

Attachment B

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

Resolution No. 20-_____

Adopt a Resolution)
a. Approving and authorizing the Resource Management Agency (RMA) Director to execute an updated Conveyance Agreement to: 1) Establish the terms of transfer from the County to the City of Marina of certain lands in the former Fort Ord, including six parcels totaling 177.1 acres, identified as Assessor’s Parcel Numbers 031-101-039, 031-101-040, 031-101-041, 031-101-042, 031-101-056, and 031-101-058, collectively known as the “Landfill Border Parcels Site,” located on Imjin Parkway on the former Fort Ord; 2) Designate the City of Marina instead of the County as the future recipient of 164 acres of land over two parcels, identified as Assessor’s Parcel Numbers 031-101-057 and 031-101-067, collectively known as the “Landfill Site,” located on Imjin Parkway on the former Fort Ord; 3) Authorize and request Marina Coast Water District to transfer to the City of Marina the 10 AFY of Fort Ord “water allocation” for the “County/Marina Sphere (Polygon 8a),” subject to future changes in the management of the former Fort Ord water allocations; and 4) Transfer \$300,000 of earmarked habitat management funds to the City, subject to restrictions on use of the funds by the City of Marina for habitat-related services.)
b. Authorizing and directing the Auditor-Controller to amend Fiscal Year 2020-21 Adopted Budget to increase appropriations by \$300,000 and estimated revenue by \$300,000 for the Habitat Management Program, Fund 029, Appropriation Unit RMA111, to fund habitat management activities on former Fort Ord lands, financed by Unassigned Fund Balance of \$300,000 (Fund 029, Balance Sheet Account 3101) (4/5 th vote required);)
c. Authorizing the RMA Director to transmit the Conveyance Agreement to the City of Marina for execution and the fully executed Conveyance Agreement to the City of Seaside as the federally recognized Local Reuse Authority (“LRA”) to notify the LRA of designation of the City of Marina to receive the Landfill Site parcels rather than the County;)
d. Finding that the properties subject to this action are “exempt surplus property” pursuant to Government Code section 54221(f)(1)(D); and)
e. Finding that this action is categorically exempt pursuant to the California Environmental Quality Act Guidelines sections 15305, 15308, and 15061(b)(3).)

WHEREAS, the Fort Ord Reuse Authority (“FORA”) was created under Title 7.85 of the California Government Code as a regional agency 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 transfers from the Army of real property on the former Fort Ord;

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, pursuant to the EDC and certain Implementation Agreements entered into by FORA and member jurisdictions, certain lands were identified to be transferred to the County and the City of Marina (Marina) or their designees, some of which lands have transferred while others still remain in Army ownership;

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

WHEREAS, following FORA dissolution, the City of Seaside became the federally recognized LRA, effective July 1, 2020, for the purpose of implementing the EDC;

WHEREAS, on April 21, 2020, the Board of Supervisors of the County of Monterey approved a quitclaim deed which remised, released, and forever quitclaimed “as is” to the City of Marina (Marina) all of County’s rights, title, and interests in the real property known as the Landfill Border Parcels Site located on Imjin Parkway on the former Fort Ord in the County of Monterey, State of California, more specifically described as follows:

- 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)

WHEREAS, on April 21, 2020, the Board of Supervisors also designated the Marina instead of the County as the future recipient from FORA or the Army of the following properties: 1) two parcels of land totaling 164 acres, identified as Assessor’s Parcel Numbers 031-101-057 and 031-101-067, collectively known as the *Landfill Site*, located on Imjin Parkway on the former Fort Ord, and 2) one parcel of land totaling 3.1 acres, identified as Army Corps of Engineers’ Parcel Number E4.7.2 (no Assessor’s Parcel Number), known as the *Imjin Parkway E4.7.2 Road Right-of-Way Parcel*, located near the intersection of Imjin Parkway and Reservation Road on the former Fort Ord Pursuant to the Base Reuse Plan and County Implementation Agreement;

WHEREAS, on April 21, 2020, the Board of Supervisors also approved a conveyance agreement establishing the terms of conveyance to Marina the County's title or future interest in the above-referenced properties, but Marina did not accept that prior conveyance agreement, and the County and Marina have continued to negotiate the terms of the property transfer;

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

WHEREAS, the County and Marina have negotiated the updated Conveyance Agreement to reflect events that have occurred since April and to address Marina's request for the 10 acre feet per year ("AFY") FORA water allocation associated with the "County/Marina Sphere (Polygon 8a)" and a share of County's habitat management funds in connection with the land transfers;

WHEREAS, the quitclaim deed, approved on April 21, 2020, for the Landfill Border Parcels Site assigned "any allocation of groundwater associated with those parcels to Marina to the extent that FORA has made such an allocation to the County and County has allotted a specific portion of said allocation to that real property" but did not identify a specific amount;

WHEREAS, FORA's 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);

WHEREAS, the County/Marina Sphere (Polygon 8a) includes parcels addressed in the Conveyance Agreement;

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's 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 the Conveyance Agreement, the County and Marina desire to authorize MCWD to transfer to Marina the 10 AFY water allocation which was originally allocated for the County/Marina Sphere (Polygon 8a).

WHEREAS, FORA collected a Community Facilities District (CFD) 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 Habitat Management Plan (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 to the updated Conveyance Agreement, 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 JCFA, 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 Landfill Border Parcels Site, the Landfill Site, and the Imjin Parkway Road Right-of-Way Parcel that are the subject of the Conveyance Agreement 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, the County has agreed to transfer \$300,000 of the Allocated Funds to Marina to be used exclusively for Habitat-Related Services on former Fort Ord land within the City of Marina;

WHEREAS, the County and Marina wish to memorialize these additional terms in the updated Conveyance Agreement;

WHEREAS, these actions support the Board of Supervisors’ Economic Development Strategic Initiative by facilitating the reuse of the former Fort Ord;

WHEREAS, the real properties being transferred in this action are “exempt surplus property” pursuant to Government Code section 54221(f)(1)(D) because this is a property transfer from one local agency to another local agency, and notice requirements under subparagraph (2) of that same section and section 54222 do not apply; and

WHEREAS, these actions are categorically exempt from CEQA pursuant to CEQA Guidelines (Title 14 of the California Code of Regulations) sections 15305, 15308, and 15061(b)(3), because: 1) the average slope on the properties is less than 20 percent (20%), and there is no change in land use or density; 2) the transferred lands include lands to be preserved as habitat, and the Conveyance Agreement provides funds which must be used for habitat management; and 3) there are no reasonably foreseeable significant environmental impacts which will occur as a result of this transfer because any future development of these properties will require a discretionary action subject to CEQA.

DECISION

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Supervisors of the County of Monterey does hereby:

- a. Approve and authorize the Resource Management Agency Director to execute an updated Conveyance Agreement to:
 - 1) Establish the terms of transfer from the County to the City of Marina of certain lands in the former Fort Ord, including 177.1 acres totaling six parcels, identified as Assessor's Parcel Numbers 031-101-039, 031-101-040, 031-101-041, 031-101-042, 031-101-056, and 031-101-058, collectively known as the "Landfill Border Parcels Site," located on Imjin Parkway on the former Fort Ord;
 - 2) Designate that the City of Marina instead of the County as the future recipient of 164 acres of land over two parcels, identified as Assessor's Parcel Numbers 031-101-057 and 031-101-067, collectively known as the "Landfill Site," located on Imjin Parkway on the former Fort Ord;
 - 3) Authorize and request MCWD to transfer to the City of Marina the 10 afy of Fort Ord "water allocation" for the "County/Marina Sphere (Polygon 8a)", subject to future changes in the management of the former Fort Ord water allocations; and
 - 4) Transfer \$300,000 of earmarked habitat management funds to the City, subject to restrictions on use of the funds by the City of Marina for habitat management.
- b. Authorize and direct the Auditor-Controller to amend Fiscal Year 2020-21 Adopted Budget to increase appropriations by \$300,000 and estimated revenue by \$300,000 for the Habitat Management Program, Fund 029, Appropriation Unit RMA111, to fund habitat management activities on former Fort Ord lands, financed by Unassigned Fund Balance of \$300,000 (Fund 029, Balance Sheet Account 3101) (4/5th vote required);
- c. Authorizing the Resource Management Agency Director to transmit the Conveyance Agreement to the City of Marina for execution and to transmit the fully executed Conveyance Agreement to the City of Seaside as the federally recognized Local Reuse Authority ("LRA") to notify the LRA of designation of the City of Marina to receive the Landfill Site parcels rather than the County;
- d. Find that the properties subject to this action are "exempt surplus property" pursuant to Government Code section 54221(f)(1)(D); and
- e. Find that this action is categorically exempt pursuant to the California Environmental Quality Act Guidelines sections 15305, 15308, and 15061(b)(3).

PASSED AND ADOPTED upon this 17th day of November 2020, by the following roll call vote:

AYES:

NOES:

ABSENT:

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original resolution of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book _____ for the meeting on November 17, 2020.

Dated: November , 2020

File ID: Res 20-

Agenda Item:

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California

By _____
Deputy