

Attachment C

This page intentionally left blank.

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

RESOLUTION NO. 20- _____

A RESOLUTION OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF MONTEREY
ACCEPTING THE DELEGATION OF CERTAIN LIMITED PROGRAM ADMINISTRATION DUTIES
WITH REGARD TO THE FORT ORD REUSE AUTHORITY
PARS PUBLIC AGENCIES POST-EMPLOYMENT BENEFITS TRUST
ADMINISTERED BY PUBLIC AGENCY RETIREMENT SERVICES (PARS)

WHEREAS, the Fort Ord Reuse Authority (the “Authority”) adopted the Adoption Agreement for the Post-Employment Section 115 Trust (“Adoption Agreement”), effective May 11, 2018, thereby adopting the provisions of that certain Public Agency Post-Employment Benefits Trust Agreement, dated November 4, 2014 (“Trust Agreement”), whereby assets of the Authority are held in trust by U.S. Bank National Association (“Trustee”) in a pension account in order to fund the Authority’s Pension Plan under the California Public Employees’ Retirement System (CalPERS) (the “Section 115 Trust”);

WHEREAS, these Authority actions to participate in the Public Agency Retirement Services (PARS) Public Agencies Post-Employment Benefits Trust (the “Program”) were for the purpose of prefunding the Authority’s pension obligations;

WHEREAS, the Authority entered into an Agreement for Administrative Services (the “PARS Agreement”) with Phase II Systems, a California corporation, doing business as Public Agency Retirement Services (PARS), on May 29, 2018, for trust administrative services associated with the Authority’s Program;

WHEREAS, as outlined in the PARS Agreement, PARS is compensated for the performance of services pertaining to the Program as described in Exhibit 1A, Services, of the PARS Agreement, and the fees for such Services are remunerated from the Authority’s Program assets as set forth in Exhibit 1B, Fees for Services, of the PARS Agreement;

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

WHEREAS, CalPERS had not made a final determination of the exact amount of Authority’s final obligation to CalPERS at the time of the Authority’s dissolution, and CalPERS is not expected to make that final determination until approximately 90 days after the Authority dissolution;

WHEREAS, on June 26, 2020, the Board of Directors of the Authority adopted a Transition Plan which provides that “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”;

WHEREAS, prior to the dissolution of the Authority, the Authority executed an agreement with the County of Monterey and Regional Governmental Services Authority (“Fiscal Agreement”) whereby the

Authority agreed to “add the County of Monterey 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,” and the County agreed to add the County as signatory to the Section 115 Trust account and to release the funds to CalPERS when the amount of the unfunded pension liability has been finally determined;

WHEREAS, prior to dissolution of the Authority and pursuant to the afore-referenced adoption of the Transition Plan and approval of the Fiscal Agreement, the Authority delegated certain limited plan administration duties with regard to the Authority’s Program to the County of Monterey (the “County”), effective upon the dissolution of the Authority;

WHEREAS, pursuant to the Transition Plan and the Fiscal Agreement, the County’s sole function is to authorize release of the assets held in the Section 115 Trust at such time that CalPERS has finally determined the Authority’s obligation to CalPERS and thereafter to take the steps required to close the Authority’s account;

WHEREAS, the terms of the existing Program and any agreements associated with trustee and trust administration services shall remain in full force and effect to the extent and only to the extent applicable to County’s limited role, until such time that all of the Authority’s assets have fully transferred from the Trust to California Public Employees’ Retirement System (CalPERS) and the Authority’s account closed, with the County to bear no liability for any prior act or failure to act by the Authority; and

WHEREAS, the Authority did not assign the PARS Agreement to the County, and the County does not accept assignment of the PARS Agreement, but the County desires to cooperate with PARS and the Trustee in order to effect the transfer of the Authority’s assets from the Section 115 Trust to the California Public Employees’ Retirement System and thereafter authorize closure of the Authority’s account as previously authorized by the Authority.

NOW THEREFORE, BE IT RESOLVED THAT:

1. The Board of Supervisors of the County of Monterey hereby accepts the delegation of limited plan administration duties as set forth below with regard to the Fort Ord Reuse Authority’s PARS Public Agencies Post-Employment Benefits Trust, effective upon the official dissolution of the Authority as of 12:01 a.m. July 1, 2020, subject to the limitations set forth in this resolution and provided that County assumes no liability or responsibility for any prior act or failure to act by the Authority in regard to any aspect of the Program;
2. The Board of Supervisors hereby appoints the County Administrative Officer, or his/her successor or his/her designee as the County’s plan administrator (the “Plan Administrator”) for the Authority’s Program specifically with respect to authorizing release of the assets held in the Section 115 Trust to CalPERS and closing the Authority’s account;
3. The County’s Plan Administrator is hereby authorized to execute the PARS legal and administrative documents as necessary for release of the assets held in the Section 115 Trust and closure of the Authority’s account, based on delegation by the Authority prior to the Authority’s dissolution, but County shall have no responsibility to administer any other aspect of the Program, and County shall have no responsibility or liability for any other action taken by the Authority or failure of the Authority to act relative to the Program ;

4. The County's Plan Administrator is authorized to direct the transfer of assets from the Authority's Program trust account to CalPERS, subject to the applicable provisions of the Trust Agreement;
5. The County's Plan Administrator is further authorized to terminate the Adoption Agreement (Exhibit A to the Trust Agreement), once all the Authority's assets have fully transferred to CalPERS;
6. The County does not assume any of Authority's other duties and obligations stated in the Trust Agreement, Adoption Agreement, or PARS Agreement, including any duty to defend, indemnify, or hold harmless PARS or the Trustee or their agents, employees, or delegates;
7. The County shall have no duty to remit payment directly to PARS or to U.S. Bank N.A. (the "Trustee") for fees associated with the Authority's Program, and PARS and the Trustee will continue to remunerate fees from Program assets until such time that all of the Authority's assets have fully transferred from the trust and the account is closed; and
8. Upon the complete transfer of the Authority's assets to CalPERS and upon receipt of written direction from the County's Plan Administrator to terminate the Adoption Agreement (Exhibit A to the Trust Agreement), PARS will be removed as trust administrator, U.S. Bank N.A. will be removed as trustee, and the Authority's account shall be closed and any agreements associated with Trustee and trust administration services under the Authority's Public Agencies Post-Employment Benefits Trust shall be terminated.

PASSED AND ADOPTED this 22nd day of September 2020, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(Government Code 54943)

I, Valerie Ralph, the Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the above foregoing resolution is a true copy of an original resolution by the said Board of Supervisors duly made and entered in the minutes thereof of Minute Book _____ for the meeting on September 22, 2020.

Dated: September , 2020

File ID: RES 20-

Agenda Item:

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

By: _____
Deputy

This page intentionally left blank