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9 Attorneys for Petitioner and Plaintiff  
California Native Plant Society

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **COUNTY OF MONTEREY**

13 CALIFORNIA NATIVE PLANT SOCIETY,  
14  
15 Petitioner and Plaintiff,

Case No. 20CV001529  
Filed June 2, 2020  
Assigned to the Hon. Marla O. Anderson

16 v.

**JOINT CASE MANAGEMENT**

17 FORT ORD REUSE AUTHORITY,  
CITY OF DEL REY OAKS, et al.,

**STATEMENT; AND**

18 Respondents and Defendants.  
19 \_\_\_\_\_/

**JOINT RESPONSE TO COURT ORDER**

20 CITY OF DEL REY OAKS, LOCAL  
AGENCY FORMATION COMMISSION  
OF MONTEREY COUNTY, et al.,

**DATED SEPTEMBER 2, 2020**

**RE BRIEFING SCHEDULE**

21 Real Parties, Potential Parties,  
22 and/or Recipients of Approvals  
(Pub. Resources Code,  
23 § 21167.6.5).  
24 \_\_\_\_\_/

Date: October 6, 2020  
Time: 9:00 am  
Dept.: 14

25 The parties respectfully submit this joint case management statement for the  
26 case management conference and this joint response to the order setting a briefing  
27 schedule. This statement is being filed 15 days before the October 6, 2020 hearing  
28 pursuant to this court's order dated September 2, 2020.

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**JOINT CASE MANAGEMENT STATEMENT**

a. Status of Pleadings.

The case is not yet at issue. Del Rey Oaks and LAFCO have not filed responsive pleadings to the verified petition and complaint. Del Rey Oaks has an extension to respond until 30 days after the administrative record is filed in this matter and LAFCO has an extension until November 20, 2020. The parties have been focused on trying to resolve the matter through settlement discussions and mediation which is scheduled for November 5, 2020.

b. Status of Discovery.

Del Rey Oaks propounded discovery to four entities: California Native Plant Society, Jane Haines, California Native Plant Society's attorney in the late 1990s and early 2000s; Del Rey Oaks' past city attorney Wellington Law Offices; and Del Rey Oaks' past city attorney Christopher Callihan. All responding parties have provided discovery responses to Del Rey Oaks. Del Rey Oaks has agreed to provide the nonprivileged Wellington records to California Native Plant Society in the coming week.

If the mediation process is not successful then plaintiff likely will propound discovery on Del Rey Oaks.

c. Status of Settlement or Mediation.

The parties have set up mediation in Monterey on November 5, 2020 with mediator Chris Campbell with the Mandell-Gisnet Conflict Resolution Center. Mediation is scheduled to start at 9 am. Counsel for and representatives of California Native Plant Society and Del Rey Oaks will be present in person at the mediation. Real party in interest LAFCO will be available to participate by phone as needed. The parties are in

1 the process of discussing logistics and briefing for mediation.

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3 d. Conclusions reached after meet and confer on all matters set forth in CRC  
4 Rule 3.750 and Rule 3.724(8).

5 The parties have met and conferred on the issues identified in rule 3.750 (initial  
6 case management conference) and rule 3.724(8), and do not have issues to report to  
7 the court at this time. The parties do not request that the court rule on any particular  
8 matter at the case management conference.

9  
10 The major legal and factual issues involved in the litigation are (1) the actions of  
11 FORA and Del Rey Oaks with regard to the contract with CNPS to preserve habitat plus  
12 a buffer, (2) the compliance of Del Rey Oaks with the California Public Records Act with  
13 regard to the 2000 FORA memo and the attached meeting minutes of FORA, Del Rey  
14 Oaks and FORA, and map, and (3) the actions under CEQA by Fort Ord Reuse  
15 Authority with regard to the South Boundary Road project, the North-South  
16 Road/Highway 218 project, and the General Jim Moore project, including  
17 unimplemented mitigations for the two latter projects for impacts within the city limits of  
18 Del Rey Oaks.  
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21 e. Anticipated motions.

22 None are expected at this time.

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24 f. Request for next CMC date.

25 The parties respectfully request that the next CMC date be set out approximately  
26 90 days, specifically January 12, 2021 or January 19, 2021. That would allow time for  
27 the parties to either finalize an agreement that arises from mediation, or try to continue  
28 to work on any unresolved issues and hold a second mediation or work with the

1 mediator as necessary to resolve any remaining issues.

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3 g. Notice of any related case.

4 There are no related cases. The closed case of Keep Fort Ord Wild v. FORA  
5 (Monterey County Superior Court case no. 17CV004540) had as its sole topic the South  
6 Boundary Road project and a different CEQA claim arising from different actions by  
7 FORA; that case did not involve the two other road projects, or a breach of contract  
8 claim, or a California Public Records Act claim. The plaintiff in that matter was a  
9 different entity that is independent of the California Native Plant Society. CNPS, Del  
10 Rey Oaks and LAFCO were not parties to that closed action.  
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13 h. Any other matters for which the parties may need Court rulings or scheduling.

14 Counsel is not aware of any other matters at this time.  
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16 **JOINT RESPONSE TO COURT ORDER DATED SEPTEMBER 2, 2020**

17 **RE BRIEFING SCHEDULE**

18 On September 2, 2020, this court ordered a hearing set for October 6, 2020 at 9  
19 a.m. to establish the briefing schedule. The parties respectfully request that the briefing  
20 schedule be tied to the schedule of the outcome of the mediation set for November 5,  
21 2020, in order to limit the cost to the parties. The parties agree that they will work  
22 towards resolution of all the issues in mediation which if successful would avoid the  
23 significant costs of preparing the record, responding to the pleadings, and briefing.  
24

25 The parties agree that if mediation is not successful, they will meet and confer  
26 regarding the preparation of the record and propose a schedule for preparation for the  
27 record, responsive pleadings, and briefing schedule, and present that to the court at the  
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1 January 2021 case management conference.

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Respectfully submitted,

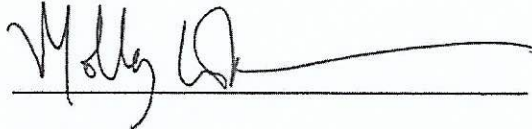
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5 Dated: September 21, 2020

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Molly Erickson  
WITTWER PARKIN  
William P. Parkin & Pearl Kan

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Attorneys for Petitioner and Plaintiff  
CALIFORNIA NATIVE PLANT SOCIETY

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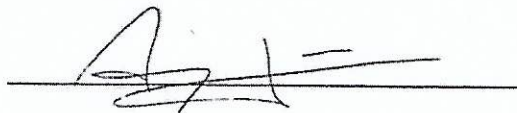
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Dated: September 21, 2020

FENTON & KELLER

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Alex Lorca  
Andrew Kreeft

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Attorneys for Respondent and Defendant  
CITY OF DEL REY OAKS

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Dated: September 21, 2020

COUNTY COUNSEL

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\_\_\_\_\_  
Kelly Donlon, Deputy County Counsel

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Attorneys for Real Party in Interest  
LOCAL AGENCY FORMATION COMMISSION OF  
MONTEREY COUNTY

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1 January 2021 case management conference.

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3 Respectfully submitted,

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5 Dated: September 21, 2020 STAMP | ERICKSON

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Molly Erickson  
WITTWER PARKIN  
William P. Parkin & Pearl Kan

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10 Attorneys for Petitioner and Plaintiff  
11 CALIFORNIA NATIVE PLANT SOCIETY

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13

14 Dated: September 21, 2020 FENTON & KELLER

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16

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Alex Lorca  
Andrew Kreeft

17

18

Attorneys for Respondent and Defendant  
CITY OF DEL REY OAKS

19

20

21 Dated: September 21, 2020 COUNTY COUNSEL

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Kelly Donlon, Deputy County Counsel

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Attorneys for Real Party in Interest  
LOCAL AGENCY FORMATION COMMISSION OF  
MONTEREY COUNTY

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STATE OF CALIFORNIA, COUNTY OF MONTEREY

I am employed in the County of Monterey, State of California. I am over the age of 18, and not a party to the within action. My business address is Box 2448, Monterey, California 93942. My email address is erickson@stamplaw.us.

On September 21, 2020, I served the documents described as follows:

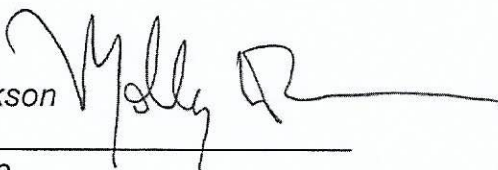
**JOINT CASE MANAGEMENT STATEMENT; AND  
JOINT RESPONSE TO COURT ORDER DATED SEPTEMBER 2, 2020 RE  
BRIEFING SCHEDULE**

( X ) via the Court e-filing system to the following person(s) or representative(s) at the email address(es) listed below.

City of Del Rey Oaks  
Alex Lorca (alorca@fentonkeller.com)  
Fenton & Keller  
Post Office Box 791  
Monterey, CA 93942-0791

Local Agency Formation Commission of Monterey County  
Kelly Donlon (DonlonKL@co.monterey.ca.us)  
Deputy County Counsel  
Office of the County Counsel  
County of Monterey  
168 W. Alisal Street, Third Floor  
Salinas, California 93901

Executed on September 21, 2020, at Monterey, California. I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

*/s/ Molly Erickson*   
\_\_\_\_\_  
Molly Erickson