

# Attachment A

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**CONVEYANCE AGREEMENT  
REGARDING PROPERTY RELATED TO THE  
LANDFILL SITE AT THE FORMER FORT ORD, CALIFORNIA**

This Conveyance Agreement Regarding Property Related to the Landfill Site at the Former Fort Ord, California (“Agreement”) is made and entered into between the **COUNTY OF MONTEREY** (“County”), and **CITY OF MARINA** (“City”), (hereinafter referred to collectively as the “Parties”).

**RECITALS:**

WHEREAS, the Fort Ord Reuse Authority (“FORA”) was created under Title 7.85 of the California Government Code, and was a regional agency established under Government Code Section 67650 to plan, facilitate, and manage the transfer of property on the former Fort Ord from the United States Army (“Army”) to the governing local jurisdictions or their designee(s), and FORA was the federally recognized Local Reuse Authority (“LRA”) for property transfers from the Army;

WHEREAS, in June 1997, FORA adopted the Fort Ord Base Reuse Plan (“Base Reuse Plan”) governing the use and development of properties thereon;

WHEREAS, On June 23, 2000, FORA executed a no-cost economic development conveyance agreement (“EDC”) with the Army and acquired portions of the former Fort Ord consisting of approximately five thousand two hundred (5,200) acres of land, including all buildings, personal property, appurtenances, rights-of-way, drainage areas, and other real property interests as defined, to be transferred to the governing local jurisdictions, subject to the terms and conditions of the EDC;

WHEREAS, on May 1, 2001, FORA and the City entered into an Implementation Agreement (“City Implementation Agreement”) regarding, among other matters, properties identified to be transferred from FORA to the City or designee in accordance with the EDC;

WHEREAS, on May 8, 2001, FORA and the County entered into an Implementation Agreement (“County Implementation Agreement”) regarding, among other matters, properties identified to be transferred from FORA to the County or designee in accordance with the EDC;

WHEREAS, the Successor Agency to the Redevelopment Agency of the County of Monterey (“Agency”) is an agency created pursuant to the “Dissolution Act,” a portion of the Community Redevelopment Law of the State of California, commencing with Health and Safety Code section 33000, *et seq.* Pursuant to the Dissolution Act, the Agency has succeeded by operation of law to the rights and obligations of the former Redevelopment Agency of the County of Monterey;

WHEREAS, FORA received fee title to certain land parcels of the former Fort Ord from the Army pursuant to the EDC;

WHEREAS, pursuant to the EDC and the County Implementation Agreement, FORA conveyed by quitclaim deed the following former Fort Ord parcels to the Agency between September 2006 through July 2007, which the Agency then conveyed by quitclaim deed to the County between August 2016 through December 2019:

- APN: 031-101-039 (Army Corps of Engineers Parcel No. E8a.1.2)
- APN: 031-101-040 (Army Corps of Engineers Parcel No. E8a.1.3)
- APN: 031-101-041 (Army Corps of Engineers Parcel No. E8a.1.4)
- APN: 031-101-042 (Army Corps of Engineers Parcel No. E8a.1.5)
- APN: 031-101-056 (Army Corps of Engineers Parcel No. E8a.1.1.2)
- APN: 031-101-058 (Army Corps of Engineers Parcel No. E4.6.2)

These parcels constitute the property commonly referred to as the “Landfill Border Parcels Site” on the former Fort Ord and are further described in **Exhibit “A”** attached hereto and incorporated herein;

WHEREAS, FORA dissolved by operation of law on June 30, 2020 pursuant to Government Code section 67700;

WHEREAS, on February 21, 2020, in preparation for FORA dissolution, FORA approved a contract with the City of Seaside that, *inter alia*, nominated the City of Seaside to the United States Department of Defense as the Local Reuse Authority (LRA) under the (EDC) Economic Development Conveyance to complete the outstanding property transfer;

WHEREAS, on or about April 30, 2020, the United States Department of Defense recognized the City of Seaside as the successor Local Reuse Authority effective July 1, 2020 for the purpose of implementing the EDC;

WHEREAS, the Landfill Border Parcels Site contains some developable areas as well as land available for the widening of Imjin Parkway, and land available for open space, habitat, and environmental mitigation;

WHEREAS, under the County Implementation Agreement, it was anticipated that the following parcels currently held by the Army would be conveyed to the County or designee:

- APN: 031-101-057 (Army Corps of Engineers Parcel No. E8a.1.1.1)
- APN:031-101-067 (Army Corps of Engineers Parcel No. No. E8a.2)

These parcels constitute property which is commonly known as the “Landfill Site” on the former Fort Ord and are further described in **Exhibit “B”** attached hereto and incorporated herein;

WHEREAS, the parties intend by this Conveyance Agreement to release any County future property interest in the Landfill Site and to inform and direct the City of Seaside as the LRA to cause the Landfill Site to be transferred to the City of Marina, either directly from the Army or by the City of Seaside as LRA, at such time that the Army is ready to transfer the property to a local jurisdiction;

WHEREAS, under the County Implementation Agreement, it was anticipated that the following parcel would be conveyed to the County or designee:

Army Corps of Engineers Parcel No. E4.7.2 (no APN)

This parcel constitutes property which is commonly known as the “Imjin Parkway E4.7.2 Road Right-of-Way Parcel” on the former Fort Ord and is further described in **Exhibit “C”** attached hereto and incorporated herein;

WHEREAS, consistent with County’s expressed intent to transfer the Imjin Parkway E4.7.2 Road Right-of-Way Parcel to the City of Marina, FORA conveyed the Imjin Parkway E4.7.2 Road Right-of- Way Parcel to the City by Quitclaim Deed on June 9, 2020;

WHEREAS, the City wishes to acquire the Landfill Border Parcels Site and Landfill Site, and the County is willing to convey its interest in such Sites upon the terms set forth below;

WHEREAS, prior to FORA dissolution, the County and City complied with the then operative regulatory conditions precedent to this transfer, including consultation with FORA prior to its dissolution;

WHEREAS, On April 21, 2020, the County Board of Supervisors approved a Quitclaim Deed (the “Quitclaim Deed) dated April 27, 2020, to convey the Landfill Border Parcels Site and delivered that Quitclaim Deed to the City for acceptance and recording, and the County approved a prior draft of a conveyance agreement which the City did not approve;

WHEREAS, the Landfill Border Parcels Site, the Landfill Site and the Imjin Parkway E4.7.2 Road Right-of-Way Parcel include land classified as habitat management area and development with reserve subject to certain habitat management requirements under the Installation-Wide Multispecies Habitat Management Plan for Former Fort Ord, California (the “HMP”) dated April 1997, as revised and amended from time to time;

WHEREAS, FORA collected a Community Facilities District Special Tax to fund, among other things, habitat management on the former Fort Ord, and prior to FORA’s dissolution, the FORA Board approved an allocation formula to distribute the collected habitat funds to the local jurisdictions roughly in proportion to each jurisdiction’s amount of habitat land and level of required habitat management under the HMP;

WHEREAS, in accordance with the allocation formula, FORA and the County entered a Joint Community Facilities Agreement (JCFA), a copy of which is attached hereto as **Exhibit F**, whereby FORA transferred approximately \$13.77 million (“Allocated Funds”) to the County to be held in a separate account to be used exclusively for costs of Habitat Related Services, as that term is defined in the JCFA, on County habitat land on the former Fort Ord;

WHEREAS, the JCFA provides that County may elect to transfer a portion of the Allocated Funds to another public entity having habitat management responsibilities within

the former Fort Ord (“Transferee Public Entity”), provided that the County and the Transferee Public Entity enter into a written agreement requiring the Transferee Public Entity to use the Allocated Funds only for Habitat Related Services, as defined in the JFCA, and to hold the Allocated Funds in an account separate and apart from the any other account maintained by the Transferee Public Entity;

WHEREAS, the City requested and the County has agreed to transfer \$300,000 of the Allocated Funds to the City to be used exclusively for Habitat Related Services on former Fort Ord land within the City of Marina;

WHEREAS, the City has requested that County transfer 10 acre feet per year (afy) of County’s “water allocation” to the City along with the conveyance of the land herein described;

WHEREAS, FORA’s potable water allocations to jurisdictions included 710 afy for the County of Monterey plus 10 afy for the “County/Marina Sphere (Polygon 8a),” and the Marina Coast Water District’s 2015 Urban Water Management Plan shows these as a combined allocation of 720 afy for the County (see Marina Coast Water District’s 2015 Urban Water Management Plan (UWMP) (dated June 2016), Table 3.5, at p. 21, and UWMP Appendices, App. E [May 18, 2016 Memo by Schaaf & Wheeler], Table 2, at p. E-13); and

WHEREAS, the parties recognize that the potable water allocations made by FORA are not water rights and to the extent said water allocations survive FORA dissolution, the Transition Plan adopted by FORA on June 26, 2020, assigns management of the water allocation to Marina Coast Water District (“MCWD”), which could include reduction of allocations in the event of ground water shortage, but within these limitations and to the extent MCWD continues to implement the water allocation without reduction and in recognition that the County/Marina Sphere (Polygon 8a) includes property subject to this Conveyance Agreement, the County and City desire for County to authorize and request MCWD to transfer to the City the 10 afy water allocation which was originally allocated for the County/Marina Sphere (Polygon 8a).

NOW THEREFORE, the Parties agree as follows:

**I. AGREEMENT**

A. County agrees to convey, and City agrees to accept, the following Landfill Border Parcels Site properties:

- APN: 031-101-039 (Army Corps of Engineers Parcel No. E8a.1.2)
- APN: 031-101-040 (Army Corps of Engineers Parcel No. E8a.1.3)
- APN: 031-101-041 (Army Corps of Engineers Parcel No. E8a.1.4)
- APN: 031-101-042 (Army Corps of Engineers Parcel No. E8a.1.5)
- APN: 031-101-056 (Army Corps of Engineers Parcel No. E8a.1.1.2)
- APN: 031-101-058 (Army Corps of Engineers Parcel No. E4.6.2)

Said properties shall be conveyed “as is” and by quitclaim deed and accepted by the City of Marina, subject to all documents of record, within thirty (30) days of the approval of this Agreement.

- B. County hereby designates, and City accepts the designation, that the City receive the Landfill Site, consisting of the following properties:  
APN 031-101-057 (Army Corps of Engineers Parcel No. E8a.1.1.1)  
APN 031-101-067 (Army Corps of Engineers No. E8a.2).

These parcels shall be transferred to the City of Marina directly from Army or, if required by the EDC or law, from the City of Seaside as the LRA under the EDC, at such time as the property is ready for conveyance. Neither the County nor the Agency shall be a party to the actual conveyance, and the County hereby relinquishes any interest in the Landfill Site.

- C. City agrees to seek the prompt annexation of all property which is the subject of this Agreement. County agrees to support such annexation. County and City shall each pay fifty percent (50%) of all fees and costs associated with said annexation. County and City shall apportion all property tax after annexation pursuant to Monterey County Board of Supervisors Resolution No. 80-249 (attached hereto and incorporated herein as **Exhibit “D”**) and City of Marina Resolution No. 81-25 (attached hereto and incorporated herein as **Exhibit “E”**).
- D. Concerning the transfer of 10 afy of the FORA potable water allocations and subject to reductions or other actions taken by MCWD in managing the former Fort Ord water allocations, the County agrees to authorize and request MCWD to transfer to the City the 10 afy water allocation which was originally allocated for the County/Marina Sphere (Polygon 8a). In the event a groundwater shortage or other cause beyond County’s control results in less potable water being available to some or all of the entities receiving former Fort Ord water allocations managed by MCWD, the Parties agree that the allocation of 10 afy shall be reduced in direct proportion and in the same ratio as County’s and City’s allocations have been reduced. If City or County enter into agreements with MCWD regarding former Fort Ord water allocations, this transfer of 10 afy per the terms herein shall be incorporated into and reflected in such agreements to the extent applicable.
- E. Concerning the existing tenant on APN 031-101-039 (Army Corps of Engineers Parcel No. E8a.1.2) and APN 031-101-058 (Army Corps of Engineers Parcel No. E4.6.2), known hereafter as “Ord Market Parcels”:

It is acknowledged that the City has not pre-zoned, annexed, zoned, or amended its General Plan concerning the land use of the Ord Market Parcels. After the proper land use approvals concerning the Ord Market Parcels, including zoning ordinance amendments, General Plan amendments, and adoption of any specific plans for the Ord Market Parcels, are deemed by the City to have been completed, the City will

agree to negotiate, in good faith, with the tenant(s) of the Ord Market Parcels at that time, for a right of first refusal to develop the property, within the parameters of those land use approvals. Any right of first refusal agreement will include a clause which will require the tenant to expressly agree not to file any legal action against the City and to indemnify and hold the City harmless from any legal action.

The City agrees to allow the existing tenant to maintain the existing use of the Ord Market Parcels until such time as the lease expires. The City will grandfather in the current parking requirements now and after improvements are made to Imjin Parkway, but for only so long as the current lease remains in effect.

In the event that a right to first refusal agreement, as detailed above, cannot be negotiated, City shall allow the existing tenant to respond to any Requests for Proposals to develop the Ord Market Parcels, which shall be considered in good faith by the City.

- F. The County shall transfer \$300,000 of its Allocated Funds to the City of Marina, and the City of Marina agrees hereby to utilize said funds in accordance with the terms and conditions of the JCFA (attached hereto and incorporated herein as **Exhibit "F"**), including using said funds exclusively for Habitat Related Services as defined by the JCFA and to hold said funds in an account separate and apart from the any other account maintained by the City of Marina. The County shall make a good faith effort to make this transfer of funds within 45 calendar days of the full execution of this Agreement.
- G. This Agreement may be modified or terminated only as mutually agreed in writing by the Parties.
- H. This Agreement shall be deemed "approved" only upon execution of all the Parties hereto.
- I. This Agreement has been arrived at through good-faith negotiations between the Parties; each Party waives the provisions of Civil Code Section 1654 concerning the interpretation of this Agreement.
- J. Time is of the essence in this Agreement. Each Party hereto shall act in good faith to expeditiously carry out each Party's respective obligations under this Agreement.
- K. This Agreement may be signed in counterparts, each of which shall constitute an original, but both of which together shall constitute one and the same instrument. Counterparts may be delivered by facsimile, electronic mail (including pdf) or any electronic signature complying with the U.S. ESIGN Act of 2000, California Uniform Electronic Transactions Act (Cal. Civil Code §1633.1 et seq.) or other applicable law or other transmission method. Any counterpart so delivered shall be deemed to have been validly delivered and be valid and effective for all purposes.



- L. This Agreement contains the entire agreement of the Parties and supersedes all prior agreements, negotiations, or representations with respect to the sites which are not expressly set forth herein.
- M. This Agreement shall be governed by and construed in accordance with the laws of the State of California.
- N. All exhibits and addenda referred to in this Agreement are attached hereto and incorporated herein by reference.
- O. If any provision, or any portion thereof, contained in the Agreement is held unconstitutional, invalid, unenforceable, or contrary to public policy, the remainder of this Agreement, or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.
- P. The Parties agree that County shall provide a copy of this Agreement when fully executed to the City of Seaside in its capacity as LRA, and County shall inform the City of Seaside that the County relinquishes any future interest in Landfill Site parcels APN 031-101-057 (Army Corps of Engineers Parcel No. E8a.1.1.1) and APN 031-101-067 (Army Corps of Engineers Parcel No. E8a.2) and that these Landfill Site parcels are to be transferred to the City of Marina rather than the County of Monterey at such time that the property is ready for transfer to a local jurisdiction. The City of Marina shall thereafter be responsible to cooperate with the City of Seaside and the Army as needed to effect the future transfer of the Landfill Site parcels to the City of Marina rather than the County.

## **II. INDEMNITY**

Each of the Parties shall indemnify and hold the other Party, and its officers, directors, partners, affiliates, principals, employees, agents, successors, and permitted assigns (each an “Indemnified Party”), harmless from and against all claims, demands, losses, damages, liabilities, penalties, fines, assessments, and actions and all related attorneys' fees and expenses and costs of litigation (collectively “Claim(s)”) for injury or death of any person or loss of or damage to tangible real or tangible personal property or the environment, to the extent that such Claims are proximately caused by the acts or omissions or by the willful or intentional misconduct of the Party from whom indemnity is sought, or by its agents, employees, contractors, subcontractors, or material suppliers, in connection with or relating to this Agreement. The Indemnified Party will notify the indemnifying Party, in writing, promptly upon learning of any Claim for which indemnification may be sought, provided that the failure to do so shall not affect the indemnity except to the extent the indemnifying party is prejudiced thereby. The indemnifying Party shall have control of the defense or settlement provided that no settlement that materially affects the obligations under this Agreement of the other Party shall be entered into without the other Party's prior written approval, which shall not be unreasonably withheld or delayed, and provided further that the Indemnified Party shall have the right to participate in the defense or settlement

with counsel of its own selection and at its sole expense. The indemnified Party shall reasonably cooperate with the defense and at the Indemnifying Party's expense.

### **III. NOTICES**

Formal notices, demands, and communications among the Parties shall not be deemed given unless sent by certified mail, return receipt requested, or express delivery service with a delivery receipt, or personal delivery with a delivery receipt or facsimile, to the principal office of the Parties as follows:

#### **County of Monterey:**

COUNTY OF MONTEREY RESOURCE MANAGEMENT AGENCY  
ATTN: CARL P. HOLM, AICP, DIRECTOR  
1441 SCHILLING PL SOUTH FL2  
SALINAS, CA 93901-4527

With copy to:

COUNTY OF MONTEREY OFFICE OF THE COUNTY COUNSEL  
ATTN: LESLIE J. GIRARD, COUNTY COUNSEL  
168 W ALISAL ST FL3  
SALINAS, CA 93901-2439

#### **City of Marina:**

CITY OF MARINA  
ATTN: LAYNE LONG, CITY MANAGER  
211 HILLCREST AVE  
MARINA CA 93933

With copy to:

CITY OF MARINA OFFICE OF THE CITY ATTORNEY  
ATTN: ROBERT WELLINGTON, CITY ATTORNEY  
WELLINGTON LAW OFFICES  
857 CASS STREET, SUITE D  
MONTREY.CA 93940

Such written notices, demands, and communications may be sent in the same manner to such other addresses as the affected Party may from time to time designate as provided in this Section. Receipt shall be deemed to have occurred on the date marked on a written receipt as the date of delivery or refusal of delivery (or attempted delivery if undeliverable).

### **IV. LIST OF EXHIBITS**

The following listed Exhibits are made a part of this Agreement:

- Exhibit A: Map of Landfill Border Parcels Site
- Exhibit B: Map of Landfill Site
- Exhibit C: Imjin Parkway E4.7.2 Road Right-of-Way Parcel
- Exhibit D: Monterey County Board of Supervisors Resolution No. 80-249
- Exhibit E: City of Marina Resolution No. 81-25
- Exhibit F: Joint Community Facilities Agreement

IN WITNESS WHEREOF, each Party hereto has executed this Agreement on the date set forth opposite their respective signatures. Each person signing represents that he or she holds full authority to enter this Agreement, and by signing intends to bind their principal to the terms hereof.

**COUNTY OF MONTEREY**

By: \_\_\_\_\_  
Carl P. Holm, AICP  
Resource Management Agency Director

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

Approved as to form:  
Office of the County Counsel  
Leslie J. Girard, County Counsel

By: \_\_\_\_\_  
Wendy S. Strimling  
Assistant County Counsel

**CITY OF MARINA**

By: \_\_\_\_\_  
Layne Long, City Manager

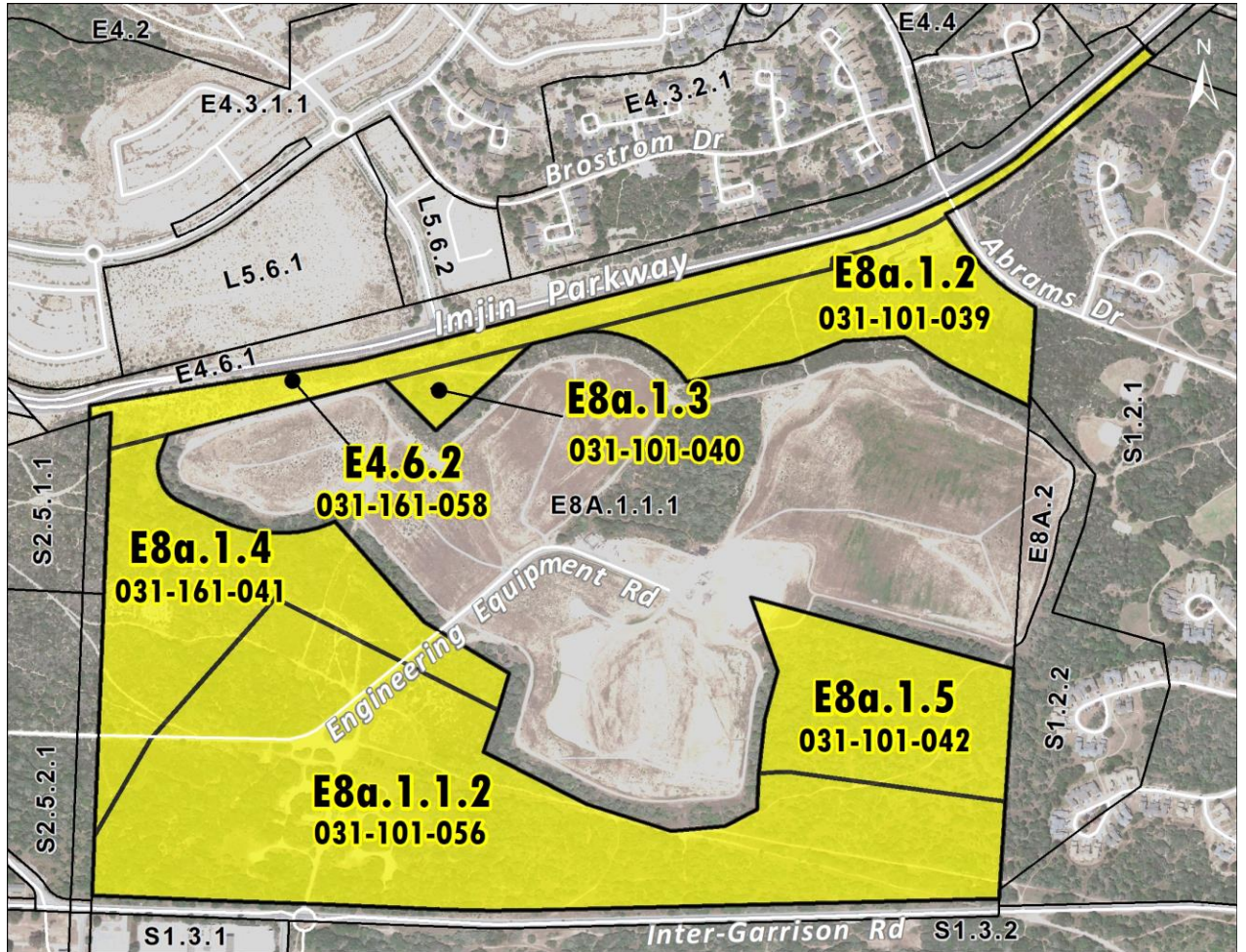
Date: \_\_\_\_\_

Approved as to form:  
City Attorney

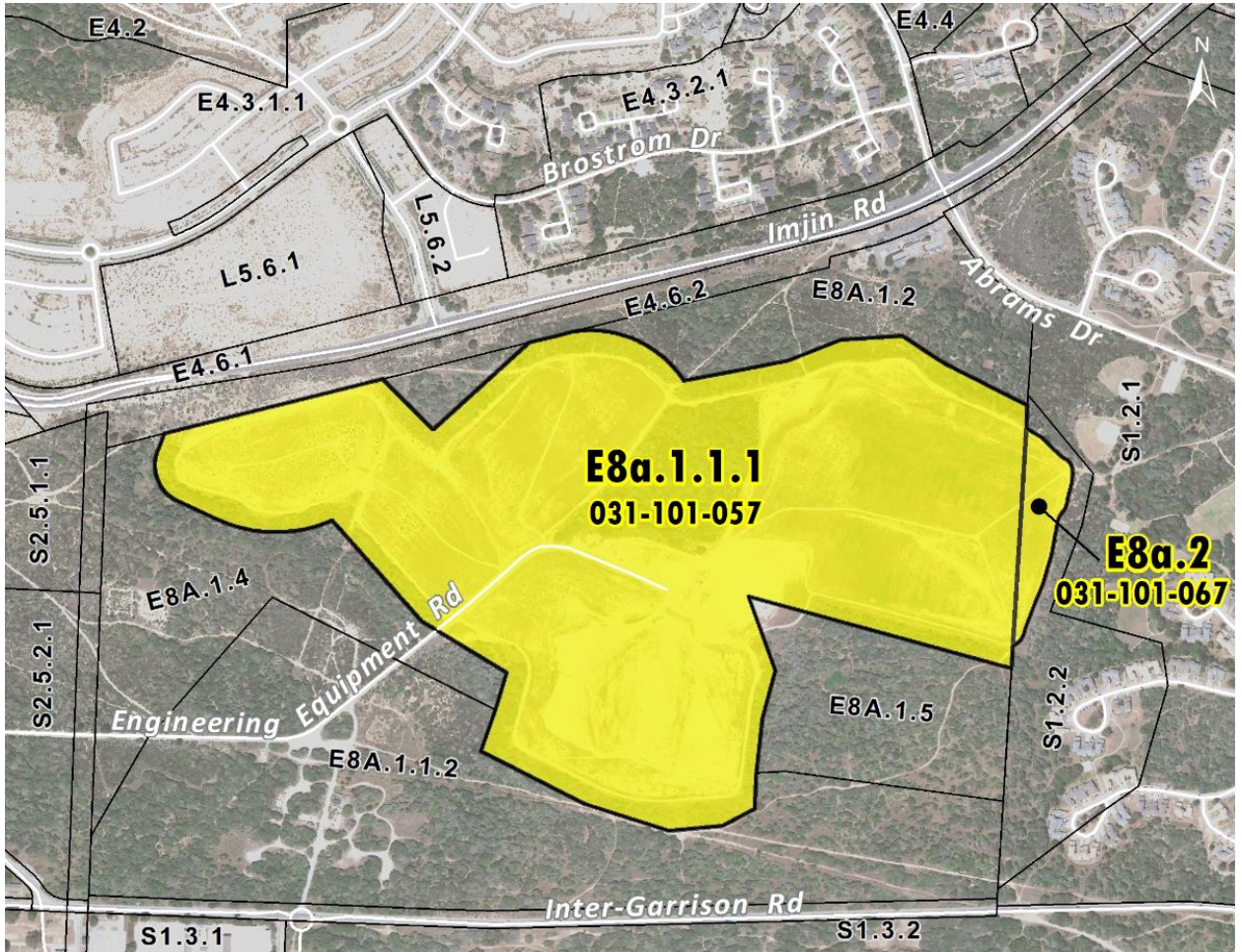
By: \_\_\_\_\_  
Robert W. Rathie, for the City Attorney

# Exhibit "A"

## Map of Landfill Border Parcels Site

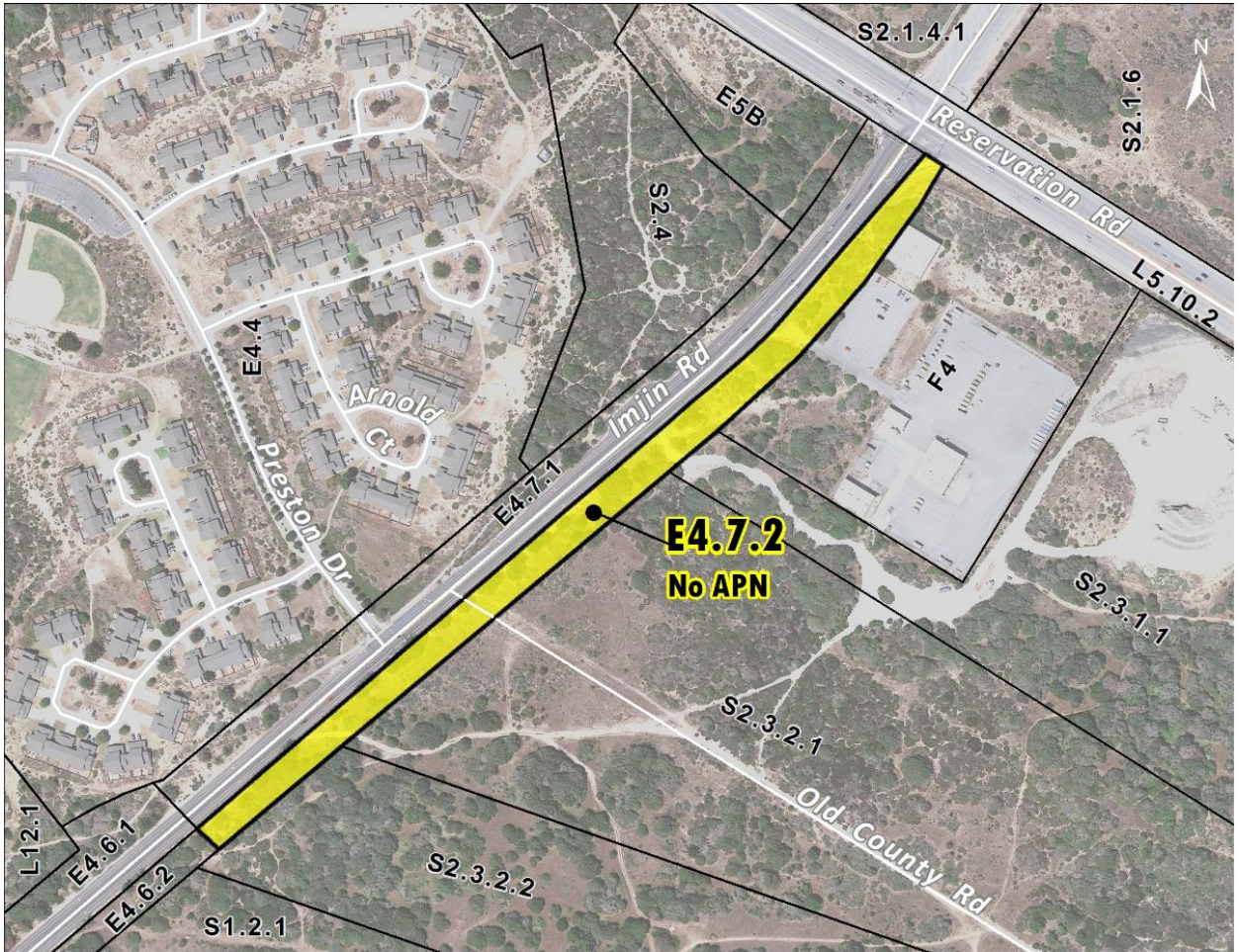


**Exhibit "B"**  
Map of Landfill Site



# Exhibit "C"

## Imjin Parkway E4.7.2 Road Right-of-Way Parcel



**Exhibit "D"**

**Monterey County Board of Supervisors Resolution No. 80-249**

Resolution Adopting Formula #1 b

*Before the Board of Supervisors in and for the  
County of Monterey, State of California*

RESOLUTION NO. 80-249

Before the Board of Supervisors In )  
and For the County of Monterey, )  
State of California . . . . . )

WHEREAS Assembly Bill 8 (Chapter 282) Statutes of 1979 provides for a mechanism for transferring base property tax revenues from one agency to another in conjunction with jurisdictional changes of organization; and

WHEREAS, the mechanism provided for in Chapter 282 is a "negotiated" tax transfer for the base or existing assessed value for all jurisdictional changes of organization having occurred since January 1, 1978, said transfer to be approved by Resolution by the Monterey County Board of Supervisors for each affected special district and by the City Council for each affected city; and

WHEREAS, said Chapter 282 provides for a procedure which allocates all future tax increment revenues resulting from new or increased assessed value within the affected territory to be distributed on a pro rata basis to each local agency that has jurisdiction within the tax rate area; and receives property tax revenue; and

WHEREAS, Monterey County and a consensus of cities within the County have negotiated a uniform formula approach to be used for all city annexations with the proviso that those proposals which involve extreme or unique service problems to one or more affected agencies can be considered and/or negotiated on a case by case basis,

NOW, THEREFORE, Monterey County Board of Supervisors DOES HEREBY RESOLVE, DETERMINE and ORDER the following formulas and policies to apply for determining all property tax transfers resulting from jurisdictional changes in organization to cities and special districts.

Section 1. The formulas outlined in Sections 3 through 5 set forth the amount, if any, of the base or existing property tax revenue to be reallocated as a result of a change of organization. The formulas are meant to redistribute or reallocate the existing tax base among the various affected local agencies. The formula is agreed to by both the County and the cities with the understanding that future year tax increment revenues will be allocated



to each agency having jurisdiction within a given tax rate area based upon its pro rata share of the composite equivalent tax rates within that code area. The transfer of base revenue will not change future tax increment allocations.

Section 2. The formulas outlined in Sections 3 through 5 will apply to all changes of organization for cities and special districts within Monterey County. However, for those proposals involving extreme or unique service problems to one or more affected agencies special considerations outside of the formula and/or negotiations may be considered.

Section 3. Special District to City or Special District to Special District Transfers (Annexation to City and Detachment from Special Districts or Exchange of Territory Between Agencies): When a city assumes the service responsibilities of a special district as a result of annexation, or when special districts exchange territory, the new agency will receive the percentage of property tax revenues previously received by the predecessor special district from the annexed area. The following formula will apply:

A = Percentage of assessed value of the predecessor special district within area to be annexed.

B = Property tax revenues to the predecessor special district.

$$\text{Transfer Amount} = A \times B$$

Tax transfers would be prorated on a monthly basis effective for the first full calendar month following completion of a change of organization for annexations occurring during mid-year.

Section 4. County to City Tax Transfers: The tax transfer from the County to a city shall be based upon the proportionate share of the equivalent tax rates of the annexing city and the County. That is, the County will transfer a percentage of its "tax base revenue" based on the pro rata share of the city equivalent tax rate to the combined city/county equivalent tax rates. The Auditor-Controller will prepare each year the equivalent tax rate for each local agency within the County. The following formula will apply:

A = City equivalent tax rate  
 B = County equivalent tax rate  
 C = A + B or combined city/county tax effort

$$\text{Transfer Amount} = \frac{A}{C} \times \text{County property tax revenue generated by the base assessed value of the annexed territory}$$

Tax transfers would be prorated on a monthly basis, effective for the first full calendar month following a change of organization to account for annexations occurring during mid-year. The equivalent tax rates and percentage tax transfers that would apply for Fiscal Year 1979-80 are shown in the following table.

COUNTY TO CITY TAX TRANSFERS  
FOR FISCAL YEAR 1979-80

City	A	B	C	Percentage of County Tax Revenue to be Transferred
Carmel	.458	1.062	1.52	30.1%
Del Rey Oaks	.871	1.062	1.933	45.1%
Gonzales	1.158	1.062	2.22	52.2%
Greenfield	.991	1.062	2.053	48.3%
King City	.969	1.062	2.031	47.7%
Marina	.844	1.062	1.906	44.3%
Monterey	.858	1.062	1.92	44.7%
Pacific Grove	.858	1.062	1.92	44.7%
Salinas	.829	1.062	1.891	43.8%
Sand City	.190	1.062	1.252	15.2%
Seaside	1.082	1.062	2.144	50.5%
Soledad	1.122	1.062	2.184	51.4%

Section 5. County to Special District Transfers: There will be no County to special district tax transfers unless the change of organization involves a transfer of service previously performed by the County. In these cases, the transfer will be based on the same formula as outlined in Section 3. Jurisdictional changes which result in the introduction of new service to an area will not involve a property tax exchange since no existing agency will realize a reduction in cost.

## Exhibit "E"

### City of Marina Resolution No. 81-25

A = City equivalent tax rate  
B = County equivalent tax rate  
C = A + B or combined city/county tax effort

$$\text{Transfer Amount} = \frac{A}{C} \times \text{County property tax revenue generated by the base assessed value of the annexed territory}$$

Tax transfers would be prorated on a monthly basis, effective for the first full calendar month following a change of organization to account for annexations occurring during mid-year. The equivalent tax rates and percentage tax transfers that would apply for Fiscal Year 1979-80 are shown in the following table.

#### COUNTY TO CITY TAX TRANSFERS FOR FISCAL YEAR 1979-80

City	A	B	C	Percentage of County Tax Revenue to be Transferred
Carmel	.458	1.062	1.52	30.1%
Del Rey Oaks	.871	1.062	1.933	45.1%
Gonzales	1.158	1.062	2.22	52.2%
Greenfield	.991	1.062	2.053	48.3%
King City	.969	1.062	2.031	47.7%
Marina	.844	1.062	1.906	44.3%
Monterey	.858	1.062	1.92	44.7%
Pacific Grove	.858	1.062	1.92	44.7%
Salinas	.829	1.062	1.891	43.8%
Sand City	.190	1.062	1.252	15.2%
Seaside	1.082	1.062	2.144	50.5%
Soledad	1.122	1.062	2.184	51.4%

Section 5. County to Special District Transfers: There will be no County to special district tax transfers unless the change of organization involves a transfer of service previously performed by the County. In these cases, the transfer will be based on the same formula as outlined in Section 3. Jurisdictional changes which result in the introduction of new service to an area will not involve a property tax exchange since no existing agency will realize a reduction in cost.

Section 3. County to City Transfer After a Change of Organization -  
The tax transfer from the County to a city shall be based upon the proportionate sharing of the property taxes being available for negotiation. The amount available for negotiation is based upon the percentage of the total taxes collected (Based on the \$4 rate) that prior to a change or organization was allocated to the jurisdictions that are affected by the change.

The step by step procedure for establishing a property tax transfer rate is as follows:

- Step 1: Examine the tax distribution in the unincorporated tax rate area to determine what taxing entities would not be affected by the proposed reorganization.
- Step 2: Determine what percent of the property taxing effort these non-affected agencies constitute. This percent will remain constant as per provisions of Senate Bill 180.
- Step 3: Subtract the non-affected agencies percentage from 100% to determine what percent of current and future property tax revenues is available for distribution to the city and county.
- Step 4: Select an existing tax rate area within the city which is served by the same taxing entities that would serve the area to be annexed, i.e. same percentage tax distribution.
- Step 5: Calculate the ratio of city to county property tax revenues (expressed as percent) within the tax rate area.
- Step 6: Apply the ratios established in Step 5 to the percent of property tax revenue available for distribution to affected agencies. This step establishes the city and county's share of the negotiated base and incremental property tax revenue.
- Step 7: Pro rate calculation during the year of the reorganization; multiply the city/county amount of estimated revenues times (full months remaining in the year divided by twelve).

# Exhibit “F”

## JOINT COMMUNITY FACILITIES AGREEMENT

This Joint Community Facilities Agreement (this “**Agreement**”) is made by and between the Fort Ord Reuse Authority (“**FORA**”) and the County of Monterey, California (the “**Participating Agency**”) with reference to the following facts and objectives.

**A.** In 2002, FORA established the Fort Ord Reuse Authority Basewide Community Facilities District (the “**CFD**”), pursuant to the Mello-Roos Community Facilities Act of 1982 (California Government Code Section 53311 *et seq.*), as amended (the “**Act**”) for the purpose of collecting special taxes under the Act to finance, among other things, the construction of certain roadway improvements, transit improvements, water and storm drain improvements, other public facilities, and for costs related to habitat management within the CFD or otherwise incident to or required by reason of the development of property within or adjacent to the CFD, all as more particularly described in that Notice of Special Tax Lien recorded on May 22, 2002 as Document No. 2002048932 in the office of the County Recorder of the County of Monterey, California. FORA subsequently earmarked a portion of the special taxes so collected to finance the services described in Exhibit A attached hereto and incorporated herein by this reference (the “**Habitat-Related Services**”), resulting in accumulated funds having an approximate aggregate current unexpended balance of \$17,000,000 (the “**Habitat Funds**”).

**B.** FORA is scheduled to terminate on June 30, 2020 (“**FORA’s Termination Date**”) in accordance with the Fort Ord Reuse Authority Act (California Government Code Section 67650 *et seq.*), as amended. This Agreement is necessary to provide for the orderly transition of governmental finances in connection with the termination of FORA. Prior to FORA’s Termination Date, FORA plans to allocate, divide, and distribute to each of the Participating Agency and certain other public entities having habitat management responsibilities within the former Fort Ord and which enter into a joint community facilities agreement with FORA a portion of the then unexpended Habitat Funds in accordance with the formula set forth in Exhibit B attached hereto and incorporated herein by this reference. The Participating Agency’s allocated portion of such unexpended Habitat Funds may be referred to herein as the “**Allocated Funds**.”

**C.** The parties hereto expect that the Participating Agency will provide Habitat-Related Services, particularly those that pertain to real property within the Participating Agency’s territorial limits (the “**Covered Services**”). The parties acknowledge that such real property within the unincorporated area of the County may include real property under the authority and control of another public entity, such as, for example, real property under the jurisdiction of a public educational institution. The term “Covered Services” includes Habitat Related Services that pertain to such property.

**D.** FORA and the Participating Agency now desire to enter into this Agreement to satisfy the requirements of Section 53316.2 of the Act and to memorialize their understanding with respect to the use of that portion of the Habitat Funds allocated to the Participating Agency for its use in connection with the provision of the Covered Services, all as more particularly set forth below.

NOW, THEREFORE, based on the foregoing and in consideration of the mutual terms, covenants and conditions contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

**Section 1. Delivery and Segregation of Allocated Funds.** Prior to FORA's Termination Date, FORA shall deliver the Allocated Funds to the Participating Agency. The Allocated Funds, together with any earnings thereon, shall be held by the Participating Agency in an account separate and apart from any other account maintained by the Participating Agency (the "**Allocated Funds Account**"). Funds in the Allocated Funds Account shall be used exclusively for payment of the costs of the Covered Services. The Participating Agency may elect to transfer a portion of the Allocated Funds to another public entity having habitat management responsibilities within the former Fort Ord ("**Transferee Public Entity**"), provided that the Participating Agency and Transferee Public Entity enter into a written agreement requiring the Transferee Public Entity to use the Allocated Funds only for Habitat Related Services and to hold the Allocated Funds in an account separate and apart from the any other account maintained by the Transferee Public Entity. Other than by providing the Allocated Funds, FORA shall have no obligation to pay for any of the costs of the Covered Services. It will be the responsibility of the Participating Agency, in the exercise of its discretion, to address, pay, arrange for the payment or equivalent or reduce, any costs of the Covered Services in excess of the funds available in the Allocated Funds Account.

**Section 2. Habitat Management.** Following FORA's Termination Date, the Participating Agency shall be solely responsible for carrying out any habitat management or other similar requirements associated with the Covered Services.

**Section 3. Limited Obligations.** All obligations of FORA under and pursuant to this Agreement shall be limited to the amounts it provides for deposit into the Allocated Funds Account. No member of FORA's board of directors or any officer, employee, representative, or agent of FORA shall in any event be personally liable hereunder.

**Section 4. Term.** The term of this Agreement shall begin on the full signing of this Agreement by the parties and continue until FORA's Termination Date; provided, however, that the Participating Agency's obligations hereunder shall remain in full force and effect until the exhaustion of all amounts in the Allocated Funds Account by proper expenditure thereof by the Participating Agency to pay the costs of the Covered Services. All rights and obligations hereunder that by their nature are to be performed after any expiration or termination of this Agreement shall survive any such expiration or termination.

**Section 5. Agreement of Public Benefit.** By their respective approvals of this Agreement, FORA and the Participating Agency have each declared and hereby confirm that this Agreement is beneficial to the residents within the jurisdiction of their respective entities in assuring the provision of financing for a portion of the costs of the Covered Services in furtherance of the purposes of the Act.

**Section 6. Partial Invalidity.** If any part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent reasonably possible.

**Section 7. Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto

**Section 8. Third-Party Beneficiaries.** In order to provide a mechanism for enforcement of the Participating Agency's accounting obligations under this Agreement after FORA's Termination Date, the Cities of Del Rey Oaks, Marina, Monterey and Seaside are each hereby made an intended third-party beneficiary of this Agreement.

**Section 9. Amendment.** This Agreement may be amended at any time but only in writing signed by each party hereto.

**Section 10. Cooperation.** Each of the parties agrees to use reasonable and good faith efforts to take, or cause to be taken, all action to do, or cause to be done, and to assist and cooperate with any and all other parties in doing, all things necessary, proper or advisable to consummate and make effective, in the most expeditious manner practicable, the transactions contemplated by this Agreement including signing, acknowledging, and delivering any instruments and documents as may be necessary, expedient, or proper, to carry out the intent and purpose of this Agreement.

**Section 11. Entire Agreement.** This Agreement contains the entire agreement between the parties hereto with respect to the matters provided for herein and supersedes all prior agreements and negotiations between the parties hereto with respect to the subject matter of this Agreement.

**Section 12. Governing Law.** This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California applicable to contracts made and performed in such State.

**Section 13. Interpretation.** This Agreement, as well as its individual provisions, shall be deemed to have been prepared equally by both of the parties hereto, and shall not be construed or interpreted more favorably for one party on the basis that the other party prepared it.

**Section 14. Execution in Counterparts.** This Agreement may be signed in any number of counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same complete instrument. The signature page of each counterpart may be detached from such counterpart and attached to a single document which shall for all purposes be treated as an original. Faxed, photocopied or e-mailed signatures shall be deemed originals for all purposes. This Agreement shall be effective as to each party when that party has executed and delivered a counterpart hereof.

**Section 15. Authority.** Each party represents and warrants to the other that it is authorized to execute, deliver and perform this Agreement, and the terms and conditions hereof are valid and binding obligations of the party making this representation.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year written beneath their respective signatures below.

**FORT ORD REUSE AUTHORITY**

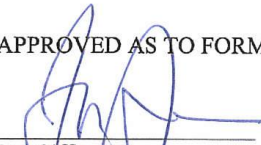
By:   
Josh Metz,  
Executive Officer

Dated: June 26, 2020

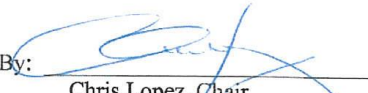
ATTEST:

  
Clerk of the Board

APPROVED AS TO FORM:

  
Jon Giffen,  
Authority Counsel

**COUNTY OF MONTEREY**

By:   
Chris Lopez, Chair  
Monterey County Board of Supervisors

Dated: June 16, 2020

ATTEST:

  
Clerk of the Board of Supervisors

APPROVED AS TO FORM:

  
Wendy Strimling,  
Assistant County Counsel



## **EXHIBIT A**

### **DESCRIPTION OF THE HABITAT-RELATED SERVICES**

Habitat-Related Services consist of “Habitat Management” within or in the vicinity of the CFD, or otherwise incident to or required by reason of development of the property within and adjacent to the CFD.

In accordance with the Notice of Special Tax Lien referenced in Recital A of this Agreement, “Habitat Management” includes expenditures for, without limitation, all of the following but only as they relate to managing the habitat within the CFD boundaries: all work and activities to study, review environmental impacts and mitigation measures, planning and design, and all work to construct and install the improvements, including (as applicable) but not limited to, acquisition of right of way and land, soils testing, mobilization, permits, plan check and inspection fees, legal and overhead costs, clearing, grubbing, coordination and supervision costs, tree removal, environmental mitigation actions, grading, protective fencing and erosion control, trenching (including shoring and backfill), base and finish paving and pavement restoration, curbs, gutters and sidewalks, signage, and striping, signalization, landscaping and irrigation, lighting, relocation of existing facilities and improvements which are in existence and are to be retained in a different location, and related appurtenances. “Habitat Management” also includes administrative fees and expenses, and any other costs described in Section 53317(e) of the Mello-Roos Act and not specifically listed above.

**EXHIBIT B**

FORMULA FOR ALLOCATION OF UNEXPENDED HABITAT FUNDS

County of Monterey	79.9%
City of Marina	7.9%
City of Seaside	7.4%
City of Del Rey Oaks	4.5%
City of Monterey	<u>0.3%</u>
TOTAL	100%