

Draft Transition Plan Study Session

Presentation to FORA BOARD

June 8, 2018

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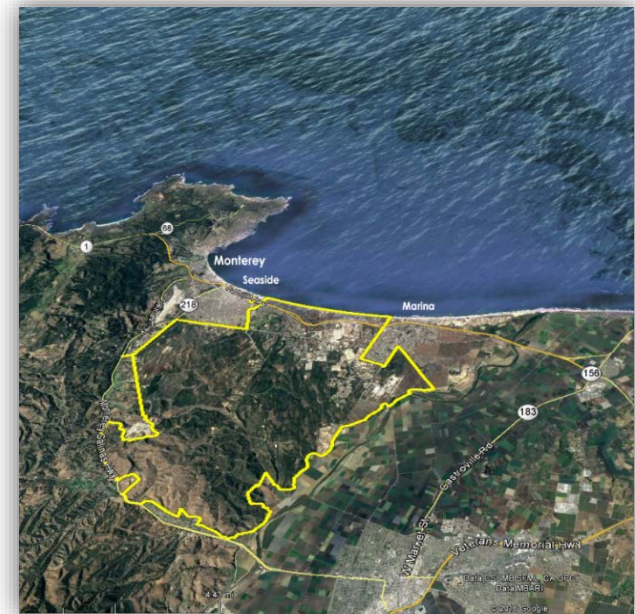
FORA History/Executive Summary



6/8/2018



- FORA Act & Transition Directive
- Transition Planning History
- Background/Context
- Chapter Presentations
- Considerations



The transition plan **shall assign assets and liabilities, designate responsible successor agencies, and provide a schedule of remaining obligations.** The transition plan shall be approved only by a majority vote of the board.

Delivery Deadline: 18 months prior to FORA expiration or December 30, 2018

Transition Planning History

- **2016 Process**

- Ad hoc Task Force
- Specific charge
- Multiple meetings

- **Recommendation**

- Dual tracks: Legislative extension and continue Transition Planning

- **2017 Process**

- New Ad hoc Task Force
- New 2017 charge
- Multiple meetings

- **Recommendation**

- Single successor agency, seek extension of FORA's CFD and post-FORA obligations/liabilities are paid for using Implementation Agreement formula for completing CIP and Voting Percentage for administrative liabilities



- **2018 Process**
 - Multiple meetings March 5, 2018
 - Reviewed every “Chapter”
 - Worked on alternative forms of comparative analyses, including the side by side



Land Use Jurisdictions & Successor Entity will:

- Implement BRP Economic Recovery
- Implement BRP Mitigations
- Implement BRP Policies, *including but not limited to, affordable housing and/or jobs/housing balances*
- Collaborate to Maximize/Leverage Regional Resources
- Commit to Fair and Equitable Distribution and Contribution

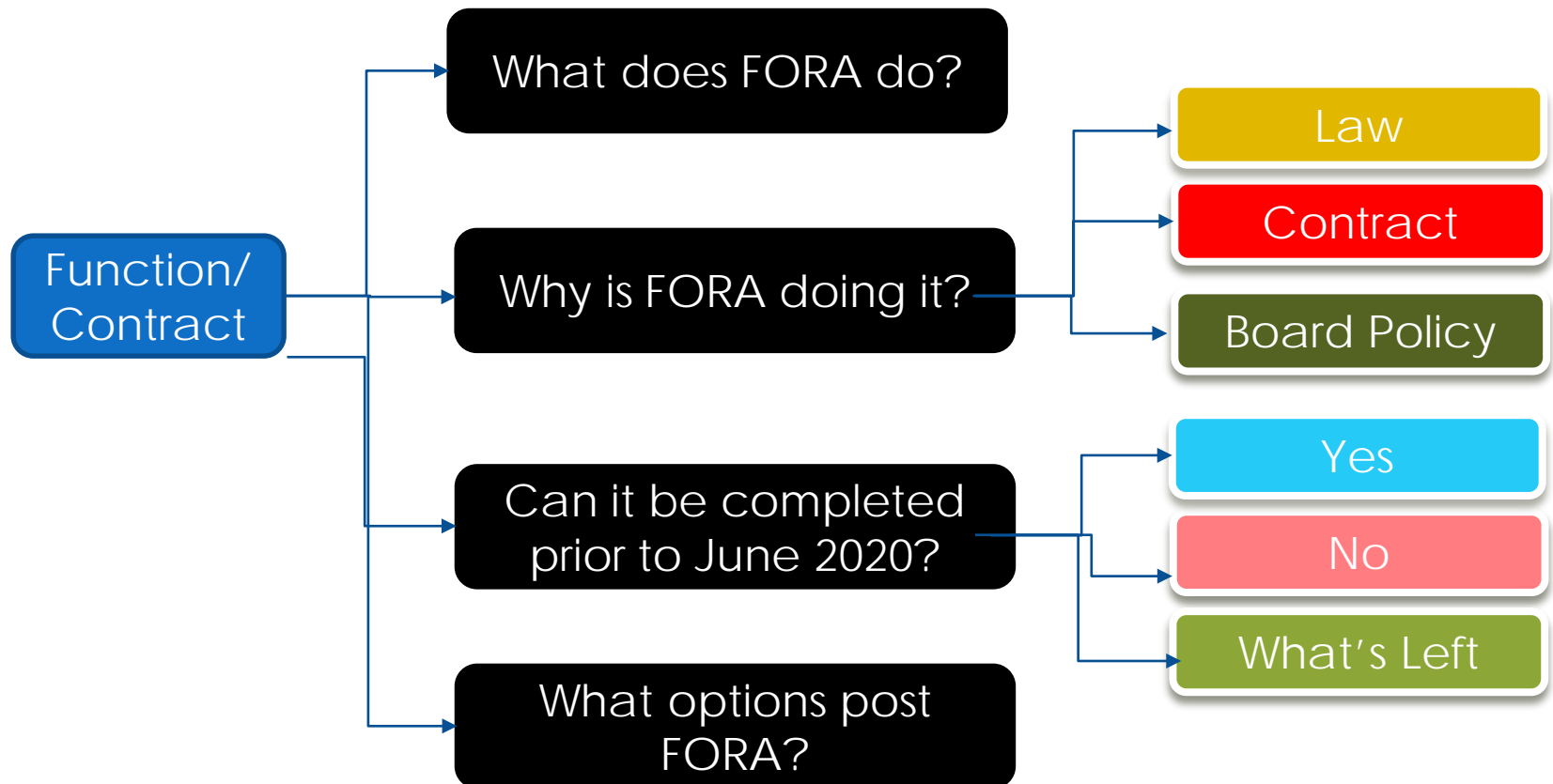
FORA will:

- Implement recovery/mitigation/building removal prior to sunset
- Minimize successor liability

Transition Summary (Expenses)

Major Obligations	Assignments	POST-2020	2029
Expenses			
Transportation/Transit	Jurisdictions – On-site and Off-site projects; TAMC – Regional Projects and Transit or Extension of FORA	\$132.3 M	0
Water Augmentation	MCWD/MRWPCA/Extension of FORA	\$17.1 M	0
Habitat Management	Fort Ord Habitat Cooperative (JPA)	\$45.1M	0
Sub-Total		\$194.5M	0
ESCA Program	New JPA or County or extension of FORA	\$0M*	0
Total		\$194.5M	\$0M
Administrative	New JPA/All Land use/Voting Members?	6.6-8.8M*	0*

CAPITAL IMPROVEMENT PROGRAM



What does FORA do?

Revenue Generation, Sharing,
Priorities & Basewide Improvements

Why is FORA doing it?

Law: Authority Act and CEQA
(DRMP) Contracts Implement

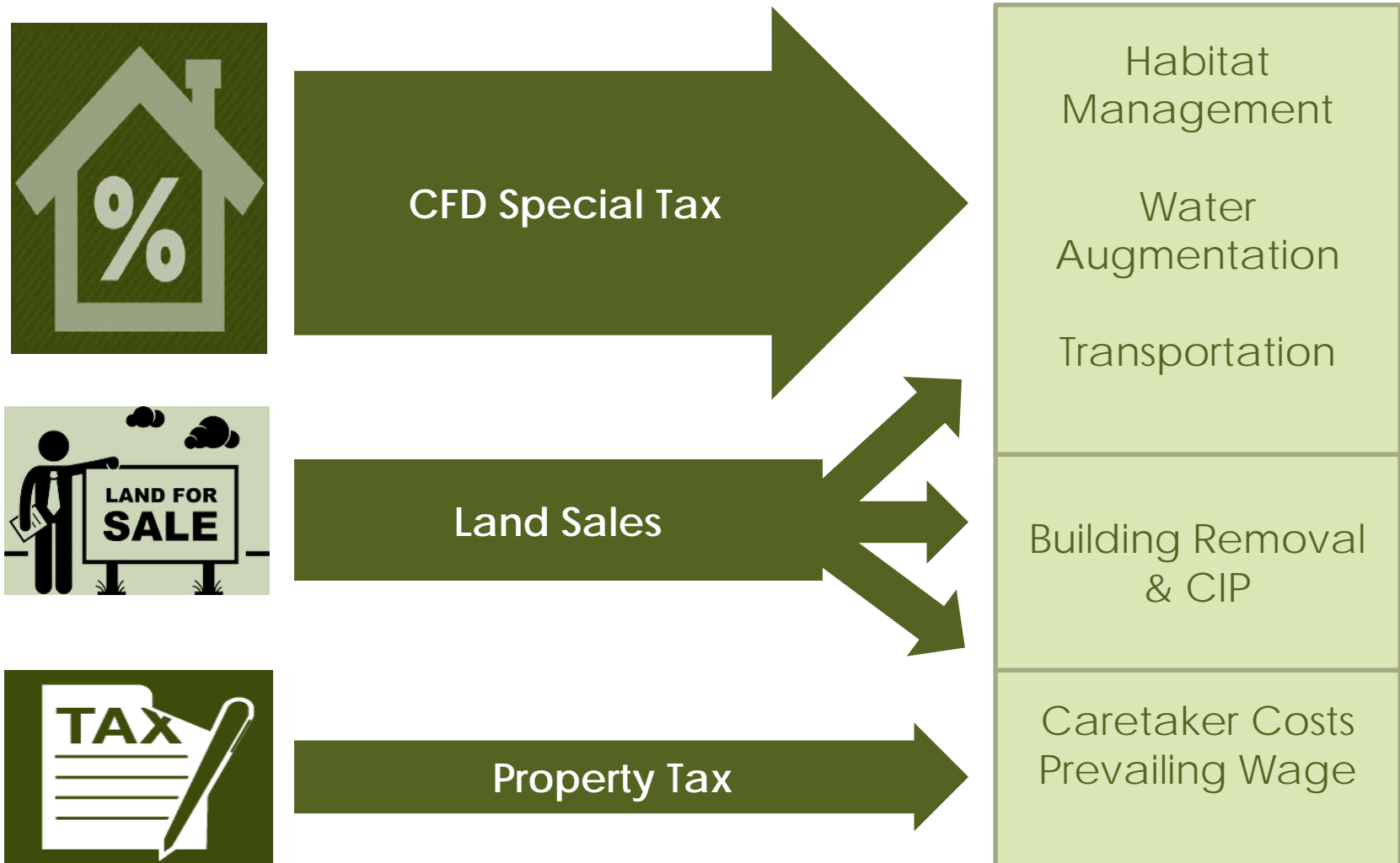
Can it be completed
prior to June 2020?

No, est. \$194.5M post-2020

What options post
FORA?

Extend or Replace Funding;
Delegate Basewide Improvements

CIP Financing



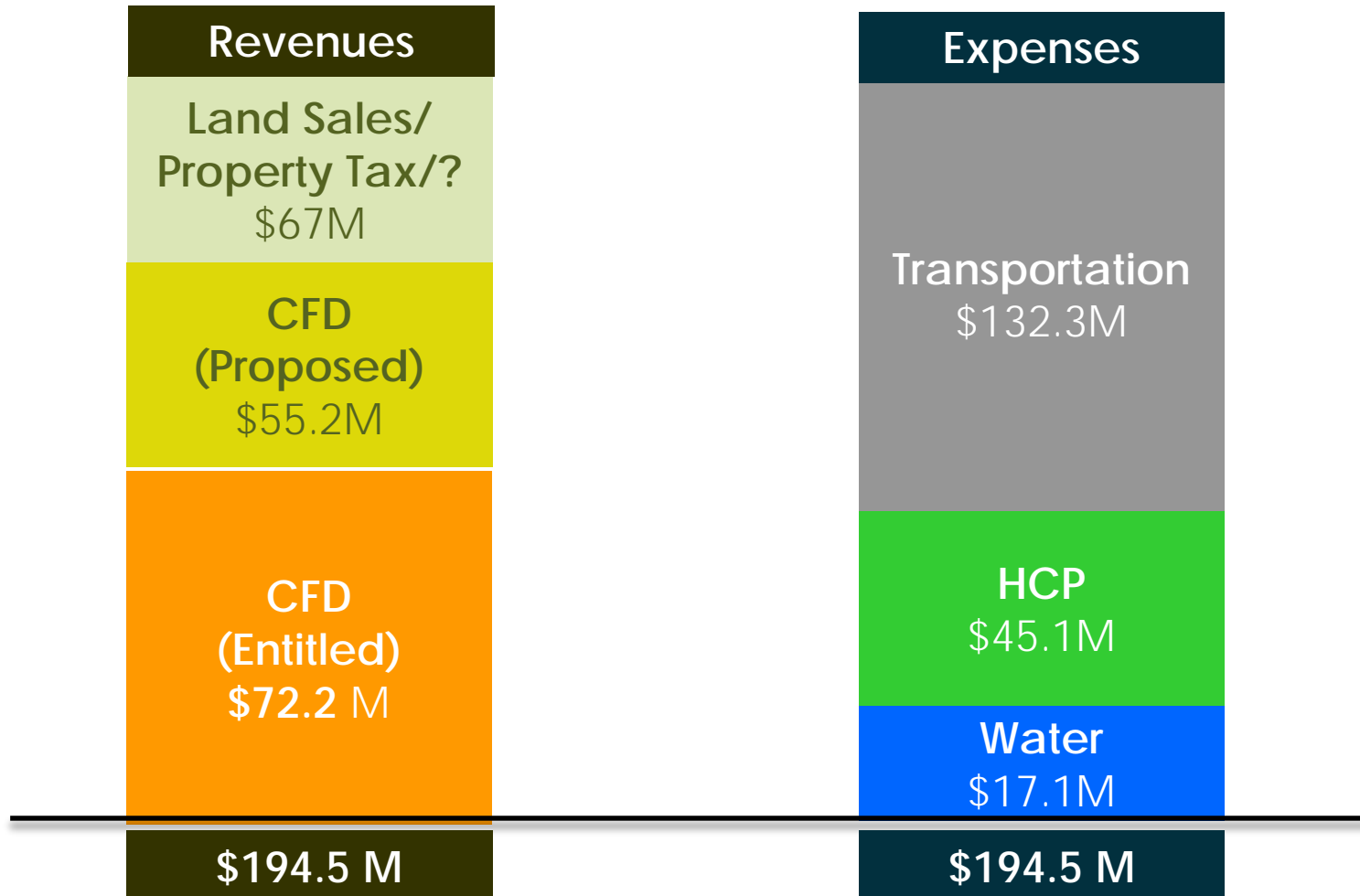
Entitled Projects

Jurisdiction	Entitled Project/Development Agreement	Year
Marina	The Dunes	2005
	Seahaven	2004
	Cypress Knolls	2007
Monterey	NA	NA
Del Rey Oaks	RV Resort	2016
Seaside	Seaside Resort	2005
County	East Garrison	2006

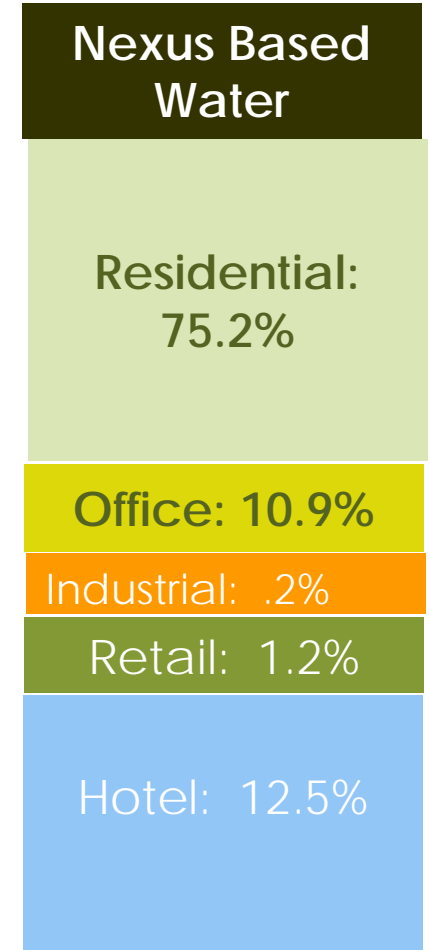
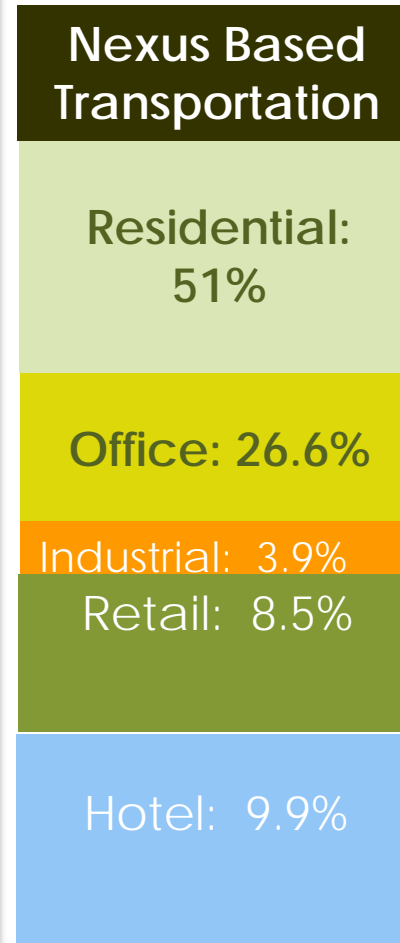
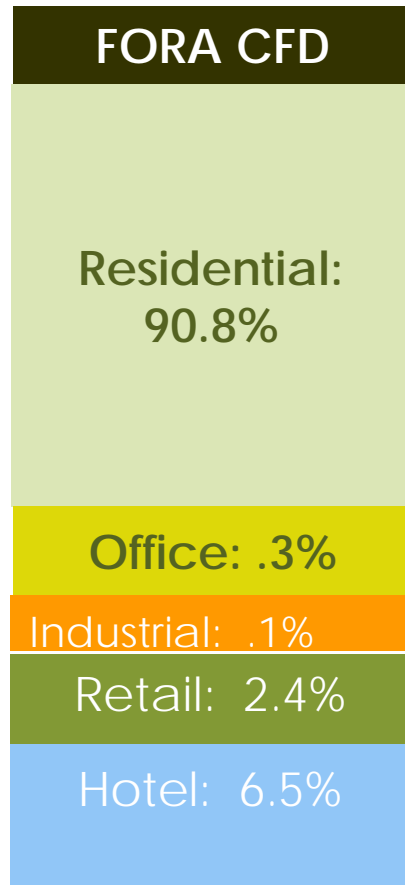
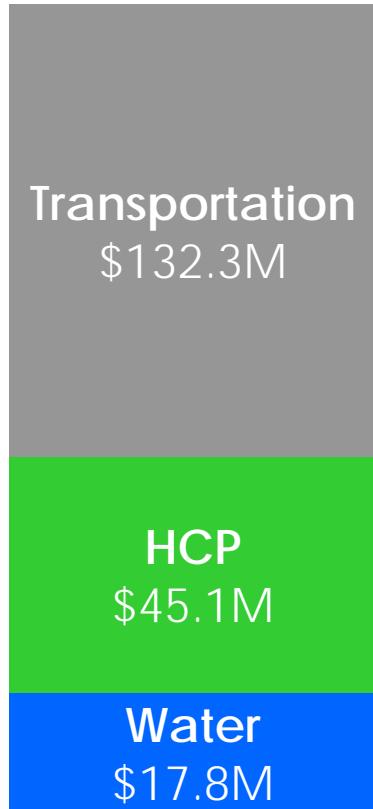
Updated CFD FEES

Jurisdiction	2020 (Entitled)	Post 2020 (Entitled)	Proposed
Del Rey Oaks	\$ 42,370	\$ 42,370	\$ 20,032,700
Marina	\$ 10,640,366	\$ 55,333,761	\$ -
City of Monterey	\$ -	\$ 192,946	\$ 192,946
City of Seaside	\$ 2,578,905	\$ 2,670,964	\$ 26,988,138
County Of Monterey	\$ 5,987,517	\$ 13,980,905	\$ -
UC			\$ 7,966,189
Total	\$ 19,249,158	\$ 72,220,946	\$ 55,179,973

Funding Obligations



FORA CFD v. NEXUS



Transportation Assignments

Roadway Info						Program Status					Constructction		Budget	
Priority	Proj#	Description	BRP	LEAD							Notice Start (Est)	(Est) Complete	Estimated Cost	FORA Obligation
						CEQA	NEPA	PA&E	PS&E	BID				
1	FO13B	Northeast-Southwest Connector	On-Site	FORA	MoCo	5%					?	2024-25	\$ 19,208,225	\$ 19,208,225
2	FO14	South Boundary Road Upgrade	On-Site	FORA	DRO	100%	100%	100%	60%		7/30/19	2019-20	\$ 7,470,820	\$ 7,470,820
4	FO7	Gigling	On-Site	FORA	Seaside	100%	100%	100%	60%		7/1/18	2021-22	\$ 8,739,609	\$ 8,739,609
5	FO9C	GJM Blvd	On-Site	FORA	DRO	100%	100%	100%	60%		7/1/18	2019-20	\$ 1,056,168	\$ 1,056,168
11	FO6	Intergarrison	On-Site	FORA	MoCo						?	2024-25	\$ 5,115,666	\$ 5,115,666
12	FO12	Eucalyptus Road	On-Site	FORA	MoCo						?	2024-25	\$ 518,360	\$ 518,360

Transportation Assignments

Roadway Info					Program Status					Construction		Budget	
Priority	Proj#	Description	BRP	LEAD	CEQA	NEPA	PA&E	PS&E	BID	Notice Start (Est)	(Est) Complete	Estimated Cost	FORA Obligation
6	10	Del Monte Blvd Extension	Off-Site	Marina						7/1/18	2022-23	\$ 9,900,000	\$ 3,965,140
7	FO5	8th Street	On-Site	Marina	35%	NA				7/1/18	2023-24	\$ 7,000,000	\$ 5,823,534
16	FO11	Salinas Ave	On-Site	Marina		0%				4/1/22	2022-23	\$	\$ 1,950,501
17	FO2	Abrams	On-Site	Marina	10%	0%	10%			4/1/21	2020-21	\$	\$ 1,210,655
3	2B	Davis Rd south of Blanco	Off-Site	MoCo	100%	100%	100%	65%		1/1/20	2022-23	\$ 55,000,000	\$ 12,849,185
14	4D	Widen Reservation, to WG	Off-Site	MoCo						?	2027-28	Unknown	\$ 9,569,628
15	4E	Widen Reservation-to Davis	Off-Site	MoCo						?	2027-28	Unknown	\$ 5,344,788
18	1	Davis Rd north of Blanco	Off-Site	MoCo						?	2030	Unknown	\$ 773,206
10	T22	Intermodal Centers	Transit	MST							2025-26	Unknown	\$ 7,629,341
9	R3a	Hwy 1-Del Monte-Fremont-MBL	Regional	TAMC							?	Unknown	\$ 14,563,309
19	R10	Hwy 1-Monterey Rd. Interchange	Regional	TAMC							?	Unknown	\$ 3,869,476
13	R11	Hwy 156-Freeway Upgrade	Regional	TAMC	75%	75%	75%	75%		4/1/23	?	\$ 365,000,000	\$ 18,244,005

Draft Transition Plan Overview

- **Table of Contents**
- **Background**
- **Executive Summary**
- **Chapters**
 - Administrative
 - Water/Wastewater
 - Transportation
 - Habitat
 - Financial Assets
 - Environmental Services/Clean Up
 - Miscellaneous Contracts
 - Transition Staffing
 - CEQA
- **Conclusion/Considerations**
- **Draft Legislative Amendments**
- **Contract Summaries and Assignments**

- **Reference Materials**
 - Side by Side Analysis
 - Authority Act
 - Role of Federally Recognized Local Redevelopment Authorities



CHAPTER LAYOUT

- SUMMARY OF OBLIGATIONS
- REFERENCE OF CONTRACTS MATRIX
- NOTATIONS
 - ISSUES
 - TAC ISSUES/DISCUSSIONS
- CONSIDERATIONS



Financial – Reference Material

Contract	Year	AGREEMENT LINK	Asset/Liability Pledge/Obligation	Multi-Agency	Notes
County of Monterey Implementation Agreement	2001	http://fora.org/Reports/ImplementAgreements/mttycty_ia.pdf	Asset	County of Monterey/MCWD/Habitat Cooperative/TAMC	1
Del Rey Oaks Implementation Agreement	2001	http://fora.org/Reports/ImplementAgreements/dro_ia.pdf	Asset	MCWD/Habitat Cooperative/TAMC	1
City of Marina Implementation Agreement	2001	http://fora.org/Reports/ImplementAgreements/marina_ia.pdf	Asset	MCWD/Habitat Cooperative/TAMC/County of Monterey/DRO/City of Monterey/Seaside	1
City of Marina IA - Amendment #1: Establishing Development Fee Policy Formula	2013	http://fora.org/Reports/ImplementAgreements/marina_ia_amend-9-14-13.pdf	Asset	MCWD/Habitat Cooperative/TAMC/County of Monterey/DRO/City of Monterey/Seaside	1
City of Monterey Implementation Agreement	2001	http://fora.org/Reports/ImplementAgreements/monterey_ia.pdf	Asset	MCWD/Habitat Cooperative/TAMC	1
City of Seaside Implementation Agreement	2001	http://fora.org/Reports/ImplementAgreements/seaside_ia.pdf	Asset	MCWD/Habitat Cooperative/TAMC/County of Monterey/Seaside	1
CFD-Notice of Tax Lien	2002	http://b77.402.myftpupload.com/wp-content/uploads/Notice-of-CFD.pdf	Asset	Terminates on FORA sunset unless vote and/or extension	2
CFD-First Amended Notice of Tax Lien	2005	http://b77.402.myftpupload.com/wp-content/uploads/First_Amended_Notice_of_Tax_Lien.pdf	Asset	Terminates on FORA sunset unless vote and/or extension	
Development Fee Resolution	1999	http://b77.402.myftpupload.com/wp-content/uploads/99-01.pdf	Asset	Seaside? Some areas on Base still covered by Development Fee Resolution	3
FORA-UCSC Agreement Concerning Funding of Habitat Management Related Expenses on the Fort Ord Natural Reserve	2005	http://fora.org/Reports/TTF/101405_agreement_Habitat_UMBEST.PDF	Liability	Continues until replaced by HCP	
Pollution Legal Liability Reimbursement Agreement (DRO)	2015	http://b77.402.myftpupload.com/wp-content/uploads/DRO-Reimbursement-Agreement.pdf	Asset	DRO	3
Pollution Legal Liability Insurance Agreement (MST)	2014	http://b77.402.myftpupload.com/wp-content/uploads/FORA-MST-PLL-Insurance-Agreement.pdf			
Pollution Legal Liability Insurance Agreement (TAMC)	2014	http://b77.402.myftpupload.com/wp-content/uploads/FORA-TAMC-PLL-Insurance-Agreement.pdf			
Pollution Legal Liability Insurance (PLL) CHUBB	2015	http://fora.org/Reports/TTF/PLL-Chubb-Policy-transmittal-summary-policy010215.pdf		County of Monterey/Seaside/Monterey/Marina	4

ADMINISTRATIVE



Indemnity



- **1995** Board approves FORA participation in CalPERS; negotiations ensue
- **1996** FORA establishes an alternative retirement program 401(a) qualified pension plan through ICMA
- **1997** CalPERS contract signed (2% at 60)
- **1999** CalPERS amendment (2% at 55)
- **2003** CalPERS amendment (One-Year Final Compensation; Sick Leave Credit)
- **2018** LAFCO advises requirement of Indemnification Agreement for Transition Plan

Administration: Function Analysis

Analysis	What?	FORA provides CalPERS to employees; FORA required to sign indemnification agreement for LAFCO
	Why?	CalPERS: Contract, Board Policy and Govt. Code 67700 Indemnification: Govt. Code 67700; LAFCO requirement and Contract
	Timing?	CalPERS: Cannot be completed prior to 2020. Unfunded liability estimated by CalPERS actuarials: 6.6-8.8M. Final Actuarial 2019-2020. Some set aside to cover. Indemnification: Most likely cannot be completed prior to 2020. Uncertain liability: legal liability estimated at \$300,000 per year.
	Options	CalPERS: Assign any terminated liability to all jurisdictions; assign to only land holding jurisdictions; assign to a single successor Indemnification: Same as above options for CalPERS.

Administration: Key Issues

1. What is potential CalPERS liability for successor(s) to FORA?
2. Who manages LAFCO/real party in interest litigation on Transition Plan if it extends beyond 2020?
3. Who assumes responsibilities under potential settlement agreements or court judgments?
4. Can/Should FORA seek extension of various insurance policies to provide gap/statute of limitation coverage? Eg. Workers' comp/Director coverage?
5. Who receives/maintains FORA records repository/website?

1. Administrative liabilities/obligations assigned on a voting percentage basis;
2. PERS obligations to be pre-paid to the extent possible;
3. FORA should assign existing insurance policies and any related dollars being held for those purposes. Policy renewals to be the responsibility of successor agencies;
4. FORA records to be provided to local libraries and jurisdictions; and
5. Extension of FORA with provisions to limit future CalPERS liability for past and future board members.

Administration: Side by Side

Transition

1. Jurisdictions control own destiny
2. Jurisdictions choose litigation strategy
3. Potential opportunity to consolidate FORA & City's unfunded liability to pay over 30 years

1. Increased CalPERS risk due to new staffing
2. Uncertain CalPERS assumptions increases liabilities
3. Uncertain legal liability
4. Increased Administrative Activity
5. Cost of LAFCo Indemnification
6. Increased Administrative Load (per Jurisdiction)

Extension

1. FORA administers and funds CalPERS obligations & other administrative functions
2. Liability risk to jurisdictions minimized
3. 115 Trust may be used for any retirement funding purpose-terminated agency unfunded liability or current liability.
4. Shared administrative costs
5. No LAFCo Indemnifications

1. Potential increase in future CalPERS obligations for continuing or new staff

FORA WATER/WASTEWATER



Water/Wastewater: History

- **1993** - U.S. Army purchases 6,600 AFY of water rights from MCWRA
- **1996** - U.S. Army buys into Zone 2 and Zone 2A
- **1996** – Ord Community water purveyor selected through competitive process
- **1997** – BRP adopted w/ Public Facilities Improvement Plan (PFIP); DRMP adopted setting CEQA mitigation and initial water allocations
- **1998** - FORA Board set as Ord Community governing body until MCWD annexation
- **2000** - U.S. Army/FORA MOA requires fair and equitable share of water to all transferees and provides for first right of refusal for excess Army water/wastewater
- **2001** – Implementation Agreements with all jurisdictions requiring compliance with water allocations.
- **2001 - 2006** – Army to FORA: FORA to MCWD transfers water/wastewater rights & infrastructure
- **2005** - FORA, MRWPCA, & MCWD delineate wastewater rights & obligations
- **2007** – FORA amends potable and recycled water to jurisdictions
- **2016** – FORA/MCWD/MRWPCA RUWAP Pipeline agreement (\$6M)

Water/Wastewater: Analysis

Analysis

What?	Public Representation Ord Community (5 jurisdictions)	Allocation of water/wastewater rights; Future water/wastewater rights	Financial contribution to CEQA mitigation (Water Augmentation)
Why?	Contract: Facilities Agreement	Govt. Code section 67675; 67677 Contract: Army MOA requires fair and equitable allocation to property and provides for a First right of refusal	BRP CEQA Requires augmented water supply. Govt. 67675; 14 CCR 15370
Timing?	Full annexation not likely to be completed prior to 2020.	IA currently in effect and Army MOA after 2020	Augmented Water Supply Not complete by 2020
Options	<ol style="list-style-type: none"> Annexation Create Interim Representative Body for unannexed areas 	<ol style="list-style-type: none"> Allocations set as of 2020: modifications by contract Future first right of refusal assigned to successor(s) Assign right to allocate/modify to MCWD 	<ol style="list-style-type: none"> MCWD to include in new rate/capacity structure. Jurisdictions to raise funds and pay to MCWD to complete augmentation project. (IAs) Extend FORA CFD
			29

Water/Wastewater: Key Issues

1. How do you provide public representation of the Ord Community without the 1998 Facilities Agreement if no MCWD annexation prior to 2020?
2. How do adjustments to water allocation occur in order to ensure a fair and equitable allocation of water?
3. How do you define, approve, and pay for the Augmented Water project (a required CEQA mitigation in the BRP) currently in planning?
4. How do you ensure future water service and annexation of the entire Ord Community?
5. Should some future service areas be required to pay annexation fees? Should only new development pay capacity (i.e. augmented water supply) charges (or should the augmented water supply charge be shared on a base wide basis?)

1. The Water/Wastewater liabilities/obligations are assigned as identified in the attached spreadsheet;
2. The Implementation Agreement requirements that each land use jurisdictions must comply with the FORA water allocations is hereby assigned to MCWD;
3. MCWD be required to provide water service contracts to all FORA members who are not currently annexed into the MCWD territory;
4. MCWD required to annex all former Fort Ord lands into its service area;
5. The Right of First Refusal in the Army Memorandum of Agreement with FORA shall be assigned to those land use jurisdictions with unentitled future development: Seaside, Del Rey Oaks and City of Monterey;
6. Augmented water project activities not completed or funded by June 30, 2020 are assigned to MCWD; and
7. Alternatively, extend FORA in order to continue to raise revenues for augmented water, thus reducing the capacity fees shifted to new development.

Water/Wastewater: Side by Side

Transition

1. MCWD manages Water/wastewater system
2. MCWD capacity charges can replace existing finance streams
3. Existing coordination between MCWD / M1W
4. If MCWD annexation is successful, Ord Community representation is assured

1. If no annexation, potential loss of Representation for the Ord Community
2. Potential litigation risk over water allocations
3. Loss of ability to leverage base wide revenue
4. Increased development capacity fees needed
5. 8 Agencies – CIP Coordination Required

Extension

1. Elected Officials represent Ord Community
2. FORA Board Oversees Allocations
3. WWOC coordinates jurisdiction CIP's
4. FORA CFD Fee reduces water and capacity fees for all jurisdictions
5. FORA Selects Water Augmentation Projects
6. No additional legal risk to jurisdictions

1. Potential MCWD Annexation Litigation
2. If MCWD annexation is successful, FORA representation functions are no longer needed.
3. If MCWD annexation is successful, WWOC's function is diminished.

Please limit your comments to the following subject matter chapters:

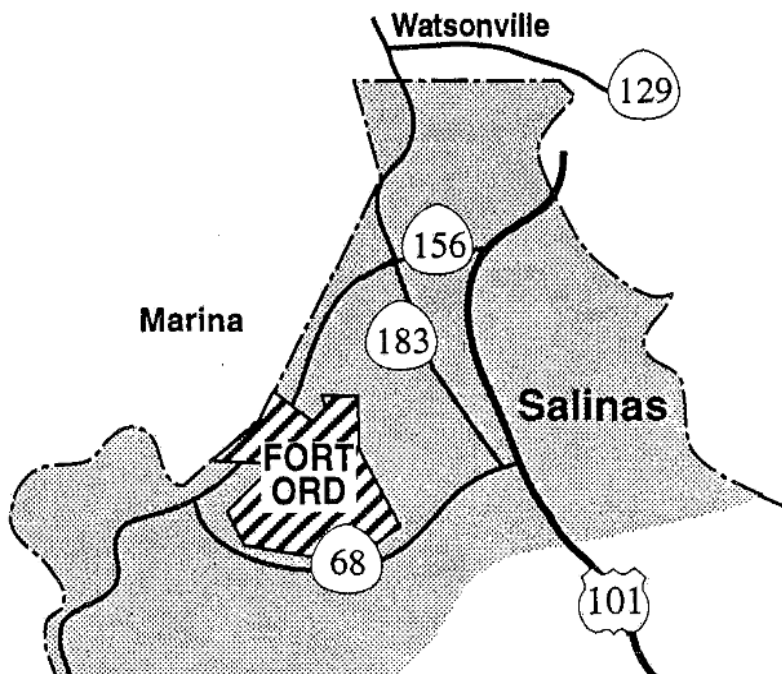
1. Executive Summary
2. Administrative
3. Water/Wastewater



TRANSPORTATION



- 1996 Public Facilities Improvement Program
- 1997 Fort Ord Regional Transportation Study
- 1997 Base Reuse Plan; Statement of Overriding Considerations



1997 Fort Ord Transportation Study

- *Fort Ord zone as a single project*
 - *Analysis showed Fort Ord's cost share of individual network facilities*
 - *Annual CIP assures adequate service levels (habitat, transportation, water, fire, storm drain) within resource constraints.*
- DRMP 3.11.5.6*

- **2002 Community Facilities District**
 - Mello Roos District, special tax, not nexus based fee
 - Eligible transportation expenditures are as identified in the Capital Improvement Program which encapsulates the Fort Ord Network expenses

- **2005 and 2017 TAMC-FORA Fee Reallocation Studies**
 - Updated 1997 & 2005 Transportation Studies
 - Monitored service levels within the Network
 - Reallocated funds within the Fort Ord Zone Network

Funded Projects

Completed Capital Improvements (Partial listing)		
<i>per 1995 & 2005 TAMC Study. Funded by EDA grant funds, state and federal</i>		FORA BUDGET
8	Crescent Ave extend to Abrams	\$ 415,177
FO9	General Jim Moore Blvd	30,812,841
FO3	Imjin Parkway	8,247,818
FO8	2nd Ave	5,605,525
FO10	California Ave.	2,227,906
FO12	Eucalyptus Rd.	5,328,032
-	South Boundary - Connector	1,336,241
-	Reservation Road	6,289,483
-	Blanco Road	2,586,767
R12	Hwy 68 Operational Improvements	312,205
TOTAL TRANSPORTATION COMPLETED		\$ 52,637,299

****\$84,040,000 in 2018 Dollars**

Transportation: Function Analysis

Analysis	What?	Transportation: Build Basewide Capital Improvements/Revenue Generation/Revenue sharing and Prioritization
	Why?	Gov't Code §§67675, 67679, 67692; Implementation Agreements
	Timing?	Not completed prior to 2020
	Options	<ol style="list-style-type: none">1. Extend FORA CFD (Revenue Generation/Sharing and Prioritization)2. Assign roads and funding to underlying jurisdictions; identify revenue sharing obligations (Revenue Sharing)3. Assign regional roads to TAMC. Create new Regional Impact Fee within FORA Zone Network. Revenue Share w/TAMC for entitled development.4. Deposit development fees Escrow Account: Assign Reimbursement Agreements to Escrow Holder: funds reimbursed upon invoice/completion.5. Use prioritization and network as outlined in 2020 CIP; or Create process for revision.

Potential Infrastructure Assignment/Coordination

Off-Site Improvements					
	Proj#	Description	Obligation	Assignment	Est Completion
Monterey County	1	Davis Rd north of Blanco	773,206	CO	2025-2026
Monterey County	2B	Davis Rd south of Blanco	12,849,185	CO	2022-2023
Monterey County	4D	Widen Reservation-4 lanes to WG	9,569,628	CO	2025-2026
Monterey County	4E	Widen Reservation, WG to Davis	5,344,788	CO	2024-2025
City of Marina	10	Del Monte Blvd Extension	3,965,140	MARINA	
Subtotal Off-Site			\$ 32,501,946		
On-Site Improvements					
	Proj#	Description	Obligation	Assignment	Est Completion
City of Marina	FO2	Abrams	1,210,655	MARINA	2019-2020
City of Marina	FO5	8th Street	5,823,534	MARINA	2021-2022
FORA	FO6	Intergarrison	5,115,666	CO	2021-2022
FORA	FO7	Gigling	8,739,609	SEASIDE	2020-2021
FORA	FO9C	GJM Blvd	1,056,168	DEL REY OAKS	2019-2020
City of Marina	FO11	Salinas Ave	1,950,501	MARINA	2021-2022
FORA	FO12	Eucalyptus Road	518,360	SEASIDE	2018-2019
FORA	FO13B	Northeast-Southwest Corridor	19,208,225	CO	2024-2025
FORA	FO14	South Boundary Road Upgrade	7,470,820	DEL REY OAKS	2019-2020
Subtotal On-Site			\$ 51,093,537		

	ON-SITE AND OFF-SITE ROADS	ON-SITE AND OFF-SITE ROAD FORA CFD CONTRIBUTIONS PRIOR TO 2020	POST 2020 REMAINING FINANCIAL OBLIGATIONS	CFD POST 2020 (ENTITLED ONLY)	CFD POST 2020 (PROPOSED)
County	\$52,087,490	\$4,075,000	\$48,012,490	\$13,980,905	
CSUMB	0	0	0	0	0
Del Rey Oaks	\$8,526,988	\$8,526,988	\$0	\$42,370	\$20,032,700
Marina	\$13,349,304	\$1,500,000	\$11,849,304	\$55,333,761	
Monterey					\$192,946
Seaside	\$9,257,969	\$1,240,000	\$8,017,969	\$2,670,964	\$26,988,138
UC Mbest					\$7,966,189
Totals	\$83,221,751	\$15,341,988	\$67,879,763	\$72,028,000	\$55,179,973

Transportation: Key Issues

1. Who completes FORA lead agency improvements?
 - South Boundary Road Upgrade
 - Intergarrison Road
 - GJM Blvd.
 - NE-SW Corridor
 - Gigling
 - Eucalyptus Road
2. What is the schedule for FORA lead project completion?
3. What is the schedule for FORA Network completion?
4. How do we ensure Fort Ord Zone network obligations are met and monitored/reassessed?
5. How do we ensure network obligations are funded equitably?
6. How do we handle cost overruns from MEC unknowns?

Transportation: Considerations

1. The Transportation liabilities/obligations are assigned as identified in the attached spreadsheet;
2. Upon termination of FORA, FORA's regional monetary obligations are transferred to TAMC and funded by TAMC's fee structure;
3. FORA off-site reimbursement obligations are transferred to the jurisdiction where the project is located;
4. FORA lead agency improvements are transferred to the jurisdiction where the project is located ; and
5. Jurisdictions create their own financing districts to pay for their own projects and deposit funds into escrow account to complete/share revenue for projects.

Transition

- | | |
|--|--|
| <ul style="list-style-type: none">▪ More local control, jurisdictions create their own priorities and revenue streams subject to agreement w/neighbors | <ul style="list-style-type: none">▪ More jurisdictional vulnerability to law suits and bureaucratic delay▪ Less ability to influence regional outcomes▪ Neighbor jurisdictions may not be accommodating; litigation issues▪ Replacement revenue generation and revenue sharing must be addressed▪ Fort Ord Transportation Network may not be fully implemented |
|--|--|

Extension

- | | |
|---|---|
| <ul style="list-style-type: none">▪ Current CIP reflects ORD area collective priorities▪ Cooperation on road projects makes it easier to get grants and CEQA approvals▪ Steady CFD revenue stream and ancillary revenues more likely to complete projects | <ul style="list-style-type: none">▪ Cumbersome negotiations and approvals and prioritization work continues under FORA▪ Single target for lawsuits |
|---|---|

HABITAT



- 1996 Habitat Management Plan (HMP) submitted by US Army and approved by USFWS
- 1997 Habitat Conservation Plan/2081 Permit required for base wide HMP Implementation
- 1998-2017 Numerous draft HCP's submitted by FORA but not approved by USFWS/CA DFW
- 2005 Additional requirements for monitoring, fiscal assurances
- 2017 Screen check draft Basewide HCP completed
- August 2018 – Anticipated public release and workshops on Basewide HCP (Pending USFWS/CA DFW review)

Habitat: Analysis

Analysis	What?	Habitat Management	Planning: Basewide HCP/2081 Permit; Jurisdictional Assistance (Eg. Oak Woodlands)	Financial contribution to CEQA mitigation (Habitat Conservation)
	Why?	Contract: HMP/MOA Contract: UC Reimbursement FONR Contract: MPC	Govt. Code section 67675; 67677 Contract: Army MOA requires HMP and basewide implementation Board Policy: (Oakwoodlands)	BRP CEQA requires Basewide implementation of HMP Govt. 67675; 14 CCR 15370 Board policy CFD 30% set aside for habitat conservation/management
	Timing?	Until Basewide habitat implementation in place		
	Options	<ol style="list-style-type: none"> 1. Basewide HCP 2. Basewide HMP Implementation alternative 	<ol style="list-style-type: none"> 1. Proceed HCP 2. New Basewide Implementation for protection of Habitat Management Areas (HMA) 	<ol style="list-style-type: none"> 1. HCP will require replacement revenue stream to fund the endowment for habitat protection in perpetuity 2. Extend FORA CFD 3. Adopt new Basewide Implementation for protection of HMA: shift costs to developers

1. What happens if USFWS/CA DFW do not approve Basewide HCP/2081 permit prior to FORA Transition?
2. Who is the successor to a Basewide HCP/2081 permit if no Habitat Cooperative is formed?
3. How are replacement funds (approximately \$45M) allocated and/or how is the endowment funded without the FORA Community Facilities District (CFD) fees?
4. What are the obligations under the HMP?
5. Is it feasible to process individual take permits with USFWS/CA DFW?
6. What are the time /development costs and can or should those costs be shifted as habitat conservation is a **basewide cost/regional asset**?
7. How do jurisdictions finance removal of invasive species and habitat restoration?

Habitat: Considerations

1. The habitat liabilities/obligations are assigned as identified in Attachment A;
2. Form the Joint Powers Authority now, in order to undertake the obligations/responsibilities;
****Note, LAFCO may not assign successor liability to a JPA which is not in legal existence at the time of the order of successorship and successor status will be as identified above in the HMP;***
3. If the JPA is not formed prior to LAFCO action, designate successor entities which have habitat management areas will be responsible for long term management of those areas, with provision that they may limit individual liability by participation in a future JPA for habitat management;
4. Jurisdictions deposit pro-rata share of HCP Endowment shortfall into escrow account;
5. HCP Basewide NEPA/CEQA to be completed by USFWS and FORA;
6. FORA provide staffing to the Habitat Cooperative until dissolution of FORA; and
7. Should the HCP and/or the Habitat Cooperative fail, dollars collected by FORA through 6/30/2020 (+/- \$21 million) the FORA Board should consider establishing a loan pool from the collected funds to address habitat responsibilities on a project-by-project basis and set-aside funds to establish an endowment for use by the jurisdictions to perform long term habitat management.

Transition

- | | |
|--|--|
| <ul style="list-style-type: none">▪ Jurisdictions could withdraw or re-organize Habitat protection | <ul style="list-style-type: none">▪ Entire program could be at risk due to lack of funding or regulatory approval▪ FORA CFD revenue stream must be replaced; not a direct nexus to some developments make a CFD required or single payment required |
|--|--|

Extension

- | | |
|---|---|
| <ul style="list-style-type: none">▪ Economies of scale by having FORA staff the early years of the cooperative▪ Steady CFD revenue stream w/ land sale & property taxes due to FORA as back up | <ul style="list-style-type: none">▪ Jurisdictions will eventually have to take this function over |
|---|---|

FINANCIAL ASSETS



- 1999 FORA Board authorizes basewide Development Fee (Reso 99-01)
- 1999 City of Marina and other jurisdictions request Implementation Agreements on how FORA will transfer property
- 2001 Implementation Agreements are signed with all land use jurisdictions and others receiving property
- 2002 Board authorizes a Community Facilities District special tax over majority of base

Financial: Function Analysis

Analysis	What?	Finance Basewide Costs and Mitigations
	Why?	Gov't Code 67675: requires Capital Improvement Program and Financing mechanism
	Timing?	Won't be complete prior to 2020
	Options	<ol style="list-style-type: none">1. Jurisdictions replace FORA revenue streams and provide revenue transfer to agencies completing the program. Issues about collection from entitled development remain.2. Extend the FORA financing mechanism (contains both revenue generation and revenue sharing).3. Break down the program: transfer replacement funding obligation to those entities completing the program. May result in funding deficits and program incompleteness.

Financial: Key Issues

1. Post 2020 how are revenues generated to ensure completion of BRP obligations/liabilities?
 - If new financing mechanisms are required, how do we capture and assess already entitled development? (Approximately \$72M)
2. If replacement CFD revenues are generated, how are revenue transfers handled to compensate/reimburse surrounding jurisdictions for their portions of the base wide costs and mitigation measures?
3. Can the development fee be assigned to successor for the areas not covered by the CFD?
4. Can the Implementation Agreements be assigned and do they require the jurisdictions by contract to finish the Base wide Costs and Mitigation measures as identified in the CIP?
 - Does assignment require the Land Use Jurisdictions to adopt new development fees and/or mechanisms to replace the Property Tax and Development Fees collected by FORA?

Financial: Considerations

1. Assign Financial documents as outlined in spreadsheet;
2. Any financial shortfalls related to completion of the FORA BRP/CIP are under the existing Implementation Agreements assigned to the jurisdictions on a pro-rata basis;
3. An escrow account will be set up and the former FORA land use jurisdictions will deposit their pro-rata share of basewide obligations in the escrow account and jointly administer disbursements;
4. Should the FORA CFD or other financing streams be extended for any period of time, any resultant revenues would be deposited into the escrow account, reducing jurisdictional obligations by their pro-rata share; and
5. Jurisdictions or successor Board would be free to negotiate any future revenue sharing agreements.

Transition

- | | |
|--|---|
| <ul style="list-style-type: none">▪ New financing mechanisms.▪ Provides opportunity to add items not currently financed.▪ Provide opportunity to adjust assessment basis (sf etc.).▪ Creates a vehicle for new contracts with developers. | <ul style="list-style-type: none">▪ Legal limitations (Nexus)▪ Shifts land use costs (Housing to Job)▪ Entitled development may not be subject to new fees▪ Shifts fairness and equity b/t Jurisdictions (Eliminates basewide costs concept)▪ Time/cost w/creation of new mechanisms▪ New fees litigation challenges |
|--|---|

Extension

- | | |
|--|---|
| <ul style="list-style-type: none">▪ Financing mechanism exists▪ Tax preserves Land Use Costs (Housing/Jobs)▪ Entitled development subject to fees▪ No legal challenges▪ Maintains basewide costs model (Fairness/Equity) | <ul style="list-style-type: none">▪ CFD requires vote to make changes▪ CFD boundaries include residents who will not owe tax |
|--|---|

ENVIRONMENTAL SERVICES



*California Department of
Toxic Substances Control*



- 2004 Army informs munitions removal delay
- 2005 FORA Board decides to negotiate ESCA
- 2007 ESCA/AOC authorizing early transfer
- 2008 Governor signs/Early Transfers occur
- 2008 MOA/Jurisdictions/FORA re ESCA
- 2008-2015 Clean up proceeds
- 2015-2019 Land Use Controls/property transfers

Environmental Services: Analysis

Analysis

What?	Contractor to Army performing MEC cleanup on 3,340 acres
Why?	Board policy (Early Transfer) and Army Contract
Timing?	Most of work will be complete by 2019. Post 2020 work consists of land use controls: UXO Training, construction support, Transfer monitoring. Response review and evaluation, LUCIP reporting, Liaison between Jurisdictions and Regulators/Army
Options	<ol style="list-style-type: none">1. Single Entity: Monterey County/Seaside/Marina or JPA (By Contract)2. Extend FORA

- Who will be ESCA's successor?
- How will successor and other jurisdictions share the ESCA resources and responsibilities?
- Will the ESCA funds, priced for a single coordinated entity to manage and implement be sufficient to support another management structure?
- What agreements need to be in place to share the ESCA resources?
- What additional management structure will the successor need to develop/implement to manage the ESCA?
- Where will ESCA office be for appropriate access to support requirements?

1. The Environmental assets/liabilities/obligations are assigned as identified in the attached spreadsheet;
2. County/Seaside form ESCA JPA as single contact with Army;
 - JPA receives remaining FORA funds, contractual reimbursement agreements with Army, or insurance policies; and/or
3. FORA extension with limited ESCA function to complete Army contract.

Transition

- FORA Lite can extend to retain staff to complete ESCA work
- FORA ESCA employees can be housed by County

- ESCA function has also required expertise of Exec. Officer and other employees to function
- Someone has to cover transferred employees salary, benefits, PERS;
- ESCA may be able to be transferred to County to cover employees insurance & program costs.

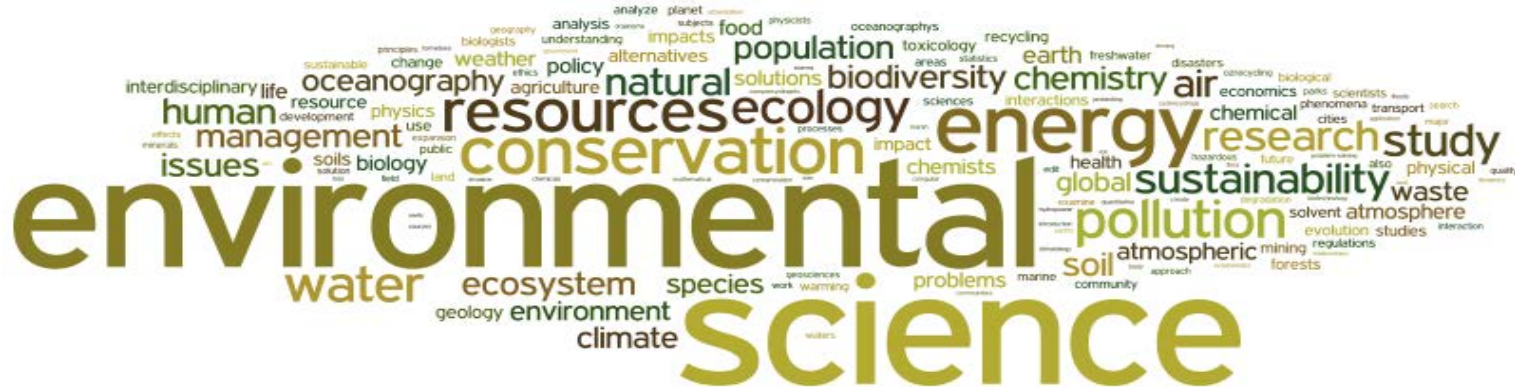
Extension

- US Army requires one entity to represent the public
- FORA has a series of agreements w/ Army, EPA & State of California that will not be easy to assign

- Limited extension is inefficient and FORA Lite does not provide economies of scale if it is overly "Lite".

Please limit your comments to the following subject matter chapters:

1. Transportation
2. Habitat
3. Financial Assets
4. Environmental Services



MISCELLANEOUS CONTRACTS



1. Building Removal

- 2000 – FORA enters Implementation Agreements identifying certain level of building removal
- 2002 Board policy authorizes provision of assistance to jurisdictions for building removal to encourage base recovery

2. Veteran's Cemetery Contract

- Who manages and oversees Veterans' affairs and endowment parcel for cemetery expansion.

3. Judgments (Settlement Agreements/Writs)

- 1997 – Sierra Club sues over adoption of Base Reuse Plan. Settlement Agreement reached and in 1998 Board adopts Chapter 8 of Master Resolution.
- 1998 – Board authorizes litigation against CSU. Marina joins lawsuit.
 - 2009 - Case goes to Supreme Court and ultimately return to writ issues resolved in Settlement Agreement

4. Pending Litigation

1. 2017 – KFOW sues FORA related to engineer hire on Southboundary Road
2. 2018 – MCP sues FORA related to reimbursement claim for building removal

Miscellaneous: Function Analysis

Analysis	What?	Building Removal/Infrastructure Reimbursement
	Why?	Board policy and contracts
	Timing?	Most likely not prior to 2020. FORA's obligation on these contracts complete
	Options	Assign to a jurisdiction to complete FORA's obligations
Analysis	What?	Veteran's Cemetery Contract
	Why?	Board policy and contract
	Timing?	Most likely not prior to 2020.
	Options	Assign to a jurisdiction to complete FORA's obligations
Analysis	What?	Settlement Agreements/Writs
	Why?	Contract and Court Direction
	Timing?	Continuing post 2020
	Options	Assign to successor;
Analysis	What?	Pending Litigations
	Why?	Board policy/Law
	Timing?	Most likely not prior to 2020
	Options	Assign successor to 1) direct litigation; and 2) allocate costs based lawsuit by lawsuit to underlying jurisdictions

Miscellaneous: Key Issues

1. Who will be FORA's successor for purposes of monitoring Settlement Agreements/writ compliance?
2. Who will pay Litigation/Attorneys' fees and costs awarded subsequent to 6-30-2020?
3. What happens to pending litigation post- 2020?
4. Who manages pending litigation post 2020?

Miscellaneous: Considerations

1. The Miscellaneous assets/liabilities/obligations are assigned as identified in the attached spreadsheet;
2. Upon dissolution, any unspent FORA indemnification reserve accounts will be transferred to a post-FORA indemnification fund to be administered by the former FORA jurisdictions;
3. Any additional FORA dollars may be transferred from the escrow account to the indemnification fund by the former FORA land use jurisdictions; and
4. Any obligations/liabilities (e.g. litigation defense, settlement agreements, writ) that exceed the amount of funds available to the indemnification fund would become the responsibility of the former FORA jurisdictions.

Transition

1. May provide some home rule flexibility as enforcement will be unclear/uncertain.

1. May lead to additional litigation risk and costs if no consensus on application/interpretation of provisions.
2. Uncertainty may affect future development potential.

Extension

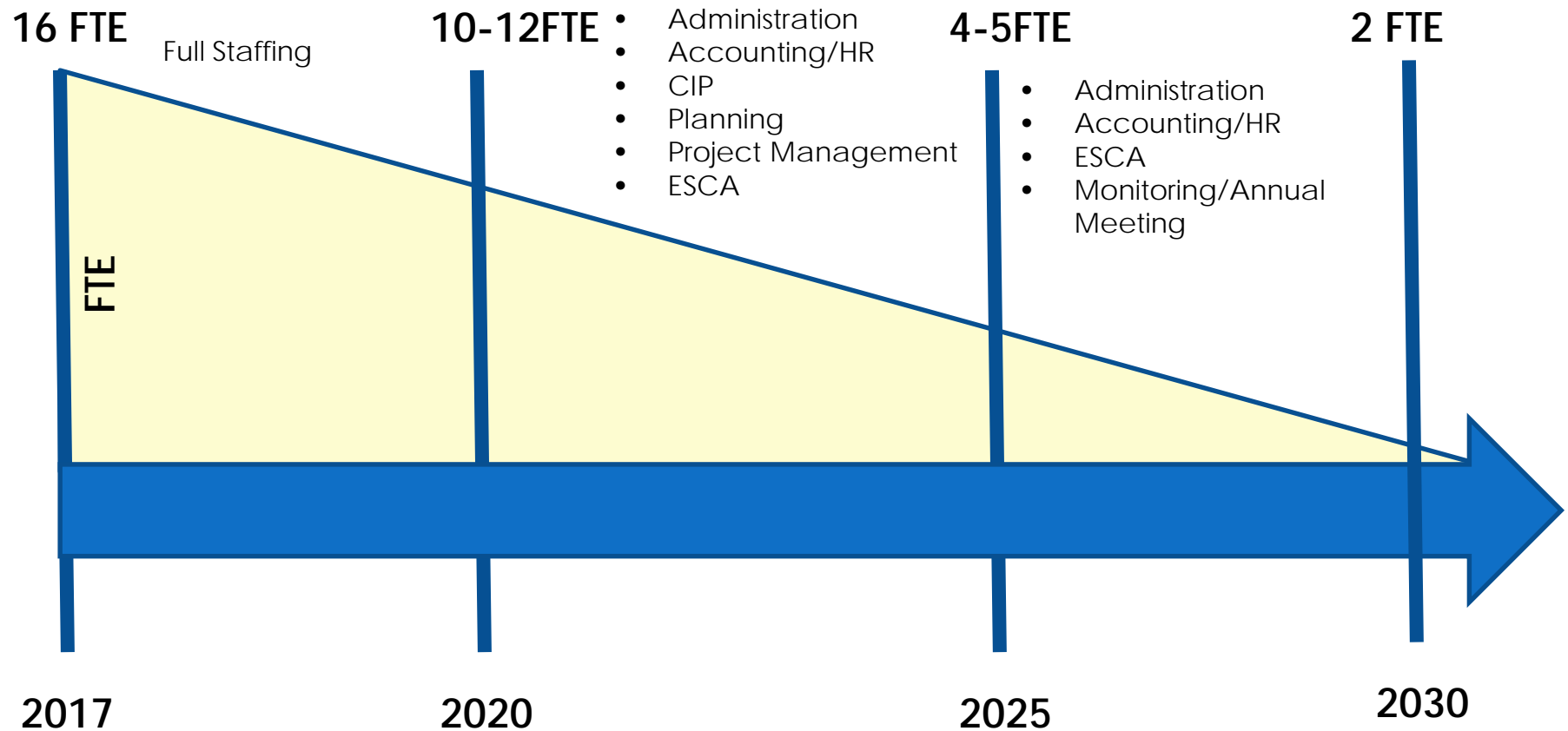
1. Provides a regional forum to address issues.
2. Provides opportunity for spreading costs on a basewide basis.

1. FORA is a target.

TRANSITION STAFFING



Staffing



Transition Staffing: History

Staffing	FUNCTIONS	2018
Administration (5)		
	Board Packets/Minutes/Agendas/Committees	1
	Phone	1
	Records Management/Archiving/PRA's	0.75
	Facilities Management (office supplies, utilities , service contracts,)	0.25
	IT/Website/Communications (video audio meeting support and conferencing)	1
	Grants/Ext-Int Mgt/Fed-state interaction/Board meetings	1
	Dept-Supervision/E/O back up	1
	Veterans Issue Advisory / Military Veteran Community Relations	0.25
Accounting/HR (3)		
	Budget/A/R-A/P/Banking/Investments/Audit/Reporting	1
	Payroll/Benefits	1
	Personnel/Policies/Guidelines/Community information /OSHA	1
Economic Development(1.5)		
	Real Estate/Housing/Business Development/Reporting	1
	Coordination/Regional Collaboration/Website/GIS interface	0.5
Prevailing Wage/Risk Coord (1)		
	Coordinate Outside Counsel/Internal document/policies review	0.5
	Collect/Coordinate/Board Reports	0.25
	TTF Committee/Outside coordination/Contract compilation/Contract Compliance and Review/Board Presentations	0.5
	Prepare Transition Plan/LAFCO Coordination	
ESCA (2)		
	MEC Find Assessments/Grant Management/DTSC/EPA Coordination/Training	2
	Construction Support/ROE/Public Outreach	

Transition Staffing

Staffing	FUNCTIONS	2018
Planning (3)		
	BRP/Consistency Determinations	0.25
	CFD Billing Determinations	0.25
	Oak Woodlands	0.25
	ESP Environmental Review	0.5
	BRP Reassessment (Cat 1-5)	0.25
	HCP	0.5
	CIP Reporting/preparation Board	0.25
Project Management/Building Removal (FORA) (1)		
	Building Removal	0.5
	Road Projects (3)	
	ESP	0.1
	South Boundary	0.2
	Eucalyptus	0.2
	CIP Preparation	0.25
	Water Augmentation/Coordination	0.25
Totals: (16.5)		17.75

1. How are key employees retained to accomplish the Sunset Work Plan?
 - Consider a retention/severance program.
 - Employees completing key functions shall receive a retention bonus for completing work during last work year prior to Sunset.
 - Functions which are no longer required, consider an early departure severance.
2. How will post Sunset ramp down be accomplished?
 - EG. Who handles revenue collection of revenues and distribution and accounting? Audit? Payroll records-W-2, etc.

Transition Staffing: Considerations

1. Staffing to be managed by the Executive Officer with HR Consultant on Reduction/Retention of workforce recommendations; and
2. Upon FORA dissolution, overall staffing falls to 2 FTE's for 6 months to complete essential accounting functions, W-2's, etc. Alternative is to contract with an accounting firm to cover any vacancies.

Transition

- Possible reduction in CalPERS liability
- Ramp down begins consistent with workload function shifts
- Potential to retain key personnel within land use jurisdictions

- Loss of key personnel to complete as much as possible prior to 2020
- Potential increase in CalPERS costs to successor agencies by workload shifts

Extension

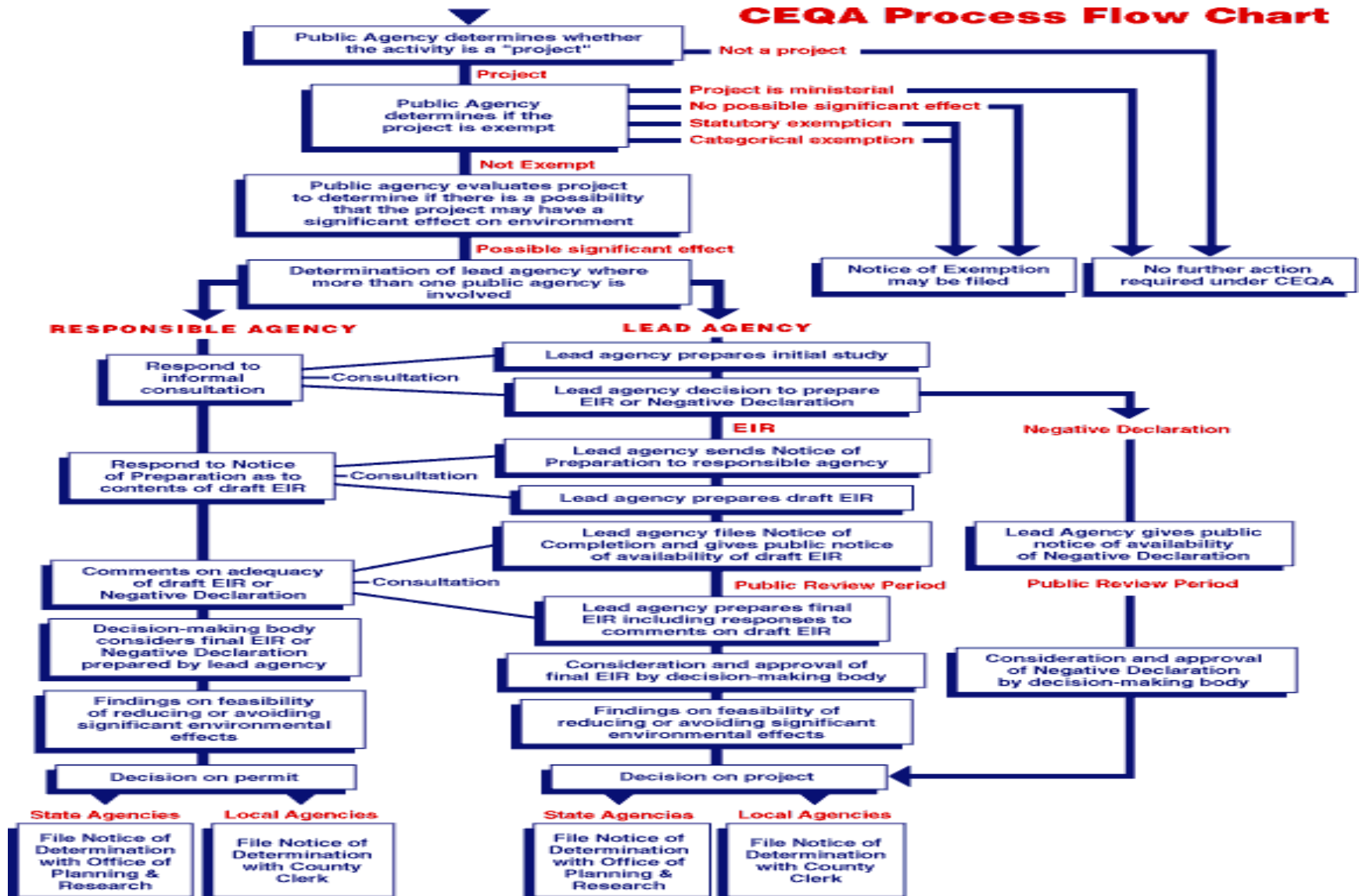
- Staffing ramp down begins consistent with workload function shifts
- Potential reduction in CalPERS liabilities consistent with contract amendments

- Key personnel may require CalPERS benefits to continue working

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

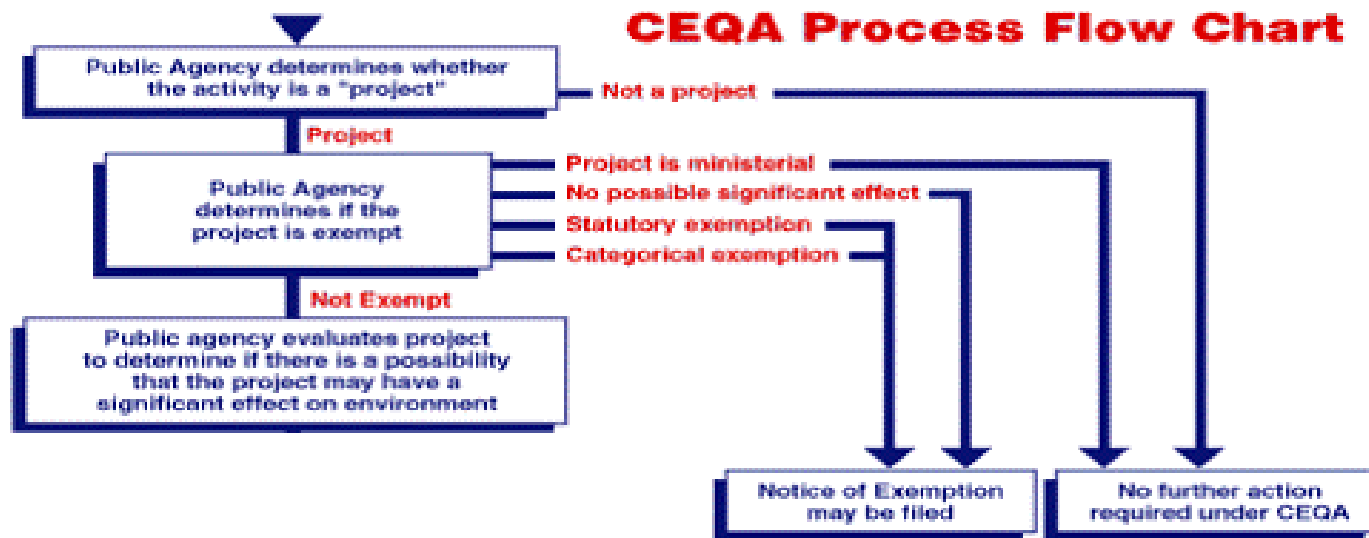


CEQA Process Flow Chart



1. Transition Plan is not a project.
2. Alternatively, if it is determined to be a project, approval of Transition Plan is a ministerial act.

The preparation, approval and submission of the Transition Plan is not subject to CEQA.

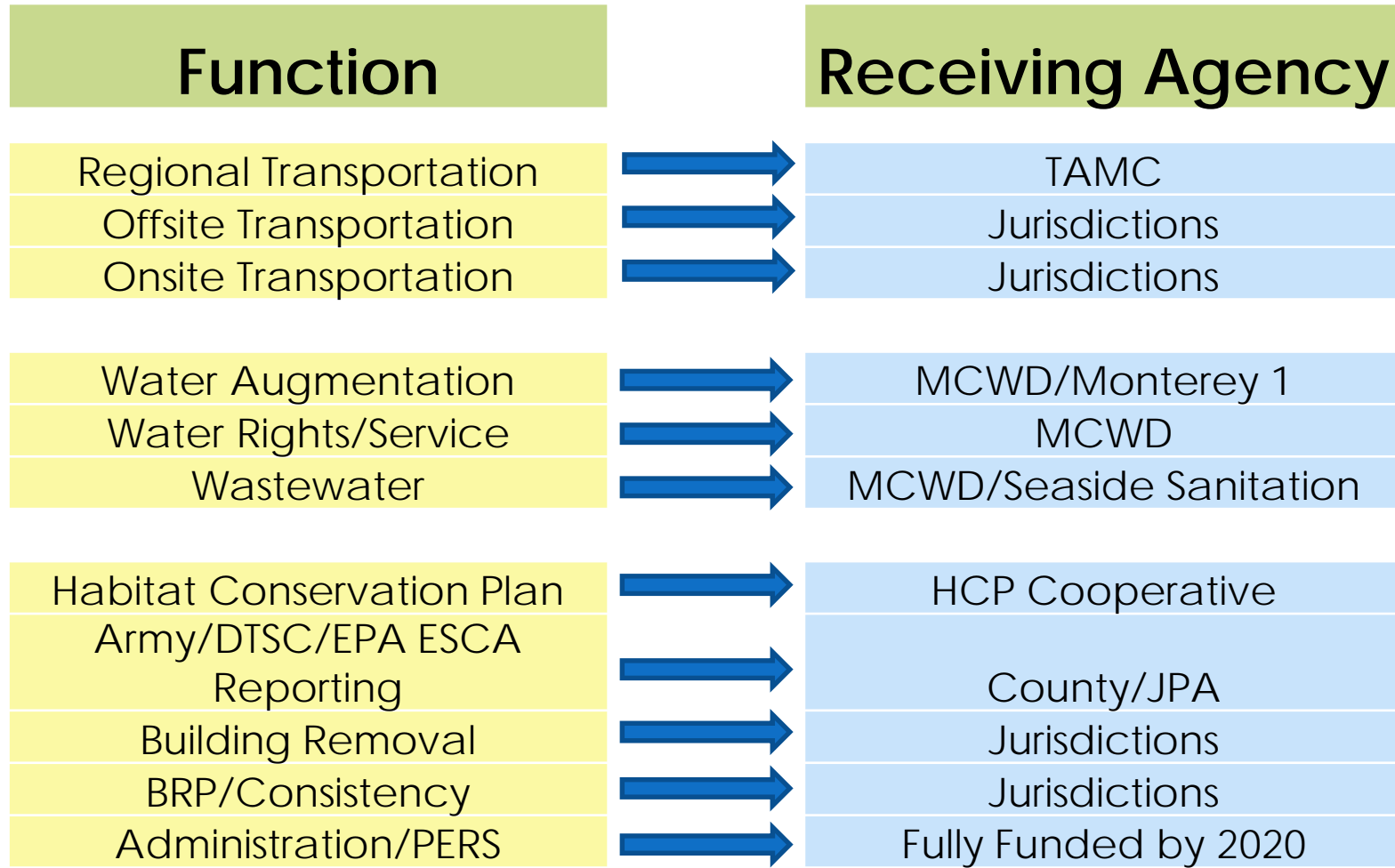


CONCLUSIONS/CONSIDERATIONS

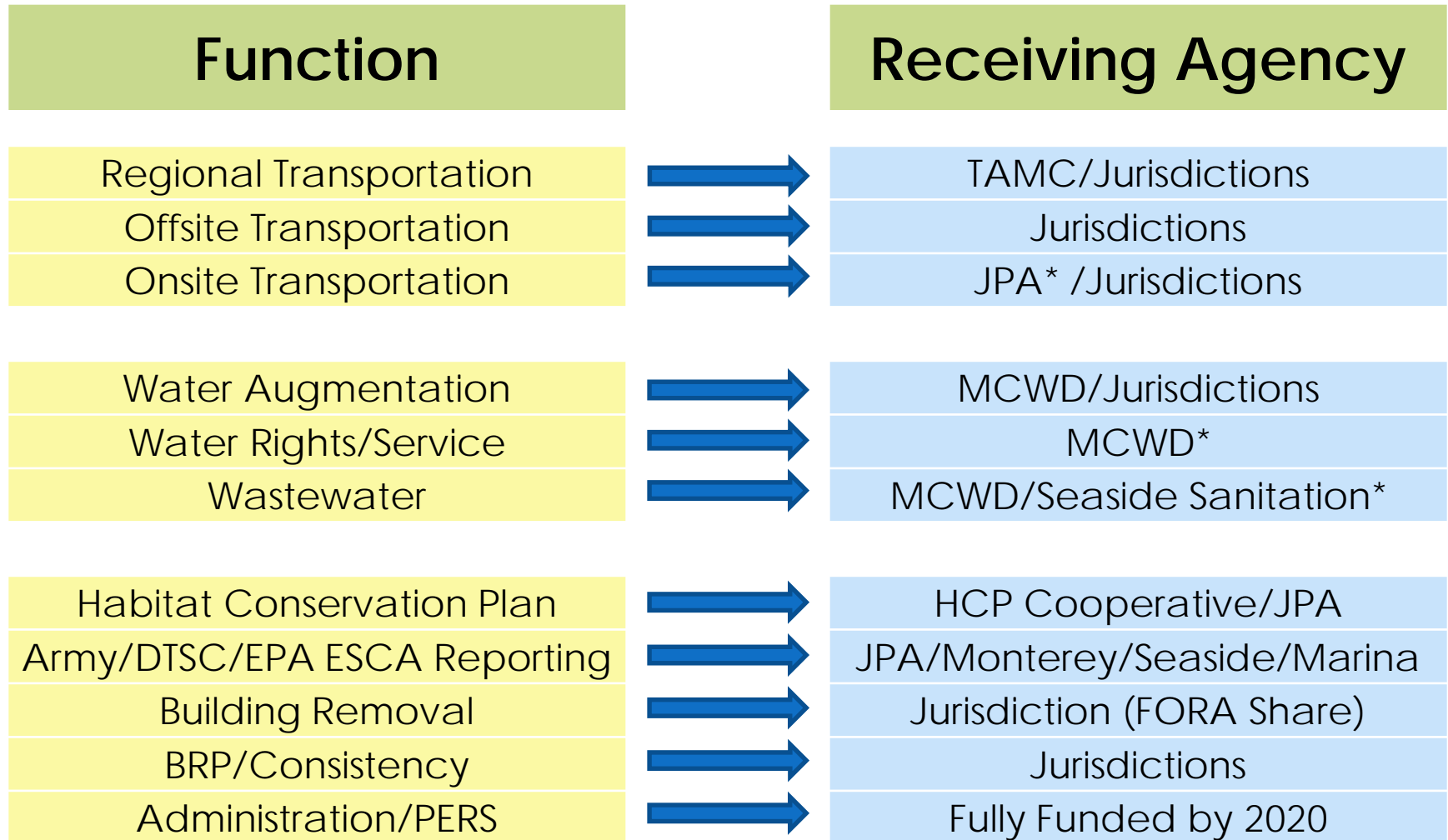


- **COMPLETE THE ECONOMIC RECOVERY**
 - Base wide costs and base wide mitigations
 - What and When
- **REVENUE GENERATION**
 - Continue existing financing or
 - New System
- **REVENUE SHARING**
 - Decide how to share revenues between those that generate the revenues and those providing the basewide costs and mitigation measures
- **POLICY ENFORCEMENT**
 - What policies and how?

Multiple Agency Function Transfer



Devolution Function Transfers



1. Board Composition. Same or amended?
2. Voting: Unanimous or majority first?
3. Limit Functions:
 - ESCA?
 - CFD Financing District?
 - Capital Improvement Program?
 - Policy Compliance
 - Prevailing Wage?
 - Consistency Determinations?

Consider extending the FORA Act for following limited purposes:

1. Ongoing financing (Revenue Sharing and Prioritization)
2. Munitions Response

Negotiate additional modifications to FORA policies and structure separately as state legislation is not needed for most changes.

EXTEND FORA

Function

Receiving Agency

Regional Transportation

Offsite Transportation

Onsite Transportation



FORA (FUNDING)/ TAMC

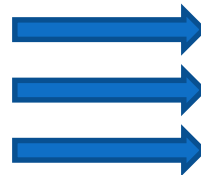
FORA FUNDING/Jurisdictions

FORA

Water Augmentation

Water Rights/Service

Wastewater



FORA FUNDING/MCWD

FORA/MCWD*

FORA/MCWD/Seaside Sanitation*

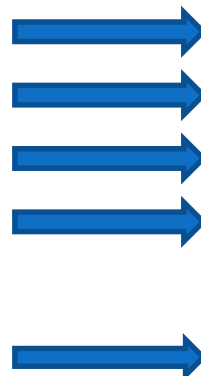
Habitat Conservation Plan

Army/DTSC/EPA ESCA Reporting

Building Removal

BRP/Consistency

Administration/PERS



FORA FUNDING/HCP
Cooperative/JPA

FORA

FORA*

FORA

FORA* Terminated Agency
liability Fully Funded by 2020;
modify contract/employee
contributions

Please limit your comments to the following subject matter chapters:

1. Miscellaneous
2. Transition Staffing
3. CEQA
4. Considerations



Discussion

