Funding Recipient after the date of this Agreement. In no event shall the Authority or the Administrator have any responsibility for the use by the Funding Recipient of amounts disbursed from the Building Removal Account, or any Building Removal activities of the Funding Recipient, or for any Building Removal Costs incurred by the Funding Recipient.

The Funding Recipient shall have the sole right to direct the investment of the amounts on deposit in the Building Removal Account. While the Funding Recipient shall have no obligation or liability with respect to any such investment, including any losses with respect thereto, any investment earnings on funds in the Building Removal Account shall be credited to such account and used solely for the purposes thereof as provided in this Section 3.

The Funding Recipient agrees to maintain accounting records relating to the use of amounts disbursed to or upon its order from the Building Removal Account in accordance with Funding Recipient's accounting procedures for similar funds. The Funding Recipient will, upon written request, provide the Authority or the Administrator, whichever requests the same, complete copies of the Funding Recipient's records related to such disbursements.

In the event that the Funding Recipient determines in its sole discretion that it has funds in the Building Removal Account that it will not expend on Building Removal Costs, it shall remit such amount to the Trustee for deposit in the Surplus Account under the Indenture for disposition from the Surplus Account as provided in the Indenture.

Neither the Authority nor the Administrator shall have any liability or responsibility whatsoever with respect to any Building Removal activities of the Funding Recipient or any Building Removal Costs or other costs incurred for any reason by the Funding Recipient. The Funding Recipient hereby agrees to hold the Authority and the Administrator harmless with respect to any claim by any entity in opposition to the provisions of the preceding sentence.

4. Reimbursement of Administrative Costs. The Funding Recipient hereby agrees to pay, other than from amounts in the Building Removal Account, any and all costs with respect to its review, execution and performance of this Agreement. Neither the Authority nor the Administrator shall have any obligation to pay any costs of the Funding Recipient incurred by it in connection with this Agreement or the Building Removal activities of the Funding Recipient.

Costs of the Authority and the Administrator with respect to this Agreement (a) incurred on or before the Closing Date, shall be Costs of Issuance to be paid from the Costs of Issuance Fund under the Indenture; (b) incurred from and after the Closing Date shall be Administrative Expenses to be paid from the Administrative Expense Fund under the Indenture (as such capitalized terms used in the preceding clauses (a) and (b) are defined in the Indenture); and the Funding Recipient shall have no responsibility to pay any such costs. The Funding Recipient shall have no responsibility to pay any costs of the Authority or the Administrator incurred by them with respect to the Indenture for the repayment or the administration of the Bonds.

5. Building Removal. The Funding Recipient shall have sole responsibility for all of its Building Removal activities..

6. Limited Obligations. All obligations of the Authority under and pursuant to this Agreement shall be limited to those specified in the first sentence of Section 2, subject in any

event to the provisions of the second sentence of Section 2. No Boardmember, officer or employee of the Authority shall in any event be personally liable hereunder. Following any deposit of Bond proceeds in the Building Removal Account as provided in Section 3 above, the Authority shall have no liability with respect to the handling or the investment of such funds by the Funding Recipient, or the disposition of such funds by the Funding Recipient.

The only obligations of the Funding Recipient hereunder shall be to expend amounts in Building Removal Account for Building Removal Costs, and to maintain records as to the use of the amounts withdrawn from the Building Removal Account. If, for any reason whatsoever, there are insufficient funds in the Building Removal Account to pay all of the Building Removal Costs of the Funding Recipient, none of the Funding Recipient, the Authority or the Administrator shall have any obligation under this Agreement to fund any such shortfall. If the Funding Recipient shall fail to perform any of its obligations hereunder, the sole remedy of the Authority or the Administrator shall be the commencement of an action in the Superior Court for specific performance by the Funding Recipient of such obligations. No member of the governing board of the Funding Recipient, or any officer or employee thereof, shall in any event be personally liable hereunder.

The Administrator shall have no obligation or liability to the Funding Recipient or the Authority under this Agreement. It is hereby acknowledged that the sole reason for the Administrator to be a party to this Agreement is to recognize its rights to accounting records of, and to compel performance by, the Funding Recipient hereunder, and to consent to amendments hereto in its sole discretion. In no event shall the Administrator have any liability to the Authority or the Funding Recipient under or by reason of this Agreement, and no Councilmember, officer or employee of the Administrator shall in any event be personally liable hereunder.

7. Termination. This Agreement shall cease to be effective and shall terminate (a) upon the dissolution of the Authority, if the Authority has not issued the Bonds prior to its dissolution, or (b) upon the disbursement by the Funding Recipient of all amounts in the Building Removal Account. Notwithstanding the foregoing, the provisions of the fourth paragraph of Section 3 and the provisions of Section 6 shall survive such termination.

8. Amendment. This Agreement may be amended at any time but only in writing signed by (a) prior to the dissolution of the Authority, the Authority, the Administrator and the Funding Recipient, and (b) after dissolution of the Authority, the Administrator and the Funding Recipient.

9. Entire Agreement. This Agreement contains the entire agreement among the parties with respect to the matters provided for herein and supersedes all prior agreements and negotiations between the parties with respect to the subject matter of this Agreement.

10. Notices. Any notice required or permitted by this Agreement to be given or delivered to another party shall be deemed to have been received when personally delivered or seventy-two hours following deposit of the same in any United States Post Office in California, registered or certified, postage prepaid, addressed as follows:

The Authority: Fort Ord Reuse Authority  
920 2<sup>nd</sup> Avenue, Suite A  
Marina, California 93933  
Attention: Executive Officer

Administrator: City of Marina  
211 Hillcrest Avenue  
Marina, California 93933  
Attention: City Manager

Funding Recipient: Marina Coast Water District  
11 Reservation Road  
Marina, California 93933-2099  
Attention: General Manager

A copy of any notice to be given to the Authority hereunder shall be given to the Administrator. Each party may change its address for delivery of notice by delivering written notice of such change of address to the other parties hereto.

11. Exhibit. The exhibit attached hereto is incorporated into this Agreement by this reference.

12. Severability. If any part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent reasonably possible.

13. Governing Law. This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California.

14. Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by another party hereto, or the failure by a party to exercise its rights upon the default of another party, shall not constitute a waiver of such party's right to insist and demand strict compliance by such other party with the terms of this Agreement thereafter.

15. No Third Party Beneficiaries. No person or entity (including but not limited to the Trustee or the owners of the Bonds) shall be deemed to be a third party beneficiary hereof, and nothing in this Agreement (either express or implied) is intended to confer upon any person or entity, other than Administrator, the Authority and Funding Recipient, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

16. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute but one instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

FORT ORD REUSE AUTHORITY

By: \_\_\_\_\_  
Joshua Metz,  
Executive Director

CITY OF MARINA, CALIFORNIA,  
as Administrator

By: \_\_\_\_\_  
Layne Long,  
City Manager

MARINA COAST WATER DISTRICT

By: \_\_\_\_\_  
Its: \_\_\_\_\_



## EXHIBIT A

### BUILDING REMOVAL COSTS AND RELATED PARCELS

*"Building Removal Costs"* means the costs of Building Removal, including, without limitation, all costs of planning, engineering, management, risk management (including insurance premiums, legal fees and litigation costs associated with the Building Removal), and associated administrative services required to removed blighted buildings from certain parcel(s) of property within the boundaries of the former Fort Ord listed below.

*"Building Removal"* means any or all of the following: waste characterization, abatement, building demolition, building removal, building repair, waste disposal, and remediation of buildings and building sites located at certain parcel(s) of property within the boundaries of the former Fort Ord listed below.

The parcel(s) on which the Building Removal activities of the Funding Recipient may occur are as follows:

Jurisdiction	USACE Parcel Number	Description
City of Marina	L35.1	MCWD Storage
State Parks	S3.1.1	Wastewater Plant

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**BUILDING REMOVAL FUNDING AGREEMENT**

among the

**FORT ORD REUSE AUTHORITY,**

and the

**CITY OF MARINA, CALIFORNIA,  
as Administrator,**

and the

**MONTEREY-SALINAS TRANSIT DISTRICT**

**Dated as of June 1, 2020**

**Relating to:  
Fort Ord Reuse Authority  
Tax Allocation Bonds,  
Series 2020  
(Federally Taxable)**

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### EXHIBIT A – BUILDING REMOVAL COSTS AND RELATED PARCELS

## BUILDING REMOVAL FUNDING AGREEMENT

THIS BUILDING REMOVAL FUNDING AGREEMENT (the "Agreement"), dated as of June 1, 2020, is by and among the FORT ORD REUSE AUTHORITY (the "Authority"), the CITY OF MARINA, CALIFORNIA, as Administrator (the "Administrator") and the MONTEREY-SALINAS TRANSIT DISTRICT (the "Funding Recipient"), and is related to use by the Funding Recipient of proceeds of the Fort Ord Reuse Authority Tax Allocation Bonds, Series 2020 (Federally Taxable) (the "Bonds").

### *RECITALS:*

WHEREAS, the Authority is issuing the Bonds pursuant to an Indenture of Trust, dated as of June 1, 2020 (the "Indenture"), by and among the Authority, the Administrator and U.S. Bank National Association, as trustee (the "Trustee") in order to fund Building Removal Costs of Building Removal to be undertaken by the Local Agencies, as such capitalized terms are defined in the Indenture; and

WHEREAS, the Funding Recipient is one of the Local Agencies, and the Indenture provides for the deposit of a portion of the proceeds of the Bonds to an MST Bond Proceeds Account of a Project Fund held by the Trustee on the date of issuance of the Bonds (the "Closing Date") as set forth in Section 3.02(a)(v) of the Indenture, and to the MST Bond Proceeds Account of the Project Fund held by the Trustee following the Closing Date and payment of the CalPERS Obligation (as defined in the Indenture) as set forth in Section 3.04(c) of the Indenture; and

WHEREAS, pursuant to Section 3.04(b) of the Indenture, the Trustee will remit the amount deposited in the MST Bond Proceeds Account to the Funding Recipient on the Closing Date; and pursuant to Section 3.04(c) of the Indenture, the Trustee will remit the amount deposited to the MST Bond Proceeds Account pursuant to Section 3.05 of the Indenture to the Funding Recipient promptly following the deposit of funds thereto, in each case to be used by the Funding Recipient as provided in this Agreement; and

WHEREAS, the Authority will be dissolved on June 30, 2020, and the Administrator is entering into this Agreement as assignee of the Authority under the Indenture solely to perform certain limited administrative activities as expressly set forth in the Indenture;

WHEREAS, the Authority, the Administrator and the Funding Recipient now desire to set forth provisions related to the disposition by the Funding Recipient of the amount transferred to it by the Trustee on the Closing Date, and to specify the rights and limited liability of the Administrator hereunder.

## ***AGREEMENT:***

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, and for other consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto do hereby agree as follows:

1. Recitals. Each of the above recitals as applicable to it is true and correct.

2. Issuance of the Bonds. The Authority hereby agrees to (a) issue the Bonds, (b) cause 1.00% of the proceeds of the Bonds available to be used by the Local Agencies (as defined in the Indenture) for Building Removal Costs pursuant to Sections 3.03(b) and (c) of the Indenture to be deposited to the MST Bond Proceeds Account under the Indenture, and (c) cause the Trustee to remit the amount deposited to the MST Bond Proceeds Account pursuant to Section 3.02 of the Indenture to the Funding Recipient on the Closing Date, and any amount deposited to the MST Bond Proceeds Account pursuant to Section 3.02(c) of the Indenture (constituting 1.00% of the funds released from the CalPERS Obligation Fund to the Local Agencies (after payment of the CalPERS Obligation) as defined in the Indenture) to be remitted to the Funding Recipient as provided in Section 3.02(c) of the Indenture. Notwithstanding the foregoing, this Agreement shall be null and void ab initio if for any reason whatsoever the Authority does not perform its obligations under the preceding sentence prior to its dissolution, and no damages or liability whatsoever shall arise or be incurred by the Authority as a consequence of its failure to perform such obligations. In no event shall the Funding Recipient have a right to compel the issuance of the Bonds.

The Funding Recipient hereby advises that its wire transfer instructions for the transfer of funds provided for in clause (c) of the first sentence of the preceding paragraph will be provided by the Funding Recipient to the Authority, the Administrator and the Trustee prior to the Closing Date for the Bonds.

3. Use of Proceeds. The Funding Recipient hereby agrees to establish an account on its books and records (referred to in this Agreement as the "Building Removal Account") in order to account for its use of the proceeds of the Bonds remitted to it as described in clause (c) of the first sentence of Section 2. Amounts deposited to the Building Removal Account may be comingled with other monies of the Funding Recipient for investment purposes, but the Funding Recipient shall at all times maintain records as to the funds in the Building Removal Account and the investment earnings thereon as provided below.

The Funding Recipient agrees that amounts withdrawn from the Building Removal Account will be used solely to pay costs of the Building Removal Costs, as described in Exhibit A hereto then due and payable by the Funding Recipient, or that have otherwise theretofore been paid by the Funding Recipient after the date of this Agreement. In no event shall the Authority or the Administrator have any responsibility for the use by the Funding Recipient of amounts disbursed from the Building Removal Account, or any Building Removal activities of the Funding Recipient, or for any Building Removal Costs incurred by the Funding Recipient.

The Funding Recipient shall have the sole right to direct the investment of the amounts on deposit in the Building Removal Account. While the Funding Recipient shall have no obligation or liability with respect to any such investment, including any losses with respect thereto, any investment earnings on funds in the Building Removal Account shall be credited to such account and used solely for the purposes thereof as provided in this Section 3.

The Funding Recipient agrees to maintain accounting records relating to the use of amounts disbursed to or upon its order from the Building Removal Account in accordance with Funding Recipient's accounting procedures for similar funds. The Funding Recipient will, upon written request, provide the Authority or the Administrator, whichever requests the same, complete copies of the Funding Recipient's records related to such disbursements.

In the event that the Funding Recipient determines in its sole discretion that it has funds in the Building Removal Account that it will not expend on Building Removal Costs, it shall remit such amount to the Trustee for deposit in the Surplus Account under the Indenture for disposition from the Surplus Account as provided in the Indenture.

Neither the Authority nor the Administrator shall have any liability or responsibility whatsoever with respect to any Building Removal activities of the Funding Recipient or any Building Removal Costs or other costs incurred for any reason by the Funding Recipient. The Funding Recipient hereby agrees to hold the Authority and the Administrator harmless with respect to any claim by any entity in opposition to the provisions of the preceding sentence.

4. Reimbursement of Administrative Costs. The Funding Recipient hereby agrees to pay, other than from amounts in the Building Removal Account, any and all costs with respect to its review, execution and performance of this Agreement. Neither the Authority nor the Administrator shall have any obligation to pay any costs of the Funding Recipient incurred by it in connection with this Agreement or the Building Removal activities of the Funding Recipient.

Costs of the Authority and the Administrator with respect to this Agreement (a) incurred on or before the Closing Date, shall be Costs of Issuance to be paid from the Costs of Issuance Fund under the Indenture; (b) incurred from and after the Closing Date shall be Administrative Expenses to be paid from the Administrative Expense Fund under the Indenture (as such capitalized terms used in the preceding clauses (a) and (b) are defined in the Indenture); and the Funding Recipient shall have no responsibility to pay any such costs. The Funding Recipient shall have no responsibility to pay any costs of the Authority or the Administrator incurred by them with respect to the Indenture for the repayment or the administration of the Bonds.

5. Building Removal. The Funding Recipient shall have sole responsibility for all of its Building Removal activities..

6. Limited Obligations. All obligations of the Authority under and pursuant to this Agreement shall be limited to those specified in the first sentence of Section 1, subject in any

event to the provisions of the second sentence of Section 1. No Boardmember, officer or employee of the Authority shall in any event be personally liable hereunder. Following any deposit of Bond proceeds in the Building Removal Account as provided in Section 1 above, the Authority shall have no liability with respect to the handling or the investment of such funds by the Funding Recipient, or the disposition of such funds by the Funding Recipient.

The only obligations of the Funding Recipient hereunder shall be to expend amounts in Building Removal Account for Building Removal Costs, and to maintain records as to the use of the amounts withdrawn from the Building Removal Account. If, for any reason whatsoever, there are insufficient funds in the Building Removal Account to pay all of the Building Removal Costs of the Funding Recipient, none of the Funding Recipient, the Authority or the Administrator shall have any obligation under this Agreement to fund any such shortfall. If the Funding Recipient shall fail to perform any of its obligations hereunder, the sole remedy of the Authority or the Administrator shall be the commencement of an action in the Superior Court for specific performance by the Funding Recipient of such obligations. No member of the governing board of the Funding Recipient, or any officer or employee thereof, shall in any event be personally liable hereunder.

The Administrator shall have no obligation or liability to the Funding Recipient or the Authority under this Agreement. It is hereby acknowledged that the sole reason for the Administrator to be a party to this Agreement is to recognize its rights to accounting records of, and to compel performance by, the Funding Recipient hereunder, and to consent to amendments hereto in its sole discretion. In no event shall the Administrator have any liability to the Authority or the Funding Recipient under or by reason of this Agreement, and no Councilmember, officer or employee of the Administrator shall in any event be personally liable hereunder.

7. Termination. This Agreement shall cease to be effective and shall terminate (a) upon the dissolution of the Authority, if the Authority has not issued the Bonds prior to its dissolution, or (b) if not terminated pursuant to clause (a), upon the disbursement by the Funding Recipient of all amounts in the Building Removal Account. Notwithstanding the foregoing, the provisions of the fourth paragraph of Section 3 and the provisions of Section 6 shall survive such termination.

8. Amendment. This Agreement may be amended at any time but only in writing signed by (a) prior to the dissolution of the Authority, the Authority, the Administrator and the Funding Recipient, and (b) after dissolution of the Authority, the Administrator and the Funding Recipient.

9. Entire Agreement. This Agreement contains the entire agreement among the parties with respect to the matters provided for herein and supersedes all prior agreements and negotiations between the parties with respect to the subject matter of this Agreement.

10. Notices. Any notice required or permitted by this Agreement to be given or delivered to another party shall be deemed to have been received when personally delivered or seventy-two hours following deposit of the same in any United States Post Office in California, registered or certified, postage prepaid, addressed as follows:

The Authority: Fort Ord Reuse Authority  
920 2<sup>nd</sup> Avenue, Suite A  
Marina, California 93933  
Attention: Executive Officer

Administrator: City of Marina  
211 Hillcrest Avenue  
Marina, California 93933  
Attention: City Manager

Funding Recipient: Monterey-Salinas Transit District  
19 Upper Ragsdale Drive, Suite 200  
Monterey, California 93940  
Attention: General Manager/Chief Executive Officer

A copy of any notice to be given to the Authority hereunder shall be given to the Administrator. Each party may change its address for delivery of notice by delivering written notice of such change of address to the other parties hereto.

11. Exhibit. The exhibit attached hereto is incorporated into this Agreement by this reference.

12. Severability. If any part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent reasonably possible.

13. Governing Law. This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California.

14. Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by another party hereto, or the failure by a party to exercise its rights upon the default of another party, shall not constitute a waiver of such party's right to insist and demand strict compliance by such other party with the terms of this Agreement thereafter.

15. No Third Party Beneficiaries. No person or entity (including but not limited to the Trustee or the owners of the Bonds) shall be deemed to be a third party beneficiary hereof, and nothing in this Agreement (either express or implied) is intended to confer upon any person or entity, other than Administrator, the Authority and Funding Recipient, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

16. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute but one instrument.



IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

FORT ORD REUSE AUTHORITY

By: \_\_\_\_\_  
Joshua Metz,  
Executive Director

CITY OF MARINA, CALIFORNIA,  
as Administrator

By: \_\_\_\_\_  
Layne Long,  
City Manager

MONTEREY-SALINAS TRANSIT DISTRICT

By: \_\_\_\_\_  
Carl Sedoryk,  
General Manager/  
Chief Executive Officer

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## EXHIBIT A

### BUILDING REMOVAL COSTS AND RELATED PARCELS

*"Building Removal Costs"* means the costs of Building Removal, including, without limitation, all costs of planning, engineering, management, risk management (including insurance premiums, legal fees and litigation costs associated with the Building Removal), and associated administrative services required to removed blighted buildings from certain parcel(s) of property within the boundaries of the former Fort Ord listed below.

*"Building Removal"* means any or all of the following: waste characterization, abatement, building demolition, building removal, building repair, waste disposal, and remediation of buildings and building sites located at certain parcels of property within the boundaries of the former Fort Ord listed below.

The parcels on which the Building Removal activities of the Funding Recipient may occur are as follows:

Jurisdiction	USACE Parcel Number	Description
City of Marina	L2.1	MST Transit Center
City of Seaside	L2.4.3.1	MST Storage

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**BUILDING REMOVAL FUNDING AGREEMENT**

among the

**FORT ORD REUSE AUTHORITY,**

and the

**CITY OF MARINA, CALIFORNIA,  
as Administrator,**

and the

**CITY OF SEASIDE, CALIFORNIA**

**Dated as of June 1, 2020**

**Relating to:  
Fort Ord Reuse Authority  
Tax Allocation Bonds,  
Series 2020  
(Federally Taxable)**

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### EXHIBIT A – BUILDING REMOVAL COSTS AND RELATED PARCELS

## BUILDING REMOVAL FUNDING AGREEMENT

THIS BUILDING REMOVAL FUNDING AGREEMENT (the "Agreement"), dated as of June 1, 2020, is by and among the FORT ORD REUSE AUTHORITY (the "Authority"), the CITY OF MARINA, CALIFORNIA, as Administrator (the "Administrator") and the CITY OF SEASIDE, CALIFORNIA (the "Funding Recipient"), and is related to use by the Funding Recipient of proceeds of the Fort Ord Reuse Authority Tax Allocation Bonds, Series 2020 (Federally Taxable) (the "Bonds").

### *RECITALS:*

WHEREAS, the Authority is issuing the Bonds pursuant to an Indenture of Trust, dated as of June 1, 2020 (the "Indenture"), by and among the Authority, the Administrator and U.S. Bank National Association, as trustee (the "Trustee") in order to fund Building Removal Costs of Building Removal to be undertaken by the Local Agencies, as such capitalized terms are defined in the Indenture; and

WHEREAS, the Funding Recipient is one of the Local Agencies, and the Indenture provides for the deposit of a portion of the proceeds of the Bonds to a Seaside Bond Proceeds Account of a Project Fund held by the Trustee on the date of issuance of the Bonds (the "Closing Date") as set forth in Section 3.02(a)(vi) of the Indenture, and to the Seaside Bond Proceeds Account of the Project Fund held by the Trustee following the Closing Date and payment of the CalPERS Obligation (as defined in the Indenture) as set forth in Section 3.04(c) of the Indenture; and

WHEREAS, pursuant to Section 3.04(b) of the Indenture, the Trustee will remit the amount deposited in the Seaside Bond Proceeds Account to the Funding Recipient on the Closing Date; and pursuant to Section 3.04(c) of the Indenture, the Trustee will remit the amount deposited to the Seaside Bond Proceeds Account pursuant to Section 3.05 of the Indenture to the Funding Recipient promptly following the deposit of funds thereto, in each case to be used by the Funding Recipient as provided in this Agreement; and

WHEREAS, the Authority will be dissolved on June 30, 2020, and the Administrator is entering into this Agreement as assignee of the Authority under the Indenture solely to perform certain limited administrative activities as expressly set forth in the Indenture;

WHEREAS, the Authority, the Administrator and the Funding Recipient now desire to set forth provisions related to the disposition by the Funding Recipient of the amount transferred to it by the Trustee on the Closing Date, and to specify the rights and limited liability of the Administrator hereunder.

## ***AGREEMENT:***

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, and for other consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto do hereby agree as follows:

1. Recitals. Each of the above recitals as applicable to it is true and correct.

2. Issuance of the Bonds. The Authority hereby agrees to (a) issue the Bonds, (b) cause 34.50% of the proceeds of the Bonds available to be used by the Local Agencies (as defined in the Indenture) for Building Removal Costs pursuant to Sections 3.03(b) and (c) of the Indenture to be deposited to the Seaside Bond Proceeds Account under the Indenture, and (c) cause the Trustee to remit the amount deposited to the Seaside Bond Proceeds Account pursuant to Section 3.02 of the Indenture to the Funding Recipient on the Closing Date, and any amount deposited to the Seaside Bond Proceeds Account pursuant to Section 3.02(c) of the Indenture (constituting 34.50% of the funds released from the CalPERS Obligation Fund to the Local Agencies (after payment of the CalPERS Obligation) as defined in the Indenture) to be remitted to the Funding Recipient as provided in Section 3.02(c) of the Indenture. Notwithstanding the foregoing, this Agreement shall be null and void ab initio if for any reason whatsoever the Authority does not perform its obligations under the preceding sentence prior to its dissolution, and no damages or liability whatsoever shall arise or be incurred by the Authority as a consequence of its failure to perform such obligations. In no event shall the Funding Recipient have a right to compel the issuance of the Bonds.

The Funding Recipient hereby advises that its wire transfer instructions for the transfer of funds provided for in clause (c) of the first sentence of the preceding paragraph will be provided by the Funding Recipient to the Authority, the Administrator and the Trustee prior to the Closing Date for the Bonds.

3. Use of Proceeds. The Funding Recipient hereby agrees to establish an account on its books and records (referred to in this Agreement as the "Building Removal Account") in order to account for its use of the proceeds of the Bonds remitted to it as described in clause (c) of the first sentence of Section 2. Amounts deposited to the Building Removal Account may be comingled with other monies of the Funding Recipient for investment purposes, but the Funding Recipient shall at all times maintain records as to the funds in the Building Removal Account and the investment earnings thereon as provided below.

The Funding Recipient agrees that amounts withdrawn from the Building Removal Account will be used solely to pay costs of the Building Removal Costs, as described in Exhibit A hereto then due and payable by the Funding Recipient, or that have otherwise theretofore been paid by the Funding Recipient after the date of this Agreement. In no event shall the Authority or the Administrator have any responsibility for the use by the Funding Recipient of amounts disbursed from the Building Removal Account, or any Building Removal activities of the Funding Recipient, or for any Building Removal Costs incurred by the Funding Recipient.

The Funding Recipient shall have the sole right to direct the investment of the amounts on deposit in the Building Removal Account. While the Funding Recipient shall have no obligation or liability with respect to any such investment, including any losses with respect thereto, any investment earnings on funds in the Building Removal Account shall be credited to such account and used solely for the purposes thereof as provided in this Section 3.

The Funding Recipient agrees to maintain accounting records relating to the use of amounts disbursed to or upon its order from the Building Removal Account in accordance with Funding Recipient's accounting procedures for similar funds. The Funding Recipient will, upon written request, provide the Authority or the Administrator, whichever requests the same, complete copies of the Funding Recipient's records related to such disbursements.

In the event that the Funding Recipient determines in its sole discretion that it has funds in the Building Removal Account that it will not expend on Building Removal Costs, it shall remit such amount to the Trustee for deposit in the Surplus Account under the Indenture for disposition from the Surplus Account as provided in the Indenture.

Neither the Authority nor the Administrator shall have any liability or responsibility whatsoever with respect to any Building Removal activities of the Funding Recipient or any Building Removal Costs or other costs incurred for any reason by the Funding Recipient. The Funding Recipient hereby agrees to hold the Authority and the Administrator harmless with respect to any claim by any entity in opposition to the provisions of the preceding sentence.

4. Reimbursement of Administrative Costs. The Funding Recipient hereby agrees to pay, other than from amounts in the Building Removal Account, any and all costs with respect to its review, execution and performance of this Agreement. Neither the Authority nor the Administrator shall have any obligation to pay any costs of the Funding Recipient incurred by it in connection with this Agreement or the Building Removal activities of the Funding Recipient.

Costs of the Authority and the Administrator with respect to this Agreement (a) incurred on or before the Closing Date, shall be Costs of Issuance to be paid from the Costs of Issuance Fund under the Indenture; (b) incurred from and after the Closing Date shall be Administrative Expenses to be paid from the Administrative Expense Fund under the Indenture (as such capitalized terms used in the preceding clauses (a) and (b) are defined in the Indenture); and the Funding Recipient shall have no responsibility to pay any such costs. The Funding Recipient shall have no responsibility to pay any costs of the Authority or the Administrator incurred by them with respect to the Indenture for the repayment or the administration of the Bonds.

5. Building Removal. The Funding Recipient shall have sole responsibility for all of its Building Removal activities..

6. Limited Obligations. All obligations of the Authority under and pursuant to this Agreement shall be limited to those specified in the first sentence of Section 2, subject in any

event to the provisions of the second sentence of Section 2. No Boardmember, officer or employee of the Authority shall in any event be personally liable hereunder. Following any deposit of Bond proceeds in the Building Removal Account as provided in Section 3 above, the Authority shall have no liability with respect to the handling or the investment of such funds by the Funding Recipient, or the disposition of such funds by the Funding Recipient.

The only obligations of the Funding Recipient hereunder shall be to expend amounts in Building Removal Account for Building Removal Costs, and to maintain records as to the use of the amounts withdrawn from the Building Removal Account. If, for any reason whatsoever, there are insufficient funds in the Building Removal Account to pay all of the Building Removal Costs of the Funding Recipient, none of the Funding Recipient, the Authority or the Administrator shall have any obligation under this Agreement to fund any such shortfall. If the Funding Recipient shall fail to perform any of its obligations hereunder, the sole remedy of the Authority or the Administrator shall be the commencement of an action in the Superior Court for specific performance by the Funding Recipient of such obligations. No member of the governing board of the Funding Recipient, or any officer or employee thereof, shall in any event be personally liable hereunder.

The Administrator shall have no obligation or liability to the Funding Recipient or the Authority under this Agreement. It is hereby acknowledged that the sole reason for the Administrator to be a party to this Agreement is to recognize its rights to accounting records of, and to compel performance by, the Funding Recipient hereunder, and to consent to amendments hereto in its sole discretion. In no event shall the Administrator have any liability to the Authority or the Funding Recipient under or by reason of this Agreement, and no Councilmember, officer or employee of the Administrator shall in any event be personally liable hereunder.

7. Termination. This Agreement shall cease to be effective and shall terminate (a) upon the dissolution of the Authority, if the Authority has not issued the Bonds prior to its dissolution, or (b) if not terminated pursuant to clause (a), upon the disbursement by the Funding Recipient of all amounts in the Building Removal Account. Notwithstanding the foregoing, the provisions of the fourth paragraph of Section 3 and the provisions of Section 6 shall survive such termination.

8. Amendment. This Agreement may be amended at any time but only in writing signed by (a) prior to the dissolution of the Authority, the Authority, the Administrator and the Funding Recipient, and (b) after dissolution of the Authority, the Administrator and the Funding Recipient.

9. Entire Agreement. This Agreement contains the entire agreement among the parties with respect to the matters provided for herein and supersedes all prior agreements and negotiations between the parties with respect to the subject matter of this Agreement.

10. Notices. Any notice required or permitted by this Agreement to be given or delivered to another party shall be deemed to have been received when personally delivered or seventy-two hours following deposit of the same in any United States Post Office in California, registered or certified, postage prepaid, addressed as follows:



The Authority: Fort Ord Reuse Authority  
920 2<sup>nd</sup> Avenue, Suite A  
Marina, California 93933  
Attention: Executive Officer

Administrator: City of Marina  
211 Hillcrest Avenue  
Marina, California 93933  
Attention: City Manager

Funding Recipient: City of Seaside  
440 Harcourt Avenue  
Seaside, California 93955  
Attention: City Manager

with a copy via email to: [cityattorney@ci.seaside.ca.us](mailto:cityattorney@ci.seaside.ca.us)

A copy of any notice to be given to the Authority hereunder shall be given to the Administrator. Each party may change its address for delivery of notice by delivering written notice of such change of address to the other parties hereto.

11. Exhibit. The exhibit attached hereto is incorporated into this Agreement by this reference.

12. Severability. If any part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent reasonably possible.

13. Governing Law. This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California.

14. Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by another party hereto, or the failure by a party to exercise its rights upon the default of another party, shall not constitute a waiver of such party's right to insist and demand strict compliance by such other party with the terms of this Agreement thereafter.

15. No Third Party Beneficiaries. No person or entity (including but not limited to the Trustee or the owners of the Bonds) shall be deemed to be a third party beneficiary hereof, and nothing in this Agreement (either express or implied) is intended to confer upon any person or entity, other than Administrator, the Authority and Funding Recipient, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

16. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute but one instrument.

17. Prepayment of Bonds. The Funding Recipient hereby agrees to use its best efforts to prevent the Successor Agency to the Redevelopment Agency of the City of Seaside (the "Successor Agency") from redeeming such entities' outstanding Successor Agency to the Redevelopment Agency of the City of Seaside Tax Allocation Refunding Bonds, Series 2014 (the "2014 Bonds") prior to their final stated maturity date of August 1, 2033; provided that this covenant shall not apply to bonds issued by the Successor Agency to (a) refund the 2014 Bonds ("2014 Refunding Bonds"), or (b) refund 2014 Refunding Bonds or refund any subsequent series of refunding bonds related thereto, in each case that have a final stated maturity not earlier than August 1, 2033. To that end, the Funding Recipient agrees to exercise any influence it may have over the Successor Agency or the consultants for the Successor Agency to avoid the early redemption or retirement of the 2014 Bonds except as allowed pursuant to the preceding sentence. The provisions of this Section 17 shall survive any termination of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

FORT ORD REUSE AUTHORITY

By: \_\_\_\_\_  
Joshua Metz,  
Executive Director

CITY OF MARINA, CALIFORNIA,  
as Administrator

By: \_\_\_\_\_  
Layne Long,  
City Manager

CITY OF SEASIDE, CALIFORNIA

By: \_\_\_\_\_  
Craig Malin,  
City Manager

06006.05:J16872

## EXHIBIT A

### BUILDING REMOVAL COSTS AND RELATED PARCELS

*"Building Removal Costs"* means the costs of Building Removal, including, without limitation, all costs of planning, engineering, management, risk management (including insurance premiums, legal fees and litigation costs associated with the Building Removal), and associated administrative services required to removed blighted buildings from certain parcel(s) of property within the boundaries of the former Fort Ord listed below.

*"Building Removal"* means any or all of the following: waste characterization, abatement, building demolition, building removal, building repair, waste disposal, and remediation of buildings and building sites located at certain parcels of property within the boundaries of the former Fort Ord listed below.

The parcels on which the Building Removal activities of the Funding Recipient may occur are as follows:

L32.4.1.1	Surplus II
L19.4	Surplus II
L15.1	Surplus II
F2.3.2	Main Gate
F2.3.3	GJMB Parcel
F5.2	National Guard
L23.5.1	Chartwell School
E18.1.3	Nurses Barracks

Any other parcel within the boundaries of the former Fort Ord Military Base that is now located within the City of Seaside.

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**BUILDING REMOVAL FUNDING AGREEMENT**

**among the**

**FORT ORD REUSE AUTHORITY,**

**and the**

**CITY OF MARINA, CALIFORNIA,  
as Administrator,**

**and the**

**TRANSPORTATION AGENCY FOR MONTEREY COUNTY**

**Dated as of June 1, 2020**

**Relating to:  
Fort Ord Reuse Authority  
Tax Allocation Bonds,  
Series 2020  
(Federally Taxable)**

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EXHIBIT A – BUILDING REMOVAL COSTS AND RELATED PARCEL

## BUILDING REMOVAL FUNDING AGREEMENT

THIS BUILDING REMOVAL FUNDING AGREEMENT (the "Agreement"), dated as of June 1, 2020, is by and among the FORT ORD REUSE AUTHORITY (the "Authority"), the CITY OF MARINA, CALIFORNIA, as Administrator (the "Administrator") and the TRANSPORTATION AGENCY FOR MONTEREY COUNTY (the "Funding Recipient"), and is related to use by the Funding Recipient of proceeds of the Fort Ord Reuse Authority Tax Allocation Bonds, Series 2020 (Federally Taxable) (the "Bonds").

### *RECITALS:*

WHEREAS, the Authority is issuing the Bonds pursuant to an Indenture of Trust, dated as of June 1, 2020 (the "Indenture"), by and among the Authority, the Administrator and U.S. Bank National Association, as trustee (the "Trustee") in order to fund Building Removal Costs of Building Removal to be undertaken by the Local Agencies, as such capitalized terms are defined in the Indenture; and

WHEREAS, the Funding Recipient is one of the Local Agencies, and the Indenture provides for the deposit of a portion of the proceeds of the Bonds to a TAMC Bond Proceeds Account of a Project Fund held by the Trustee on the date of issuance of the Bonds (the "Closing Date") as set forth in Section 3.02(a)(vii) of the Indenture, and to the TAMC Bond Proceeds Account of the Project Fund held by the Trustee following the Closing Date and payment of the CalPERS Obligation (as defined in the Indenture) as set forth in Section 3.04(c) of the Indenture; and

WHEREAS, pursuant to Section 3.04(b) of the Indenture, the Trustee will remit the amount deposited in the TAMC Bond Proceeds Account to the Funding Recipient on the Closing Date; and pursuant to Section 3.04(c) of the Indenture, the Trustee will remit the amount deposited to the TAMC Bond Proceeds Account pursuant to Section 3.05 of the Indenture to the Funding Recipient promptly following the deposit of funds thereto, in each case to be used by the Funding Recipient as provided in this Agreement; and

WHEREAS, the Authority will be dissolved on June 30, 2020, and the Administrator is entering into this Agreement as assignee of the Authority under the Indenture solely to perform certain limited administrative activities as expressly set forth in the Indenture;

WHEREAS, the Authority, the Administrator and the Funding Recipient now desire to set forth provisions related to the disposition by the Funding Recipient of the amount transferred to it by the Trustee on the Closing Date, and to specify the rights and limited liability of the Administrator hereunder.

## ***AGREEMENT:***

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, and for other consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto do hereby agree as follows:

1. Recitals. Each of the above recitals as applicable to it is true and correct.

2. Issuance of the Bonds. The Authority hereby agrees to (a) issue the Bonds, (b) cause 7.00% of the proceeds of the Bonds available to be used by the Local Agencies (as defined in the Indenture) for Building Removal Costs pursuant to Sections 3.03(b) and (c) of the Indenture to be deposited to the TAMC Bond Proceeds Account under the Indenture, and (c) cause the Trustee to remit the amount deposited to the TAMC Bond Proceeds Account pursuant to Section 3.02 of the Indenture to the Funding Recipient on the Closing Date, and any amount deposited to the TAMC Bond Proceeds Account pursuant to Section 3.02(c) of the Indenture (constituting 7.00% of the funds released from the CalPERS Obligation Fund to the Local Agencies (after payment of the CalPERS Obligation) as defined in the Indenture) to be remitted to the Funding Recipient as provided in Section 3.02(c) of the Indenture. Notwithstanding the foregoing, this Agreement shall be null and void ab initio if for any reason whatsoever the Authority does not perform its obligations under the preceding sentence prior to its dissolution, and no damages or liability whatsoever shall arise or be incurred by the Authority as a consequence of its failure to perform such obligations. In no event shall the Funding Recipient have a right to compel the issuance of the Bonds.

The Funding Recipient hereby advises that its wire transfer instructions for the transfer of funds provided for in clause (c) of the first sentence of the preceding paragraph will be provided by the Funding Recipient to the Authority, the Administrator and the Trustee prior to the Closing Date for the Bonds.

3. Use of Proceeds. The Funding Recipient hereby agrees to establish an account on its books and records (referred to in this Agreement as the "Building Removal Account") in order to account for its use of the proceeds of the Bonds remitted to it as described in clause (c) of the first sentence of Section 2. Amounts deposited to the Building Removal Account may be comingled with other monies of the Funding Recipient for investment purposes, but the Funding Recipient shall at all times maintain records as to the funds in the Building Removal Account and the investment earnings thereon as provided below.

The Funding Recipient agrees that amounts withdrawn from the Building Removal Account will be used solely to pay costs of the Building Removal Costs, as described in Exhibit A hereto then due and payable by the Funding Recipient, or that have otherwise theretofore been paid by the Funding Recipient after the date of this Agreement. In no event shall the Authority or the Administrator have any responsibility for the use by the Funding Recipient of amounts disbursed from the Building Removal Account, or any Building Removal activities of the Funding Recipient, or for any Building Removal Costs incurred by the Funding Recipient.



The Funding Recipient shall have the sole right to direct the investment of the amounts on deposit in the Building Removal Account. While the Funding Recipient shall have no obligation or liability with respect to any such investment, including any losses with respect thereto, any investment earnings on funds in the Building Removal Account shall be credited to such account and used solely for the purposes thereof as provided in this Section 3.

The Funding Recipient agrees to maintain accounting records relating to the use of amounts disbursed to or upon its order from the Building Removal Account in accordance with Funding Recipient's accounting procedures for similar funds. The Funding Recipient will, upon written request, provide the Authority or the Administrator, whichever requests the same, complete copies of the Funding Recipient's records related to such disbursements.

In the event that the Funding Recipient determines in its sole discretion that it has funds in the Building Removal Account that it will not expend on Building Removal Costs, it shall remit such amount to the Trustee for deposit in the Surplus Account under the Indenture for disposition from the Surplus Account as provided in the Indenture.

Neither the Authority nor the Administrator shall have any liability or responsibility whatsoever with respect to any Building Removal activities of the Funding Recipient or any Building Removal Costs or other costs incurred for any reason by the Funding Recipient. The Funding Recipient hereby agrees to hold the Authority and the Administrator harmless with respect to any claim by any entity in opposition to the provisions of the preceding sentence.

4. Reimbursement of Administrative Costs. The Funding Recipient hereby agrees to pay, other than from amounts in the Building Removal Account, any and all costs with respect to its review, execution and performance of this Agreement. Neither the Authority nor the Administrator shall have any obligation to pay any costs of the Funding Recipient incurred by it in connection with this Agreement or the Building Removal activities of the Funding Recipient.

Costs of the Authority and the Administrator with respect to this Agreement (a) incurred on or before the Closing Date, shall be Costs of Issuance to be paid from the Costs of Issuance Fund under the Indenture; (b) incurred from and after the Closing Date shall be Administrative Expenses to be paid from the Administrative Expense Fund under the Indenture (as such capitalized terms used in the preceding clauses (a) and (b) are defined in the Indenture); and the Funding Recipient shall have no responsibility to pay any such costs. The Funding Recipient shall have no responsibility to pay any costs of the Authority or the Administrator incurred by them with respect to the Indenture for the repayment or the administration of the Bonds.

5. Building Removal. The Funding Recipient shall have sole responsibility for all of its Building Removal activities..

6. Limited Obligations. All obligations of the Authority under and pursuant to this Agreement shall be limited to those specified in the first sentence of Section 2, subject in any

event to the provisions of the second sentence of Section 2. No Boardmember, officer or employee of the Authority shall in any event be personally liable hereunder. Following any deposit of Bond proceeds in the Building Removal Account as provided in Section 2 above, the Authority shall have no liability with respect to the handling or the investment of such funds by the Funding Recipient, or the disposition of such funds by the Funding Recipient.

The only obligations of the Funding Recipient hereunder shall be to expend amounts in Building Removal Account for Building Removal Costs, and to maintain records as to the use of the amounts withdrawn from the Building Removal Account. If, for any reason whatsoever, there are insufficient funds in the Building Removal Account to pay all of the Building Removal Costs of the Funding Recipient, none of the Funding Recipient, the Authority or the Administrator shall have any obligation under this Agreement to fund any such shortfall. If the Funding Recipient shall fail to perform any of its obligations hereunder, the sole remedy of the Authority or the Administrator shall be the commencement of an action in the Superior Court for specific performance by the Funding Recipient of such obligations. No member of the governing board of the Funding Recipient, or any officer or employee thereof, shall in any event be personally liable hereunder.

The Administrator shall have no obligation or liability to the Funding Recipient or the Authority under this Agreement. It is hereby acknowledged that the sole reason for the Administrator to be a party to this Agreement is to recognize its rights to accounting records of, and to compel performance by, the Funding Recipient hereunder, and to consent to amendments hereto in its sole discretion. In no event shall the Administrator have any liability to the Authority or the Funding Recipient under or by reason of this Agreement, and no Councilmember, officer or employee of the Administrator shall in any event be personally liable hereunder.

7. Termination. This Agreement shall cease to be effective and shall terminate (a) upon the dissolution of the Authority, if the Authority has not issued the Bonds prior to its dissolution, or (b) if not terminated pursuant to clause (a), upon the disbursement by the Funding Recipient of all amounts in the Building Removal Account. Notwithstanding the foregoing, the provisions of the fourth paragraph of Section 3 and the provisions of Section 6 shall survive such termination.

8. Amendment. This Agreement may be amended at any time but only in writing signed by (a) prior to the dissolution of the Authority, the Authority, the Administrator and the Funding Recipient, and (b) after dissolution of the Authority, the Administrator and the Funding Recipient.

9. Entire Agreement. This Agreement contains the entire agreement among the parties with respect to the matters provided for herein and supersedes all prior agreements and negotiations between the parties with respect to the subject matter of this Agreement.

10. Notices. Any notice required or permitted by this Agreement to be given or delivered to another party shall be deemed to have been received when personally delivered or seventy-two hours following deposit of the same in any United States Post Office in California, registered or certified, postage prepaid, addressed as follows:

The Authority: Fort Ord Reuse Authority  
920 2<sup>nd</sup> Avenue, Suite A  
Marina, California 93933  
Attention: Executive Officer

Administrator: City of Marina  
211 Hillcrest Avenue  
Marina, California 93933  
Attention: City Manager

Funding Recipient: Transportation Agency for Monterey County  
55-B Plaza Circle  
Salinas, California 93901  
Attention: Executive Director

A copy of any notice to be given to the Authority hereunder shall be given to the Administrator. Each party may change its address for delivery of notice by delivering written notice of such change of address to the other parties hereto.

11. Exhibit. The exhibit attached hereto is incorporated into this Agreement by this reference.

12. Severability. If any part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent reasonably possible.

13. Governing Law. This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California.

14. Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by another party hereto, or the failure by a party to exercise its rights upon the default of another party, shall not constitute a waiver of such party's right to insist and demand strict compliance by such other party with the terms of this Agreement thereafter.

15. No Third Party Beneficiaries. No person or entity (including but not limited to the Trustee or the owners of the Bonds) shall be deemed to be a third party beneficiary hereof, and nothing in this Agreement (either express or implied) is intended to confer upon any person or entity, other than Administrator, the Authority and Funding Recipient, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

16. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute but one instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

FORT ORD REUSE AUTHORITY

By: \_\_\_\_\_  
Joshua Metz,  
Executive Director

CITY OF MARINA, CALIFORNIA,  
as Administrator

By: \_\_\_\_\_  
Layne Long,  
City Manager

TRANSPORTATION AGENCY FOR  
MONTEREY COUNTY

By: \_\_\_\_\_  
Debbie Hale,  
Executive Director

## EXHIBIT A

### BUILDING REMOVAL COSTS AND RELATED PARCEL

"*Building Removal Costs*" means the costs of Building Removal, including, without limitation, all costs of planning, engineering, management, risk management (including insurance premiums, legal fees and litigation costs associated with the Building Removal), and associated administrative services required to removed blighted buildings from certain parcel(s) of property within the boundaries of the former Fort Ord listed below.

"*Building Removal*" means any or all of the following: waste characterization, abatement, building demolition, building removal, building repair, waste disposal, and remediation of buildings and building sites located at certain parcel of property within the boundaries of the former Fort Ord listed below.

The parcel on which the Building Removal activities of the Funding Recipient may occur is as follows:

<u>Jurisdiction</u>	<u>USACE Parcel Number</u>	<u>Description</u>
City of Marina	L20.16.1	TAMC Transit Center

## IRREVOCABLE DIRECTION TO TRANSFER FUNDS

June \_\_, 2020

To: Auditor-Controller  
County of Monterey

Treasurer-Tax Collector  
County of Monterey

From: Fort Ord Reuse Authority

The Fort Ord Reuse Authority ("FORA") has issued its \$\_\_\_\_\_ Fort Ord Reuse Authority Tax Allocation Bonds, Series 2020 (Federally Taxable) (the "Bonds") pursuant to an Indenture of Trust, dated as of June 1, 2020 (the "Indenture"), among FORA, the City of Marina, California (the "Administrator") and U.S. Bank National Association, as trustee (the "Trustee"). Pursuant to the Indenture, the Bonds are payable from "Pledged Tax Revenues," which include all taxes that are allocated, or available to be allocated, to FORA pursuant to California Health and Safety Code Section 33492.71, subsection (c)(1)(A) prior to its dissolution, and upon its dissolution, pursuant to California Health and Safety Code Section 33492.71, subsection (c)(1)(D) attributable to (a) the Seaside-Fort Ord Project Area, and (b) the Marina Redevelopment Project No. 3 (formerly known as the Fort Ord Redevelopment Project Area) (collectively, the "Project Areas").

The Indenture contains a pledge of and grants a security interest in and lien on all of Pledged Tax Revenues. The Indenture will remain in effect until the Bonds have been paid in full. The final maturity of the Bonds is September 1, 2037.

In respect of the foregoing, FORA hereby irrevocably authorizes and directs the Auditor-Controller of the County of Monterey and the Treasurer-Tax Collector of the County of Monterey (referred to collectively as the "County") as follows:

- (a) To remit directly to the Trustee all tax-increment revenue to be paid to FORA pursuant to Sections 33492.71(c)(1)(A) and (D) of the California Health and Safety Code derived from the two Project Areas, including all amounts to be so remitted in the current fiscal year.

- (b) The transfers described in (a) shall be made directly to the Trustee, as follows:

Name of Bank: U.S. Bank National Association  
ABA#: \_\_\_\_\_  
Account Name: U.S. Bank Corporate Trust  
Account Number: \_\_\_\_\_  
Contact: \_\_\_\_\_  
Telephone: ( ) \_\_\_\_-\_\_\_\_  
Comment: Fort Ord Reuse Tax Allocation Bonds  
Debt Service Fund

Notwithstanding the foregoing, the Trustee may from time to time provide the County with alternate wire transfer instructions, which the County shall accept if countersigned by the Administrator.

- (c) To accept and distribute, pursuant to and as required by the second sentence of Section 33492.71(c)(1)(D) of California Health and Safety Code, funds remitted to the County by the Trustee from the Surplus Account established under the Indenture constituting amounts that exceed the amounts necessary to pay debt service on and administrative expenses related to the Bonds, as provided in Section 4.02(f) of the Indenture.
- (d) To recognize the Administrator as the successor-in-interest to FORA following its dissolution, and to follow any Written Request of the Administrator (as defined in the Indenture) delivered to the County following the dissolution of FORA so long as any such Written Request (i) does not contradict the direction to remit funds to the Trustee as provided in paragraph (a) above, or for the County to distribute funds as provided in (c) above; (ii) relates to the activities of the Administrator under the Indenture; and (iii) is otherwise in accordance with applicable laws.

Please be advised that on March 12, 2020, the Superior Court of the State of California for the County of Monterey rendered a Judgement of Validation in favor of FORA in Case No. 20CV000381. In the Judgement of Validation, the Court ordered, adjudged and decreed that, among other matters "The payments to FORA under Health & Safety Code Section 33492.71 subdivisions (c)(1)(A) and (D) are valid payments and shall continue as necessary to repay the Bonds at issue herein; and the Monterey County Auditor-Controller is entitled and obligated to distribute amounts described in Health & Safety Code Section 33492.71, subdivisions (c)(1)(A) and (D), as applicable, to FORA to repay the Bonds until the Bonds have been repaid in full." The Board of Directors of FORA has determined that only the Pledged Tax Revenues are needed to pay amounts owing on the Bonds and otherwise under the Indenture, including any amounts due to the Insurer by reason of provisions relating to the Insurance Policy and the Reserve Policy and any Administrative Expenses, as such capitalized terms are defined in the Indenture.

*[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]*



It is hereby acknowledged that the County shall have no responsibility whatsoever in respect of the disposition of funds remitted to the Trustee pursuant to paragraph (a) above. It is also acknowledged that the County shall incur no monetary liability in respect of the foregoing directions, and that the sole remedy for any noncompliance by the County with this direction by FORA shall be an action to compel performance.

FORT ORD REUSE AUTHORITY

By: \_\_\_\_\_

Joshua Metz,  
Executive Officer

ACKNOWLEDGED AND ACCEPTED:

COUNTY OF MONTEREY

By: \_\_\_\_\_

Rupa Shah,  
Auditor-Controller

COUNTY OF MONTEREY

By: \_\_\_\_\_

Mary A. Zeeb,  
Treasurer-Tax Collector

ACKNOWLEDGED:

CITY OF MARINA, CALIFORNIA

By: \_\_\_\_\_

Layne Long,  
City Manager

## AGREEMENT FOR LEGAL SERVICES

THIS AGREEMENT FOR LEGAL SERVICES is made and entered into this 22nd day of May, 2020, by and between the Fort Ord Reuse Authority (the "Authority"), and Quint & Thimmig LLP, Larkspur, California ("Attorneys").

### *RECITALS:*

WHEREAS, the Authority anticipates the issuance of tax allocation revenue bonds of the Authority pursuant to the California Government Code (the "Bonds") to provide funds to pay cost of building removal and an expected future amount that may be owed by the Authority to CalPERS;

WHEREAS, the Authority has determined that Attorneys are specially trained and experienced to provide services for accomplishing such issuance and Attorneys are willing to provide such services; and

WHEREAS, the public interest, economy and general welfare will be served by this Agreement for Legal Services.

### *AGREEMENT:*

NOW, THEREFORE, IT IS HEREBY AGREED, as follows:

Section 1. Duties of Attorneys. A. Attorneys shall provide legal services, as bond counsel, in connection with the authorization, issuance and consummation of the financing proceedings relating to the Bonds. Such services shall include the following:

- a. Confer and consult with the officers and administrative staff of the Authority as to matters relating to the financing proceedings;
- b. Attend all meetings of the Board of Directors of the Authority and any administrative meetings at which any financing proceedings are to be discussed, deemed necessary by Attorneys for the proper planning of the financing proceedings or when specifically requested by the Executive Officer of the Authority to attend;
- c. Prepare any required resolutions, building removal funding agreements, irrevocable directions, notices and legal documents necessary for the proper conduct of the financing proceedings relating to the Bonds;
- d. Review all financial documents for legal sufficiency;

e. Prepare and provide a signature and no-litigation certificate, an arbitrage certificate and any and all other closing documents required to accompany issuance of the Bonds;

f. Prepare and provide a complete transcript of the conduct of the proceedings necessary to accompany issuance of the Bonds;

g. Subject to the completion of proceedings to the satisfaction of Attorneys, provide the legal opinion of Attorneys that the interest on the Bonds is exempt from California personal income taxation;

h. Subject to the completion of proceedings to the satisfaction of Attorneys, provide the legal opinion of Attorneys approving the legality of the proceedings relating to the Bonds; and

i. Confer and consult with Authority and City of Marina officials and agents with regard to problems which may arise during the servicing and payment of the Bonds.

B. Attorneys shall provide legal services, as disclosure counsel, in connection with the preparation of the official statement to be used in connection with the offering and sale of the Bonds (the "Official Statement"), and a continuing disclosure agreement of the Authority. Such services shall include the following:

(a) Draft the Official Statement (both preliminary and final), with assistance from consultants to the Authority, in connection with the offering of the Bonds;

(b) Confer and consult with the officers and administrative staff of the Authority as to matters relating to the Official Statement;

(c) Attend all meetings at which the Official Statement is to be discussed, deemed necessary by Attorneys for the proper exercise of their due diligence with respect to the Official Statement;

(d) On behalf of the Authority, prepare a continuing disclosure certificate for the Bonds; and

(e) Subject to the completion of proceedings to the satisfaction of Attorneys, provide a letter of Attorneys addressed to the Underwriters of the Bonds and the Authority to the effect that, although Attorneys have not undertaken to determine independently or assume any responsibility for the accuracy, completeness or fairness of the statements contained in the Official Statement, in the course of Attorneys participation in the preparation of the Official Statement Attorneys have been in contact with representatives of the Authority and others concerning the contents of the Official Statement and related matters, and, based upon the foregoing, nothing has come to Attorneys attention to lead

Attorneys to believe that the Official Statement (except for any financial or statistical data or forecasts, numbers, charts, estimates, projections, assumptions or expressions of opinion included therein, and information relating to The Depository Trust Company and its book-entry system, and to any bond insurer or its insurance policies, as to which Attorneys need express no view) as of the date of the Official Statement or the date of the closing for the Bonds contains any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

Section 2. Compensation. For the services set forth under Section 1A. above, Attorneys shall be paid a fee of \$100,000.

For the services set forth under Section 1B., Attorneys shall be paid a fee of \$50,000.00.

Payment of any and all of said fees shall be entirely contingent upon the successful issuance of the Bonds, shall be due and payable upon the delivery of the Bonds and shall be payable from the proceeds of the Bonds and not from any other funds of the Authority.

Section 3. Responsibilities of Authority. The Authority shall cooperate with Attorneys and shall furnish Attorneys with certified copies of all proceedings taken by the Authority deemed necessary by Attorneys to render an opinion on the validity of the Bonds. All costs and expenses incurred incidental to the actual issuance and delivery of the Bonds, including the cost and expense of preparing certified copies of proceedings required by Attorneys in connection with the issuance of the Bonds, the cost of all printing and publication costs, fees and expenses of parties other than Attorneys, and all other expenses incurred in connection with the issuance of the Bonds, shall be paid by the Authority from the proceeds of the Bonds or other funds of the Authority and shall not be the responsibility of Attorneys.

Section 4. Non-Legal Services. In performing their services as bond counsel and as disclosure counsel pursuant to this Agreement, it is understood and acknowledged by the Authority that Attorneys will not be providing municipal advisory, investment banking or other similar services. It is expected that the Authority will engage other consultants to provide any such services with respect to the Bonds.

Section 5. Termination of Agreement. This Agreement for Legal Services may be terminated at any time by the Authority, with or without cause, upon written notice to Attorneys. In the event of such termination, all finished and unfinished documents shall, at the option of the Authority, become its property and shall be delivered by Attorneys to the Authority.

Section 6. Amendment or Modification. No amendment, modification, or other alteration of this Agreement shall be valid unless in writing and signed by both of the parties hereto.

Section 7. Entire Agreement. This Agreement contains the entire agreement of the parties hereto. No other agreement, statement, or promise made on or before the effective date of this Agreement will be binding on the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their respective officers thereunto duly authorized as of the day and year first above written.

FORT ORD REUSE AUTHORITY

By: \_\_\_\_\_  
Joshua Metz,  
Executive Officer

QUINT & THIMMIG LLP

By: \_\_\_\_\_  
Paul J. Thimmig,  
Partner

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