

## **FORT ORD REUSE AUTHORITY RESOLUTION NO. 20-12**

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

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

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

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

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

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

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

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



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

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

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

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

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

## **Section 1 Findings and Determinations:**

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

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

### **1.2 California Environmental Quality Act:**

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

CEQA “projects” including (4) The creation of government funding mechanism or other government fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment; and (5) Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment.

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

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

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

### 1.3 Reuse Plan and Master Resolution:

To the extent the policies and programs of the Reuse Plan and Master Resolution survive the dissolution of FORA, all assets and liabilities relating to those policies and programs are

assigned to each underlying land use jurisdiction. FORA recorded the Master Resolution on April 14, 2020.

#### 1.4 Environmental Services Cooperative Agreement:

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

#### 1.5 Transfer of FORA's Records:

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

#### 1.6 Water and Wastewater:

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

### **Section 2 Assignment of Assets, Liabilities, and Obligations:**

#### 2.1 Assets and Disposition Thereof:

FORA's principal assets are comprised of the following:

##### 2.1.1 Section 115 Trust:

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

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

#### 2.1.2 Intentionally Omitted.

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

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

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

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



by the Joint Community Facilities Agreements entered into between FORA and each of respective jurisdictions.

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

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

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

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

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

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

## 2.2 Liabilities and Obligations and Assignment Thereof:

FORA's principal liabilities and obligations include the following:

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

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

2.2.2 Habitat Funds: See Section 2.1.4 hereinabove.

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

2.2.4 ESCA Reimbursement: See Section 2.1.7 hereinabove.

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

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

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

2.2.8 Late Discovered Items: To the extent that any contractual or other obligation of FORA is discovered during implementation of this Transition Plan, those obligations shall

be assigned as follows: If the obligation is related to the use of real property, it shall be assigned to the underlying land use jurisdiction, unless otherwise specifically addressed in an agreement entered into between such land use jurisdiction and FORA. If the liability or obligation is unrelated to the use of real property, LAFCO shall notify any appropriate insuring entity and the County. Upon the establishment of the validity and amount of the liability or obligation by LAFCO and the County acting in coordination with each other, such established liability or obligation shall be paid or discharged first by the County applying monies, if any remain that are not expended and not already legally obligated to be expended for other purposes, from the funds transferred to the County pursuant to Section 2.1.6 and only thereafter by applying funds, if any, remitted by the Trustee to the County under Section 4.02(f) of that Indenture of Trust, dated as of June 1, 2020, among FORA, the City of Marina, as administrator, and U.S. Bank National Association, as trustee, pursuant to which FORA has issued its Fort Ord Reuse Authority Tax Allocation Bonds, Series 2020 (which funds consist of the annual property tax increment described in Health and Safety Code section 33492.71, which funds are not needed for purposes of the Indenture). The County shall continue to accrue such property tax revenues in FORA's account until all of FORA's recognized debts have been retired.

### **Section 3 Transition Plan Implementation:**

#### **3.1 Schedule of Remaining Obligations:**

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

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

#### **3.2 Litigation Management:**

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



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

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

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

3.4 Reserved Right of Modification:

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

**NOW THEREFORE, THE BOARD HEREBY RESOLVES AS FOLLOWS:**

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

Upon motion by Board member O'Connell seconded by Board member Berkley the foregoing Resolution was passed on this 26<sup>th</sup> day of June 2020, by the following vote:

AYES: PARKER, PHILLIPS, ADAMS, GAGLIOTI, O'CONNELL, BERKLEY, HAFFA, OGLESBY, WIZARD, CARBONE, GARFIELD

NOES:

ABSTENTIONS: REIMERS

ABSENT:

ATTEST:

  
Joshua Metz, Clerk

  
Jane Parker, Chair FORA Board



## GLOSSARY

“AFY” means acre feet per year.

“Army” means the United States Army.

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

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

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

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

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

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

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

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

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

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

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

“FORA” means the Fort Ord Reuse Authority.

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

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

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

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

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

"LAFCO" means the Monterey County Local Agency Formation Commission.

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

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

"MCWD" means the Marina Coast Water District.

"MCWRA" means the Monterey County Water Resources Agency.

"MPC" means the Monterey Peninsula Community College District.

"PLL" means a Pollution Legal Liability policy of insurance.

"MRWPCA" means the Monterey Regional Water Pollution Control Agency.

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

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

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

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