



Monterey County

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: RES 20-156

September 22, 2020

Introduced: 9/14/2020

Version: 1

Current Status: Agenda Ready

Matter Type: BoS Resolution

Adopt a resolution to:

- a. Accept the delegation of certain limited program administration duties with regard to the Fort Ord Reuse Authority (FORA) PARS Public Agencies Post-Employment Benefits Trust, effective July 1, 2020, subject to the limitations set forth in the resolution, for the purpose of authorizing release of the assets held in the Section 115 Trust to CalPERS and thereafter terminating FORA's Adoption Agreement for the Post-Employment Section 115 Trust; and
- b. Appoint the County Administrative Officer or his/her designee as the Plan Administrator for these limited purposes.

RECOMMENDATION:

It is recommended that the Board of Supervisors adopt a resolution to:

- a. Accept the delegation of certain limited program administration duties with regard to the Fort Ord Reuse Authority (FORA) PARS Public Agencies Post-Employment Benefits Trust, effective July 1, 2020, subject to the limitations set forth in the resolution, for the purpose of authorizing release of the assets held in the Section 115 Trust to CalPERS and thereafter terminating FORA's Adoption Agreement for the Post-Employment Section 115 Trust; and
- b. Appoint the County Administrative Officer or his/her designee as the Plan Administrator for these limited purposes.

SUMMARY:

Adoption of this resolution will enable the County to authorize the release of FORA's Section 115 Trust assets to the California Public Employees' Retirement System (CalPERS) at the appropriate time and to terminate FORA's Section 115 trust agreement after the trust assets have been distributed. The resolution also appoints the County Administrative Officer (CAO) or his or her designee as the "Plan Administrator" to carry out these functions. This action will enable the County to carry out a responsibility assigned to the County and previously agreed to by the County as part of the Fort Ord Reuse Authority (FORA) dissolution.

DISCUSSION

In 2018, FORA set aside funds in a trust (the "Section 115 Trust") for the purpose of prefunding FORA's employee pension obligations under CalPERS. Since the amount of the final obligation was not known at the time of FORA's dissolution, the final Transition Plan adopted by the FORA Board on June 26, 2020, included as Attachment A, stipulates that FORA would add the County as a signatory to the Section 115 Trust account or transfer the funds to the County, with the requirement that the County apply the funds "to the satisfaction or reduction of the unfunded pension liability under the CalPERS contract when that amount has been finally determined." (Transition Plan, section 2.1.1.)

An agreement among FORA, County, and Regional Governmental Services relating to the winding up of FORA's business affairs also proposed to add the County of Monterey as a signatory to the Section 115 Trust account with authority to apply the funds to the unfunded pension liability under the CalPERS contract when CalPERS had made a final determination of the amount of the obligation.

On FORA's last day, the Public Agency Retirement Services (PARS) contacted County staff. In subsequent communications with PARS, the County learned that in 2018, to establish the Section 115 Trust, FORA had entered into an Adoption Agreement for the Post-Employment Section 115 Trust ("Adoption Agreement"), which in effect adopted applicable provisions of that certain Public Agency Post-Employment Benefits Trust Agreement, dated November 4, 2014 ("Trust Agreement"). Pursuant to the Adoption Agreement and Trust Agreement, the funds FORA set aside to prefund its pension plan are held in trust by U.S. Bank National Association ("Trustee") in a pension account (the "Section 115 Trust"). The Adoption Agreement and Trust Agreement are included as Attachment B. In 2018, FORA also entered into an Agreement for Administrative Services with PARS for trust administrative services (the "PARS Agreement").

Neither the Adoption Agreement, Trust Agreement, nor PARS Agreement were assigned to the County; however, those agreements control the disposition of the Section 115 Trust. While the County is not accepting assignment of these agreements, County Counsel has negotiated the proposed resolution with PARS and the Trustee bank in order to enable the Section 115 Trust assets to be released to CalPERS at such time that CalPERS has made a final determination of the amount of FORA's pension obligation, while memorializing County's limited role. The resolution (Attachment C) authorizes the County to: a) direct the transfer of assets from FORA's trust account to CalPERS, subject to the applicable provisions of the Trust Agreement; and b) terminate the Adoption Agreement after all of FORA's assets have fully transferred to CalPERS. To protect County from liability, the resolution explicitly limits County's obligations under the agreements entered previously by FORA and provides that County shall have no responsibility or liability for FORA's actions or failure to act with respect to this matter.

OTHER AGENCY INVOLVEMENT:

Phase II Systems, doing business as PARS, provides trust administrative services associated with FORA's Section 115 Trust. U.S. Bank National Association serves as trustee of FORA's Section 115 Trust assets. The Office of the County Counsel negotiated the resolution language and terms with PARS and U.S. Bank. RMA oversees the RGS contract and administrative and fiscal wind-up activities of FORA. The County Administrative Officer (CAO) or his/her designee will serve as the Plan Administrator. The Treasurer-Tax Collector (TTC) was consulted on this matter and concurred that Plan Administrator is a function of the CAO not TTC.

FINANCING:

RMA staff time to manage the RGS contract and handle the 115 Trust matters will be funded as part of a modification to the FY 2020-21 Adopted Budget for RMA, Fund 001, Appropriation Unit RMA013, financed by funding transferred to the County from FORA. Staff will return to the Board in October 2020 via the Budget Committee in September 2020 to amend the adopted budget and appropriate funds.

FORA's Section 115 Trust has an approximate balance of \$7 million which continues to accrue interest. It is anticipated that all proceeds from the trust will be needed to pay FORA's CalPERS obligation.


BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Today's action to accept delegation of certain limited program administration duties with regard to FORA's Public Agencies Post-Employment Benefit Trust supports the Board of Supervisors' Strategic Initiative for Administration. Oversight of FORA's administrative wind up and payment of FORA's CalPERS obligations will ensure the orderly dissolution of FORA's business functions.

- ☐ Economic Development
- ☒ Administration
- ☐ Health & Human Services
- ☐ Infrastructure
- ☐ Public Safety

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Approved by: Shawne Ellerbee, Assistant Director of Resource Management Agency

Approved by: Carl P. Holm, AICP, RMA Director 

Attachments:

Attachment A-June 26, 2020 Transition Plan

Attachment B-Adoption Agreement and Trust Agreement

Attachment A-Draft Resolution

(Attachments are on file with the Clerk of the Board)

