

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

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

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

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

Deleted: That agreement (referenced as Document 136 in Exhibit A attached hereto and incorporated by this reference) provided for up to 3.30 million gallons per day of wastewater to be accepted and treated by MRWPCA.

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D. After the announcement but prior to the implementation of the base downsizing/closure, political leaders within the affected region formed the Fort Ord Community Task Force (the "Task Force") in order to develop recommendations for moving forward with a recovery effort. These recommendations were embodied in a 760-page June 1992 Strategy Report prepared by the Task Force (the "Strategy Report").

Deleted: The Strategy Report may be accessed via Exhibit B – Reference Documents attached hereto and incorporated by this reference.

E. Predicated upon the Strategy Report, in October 1992 the Fort Ord Reuse Group ("FORG") was organized by local governments and potential property recipients to initiate recovery planning regarding the impending downsizing/closure of Fort Ord. After preparing an initial plan and subsequently refining it, the revised plan was considered and adopted by FORG in 1993. Those early planning efforts recognized the significant costs associated with the implementation of any plan to convert Fort Ord into civilian use and reinforced the validity of the regional and base-wide approaches that were inherent in the conclusions reached by the Task Force in its Strategy Report.

F. FORA was established in 1994 by state legislation (Government Code sections 67650 and following, the "FORA Act") and when the member jurisdictions adopted resolutions favoring the establishment of the authority in accordance with Government Code section 67656. The FORA Act was amended in 2012. The Legislature found that the reuse of Fort Ord is a matter of statewide importance and declared in Government Code section 67657(c) that FORA's powers and duties prevail over those of any other local entity, including any city, county, or joint powers authority. Government Code section 67658 identifies FORA's purpose as planning for, financing, and managing the transition of the property known as Fort Ord from military to civilian use. In Government Code section 67651, the Legislature declared the following goals to be the policy of the State of California: (1) To facilitate the transfer and reuse of the real and other property of the former Fort Ord with all practical speed; (2) minimize the economic disruption caused by the base's closure, (3) provide for reuse and development of the base in ways that enhance the economy and quality of life of the Monterey Bay community, and (4) maintain and protect the unique environmental resources of the area.

Deleted: The FORA Act, as amended, may be accessed via Exhibit B – Reference Documents attached hereto and incorporated by this reference.

G. In order to carry out the directives of the FORA Act, FORA hired staff and entered into a contract with the California Public Employees' Retirement System ("CalPERS") to provide for retirement benefits for FORA employees.

Deleted: The contract with CalPERS as amended to date is referenced as items 1, 2 and 3 in Exhibit A attached hereto and incorporated by this reference.

H. Pursuant to the requirements of Government Code section 67675, FORA certified a Final Environmental Impact Report and adopted a Fort Ord Reuse Plan (the "Reuse Plan") on June 13, 1997 in Resolution 97-06. The Reuse Plan, its attendant environmental report, and Resolution 97-06 are available on the FORA website at www.fora.org.

Deleted: or may be accessed via Exhibit B - Reference Documents attached hereto and incorporated by this reference.

I. As part of that approval, FORA's Board of Directors (the "Board") certified the Environmental Impact Report and adopted a Statement of Overriding Considerations after making the following findings:

- The Reuse Plan will provide for an improved and diversified retail and industrial economy and market that will generate employment and create financial stability;

- The Reuse Plan will provide moderate and upscale housing which will provide more affluent residents to the Cities of Seaside and Marina, thereby creating a housing stock with higher income families in these communities with larger disposable incomes;
 - The Reuse Plan will provide additional tourist support facilities in Seaside and Marina, thereby contributing additional employment opportunities;
 - The Reuse Plan will encourage and prioritize the development of projects that are regional in scale, thereby creating additional destination points on the Monterey Peninsula, and thereby enhancing the local economy;
 - The Reuse Plan provides for the creation of various additional recreational facilities and open space that will enhance the quality of life for not only the residents of Seaside and Marina but all of the residents of the Peninsula;
 - The Reuse Plan will attract and assist in retaining a pool of professional workers for the Peninsula;
 - The Reuse Plan will assist in ensuring that the overall economic recovery of the Peninsula benefits the Cities of Del Rey Oaks, Monterey, Seaside, Marina, and the unincorporated areas of the County of Monterey in the vicinity of Fort Ord;
 - The Reuse Plan will provide for additional and needed senior housing opportunities;
 - The Reuse Plan will assist the communities of Seaside and Marina in the transition of their respective community images from dependent, military base extensions with transient military personnel to vital, independent, and self-actuated communities populated with permanent residents with long-term interests in the well-being of their respective communities; and
 - The Reuse Plan will encourage development that will enhance the continued viability of California State University at Monterey Bay and the open space areas retained by the federal government through the Bureau of Land Management and conveyed to the California Department of Parks and Recreation.
- J.** FORA has committed and is obligated by the FORA Act, the Reuse Plan, and/or the California Environmental Quality Act (“CEQA”) to implement a program addressing policies, programs and mitigation measures of the Reuse Plan, including a capital improvement program and finance program addressing basewide facilities.
- K.** In the Reuse Plan, FORA identified revenues generated from sales and leases of real property within the former Fort Ord, FORA’s share of taxes on real property located within the former Fort Ord, and base-wide assessments or development fees, as the primary property-related sources of funding with which to implement the basewide facilities outlined in the Capital Improvement Program (“CIP”).

L. As is more fully described below, in connection with funding implementation of the Reuse Plan, FORA entered into multiple agreements with local, state, and federal entities, established a public financing mechanism, and prepared a CIP. The final CIP is available on the FORA website at www.fora.org.

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M. As part of funding implementation of the Reuse Plan, FORA established in 2001 a Community Facilities District ("CFD"), through which special taxes on properties to be developed are collected. These special taxes (the "CFD Special Taxes") are due and payable with respect to each parcel on issuance of a building permit relating to the property. The CFD Special Taxes are subject to annual adjustment, but when FORA ceases to exist the CFD Special Taxes may no longer be collected. A variety of replacement funding mechanisms are available, including but not limited to the potential for each of the underlying land use jurisdictions to create its own Community Facilities District through which special taxes on future development may be collected. Collecting taxes or fees on developments that have already been entitled will require each jurisdiction to obtain agreements from each developer of an entitled project to pay development fees that the developer would not otherwise be obligated to pay. Those fees are estimated to be \$72 million for entitled projects, if all entitled developments are fully completed.

N. FORA entered into a Memorandum of Agreement for the No-Cost Economic Development Conveyance of former Fort Ord Lands (the "EDC MOA"), which was recorded on June 23, 2000 at Series No. 2000040124 in the Official Records of the Monterey County Recorder. The EDC MOA provided the vehicle for the Army to transfer property to FORA without monetary consideration. The land transfer was conditioned on a requirement that any proceeds from the subsequent sale or leasing of the transferred real property must be applied to the economic development of the former Fort Ord. The real property transferred pursuant to the EDC MOA may be referred to herein as the "EDC Property." Sections 5.03 and 5.04 of the EDC MOA require a fair process to ensure an equitable supply of water is provided to grantees of former Fort Ord property and that all grantees enjoy an equitable utilization of the existing sewage treatment capacity.

Deleted: The EDC MOA and its attendant amendments are referenced as items 127, 129 through 134 in Exhibit A attached hereto and incorporated by this reference.

O. In 2001, agreements were entered into between FORA on the one hand and the County of Monterey and each city receiving or anticipated to receive a portion of the EDC Property on the other hand. These agreements, as they may have been amended to date and irrespective of whether they may be so captioned, may collectively be referred to herein as the "Implementation Agreements."

Deleted: The Implementation Agreements are referenced as items 17 through 22 in Exhibit A attached hereto and incorporated by this reference.

P. The Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") applies to the closure of Fort Ord. The Army is obligated under CERCLA and other applicable federal and state law to remediate certain conditions at the former Fort Ord, including but not limited to by the removal of munitions and explosives. It was anticipated that an extensive amount of time would be needed for the Army to complete its cleanup of the former Fort Ord, based in part upon the contingent nature of Department of Defense funding and due to competing priorities for the use of available funds. Accordingly, in order for FORA to be able to receive the EDC Property early and facilitate an orderly and timely remediation of former Fort Ord lands, the Army and FORA entered into an early transfer agreement. Through a series of subsequent agreements between the Army, FORA, the U.S. Environmental Protection Agency, and the California

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Department of Toxic Substance Control remediation of munitions and explosives on the former Fort Ord proceeded. Although substantial progress has been made in the base cleanup, the remediation obligations will not be completed and all property transfers will not have occurred before the currently anticipated dissolution of FORA.

Deleted: These agreements are referenced generally in Exhibit A as environmental services and more specifically at items 34, 43, 44, 45, 48 and 46 in Exhibit A attached hereto and incorporated by this reference.

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

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

The Transition Plan approved by the Board on December 19, 2018 and submitted to the Monterey County Local Agency Formation Commission ("LAFCO") on December 30, 2018 assigned assets and liabilities, designated responsible successor agencies, and provided a schedule of remaining obligations, as required by the FORA Act. This document updates and restates the approved Transition Plan based on current conditions and financial records.

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

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

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

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Section 1 Findings and Determinations:

1.1 Base-wide Facilities:

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

Deleted: The Board further finds that new implementing agreements negotiated with the landholding jurisdictions (or, in the absence of such an implementing agreement with a respective jurisdiction, the other provisions of this Transition Plan) will establish a fair and equitable assignment of assets and liabilities, and provides a schedule of obligations pursuant to Government Code section 67700.

1.2 California Environmental Quality Act:

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

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

To the contrary and to the extent not already so contained in their general plans, this Transition Plan calls for the Cities of Marina, Seaside, Monterey and Del Rey Oaks and the County of Monterey to follow the Reuse Plan policies and programs. After FORA's ultimate dissolution, any changes to the policies and programs of the Reuse Plan or any part thereof will be made by the respective land use jurisdiction(s) and any successor(s) to FORA only after full compliance with all applicable laws, including but not limited to CEQA. Further, as to any (a) incomplete projects initiated by FORA that any of the above-identified land use jurisdictions intend to carry out after the dissolution of FORA, (b) completed projects for which any mitigation measures adopted by FORA remain to be fulfilled or monitored, and (c) projects for which any environmentally-related contractual or judicially-imposed commitment of FORA has not been satisfied, FORA designates each of the above-identified land use jurisdictions as a responsible successor agency for the purposes of compliance with all applicable laws, including but not limited to CEQA, and satisfaction and fulfillment of all project-related liabilities, including but not limited to mitigation measures and monitoring requirements and satisfaction of environmentally-related contractual or judicially-imposed commitments of FORA, each as to all portions of such projects located within the territorial limits of the respective city or cities or the unincorporated portion of Monterey County. Without limiting the generality of the foregoing, Monterey County's obligations as outlined above shall include habitat management responsibilities on sites held by the Monterey Peninsula Community College District ("MPC") at the former Military Operations on Urban Terrain facility and certain lands within the Parker Flats area of the former Fort Ord pursuant to that Agreement Regarding Public Safety Officer Training Facilities entered into between FORA, MPC and the County of Monterey in 2003, subject to MPC's obligation to pay reasonable fair share assessments for the cost of such habitat management as provided in that agreement. To the extent required by applicable law, each such designated responsible successor agency shall assume lead agency status under CEQA with respect to such projects located wholly within its jurisdictional limits. As to any projects located within the jurisdictional limits of more than one of the designees, to the extent applicable law requires that there be a lead agency, the affected designees shall decide among themselves which shall assume lead agency status under CEQA.

1.3 Reuse Plan and Master Resolution:

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

1.4 Environmental Services Cooperative Agreement:

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

1.5 Transfer of FORA's Records:

Except for (a) records pertaining to the ESCA, which records will be transferred to the City of Seaside as custodian pursuant to the ESCA contract documents and (b) records of attorney-client privileged communications and materials protected by the attorney work product doctrine, which will be transferred to Authority Counsel, Kennedy, Archer & Giffen, PC, all of FORA's public records will be transferred to the County of Monterey which shall be the custodian and is designated as the responsible successor agency for records management and compliance with applicable law concerning FORA's public records, including but not limited to the California Public Records Act during the period after FORA's dissolution. Appropriate compensation to the County and the County's responsibilities with regard to the stewardship of FORA's public records will be further defined in an agreement entered into between FORA and the County prior to FORA's dissolution. FORA hereby designates LAFCO as the responsible successor agency for any litigation concerning FORA's compliance or alleged lack of compliance with applicable law concerning FORA's public records, including but not limited to the California Public Records Act, during the period prior to FORA's dissolution.

1.6 Water and Wastewater:

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

Deleted: 1.3 Revenue Sharing and Financial Contribution:

The Board hereby finds and determines that the Implementation Agreements with the Cities of Marina, Seaside, Monterey, and Del Rey Oaks and the County of Monterey require that each entity pay its fair and equitable share of the cost of the FORA Program (in accordance with the formulas expressed therein and subject to Constitutional or other limitations imposed by applicable law on such jurisdiction's funding obligations).

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Deleted:) month prior to the anticipated dissolution of FORA. Recording the Master Resolution is not intended to create any liabilities or obligations that do not already exist but instead is intended to preserve a permanent record of the policies contained in the Master Resolution. The Master Resolution may be accessed via Exhibit B - Reference Documents attached thereto and incorporated by this reference.

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The Board hereby finds and determines that implementation

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Section 2 Assignment of Assets, Liabilities, and Obligations:

2.1 Assets and Disposition Thereof:

FORA's principal assets are comprised of the following:

2.1.1 Section 115 Trust: In April 2018, the Board authorized the establishment of a Section 115 trust and funded the trust with \$5,700,000 (which is currently earning returns at an average annualized rate in excess of 2%). The current balance in the trust is approximately \$7,000,000. Funds held in the trust may be used only for retirement purposes. At or before FORA's dissolution, all funds held in the trust will be applied to the satisfaction or reduction of the unfunded pension liability under the CalPERS contract. To the extent that funds held in the trust are insufficient to fully satisfy the unfunded pension liability under the CalPERS contract, FORA's reserve funds, proceeds from bonds, and/or other funds available to FORA shall be applied so as to fully satisfy the unfunded pension liability under the CalPERS contract (and thereby assure that FORA's member jurisdictions are not exposed to liability for any unfunded pension liability relating to the CalPERS contract following FORA's dissolution).

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

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

2.1.4 Habitat Funds: It is estimated based on the current rate of collections and earnings that by June 30, 2020 FORA will hold approximately \$17,000,000 in funds dedicated to base-wide habitat management. FORA will transfer the remaining funds to local agencies to use specifically for habitat management as follows:

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

2.1.5 Capital Improvement Funds: Except for those CFD Special Taxes specifically identified for habitat management, all CFD Special Taxes collected and remaining unexpended immediately prior to FORA's dissolution shall first be directed to completing in progress construction projects as identified in FORA's final year CIP. Any CFD Special Taxes collected and remaining unexpended immediately prior to FORA's dissolution shall next be directed to completing other projects as identified in FORA's final year CIP. These

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capital improvement funds shall be transferred to the jurisdiction assigned responsibility for the respective project, which shall be the jurisdiction in which the majority of the project is located if a fully executed Memorandum of Agreement between FORA and the agency regarding the project has been entered into. These projects include Removal of the City of Marina Stockade and Ancillary Buildings (for which the City of Marina is designated the responsible successor agency), Repair of Stormwater Infiltration Units on Eucalyptus Road (for which the City of Seaside is designated the responsible successor agency), and South Boundary Roadway and the Intersection at General Jim Moore Boulevard Improvements (for which the City of Del Rey Oaks is designated the responsible successor agency). In each case, to the extent required by applicable law the underlying jurisdiction assumes lead agency status and responsibility for the project. Any liabilities associated with the projects described in this Section 2.1.5 are assigned to the respective jurisdiction designated as the responsible successor agency or otherwise assigned responsibility for the respective projects.

2.1.6 Other Funds: Except as otherwise specifically identified in this Transition Plan, all funds in FORA's other accounts, petty cash, un-deposited checks, and other cash equivalents held by FORA immediately prior to FORA's dissolution together with any additional funds received prior to the closure of FORA's books shall be applied to the satisfaction or reduction of the unfunded pension liability under the CalPERS contract.

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

2.1.8 Miscellaneous Personal Property: Any of FORA's office furniture and equipment, supplies, and other personal property remaining as of FORA's dissolution shall be transferred to the County of Monterey in trust for prompt sale or disposition in accordance with any applicable rules or requirements for the transfer of surplus property by a California public entity. Any proceeds from such transfer, remaining after reimbursement to the County for its administrative costs, shall first be directed to any shortfall in funds available to satisfy liabilities or obligations unrelated to projects described in FORA's final year CIP. After the full satisfaction of all such liabilities and obligations any remaining proceeds shall next be directed toward projects described in FORA's final year CIP as outlined in Section 2.1.5 hereinabove.

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

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Deleted: that jurisdiction has an executed Transition Plan Implementing Agreement. If there is no Transition Plan Implementing Agreement, those funds shall be redistributed to those jurisdictions with Transition Plan Implementing Agreements in proportion to the priorities of each project in the final year CIP unless provided otherwise in a Transition Plan Implementing Agreement.

Deleted: shall be applied and distributed according to Section 2.1.5 for funds generated by the CFD Special Taxes, land sales revenues and/or property tax revenues. Except as otherwise specifically provided herein, funds related to the general administration of FORA, such as insurance refunds or other general fund revenues remaining unexpended or unallocated immediately prior to FORA's dissolution, shall be used first to address any unfunded administrative liabilities and only after the full satisfaction of such administrative liabilities shall any remaining balance of such funds be applied and distributed according to Section 2.1.5.

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Deleted: 2.1.9 Real Property: FORA is obligated to cause certain former Fort Ord property to be transferred to the underlying land use jurisdictions in accordance with the federal "Pryor Amendment" and as authorized by Section 67678(a) of the FORA Act. Additionally, FORA is entitled to receive certain easements to enable implementation of the Reuse Plan. See item 127 in Exhibit A attached hereto and incorporated by this reference. As of the anticipated date of dissolution of FORA, not all real property interests will have transferred. Upon FORA's dissolution and the repeal of the FORA Act as of January 2021, the principal local public agent for acquisition, disposition and sale of real property transferred from the Army will need to be re-established through state legislation and/or federal designation and assignment of contractual rights. In particular, the landfill parcel currently located within the unincorporated portion of the County of Monterey but within the sphere of influence of the City of Marina will not transfer until sometime after 2022. Currently, the County is obligated to take the landfill parcel. See item 17 in Exhibit A attached hereto and incorporated by this reference. FORA staff shall seek all necessary legislation and approvals from the state and federal governments to enable the landfill parcel to be directly transferred to the County of Monterey or its designee. Necessary legislation and approvals from the state and federal governments for direct transfer of the landfill parcel may take a substantial amount of time to receive. The County is therefore ...

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

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

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

2.2 Liabilities and Obligations and Assignment Thereof:

FORA's principal liabilities and obligations include the following:

2.2.1 Unfunded Pension Liability under CalPERS Contract: Based on the latest available communication from CalPERS, FORA's unfunded terminated agency liability is anticipated to range from \$7,793,230 to \$9,333,172. By this Transition Plan FORA commits that if there is a shortfall between the amount of the anticipated terminated agency liability and the amounts in the Section 115 Trust to retire all the liability, FORA shall expend and encumber such additional funds as are necessary to fully discharge this liability, including without limitation by applying monies on hand in the FORA accounts, by applying bond proceeds, and/or encumbering future property tax revenues, to the extent legally permissible, pursuant to Health and Safety Code section 33492.71. The County shall continue to accrue such property tax revenues in FORA's account until all of its recognized debts have been retired. The County shall be entitled to recover its reasonable costs of administering and distributing said property tax revenues.

2.2.2 Habitat Funds: See Section 2.1.4 hereinabove.

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

2.2.4 ESCA Reimbursement: See Section 2.1.7 hereinabove.

2.2.5 Building Removal: In the absence of a consolidated building removal program and/or legislative solution to the issue of blight, any building removal not required under the CIP shall be addressed, after FORA's dissolution, if at all, by the jurisdictions in which the remaining abandoned buildings are located after compliance with all applicable laws.

2.2.6 Water/Wastewater: This Transition Plan hereby assigns to MCWD, effective as of the dissolution of FORA, FORA's rights of enforcement under the Implementation Agreements, to the extent they survive post-dissolution, regarding water allocations. In the event that any jurisdiction's approved developments exceed the jurisdiction's approved

Deleted: FORA is insured under those policies of insurance referenced in Exhibit A attached hereto and incorporated by this reference.

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Deleted: (Item 30 in Exhibit A),

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Deleted: ").

Deleted: successor to FORA

Deleted: The County agreed to negotiate to become FORA's successor as a First Named Insured (Monterey County Board Order December 2, 2014) and to take on the First Named Insured obligations and receive the FORA self-insured retention (SIR) fund. In the event, the County does not wish to become the First Named Insured, the PLL policy, Endorsement 15 provides for a FORA designated successor. Any successor that becomes the First Named Insured shall be entitled to receive the \$267,000 SIR funds.

Deleted: ¹ FORA staff shall take such action as is necessary to cause CalPERS to issue an actuarial analysis of FORA's unfunded terminated agency liability not less than six (6) months prior to the anticipated dissolution of FORA.

Deleted: actuarial analysis

Deleted: CalPERS is able to enter into a payment plan not to exceed five (5) years to satisfy such liability.

Deleted: To the extent that jurisdictions wish to jointly address regional blight, revenue sharing may be addressed in Transition Plan Implementing Agreements but no jurisdiction shall be compelled to participate in such revenue sharing without its consent.

Deleted: 2.2.6 Transportation and Transit: The Board finds that as of 2018, there are 19 transportation and transit projects identified in the capital improvement program. These projects are listed in Document 120 in Exhibit A attached hereto and incorporated by this reference. The City of Marina, County of Monterey, Transportation Agency of Monterey County ("TAMC") and Monterey Salinas Transit ("MST") are the identified lead agencies for 13 of 19 projects. Of those 13, FORA has reimbursement agreements in place with lead agencies City of Marina and County of Monterey. The Board identifies those Agreements (Documents 114 and 115) to be addressed in the new Transition Plan Implementing Agreements as to how revenue generation and revenue sharing will occur. Those Reimbursement Agreements shall terminate on June 30, 2020, unless otherwise addressed in the Transition Plan Implementing Agreements. The new Transition Implementing Agreements should also address contributions or mechanisms to lead agencies TAMC and MST to replace revenues generated by the expiring CFD Special Tax for their lead agency projects. With respect to the projects f...

water allocation, MCWD may decline to issue any further water connection permits until the offending jurisdiction brings its water allocation into compliance or MCWD develops or obtains access to an augmented water supply sufficient to cover any excess. In the event of a ground water shortage, any resulting reductions in the amount of water supplies shall be applied fairly and equitably across all jurisdictions. MCWD and the jurisdictions shall work together as to how to apply a fair and equitable reduction of water supply amongst the underlying land holding jurisdictions.

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

2.2.8 Late Discovered Items: To the extent that any contractual obligation or other FORA is discovered during LAFCO's implementation of this Transition Plan, those obligations shall be assigned as follows: If the liability or obligation is related to the use of real property, it shall be assigned to the underlying land use jurisdiction. If the liability or obligation is unrelated to the use of real property, LAFCO shall notify any appropriate insuring entity and the County. Upon the establishment of the validity and amount of the liability or obligation, LAFCO shall apply any monies on hand in the FORA accounts and any other then unexpended funds received from FORA, including but not limited to the litigation reserve funds described in Section 2.1.3 and shall expend and encumber such additional funds as are necessary to fully discharge such established liability, including without limitation by encumbering future property tax revenues pursuant to Health and Safety Code section 33492.71. The County shall continue to accrue such property tax revenues in FORA's account until all of its recognized debts have been retired.

Section 3 Transition Plan Implementation:

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

<u>Obligation</u>	<u>Reference in Updated Transition Plan</u>
<u>Implementation of Mitigation Measures Pertaining to North-South Road/Highway 218 Project and CEQA Lead Agency Status</u>	<u>See Section 1.2</u>
<u>Implementation of Mitigation Measures Pertaining to Relocation and Reconfiguration of General Jim Moore Boulevard Project and CEQA Lead Agency Status</u>	<u>See Section 1.2</u>
<u>Habitat Management Responsibilities on Sites Held by the Monterey Peninsula Community College District</u>	<u>See Section 1.2</u>
<u>Repair of Stormwater Infiltration Units on Eucalyptus Road CEQA Lead Agency Status</u>	<u>See Section 2.1.5</u>
<u>Removal of the Stockade and Ancillary Buildings CEQA Lead Agency Status</u>	<u>See Section 2.1.5</u>

Deleted: Nothing in this assignment creates any new obligation to utilize groundwater to meet the water service needs of the jurisdictions, but neither does this assignment reduce or eliminate any water service obligation already established by federal or state law or contract. FORA's 2018-19 CIP projects that \$17,098,686 will remain to be funded for base-wide water augmentation improvements after June 30, 2020. In its October 29, 2018 letter MCWD has confirmed its commitment to working with the jurisdictions on water supply needs in a fair and equitable manner. Except as set forth in the preceding sentence or in a Transition Plan Implementing Agreement, jurisdictions may alter their relative water allocations, as identified in the Implementation Agreements² only by written agreement with other jurisdictions. To the extent possible, the jurisdictions may also agree among themselves as to what fair and equitable reduction in water allocation would be applied in the instance of a mandated water shortage in a written agreement and with concurrence of MCWD. As part of the MCWD ongoing commitment to work with the jurisdictions they are requested to honor any alternate water allocations as agreed between two or more jurisdictions as though the new agreed upon allocation had been set forth in the Implementation Agreements.

Deleted: 2.2.8 Other Contracts and Agreements: Attached as Exhibit A to this Transition Plan are references to a compilation of contracts and other documents and/or commitments relevant to the FORA Program and the dissolution of FORA. Some(...

Deleted: the LAFCO review and/or

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Deleted: unless otherwise provided in a Transition Plan Implementing Agreement approved by FORA.

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Deleted: applying monies on hand in the FORA accounts and/or

Deleted: Insurance:¶

¶ 3.1 Transition Plan Insurance:¶

¶

Moved down [1]: .¶

¶

3

Deleted: .2 Tail Coverage:¶

¶

FORA staff is directed to explore the availability and cost of an endorsement, rider, or policy of general (...

South Boundary Roadway and the Intersection at General Jim Moore Boulevard Improvements CEQA Lead Agency Status	See Section 2.1.5
Transfers of Real Property in accordance with the federal "Pryor Amendment"	See Section 2.1.9
Payment of Unfunded Terminated Agency Liability to CalPERS	See Section 2.2.1
Payment of Late Discovered Obligations	See Section 2.2.8
Successor for Litigation Matters	See Section 3.1 (also 1.5)
FORA Contract with California Native Plant Society and City of Del Rey Oaks	See Section 3.3

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

3.2 Litigation Management:

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

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

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

3.4 Reserved Right of Modification:

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

NOW THEREFORE, THE BOARD HEREBY RESOLVES AS FOLLOWS:

- As outlined above, this Resolution and its provisions constitute the Transition Plan required by Government Code section 67700(b); and
- The Board hereby makes all assignments in accordance with Government Code section 67700(b);

Moved (insertion) [1]

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

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

Deleted: 4.1 Transition Plan Implementing Agreements:

¶
 In order to continue to foster regional cooperation and completion of the FORA program, the Board requests that each affected entity and/or land holding member jurisdiction enter into a Transition Plan Implementing Agreement addressing how the respective entity or jurisdiction will generate revenues to meet its obligations as assigned in this Transition Plan or as agreed upon in the Transition Plan Implementing Agreements and include revenue sharing provisions between those that will generate revenues and those implementing CIP projects, and such other matters as may be required to implement this Transition Plan, together with a schedule of regular meetings to assess and update habitat, transportation, transit and water augmentation needs in Fort Ord. Notwithstanding that this Transition Plan requests that each member

Deleted: Escrow:

¶
 In the event that as of immediately prior to FORA's dissolution, there are litigation or indemnity obligations

Deleted: either (a) FORA approved Transition Plan Implementing Agreements entered into with each of the land holding jurisdictions identifying a successor or

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Deleted: any one or more, but less than all, of the land holding jurisdictions, any post FORA litigation shall be managed by any land

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Deleted: 4.4 LAFCO Review:

¶
 If LAFCO finds that this Transition Plan does not provide adequate guidance to LAFCO regarding

Deleted: shall be updated by December 30, 2019; and ...

3. The Board hereby finds that as adopted herein, this updated and restated Transition Plan is not a project subject to CEQA; and

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4. The Board directs the Executive Officer to transmit this updated and restated Transition Plan to LAFCO.

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Deleted: and execute all LAFCO required documents and pay all LAFCO required processing fees; and

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

Deleted: ¶
The Board further directs staff to provide regular monthly progress reports on the implementation of this Transition Plan, including without limitation, bringing forth future implementing actions, status of Transition Plan Implementing Agreements, any LAFCO information or requests, and any subsequent information that might affect this Transition Plan.¶
¶
¶
¶

AYES: ✓

NOES: ✓

ABSTENTIONS: ✓

ABSENT: ✓

Jane Parker, Chair FORA Board

Deleted: Gunter

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Deleted: December, 2018

Deleted: PARKER, PHILLIPS, ADAMS, OGLESBY, WIZARD, EDELEN, CARBONE, GARFIELD, GUNTER

Deleted: O'CONNELL

Deleted: NONE

Deleted: MORTON, HAFFA, REIMERS

ATTEST:

Joshua Metz, Clerk

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_____ ¶

Michael A. Houlemard, Jr. Clerk

Frank O'Connell, Immediate Past Chair¶

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GLOSSARY

“Army” means the United States Army.

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

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

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

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

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

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

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

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

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

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

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

“FORA” means the Fort Ord Reuse Authority.

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

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

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

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

Deleted: “HCP Cooperative” means a joint powers authority contemplated to be established to administer a habitat conservation program at the former Fort Ord.¶

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

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

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

“MCWD” means the Marina Coast Water District.

“MCWRA” means the Monterey County Water Resources Agency.

“MPC” means the Monterey Peninsula Community College District.

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

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

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

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

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“Transition Plan Implementing Agreements” means the agreements contemplated to be entered into with the land use jurisdictions to implement the provisions of the Transition Plan.