Monterey County

Meeting dates and locations are on the next page.

Meeting Agenda - Final

Thursday, August 23, 2018 9:00 AM

Friday, August 24, 2018 9:00 AM

SPECIAL MEETING

Fort Ord Committee

Special Fort Ord Committee Meeting Dates, Times, and Locations:

August 23, 2018 9AM-1PM
Monterey County Government Center
Monterey Conference Room 2nd Floor
168 W. Alisal St.
Salinas, CA 93901

August 24, 2018 9 AM-1PM
Monterey County Government Facility
Thyme Conference Room 2nd Floor
1441 Schilling Place, Salinas, CA 93901

The August 23, 2018 Special Meeting of the Fort Ord Committee will adjourn at 1pm and will reconvene as another Special Meeting at 9:00 am on August 24, 2018.

Call to Order

Additions and Corrections

The Commission Clerk will announce agenda corrections, deletions and proposed additions, which may be acted on by the Fort Ord Committee as provided in Sections 54954.2 of the California Government Code.
Regular Agenda, or at any other time during the course of the meeting announced by the Chairperson of the Board.

Public Comment Period

This is a time set aside for the public to comment on a matter that is not on the agenda.

Regular Agenda

1.

a. Consider options for the Fort Ord Reuse Authority Draft Transition Plan relative to:
   1. Financial Assets and Liabilities;
   2. Environmental Services Cooperative Agreement;
   3. Habitat Management;
   4. Transportation;
   5. And other topics and options discussed in the Fort Ord Reuse Authority Draft Transition Plan; and

b. Provide direction to staff for scheduling the Draft Transition Plan for Board of Supervisors' consideration, including but not limited to Committee recommendations regarding the Draft Transition Plan and the transition planning process;

Attachments: Att1-Financial Assets Discussion
Att2-ESCA Discussion
Att3-BBKnowledge JPA in California
Att4-Memo from County Counsel

Adjournment

DOCUMENT DISTRIBUTION: Documents relating to agenda items that are distributed to the Fort Ord Committee less than 72 hours prior to the meeting are available for public inspection at the front counter of the Resource Management Agency, Monterey County Government Center, 1441 Schilling Place – South, 2nd Floor, Salinas.

Documents distributed by County staff at the meeting of the Fort Ord Committee will be available at the meeting.

If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 USC Sec. 12132) and the federal rules and regulations adopted in implementation thereof. For information regarding how, to whom and when a person with a disability who requires a modification or accommodation in order to participate in the public meeting may make a request for disability-related modification or accommodation including auxiliary aids or services or if you have any questions about any of the items listed on this agenda, please call the Monterey County Resource Management at (831) 755-4800.

This page intentionally left blank

Agenda Item No. 1

This page intentionally left blank.

168 West Alisal Street,
1st Floor
Salinas, CA 93901
831.755.5066

August 23, 2018

Introduced: 8/22/2018 **Current Status:** Agenda Ready

Version: 1 **Matter Type:** General Agenda Item

a. Consider options for the Fort Ord Reuse Authority Draft Transition Plan relative to:
   1. Financial Assets and Liabilities;
   2. Environmental Services Cooperative Agreement;
   3. Habitat Management;
   4. Transportation;
   5. And other topics and options discussed in the Fort Ord Reuse Authority Draft Transition Plan; and

b. Provide direction to staff for scheduling the Draft Transition Plan for Board of Supervisors' consideration, including but not limited to Committee recommendations regarding the Draft Transition Plan and the transition planning process;

..RECOMMENDATION

It is recommended that the Fort Ord Committee:

a. Consider options for the Fort Ord Reuse Authority Draft Transition Plan relative to:
   1. Financial Assets and Liabilities;
   2. Environmental Services Cooperative Agreement;
   3. Habitat Management;
   4. Transportation;
   5. And other topics and options discussed in the Fort Ord Reuse Authority Draft Transition Plan; and

b. Provide direction to staff for scheduling the Draft Transition Plan for Board of Supervisors' consideration, including but not limited to Committee recommendations regarding the Draft Transition Plan and the transition planning process.

SUMMARY

On August 9, 2018, the Fort Ord Committee held a Special Committee meeting where it considered the Fort Ord Reuse Authority (FORA) Draft Transition Plan and relevant agreements and documents for impact to the County. At this meeting staff laid out options for the Fort Ord Committee to consider with respect to the Community Facilities District (CFD), Environmental Services Cooperative Agreement (ESCA), Habitat management and habitat conservation planning, and a process by which the Committee could further consider the Draft Transition Plan and make recommendations to the Board of Supervisors. The Committee scheduled special meetings of the Fort Ord Committee for August 23 and 24 to continue its deliberation on the FORA transition.

Based on discussion at the August 9, 2018 Committee meeting and further analysis of issues related to the FORA Draft Transition Plan and the transition planning process, staff recommends that the Committee consider scheduling Board of Supervisors' consideration of the Draft Transition Plan,

make recommendations to the Board of Supervisors regarding options for the FORA Draft Transition Plan and transition planning, and provide direction to staff.

DISCUSSION

State law requires that the Fort Ord Reuse Authority (FORA) submit a transition plan to the Monterey County Local Agency Formation Commission (LAFCO) on or before December 30, 2018. To achieve this timeline for LAFCO submittal, FORA staff has indicated that the FORA Board will need to consider and approve a plan not later than October 2018. Toward this goal, FORA released a public Draft Transition Plan on June 5, 2018.

The FORA Draft Transition Plan dated June 5, 2018 is available to view at http://www.fora.org/Board/2018/Packet/060818BrdTransitionPlanningPacket.pdf.

Additional information and materials regarding FORA's Transition Planning is available at http://www.fora.org/Transitiontaskforce.html.

On August 9, 2018, the Fort Ord Committee held a Special Committee meeting where it considered the Fort Ord Reuse Authority (FORA) Draft Transition Plan and relevant agreements and documents for impact to the County (Legistar File No. 18-809). At this meeting staff laid out options for the Fort Ord Committee to consider with respect to the Community Facilities District (CFD), Environmental Services Cooperative Agreement (ESCA), Habitat management and habitat conservation planning, and a process by which the Committee could further consider the Draft Transition Plan and make recommendations to the Board of Supervisors.

The August 9, 2018 Fort Ord Committee Report and Attachments related to FORA Transition Planning are available to view at available at https://monterey.legistar.com/LegislationDetail.aspx?ID=3596924&GUID=DE921334-837F-4E67-860F-52AB264BFF23&Options=&Search=.

At the August 9, 2018 meeting, the Committee requested that staff present the FORA Draft Transition Plan and transition planning item to the Board of Supervisors on September 11, 2018. The impetus to go to the Board of Supervisors on September 11th was for this item to be presented and discussed prior to the September 14, 2018 FORA Board meeting. However, the FOR A Board has since cancelled its September 14th meeting, and will now meet on Friday September 28, 2018. Staff requests direction from the Committee regarding scheduling Board of Supervisors' consideration of the Draft Transition Plan and the transition planning process.

Based on discussion at the August 9, 2018 Committee meeting, staff conducted further analysis of issues related to the FORA Draft Transition Plan and the transition planning process. A discussion is provided on the following topics.

Financial Assets

See Attachment 1: Financial Assets Discussion

Environmental Services Cooperative Agreement (ESCA)

See Attachment 2: Environmental Services Cooperative Agreement Discussion

Habitat Management
Habitat management was discussed at the August 9, 2018 Committee meeting, and two general issues arose: costs for habitat management and consideration of what a Joint Powers Authority (JPA) approach.

See Attachment 3: The Ins and Outs of Joint Powers Authorities in California (January 14, 2016)

The conservation and restoration activities in the *Installation-Wide Multispecies Management Plan for the Former Fort Ord, California* dated April 1997 ("Habitat Management Plan" or "HMP") are broadly described, leaving some room for interpretation and further refinements. However, based on preliminary analysis, it is roughly estimated to be approximately $159 per acre per year to provide habitat management as envisioned in the HMP. This rough cost estimate is based on the incidental take permit issued for the East Garrison Project, as it is reasonable to anticipate the habitat management activities are likely to require a similar level of effort. The County is anticipated to own 1,849 acres of habitat management lands on the former Fort Ord, which can be roughly estimated at costing approximately $293,991 per year for habitat management.

There would also be costs for developing a site-specific habitat conservation and monitoring plan for the area if a base-wide habitat conservation plan (HCP) is not approved, and for securing federal and state incidental take permits for the work. In addition, a certain amount of management and overhead time would be needed to support the habitat management operations. These costs would vary depending how the habitat management program were to be structured, for example, if County staff or consultants or other entity were to do the work.

If the base-wide HCP continues to be developed, but is not yet adopted at the time of FORA's dissolution in 2020, then it would be advisable to have a JPA established for habitat management that could receive the estimated $21 million to be collected by FORA by its dissolution date so that the funds remain in-tact to fund the proposed endowment funds contemplated in the HCP being developed (once adopted). Alternatively, if the HCP is no longer being pursued at FORA's dissolution, then the HMP responsibilities as well as FOR A's financial obligations could transfer to the habitat land-holding jurisdictions to support habitat conservation and monitoring plan development, permitting and implementation. In this case, the jurisdictions and FORA would need to establish a program and criteria for fair and equitable distribution of the $21 million to the jurisdictions upon dissolution. In the absence of a HCP, a JPA for habitat management could provide some economies of scale for habitat planning and implementation, however these benefits would need to be weighed against costs associated with the administration of a JPA.

Transportation
See Attachment 4: Memo from County Counsel regarding FORA Transition: Transportation (August 21, 2018)

FORA's Draft Transition Plan proposes that FORA's regional monetary obligations are transferred to TAMC and funded by TAMC's nexus-fee structure. It further proposes for consideration that FORA off-site reimbursement obligations are transferred to the jurisdiction where the project is located. Such off-site projects that are proposed for County to assume include Reservation Road to Watkins Gate Road and to Blanco Road. Improvements to Davis Road south of Blanco Road is part of the County's Davis Road bridge project, and is considered an off-site project. FORA's CIP financial commitment is approximately $12.9 million to the Davis Road project, and upon FORA's dissolution in 2020 the County and without continuation of the Community Facilities District (CFD) special task the County could forego approximately $12 million of FORA's commitment to the project. FORA lead agency improvements, referred to as on-site improvements, are proposed to be transferred to the jurisdiction where the project is located. The County's proposed assignment includes the Northeast-Southwest Corridor, Intergarrison Road and Eucalyptus Road improvements.

The Draft Transition Plan proposes jurisdictions would create their own financing districts to pay for their own projects and deposit funds into escrow account to complete/share revenue for projects. Issues regarding extension or replacement of the CFD and considerations for the County are discussed in the Financial Assets Discussion (Attachment 1).

As outlined in County Counsel's memo, there are many complexities related to the question of the County's obligations relative to the FORA CIP and respective road projects. Project-specific analysis could be conducted; however, time and staff resources do not allow project-level analysis of the transportation projects in a timeframe to inform recommendations regarding the FORA Draft Transition Plan.

Staff requests that the Committee consider options and make recommendation(s) to the Board of Supervisors regarding the Draft Transition Plan and the transition planning process, and provide direction to staff.

OTHER AGENCY INVOLVEMENT

RMA represents the County on the FORA Administrative Committee and has monitored FORA's Transition Planning. The CAO and County Counsel, in addition to RMA, have also met with FORA staff regarding transition planning, and are available to assist and advise the County in the coming months regarding the FORA transition.

FINANCING

The potential impacts, benefits, and costs to the County as a result of the FORA's Transition Plan could be significant, and is a critical piece of what staff is analyzing. County staff time to prepare this report and participate in the Transition Planning process is included in the FY2018-19 Adopted Budget Fund 001-RMA013. See Attachments to this report for discussion information about the possible financial implications of options being considered in the transition planning process.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES

FORA was established to facilitate the transfer and reuse of the former Fort Ord, to minimize the disruption caused by the base closure on the local economy, and to provide for the reuse and development of the base to maintain and enhance the local economy, and to maintain and protect the unique environmental resources of the base. Managing and preparing for a smooth transition of FORA is important for protecting County interests and reducing fiscal impacts. Part of the physical infrastructure remaining is in unincorporated Monterey County.

X Economic Development
X _ Administration
__ Health & Human Services
X Infrastructure
__ Public Safety

Prepared by: Melanie Beretti, Property Administration/Special Programs Manager (x5285)
Carlos Urrutia, Management Specialist
Approved by: Carl P. Holm, AICP, RMA Director

ATTACHMENTS:
Attachment 1: Financial Assets Discussion
Attachment 2: Environmental Services Cooperative Agreement Discussion
Attachment 3: The Ins and Outs of Joint Powers Authorities in California (January 14, 2016)
Attachment 4: Memo from County Counsel regarding FORA Transition: Transportation (August 21, 2018)

This page intentionally left blank

Attachment 1

This page intentionally left blank.

FINANCIAL ASSETS DISCUSSION

Overview: This report analyzes FORA's financial structure, its major assets, and its major liabilities. The analysis addresses two scenarios: dissolution and extension through June 30, 2028. Several considerations associated with each of the two scenarios are also included.

Summary of current financial structure:

FORA employs 16 full-time personnel and 1 part time staff. It also makes extensive use of outside consultants and services. It financial structure consists of four operating funds: General Fund; Leases/Land Sales Fund; CFD/Tax Developer Fees Fund; Army ESCA Fund. The FY 2018/19 Annual Budget estimates compensation for all Funds at $2,902,432, Operating expenses are budgeted at $536,025, and the budget for Contractual Services is $2,112,350. FORA total operating budget of $5,550,807. The capital budget totals $29,701,327. Total expenditures budgeted in 2018-19 are $35,252,134.

Fund balances at the end of 2018/19 are projected at: General Fund, $11,424,434; Leases and Land Sales Fund, $198,285; Developer Fees/CFD Tax, $17,146,964 (almost all of it set aside for habitat management); Army ESCA, no Fund Balance is shown because this Fund is funded by Army funds, drawn down periodically. A significant portion of the General Fund balance is assigned to CalPers termination ($6,700,000) and Operations ($4,700,000), leaving an undesignated General Fund balance of $24,434. There are large capital expenditures budgeted in the Leases and Land Sales Fund ($9,520,871), and in the CFD/Tax Developer Fees Fund ($20,180, 456).

The major sources of revenue for FORA are the proceeds of the Community Facilities District Special Tax, Property Tax, Land Sales, and Federal Funds assigned to the ESCA. The only large, somewhat predictable, year-to-year revenue is the Property Tax, which currently yields almost $3 million per year and is predicted to grow to $11 million by 2028. This tax is only predictable at its current level, because any increment in the proceeds of this tax is also dependent on property development. The CFD Special Tax, the single highest revenue source, is entirely dependent on the pace of development, because the Special Tax is collected with building permits. Land sales revenues are dependent on the sale of lands by each jurisdiction. FORA receives 50% of land sales. The other 50% goes to the jurisdiction where the land is located. During the past two Fiscal Years, no revenues have been projected in this category. However, the FORA CIP projects $121 million in land sales, through FY 2029. FORA also generates about $1 million from Membership dues and Franchise Fees, which are predictable revenues.

FORA's major liabilities include the PERS termination obligation (currently estimated at between $6 and $9 million), two law suits, and a series of contractual obligations which are not readily quantifiable. FORA's funding obligations identified in the BRP include $132.3 million for transportation; $45.1 million for Habitat Management; and $17.1 million for water related facilities. These obligations would be fully funded by the end of FY 2028, if the funding status quo is maintained and development happens, as projected. A large reserve fund balance is projected in the CIP at the end of its 10-year period, under a FORA extension scenario.

Discussion:

The major revenues sources and liabilities are discussed below.

Revenues:

FORA CFD and Development Fees: FORA imposes development fees and collects a CFD Special Tax from developers, with properties within the CFD territory. The FORA CFD was created in 2001 and is a one-time special tax collected on all development subject to the tax, at the time that a building permit is issued. The Special Tax is authorized to be collected to fund transportation, potable water augmentation facilities, storm drainage, and habitat management. Funds can also be used to pay for related administrative expenses. The CFD terminates when FORA sunsets. A recent study commissioned by FORA and prepared by Economic and Planning Systems (EPS), a public finance and planning firm, estimates that the CFD will generate approximately $19.2 million between now and the FORA sunset date; approximately $72 million after FORA sunsets, through FY 2028, from currently entitled development; and approximately $55.2 million for the same after-sunset period from currently unentitled development. The after-sunset projected revenue from the CFD is $127.2 million. Please note that these revenue projections are based on development forecasts which may or may not prove accurate.

Property Tax: The statutory framework for FORA's authority to collect property tax is found in Section 33492.70 of the Health and Safety Code. The statute redistributed property tax collected by the Redevelopment agencies (now Successor Agencies) existing in each member jurisdiction. After deductions for Housing Set Aside and statutory passthroughs to other taxing agencies, FORA receives 35% of the property tax, Redevelopment Successor Agencies receive 35%, the County receives 25%, and other affected taxing agencies receive 5%. Following FORA dissolution, after Housing Set Aside and mandatory passthroughs, Redevelopment Successor Agencies will receive 54%, the County will receive 38%, and affected other agencies will receive 8%. The revenue to Redevelopment Successor Agencies is only passed through to them if they have enforceable obligations, otherwise it is distributed through a complicated formula to the State and other taxing agencies. This report does not analyze Redevelopment Successor Agencies impacts.

The property tax revenue stream is important, both for the operations of FORA and for infrastructure funding. If FORA remains active until June 30, 2028, it is forecasted to receive approximately $64 million in property tax revenue. Under this scenario, the County would receive about $50 million, for the same period. If FORA sunsets in 2020, FORA will receive about $7.4 million, through sunset date, and the County will get about $72.8 million, through June 30, 2028, a difference of about $23 million, from the scenario where FORA's funding structure remains. The net present value of the County difference in property tax revenue under the two scenarios, is about $17 million, according to EPS. Of FORA's property tax share, $1.3 million goes to the General Fund. The rest is invested in the CIP.

If FORA sunsets on June 30, 2020, and a strategy to maintain the current property tax distribution structure is not implemented, the redistribution of the property tax will reduce available funding for the CIP by $62.4 million, after deducting the annual $1.3 million currently used to fund FORA General Fund activities. As stated above, the County's share will increase by about $23 million, or 13%.

Land Sales: FORA is entitled to 50% of all land sales revenues. The other 50% goes to the jurisdiction in which the land sale occurs. The FORA CIP does not show any land sales revenue from lands sold within the County. Funds collected by FORA from land sales are used to fund building removal and the remainder goes into the CIP. FORA has completed most of its building removal obligation, with a remining obligation of about $9 million, which should be fully met by June 30, 2020.. The 50-50 share was a policy decision made by the FORA Board, when it became apparent that the original plan to capitalize the cost of building removal into the cost of the land would not work. The 50-50 split was added to State Law. If FORA Sunsets, it is not clear what happens to the FORA share of the proceeds from land sales. It is possible that the proceeds of land sales would go to the jurisdictions, and an important funding component of the CIP would be jeopardized, unless the jurisdictions agree to a replacement policy that kept the 50-50 split in effect. The implementation agreements also address the 50-50 share, but those are agreements between FOR A and the member jurisdictions and it has not been determined who would be assigned the implementation agreement in FORA's absence.

Accelerated Building Removal Option:

FORA is discussing an option to pre-fund building removal in the amount of $46.8 million. This would be accomplished via a combination of land sales revenues and a property tax backed bond, which FORA would issue. FORA is of the opinion that they have the authority in the act to issue obligations against their property tax revenue, beyond FORA's existence. For a seeks to hire outside professional service providers to evaluate the feasible to issue $31 million in bonds obligating future FORA property tax to repay the bond. FORA projects that the property tax would be enough to service the debt, after deducting the $1.3 million administrative cost allowance dictated by FORA Board policy. FORA projects land sales of 21.2 million in FY 19-20. To accomplish the plan, FORA would use $15.8 of the land sales revenue. Please note that land sales revenues are speculative.

The impact on the County from this plan is not clear, but any negative financial impact would only materialize after FORA sunsets, because, while FORA is in place, FORA's property tax revenue would be used to service the debt. Any revenue, whether property tax proceeds or land sales proceeds would not be available for the CIP. If FORA, in any form, is extended through June 30, 2028, the debt could be structured to be paid off prior to that date. The cash flow projections in the CIP and in the EPS study show enough revenues for an accelerated payment schedule.

If FORA sunsets as scheduled, then it could only obligate its property tax revenues available at the sunset date and could not commit land sales revenues beyond its sunset date. This could represent a financial impact on the County, but its difficult to estimate what the impact would be because it is unclear how FORA long-term obligations factor into the post FORA property Tax distribution formula. Unless the County agreed to subordinate its share of the property tax, the impact may be spread more broadly, reducing the potential impact on the County. This issue requires further analysis.

Uncommitted Fund Balances:

The CIP shows uncommitted fund balances of almost $72 million on June 30, 2029. (The CIP shows a ten-year projection, exceeding the time frame of June 30, 2028 used elsewhere in this analysis by one year. The Land Sales Fund is responsible for most of this fund balance, having an undesignated ending Fund balance of a little over $67 million. Please note that this by choice, because the current CIP spending prioritizes the spending of CFD revenues and property taxes, over the land sales revenues.

<u>Liabilities:</u>

CalPers retirement benefits:

When a contracting agency terminates its contract with CalPers, the agency remains obligated to make payments to ensure that the agency employees will continue to receive the retirement benefits to which they are entitled. If an agency fails to make the required payments, employees are subject to a benefit reduction. One option available to agencies wanting to terminate their CalPers contract is to have CalPers perfom an actuarial study to determine the agency's unfunded obligation and to allow that agency to fully fund the obligation at termination. CalPers then assigns that agency to the Terminated Agency Pool (TAP) and continues to provide benefits earned to date for the employees of the terminated agency. CalPers uses very conservative estimates when calculating the actuarial value of the unfounded liability. Assets in the TAP are invested conservatively by CalPers and benefits covered by these investments should be reliable.

FORA has informed CalPers of its intent to terminate and CalPers is in the process of calculating the actuarial unfunded liability for FORA. The actuarial will not be completed until closer to termination date, but CalPers has estimated the unfunded liability to be somewhere between $ 6 and $9 million. FORA has currently reserved $6.7 in the General Fund for this purpose. If FORA sets aside funds and pays the unfunded liability at termination, there should not be liability to the FORA member agencies. If there are not enough assets to make the payment, the FORA Board has determined that the unfunded liability will be assigned to the member jurisdiction, based on their voting percentages. The County's share of the unfunded liability would be 23%.

Pending litigation:

The FORA transition discussions mention two pending litigation cases, a case filed by Keep Fort Ord wild (KFOW) in 2017 and a case filed by Marina Community Partners (MCP) in 2018. The County should inform itself relative to any liability that may be passed through to the County from either of these cases.

Miscellaneous Agreements:

The FORA transition discussions lists several miscellaneous contracts that could be assigned to the County. The County should study any contract where it could be a successor to FORA. It is not feasible to assign a Dollar value to any liability exposure under these contracts.

Post 2020 Obligations under the BRP:

The FORA Transition Plan states that FORA has post 2020 funding obligations under the BRP as follows:

- Transportation: $132.3 million;
- Habitat Management: $45.1 million
- Water related facilities. $17.1 million

If FORA is dissolved and the funding sources are not transferred to a regional agency, the Transition Plan proposes that each jurisdiction would be responsible for funding the roadway network in its jurisdiction. Jurisdictions would mitigate their individual impact by depositing revenues from their funding sources into an escrow account. Funds in the escrow account would be requested by the jurisdiction undertaking the project. Habitat management funds collected to date of dissolution ($21 million) would be assigned to a JPA or to individual jurisdictions through a yet to be developed distribution formula. Water obligations would be transferred to the Marina Coast Water District. The details of agreements needed to accomplish any of this are yet to be worked out. (See considerations, below.)

Considerations:

- FORA's dissolution will impact regional funding for the Fort Ord territory, unless new mechanisms are developed to continue the regional distribution of funds.
- Dissolution will result in a redistribution of property taxes which will result in considerable increases to Redevelopment Successor Agencies and to Monterey County. Other member jurisdictions will receive a much less significant increase in property taxes. There would be no property tax funding for BRP projects.
- Even if each member jurisdiction established replacement funding for the CFD and a regional distribution methodology was agreed upon, the funding generated by the replacement CFDs will not be enough to complete the projects programmed under the BRP. The current funding plan includes $67 million from property tax and/or land sales to make up the gap in funding.
- The combination of fuds generated by the existing FORA CIP funding sources will exceed costs. If FORA is extended, there should be discussion and a plan should be formulated for distribution of any remaining fund balance at the completion of the BRP. Such discussions could address reimbursing member agencies for property taxes forgone by the extension of FORA.
  The CIP shows significant revenue from land sales, ½ of 223,723,134, or $111,861,567. Are the assumptions behind those projections realistic?
- If FORA goes forward with the Accelerated Building Removal Program, FORA should consider structuring to use land sales revenues as the primary source, with property tax serving as back up pledge, to the extent possible.
- The FORA liability for CalPers should be fully funded, prior to dissolution. Consideration should be given to using some of the $4.7 million operations set aside in the General Fund reserves to fully fund this obligation. If FORA is extended, this obligation will continue growing and steps should be taken to fully fund it prior to dissolution. This will protect employees of FORA and the member jurisdictions.
- The entire funding structure is based on development occurring as presently forecasted in the CIP. This is a highly unlikely scenario, given the actual turn of events over the past twenty years.

Conclusion:

The dissolution of FORA on June 30, 2020 would have significant impacts to the funding of the BRP. Dissolution will result in a complex restructuring scenario, where agreements between the member jurisdictions, addressing distribution of financial resources, replacing revenue sources, creating a system for the distribution of regional impacts, and transferring responsibilities to successors need to be developed. Agreeing to a transition plan, without having these details worked out, may not be in the best interest of the County, the member jurisdictions, or the region.

Attachment 2

This page intentionally left blank.

ENVIRONMENTAL SERVICES COOPERATIVE AGREEMENT (ESCA) DISCUSSION

BACKGROUND:
FORA entered into an Environmental Services Agreement with the Army in 2007, whereby the Army granted FORA about $98 Million and FORA agreed to do the environmental remediation, involving the removal of unexploded ordnance from potentially contaminated properties destined to be transferred from the Army to the various jurisdictions within the FORA territory. FORA used most of the funds to purchase an insurance policy from AIG which provided stop-gap coverage for the remediation work to be completed. The environmental work has been completed and the transfer of the properties to jurisdictions is underway and expected to be completed before the dissolution of FORA in 2020. The AIG insurance policy will expire at the end of March of 2019.

More recently, FORA negotiated with the Army a new amendment to the ESCA, in the amount of approximately $6.9 million to complete the property transfer process and to perform the required long-term land management tasks, including inspections, enforcement, monitoring, and reporting, through 2028. As part of the negotiations with the Army, the contractual enforcement and reporting period for FORA was shortened from 2037 to 2028. The new funds are granted via an amendment to the original ESCA, which terms remain in effect through the new, shortened, period.

In 2014, FORA and some of the jurisdictions purchased a Pollution Liability Policy (PLL), providing $50,000,000 in coverage. The County participates in this policy, which expires in 2025 and is not renewable. There have been no claims against this policy or it's predecessor policy.

ISSUE:
What are the exposures, both legal and financial, for the County in the event of FORA's dissolution, prior to 2028?

DISCUSSION:
The contract with Army requires that a single entity will assume FORA's responsibility until the ESCA contract expires in 2028. That entity could be a JPA, The County, Seaside, or Marina. Whoever assumes responsibility will be tasked with performing the obligations under the ESCA, including the recent amendment. It is assumed that all work under the previous $98 Million contract will have been accomplished prior to FORA's dissolution. FORA's Executive Director stated that there are some delays in meeting certain obligations that should have been completed by March 30, 2019 and that he is negotiating with the Army for additional Funds to cover those delays. He also stated that the Army has been flexible and cooperative in handling such issues in the past.

The funds approved under the amendment cover on-going efforts, activities after the expiration of the AIG policy, and future activities through June 30, 2028. Michael Houlemard, FORA Executive Director, who negotiated the amendment, feels that the funds secured should be enough to fulfill the requirements of the amended ESCA, except for unforeseen circumstances, such as finding significant previously unknown environmental hazards on the transfer properties. While any such "finds" would, most likely, be the responsibility of the Army, there would be a considerable effort and resource demands on FORA staff for the process of dealing with the find and negotiating with the Army. Up to now, all such negotiations have been handled, primarily, by the Executive Director, with staff support.

Funding approved under the amendment assumed of 2 full-time staff, without administrative oversight by the Executive Director, but with allowances for indirect administrative overhead. Up until now, the Executive Director estimates that 20 to 25% of his time is spent on ESCA activities. He anticipates that the new contract will represent a reduction of his effort to between 10 and 15%, declining in the future. He also stated that, should the existing staff assigned to ESCA be absorbed by the successor to FORA, the skills required to complete the work would be available from existing FORA staff, should the successor wish to absorb the staff and the staff be willing to transfer to a new employer.

FORA budgeted $1,129,167 in 2018-19 for ESCA. This budget includes funds for compensation, operations, and consulting services, mostly for regulatory agency compensation and related consulting work, including special counsel. Funds available for Long-Term management and LUC management post June 30, 2020 are $3,705,791, or an average of $463,000 per year, from June 30, 2020, through 2028. These figures come from FORA's staff analysis and were approved by the Army. FORA staff is confident that the funds allocated are enough. Please note that these funds are available on a quarterly reimbursement basis.

Should the County assume the ESCA, or should it participate in a JPA, County resources will be impacted. Administrative oversight, overhead support (Human Resources, Finance, etc.), space, etc. will be required. The County will need to assess its capability to absorb the new responsibilities. Given the past use of outside legal counsel by FORA, the potential impacts on County Counsel, should be assessed carefully. Even if outside Counsel is retained, considerable effort by County Counsel may still be needed. Failure to comply with ESCA can result in penalties, oversight agency service charges, and deed reversals.

Another potential area of exposure to the County is liability that may arise from environmental contamination on properties transferred from the Army to the County. FORA and several jurisdictions purchased a Pollution Legal Liability (PLL) Policy in 2015 to replace the previous PLL. Because there had been no claims filed under the previous policy, the new policy was obtained at considerably lower cost than the original policy. The PLL policy offers the County protection against claims for incidents related to environmental pollution covered under the policy. The PLL policy expires in 2025 and The FORA Executive Director has recommended than a new PLL policy be obtained from 2025 through 2028. Given that no claims have been filed and that the period would be shorter, such a policy should be available at lower cost. FORA paid for part of its share of the PLL policy with funds approved by the Army under the original ESCA. It should be noted that currently, there is no dedicated funding for a new PLL policy.

After 2028, when the properties have transferred and obligations under ESCA cease, the exposure to the County should be lower, according to Barry Steinberg, an attorney who specializes in environmental pollution, retained by FORA. This should be particularly the case for County lands where disruption activity should be minimal. Properties transferred from the Army to Jurisdictions and from jurisdictions to private property owners carry extensive deed restrictions, providing for specific steps that a property owner must take to disturb the soil on these properties. The responsibility for compliance with the deed restrictions is transferred to the property owner. Mr. Steinberg suggested that the successor to FORA should be careful in crafting the assignment agreement, protecting itself from actions done during FORA's administration. The County should evaluate whether it is warranted to extend PLL protection beyond the expiration of the ESCA.

Conclusion:

ESCA implementation has been FORA's responsibility since its inception. FORA staff understand the process of dealing with the Army, know the regulatory environment, have established working relationships with various agencies and contractors, and have the technical skills for operating in a complex regulatory environment. FORA's dissolution would represent a steep learning curve to any agency taking over ESCA responsibilities, even if the FORA staff assigned to the day-to-day management of the ESCA were absorbed by the successor. Failure to comply with provisions of the ESCA could have significant consequences.

While the activities required under ESCA and the land covered represent a legal risk, it is possible to understand these risks and to take necessary steps to reduce exposure. However, resources, not funded currently, will be needed to address these risks.

This page intentionally left blank

Attachment 3

This page intentionally left blank.

BBKnowledge
By BEST BEST & KRIEGER LLP

(https://www.bbknowledge.com)

The Ins and Outs of Joint Powers Authorities in California

Date:January 14, 2016

Author(s): Paula C. P. de Sousa Mills (http://bbknowledge.com.staging.tenrec.com/https://www.bbknowledge.com/author/paula-c-p-de-sousa-mills/)

(http://bbknowledge.com.staging.tenrec.com/https://www.bbknowledge.com/wp-content/uploads/2014/11/State-Capitol.jpg)Joint Powers Authorities are legally created entities that allow two or more public agencies to jointly exercise common powers. Forming such entities may not only provide a creative approach to the provision of public services, but also permits public agencies with the means to provide services more efficiently and in a cost-effective manner.

The Joint Exercise of Powers Act, as codified in California Government Code section 6500, governs JPAs. Under the Act, JPAs are restricted to use by public agencies only. However, the term public agency is defined very broadly. A public agency can include, but is not limited to, the federal government, the state or state department, mutual water companies, public districts and recognized Indian tribes.

The Act authorizes two kinds of JPA arrangements. The first allows two or more public agencies to contract to jointly exercise common powers. The second allows two or more public agencies to form a separate legal entity. This new entity has independent legal rights, including the ability to enter into contracts, hold property and sue or be sued. Forming a separate entity can be beneficial because the debts, liabilities and obligations of the JPA belong to that entity, not the contracting parties.

To enter into a JPA (either to jointly exercise common powers or to form a separate legal entity), the public agencies must enter into an agreement. This agreement must state both the powers of the JPA and the manner in which it will be exercised. The governing bodies of all the contracting public agencies must approve the agreement.

A 2007 Senate Local Government Committee Report noted that JPAs have played an increased role in California's governmental services, with more than 1,800 JPAs and counting. Thus, a JPA arrangement could be an advantageous avenue for public agencies when exploring better ways to provide public services.

Tags: Joint Exercise of Powers Act (http://bbknowledge.com.staging.tenrec.com/https://www.bbknowledge.com/tag/joint-exercise-of-powers-act/), Joint Powers Authorities (http://bbknowledge.com.staging.tenrec.com/https://www.bbknowledge.com/tag/joint-powers-authorities/), JPAs (http://bbknowledge.com.staging.tenrec.com/https://www.bbknowledge.com/tag/jpas/)

Comments are closed.

Attachment 4

This page intentionally left blank.

MONTEREY COUNTY

OFFICE OF THE COUNTY COUNSEL-RISK MANAGEMENT
168 WEST ALISAL STREET, 3RD FLOOR, SALINAS, CALIFORNIA 93901-2439
(831) 755-5045 FAX: (831) 755-5283

CHARLES J. McKEE
COUNTY COUNSEL-RISK MANAGER

Wendy S. Strimling
Senior Deputy County Counsel

MEMORANDUM

DATE: **August 21, 2018**

TO: **Fort Ord Committee of the Board of Supervisors**

FROM: **Wendy S. Strimling, Senior Deputy County Counsel**

SUBJECT: **FORA Transition: Transportation**

The Fort Ord Committee has requested legal analysis of several subjects to assist the Committee to evaluate and make recommendations to the Board of Supervisors concerning the potential dissolution of Fort Ord Reuse Authority (FORA) on June 30, 2020 and the transition planning. FORA must submit a transition plan to the Local Agency Formation Commission (LAFCO) on or before December 30, 2018, pursuant to Government Code section 67700. This memo focuses on the transportation topic.

FORA's Draft Transition Plan (dated June 5, 2018) states that "to the extent roads are to be constructed by FORA, those obligations are required to be assigned to a successor, whose responsibility will be to complete the construction in accordance with the timelines set forth for completion." (Plan, at 16-17.) The Fort Ord Committee has asked County Counsel to analyze the following questions:

1. Whether and to what extent does a legal obligation exist to complete the roadway improvements in the FORA Capital Improvement Program (CIP) if FORA is dissolved?
2. Do the roadway improvements listed in FORA's Capital Improvement Program constitute "mitigation measures" under the California Environmental Quality Act, and if yes, does CEQA legally obligate completion of those roadway improvements if FORA is dissolved?

This memo outlines the legal framework to assist in addressing these questions. We begin with the observation that FORA is a separate legal entity with its own counsel to advise FORA as to its legal obligations, and FORA may be subject to obligations stemming from contracts and grants which we have not reviewed or of which we are not aware. Accordingly, this memo is not intended to be a comprehensive analysis of FORA's obligations with respect to roadway improvements. Rather, this memo is intended to provide background and a general analysis to assist the Fort Ord Committee in making policy recommendations relating to the FORA transition.

A. Background

1. Authority Act

The Fort Ord Reuse Authority Act (Government Code section 67650 et seq.) required the FORA Board to "prepare, adopt, review, revise from time to time, and maintain a plan for the future use and development of the territory occupied by Fort Ord as of January 1, 1993." (Gov't Code sec. 67675(a).) The Reuse Plan must include, among other things, a "transportation plan for the integrated development of a system of roadways, transit facilities, air transportation facilities, and appurtenant terminals and other facilities for the movement of people and goods to, from, and within the area of the base." (Id. sec. 67675(c)(2).) The plan must also include a five-year capital improvement program that identifies base-wide facilities and local facilities. (Id. sec. 67675(c)(5).) "Basewide public facilities" include roads that will serve future residents of the former army base and "could most efficiently or conveniently be planned, negotiated, financed, constructed or repaired, remodeled, or replaced by the board to further the integrated use of the base." (Id. sec. 67679(a)(1).) The Authority Act makes FORA responsible to "undertake to plan for" and arrange financing and construction of these basewide facilities, although it authorizes FORA to delegate these powers to a member agency. (Id.) Basewide facilities are distinct from "local public capital facilities" which are the responsibility of the city or county with land use jurisdiction. (sec. 67679(a)(2).)

FORA adopted the Fort Ord Reuse Plan ("Reuse Plan") in 1997, following certification of Fort Ord Reuse Plan Environmental Impact Report (EIR).

2. Base Reuse Plan EIR

The Fort Ord Reuse Plan EIR, certified by FORA on June 13, 1997, found that the "reuse of former Fort Ord along with growth throughout the remainder of the region would place increased demands on the roadway system." (EIR, at 4-99.[1]) The traffic analysis was based on a twenty-year horizon, through the year 2015. The EIR assumed an "Optimistic Financing Scenario" for road improvements on the former Fort Ord within FORA's control, but assumed a "Constrained Financing Scenario" for impact of the Reuse Plan on regional roads, recognizing that "to the extent that mitigating measures built into the plan for off-site improvements lie within the jurisdictions of agencies outside FORA's control," the regional road improvements "cannot be assumed by FORA." (EIR at 4-107.)

The EIR concluded that projected development under the Reuse Plan through 2015 would result in a significant unavoidable impact to the regional roadway system because funding for improvements to all off-site regional roadway and transit operations is not assured. (EIR at 4-111 and 5-7.) However, while mitigation would not reduce the

1 The EIR is published as Volume 4 of the Fort Ord Reuse Plan.

impact fully, the following mitigation strategy related to roadway improvements was proposed:[2]

- Streets and Roads Policy A-1: The EIR noted that the draft Reuse Plan includes policies requiring FORA and each jurisdiction with lands at former Fort Ord (including the County, Seaside and Marina) to coordinate with TAMC in "providing funding for an efficient regional transportation system." (EIR at 4-109.) This strategy includes developing funding mechanisms "to pay for Fort Ord's share of impact on the regional transportation system" and supporting and participating in "regional and state planning and funding programs to provide an efficient regional transportation effort to access former Fort Ord." (Ibid.)
- The EIR suggested adding policy language to enable FORA to distribute financial contributions to selected off-site transportation improvements to maximize effectiveness of the funding to reducing traffic impacts to the regional roadway system. (EIR at 4-111.)
- The EIR suggested adding policy language to require for FORA to establish a "Development and Resource Management Plan (DRMP) to establish programs and monitor development at Fort Ord to assure that it does not exceed resource constraints posed by transportation facilities and water supply." (EIR at 4-111.)

The EIR concluded that the project would have a less than significant impact to the roadway system within the former Fort Ord based on the Reuse Plan's proposed policies and programs. (EIR at 4-118.) In addition to transit and pedestrian and bike policies, the EIR took note of proposed Streets and Roads Policy C-1, applicable to the County, Marina and Seaside, which requires each jurisdiction to design the street system in conformance with the Reuse Plan design standards, including to "design and construct the roadway network consistent with the phasing program identified in the Fort Ord Business and Operations Plan (Appendix B in the Reuse Plan.)" (EIR at 4-115.) The Business and Operations Plan suggested phasing infrastructure improvements, including circulation improvements, over the twenty-year planning period (1995-2015) to maximize the ability to pay for the improvements. (Reuse Plan at 4-189 to 4-190.)

3. Fort Ord Reuse Plan and FORA's Capital Improvement Program

Consistent with the Authority Act and the EIR, the Reuse Plan's "Circulation Concept" is to balance building/improving the roadway network with managing/minimizing the demand for vehicle trips. (Reuse Plan at 12, 112.) The Reuse Plan contains a proposed roadway network comprised of a list of potential improvements to regional roadways and to the internal roadway network on the former army base. The "Eastside Road" is listed among the proposals for on-site road improvements. (Reuse Plan at 113 to 120, 293 to 297.) The Plan also recognized that funding for most of the envisioned improvements was not yet secured. (Reuse Plan at 113 to 120.)

---

2 In addition to addressing roadway improvements, the EIR analyzed the Reuse Plan policies related to transit, transportation demand management, and pedestrian and bicycle facilities and noted that they would help reduce impacts but "would not be sufficient to eliminate significant impacts due to deterioration of LOS on regional roadways." (EIR at 4-111.) These components are beyond the scope of this memo.

Ultimately, the Reuse Plan incorporates a growth management approach to roadway improvements, with the Capital Improvement Plan as the primary tool for growth management. (Reuse Plan at 191.) The Reuse Plan sets a guiding level of service standard of LOS D for the Capital Improvement Plan for road network improvements within the former Fort Ord, with timing of construction to occur so that LOS "does not degrade below the bottom end of LOS D." (Reuse Plan, Table 3.11-1, at 192.) The envisioned phasing is to start by improving the existing transportation network first, so that the most expensive improvements would be postponed until funds were available. (Reuse Plan, at 190.)

Incorporating the mitigation measure proposed by the EIR, the Reuse Plan also includes a Development and Resource Management Plan (DRMP) Policy "to restrain development to available resources and service constraints." (Reuse Plan, Policy 3.11.5, at 194.) The DRMP includes the following financial programmatic policies to fund transportation improvements:

- FORA must fund its "fair share" of on-site, off-site, and regional roadway improvements based on a 1997 TAMC nexus analysis.
- FORA retains the flexibility to build on-site and off-site roadway improvements to serve development on the former Fort Ord and will participate in reimbursement programs to recover expenses beyond its fair share;
- FORA intends to participate in a regional transportation financing mechanism or will collect and contribute to construction of the roadway improvements. "FORA's participation in the regional improvements program constitutes mitigation of FORA's share of cumulative impacts." (Reuse Plan, at 195.)
- Monitoring is required to "prevent development from exceeding FORA's Level of Service Standards." (Reuse Plan, at 196.)

FORA has adopted, and over the years updated, an annual Capital Improvement Program (CIP) which implements these Reuse Plan directives and includes FORA's financial transportation obligations. (Capital Improvement Program, FY 2017/18 through 2027/28.) FORA characterizes its CIP as necessary to fulfill mitigation obligations under the Base Reuse Plan. (CIP, at p. 1.)

4. <u>County Policies</u>

The Reuse Plan EIR also recognized that the policies of the Reuse Plan mitigate the transportation impacts. The structure of the Reuse Plan makes the Streets and Roads policies applicable not only to FORA but also to the land-owning jurisdictions, including the County. This sharing of responsibility is accomplished by the requirement that jurisdictions amend their general plans to be consistent with the Reuse Plan. For example, the Reuse Plan requires FORA and each jurisdiction with lands at the former Fort Ord to provide a funding mechanism to pay for former Fort Ord's share of impact on the regional transportation network. (e.g., Reuse Plan, Streets and Roads Policy A-1 and the Programs listed thereunder, at 300.) For roads within the former Fort Ord, each jurisdiction is required to design and construct the roadway network consistent with the twenty-year phasing plan. (Reuse Plan, Streets and Road Policy C-1 and Programs listed thereunder, at 301.)

Chapter 8 of the Fort Ord Reuse Authority Master Resolution, which was added pursuant to a settlement agreement between FORA and the Sierra Club, requires each member land use agency to include policies and programs in its general plan to "help ensure an efficient regional transportation network" to provide access to the former Fort Ord, which must include the following policies:

"(1) Establishment and provision of a dedicated funding mechanism to pay for the 'fair share' of the impact on the regional transportation system caused or contributed by development on territory within the jurisdiction of [FORA]; and

(2) Support and participate in regional and state planning efforts and funding programs to provide an efficient regional transportation effort to access Fort Ord." (Master Resolution Section 8.02.020(n).)

The Master Resolution also requires all general plans within the Fort Ord territory to be consistent with the Reuse Plan and requires FORA to record a notice on all property within Fort Ord that development of property within Fort Ord is subject to and limited by the Reuse Plan. (Master Resolution, Section 8.01.010(c),(j),and (k).)

In accordance with these requirement, the County has adopted Reuse Plan policies into County's General Plan.[3] Thus, the County's General Plan itself requires the County to provide a funding mechanism to pay for former Fort Ord's share of impact on the regional roadway system, to participate in the establishment and provision of a dedicated mechanism to pay for the "fair share" of the impact of development on the regional roadway system, and to prepare and implement a monitoring program to ensure that development does not exceed resource constraints consistent with the DRMP. (See Streets and Roads Policy A-1 and its programs, excerpt of Final Circulation Element of County's General Plan amendment, attached.) For internal roads within the former Fort Ord, the County adopted a policy to coordinate with FORA to "design and provide an efficient system of arterials consistent with Figures 4.2-2 (in the 2015 scenario) and Figure 4.2-3 (in the Buildout scenario) in order to connect to the regional transportation network." (Program B-1.1, attached.) (The referenced Figures from the Base Reuse Plan list regional and on-site roadway improvements.) County also adopted a policy to "design and construct the roadway network consistent with the phasing program identified in the Fort Ord Business and Operations Plan." (See Street and Roads Program C-1.4, attached.)

B. Analysis

As shown above, the Reuse Plan does not require any specific roadway improvement. Rather, to summarize broadly, the Reuse Plan requires adoption of a Capital Improvement Plan to govern roadway improvements and requires adherence to various policies that support establishment of "fair share" regional transportation funding

---

3 On November 20, 2001, the County amended its General Plan to incorporate various policies of the Fort Ord Reuse Plan. FORA certified that County's General Plan amendment as consistent with the Reuse Plan. County's 2010 General Plan included a Fort Ord Master Plan that was very similar in substance to the 2001 amendment; however, the FORA Board, on a tie vote, did not certify the 2010 Fort Ord Master Plan. Accordingly, the 2001 General Plan amendment governs. An excerpt of the 2001 General Plan amendment containing the referenced Streets and Road policies is attached.

mechanisms and commitment to design and construct on-site roadway improvements consistent with the Reuse Plan. Accordingly, to return to the question of whether roadway improvements listed in the FORA CIP are legal obligations that must be assigned if FORA is dissolved, the answer is complex.

First, to the extent the CIP carries out mitigation required by the Reuse Plan EIR, the California Environmental Quality Act (CEQA) does not preclude a governing body from deleting or amending mitigation measures if the governing body states a legitimate reason, supported by substantial evidence, for doing so. As the court of appeal has explained,

> [W]e find nothing in established law or in logic to support the conclusion that a mitigation measure, once adopted, never can be deleted. Nonetheless, when an earlier adopted mitigation measure has been deleted, the deference provided to governing bodies with respect to land use planning decisions must be tempered by the presumption that the governing body adopted the mitigation measure in the first place only after due investigation and consideration. We therefore hold that a governing body must state a legitimate reason for deleting an earlier adopted mitigation measure, and must support that statement of reason with substantial evidence. If no legitimate reason for the deletion has been stated, or if the evidence does not support the governing body's finding, the land use plan, as modified by the deletion or deletions, is invalid and cannot be enforced.
> (*Napa Citizens for Honest Government v. Napa County Board of Supervisors*, 91 Cal. App. 4th 342, 359 (2001).)

Accordingly, from a legal perspective – if not from a practical perspective, as part of the FORA transition planning, FORA could in a public process legally alter the mitigation, provided that the proposed revision would be subject to environmental review and any such revision would be based on a stated legitimate reason and supported by substantial evidence.

Assuming no such change and assuming the CIP remains in place until FORA is dissolved, the CIP involves discretionary decisions within the parameters set by the Reuse Plan. While the specifics of the CIP are beyond the scope of this memo, the statements in the CIP appear to indicate that FORA has exercised discretion with respect to the list of roadway improvements and priorities of the CIP. As explained by the CIP, the CIP sets project priorities based on various factors, including protocols adopted by the FORA Board, revenue forecasts, and land use projections. (See, e.g., CIP at p. 1-2.) Additionally, inclusion in the CIP does not guarantee construction of the improvements if the proposed improvement requires further environmental review and further discretionary approvals. Currently, the CIP includes a ten-year plan, beyond the June 30, 2020 FORA dissolution date, to complete roadway improvements for which FORA is lead agency or for which FORA has contractually agreed to provide reimbursements to the County or City of Marina where they are acting as lead agency (e.g., County construction of Davis Road improvement). If the County were to desire as a policy matter to request FORA to modify the CIP as part of the transition process, we would recommend further examination of each of the roadway improvements currently listed in the CIP to determine the exact obligations associated with each.

Lastly, a regional cost-sharing approach to transportation improvements on the former Fort Ord is embedded in the County's General Plan inasmuch as the County adopted Reuse Plan policies into its General Plan. Therefore, absent a General Plan amendment which would require a public process and appropriate environmental review, the County's governing legal framework includes a regional cost-sharing approach and commitment to roadway improvements on the former Fort Ord. That said, the issue of how to implement this regional approach -- whether to extend FORA in its current or different form or assign regional transportation to a different regional entity – involve policy decisions.

C. Conclusion

Given the complex legal and factual issues associated with proposed roadway improvements on the former Fort Ord and the evolving transition planning for FORA, we provide this advice with the caveat that it is based on our legal analysis and review of the documents to date within the time available. We would be happy to provide additional analysis of these issues as the FORA transition planning proceeds.

cc: Melanie Beretti, RMA
Nick Chiulos, Assistant CAO

County of Monterey

FORT ORD
GENERAL PLAN AMENDMENT

Adopted November 20, 2001

ATTACHMENT B

COUNTY OF MONTEREY
FORT ORD
CIRCULATION ELEMENT

The Monterey County Fort Ord Circulation Element is part of the Greater Monterey Peninsula Area Plan and the Monterey County General Plan. It consists of those portions of the Circulation Element of the Reuse Plan adopted by the Fort Ord Reuse Authority (FORA) on June 13, 1997, that pertain to the areas of Fort Ord currently under the jurisdiction of the County and located east of Highway 1. Those relevant portions of the adopted Reuse Plan are hereby incorporated into the Monterey County Fort Ord Circulation Element by this reference. For convenience relevant Goals, Objectives, Policies and Programs pertaining to the subject area are provided herein.

CIRCULATION ELEMENT
POLICIES AND PROGRAMS PERTAINING TO
MONTEREY COUNTY

Streets and Roads Policies and Programs

Objective A: Develop an efficient regional network of roadways that provides access to the former Fort Ord.

Streets and Roads Policy A-1: *FORA and each jurisdiction with lands at the former Fort Ord shall coordinate with and assist TAMC in providing funding for an efficient regional transportation network to access former Fort Ord.*

Program A-1.1: *FORA and each jurisdiction with lands at Fort Ord shall provide a funding mechanism to pay for former Fort Ord's share of impact on the regional system.*

Program A-1.2: *The County shall participate in the establishment and provision of a dedicated mechanism to pay for the "fair share" of the impact on the regional transportation system caused or contributed by development on territory within the jurisdiction of FORA.*

Program A-1.3: *FORA and each jurisdiction with lands at former Fort Ord shall identify specific transportation issues that affect former Fort Ord and support and participate in regional and state planning efforts and funding programs to provide an efficient regional transportation effort to access former Fort Ord.*

Program A-1.4: *The County shall prepare and implement a monitoring program that ensures that development does not exceed resource constraints posed by transportation facilities consistent with the Development and Resource Management Plan adopted by FORA.*

Objective B: Provide direct and efficient linkages from former Fort Ord Lands to the regional transportation system.

Streets and Roads Policy B-1: *FORA and each jurisdiction with lands at former Fort Ord shall design all major arterials within former Fort Ord to have direct connections to the regional network (or to another major arterial that has a direct connection to the regional network) consistent with the Reuse Plan circulation framework.*

Program B-1.1: *Each jurisdiction shall coordinate with FORA to design and provide an efficient system of arterials consistent with Figures 4.2-2 (in the 2015 scenario)* *and Figure 4.2-3 (in the Buildout scenario) in order to connect to the regional transportation network.*

Program B-1.2: *Each jurisdiction shall identify and coordinate with FORA to designate local truck routes to have direct access to regional and national truck routes and to provide adequate movement of goods into and out of former Fort Ord.*

Objective C: Provide a safe and efficient street system at the former Fort Ord.

Streets and Roads Policy C-1: *Each jurisdiction shall identify the functional purpose of all roadways and design the street system in conformance with Reuse Plan design standards.*

Program C-1.1: *Each jurisdiction shall assign classifications (arterial, collector, local) for each street and design and construct roadways in conformance with the standards provided by the Reuse Plan (Table 4.2-4 and Figure 4.2-4).*

Program C-1.2: *Each jurisdiction shall preserve sufficient right-of-way for anticipated future travel demands based on Buildout of the FORA Reuse Plan.*

Program C-1.3: *Each jurisdiction shall assign an appropriate threshold performance standard for its roadway system in order to measure the impacts of future growth on the system.*

Program C-1.4 *Each jurisdiction shall design and construct the roadway network consistent with the phasing program identified in the Fort Ord Business and Operations Plan (Appendix B of the Reuse Plan).*

Program C-1.5: *Each shall designate arterials and roadways in commercially zoned areas as truck routes.*

Streets and Roads Policy C-2: *Each jurisdiction shall provide improvements to the roadway network to address high accident locations.*

Program C-2.1: *Each jurisdiction shall collect accident data, identify and assess potential remedies at high accident locations and implement improvements to lower the identified high accident rates.*

Objective D: Provide an adequate supply of on-street parking.

Streets and Roads Policy D-1: *Each jurisdiction shall provide a program of on-street parking.*

Program D-1.1: *Each jurisdiction shall provide on-street parking, as appropriate, with design and construction of all urban roadways.*

This page intentionally left blank

TABLE 2: 2018-2019 TRANSPORTATION NETWORK AND TRANSIT ELEMENTS BY PRIORITY

Priority	Proj#	Description	Lead		Obligation	2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	2023-2024	2024-2025	2025-2026	2026-2027	2027-2028	2028-2029	TOTAL Budget
1	FO13B	NE-SW Connector (formerly ESP)	On-Site	FORA	*$ 19,208,225*	$ 560,000	315,000			1,795,000	7,383,818	9,154,407					19,208,225
2	FO14	South Boundary Road (SBR) Upgrade	On-Site	FORA	*$ 7,470,820*	5,345,820	2,125,000										7,470,820
3	2B	Davis Rd south of Blanco	Off-Site	MoCo	*$ 12,849,185*	750,000	2,000,000	3,000,000	4,000,000	3,099,185							12,849,185
4	FO7	Gigling	On-Site	FORA	*$ 8,739,609*	800,000	330,000	4,000,000	3,609,609								8,739,609
5	FO9C	GJM Boulevard / SBR Intersection*	On-Site	FORA	*$ 1,056,168*	1,056,168											1,056,168
6	10	Del Monte Blvd Extension	Off-Site	Marina	*$ 3,965,140*	500,000	1,000,000	1,000,000	1,369,998	95,142							3,965,140
7	FO5	8th Street	On-Site	Marina	*$ 5,823,534*			375,000	500,000	750,000	4,198,534						5,823,534
8	T3	Transit Vehicle Purchase/Replace	Transit	MST	*$ 8,458,789*	500,000	1,000,000	1,000,000	1,000,000	1,458,789	1,000,000	1,000,000	1,500,000				8,458,789
9	R3a	Hwy 1-Del Monte-Fremont-MBL	Regional	TAMC	*$ 14,563,309*						5,000,000	5,000,000	4,563,309				14,563,309
10	T22	Intermodal Centers	Transit	MST	*$ 7,629,341*				3,000,000		3,000,000		1,629,341				7,629,341
11	FO6	Intergarrison	On-Site	FORA	*$ 5,115,666*	200,000	250,000			3,050,000	1,615,666						5,115,666
12	FO12	Eucalyptus Road	On-Site	FORA	*$ 518,360*	110,000				408,360							518,360
13	R11	Hwy 156-Freeway Upgrade	Regional	TAMC	*$ 18,244,005*					5,000,000	5,000,000	5,000,000	3,244,005				18,244,005
14	4D	Widen Reservation-4 lanes to WG	Off-Site	MoCo	*$ 9,569,628*									1,000,000	4,000,000	4,569,628	9,569,628
15	4E	Widen Reservation, WG to Davis	Off-Site	MoCo	*$ 5,344,788*											5,344,788	5,344,788
16	FO11	Salinas Ave	On-Site	Marina	*$ 1,950,501*				750,000	1,200,500							1,950,501
17	FO2	Abrams	On-Site	Marina	*$ 1,210,655*			$ 1,210,655									1,210,655
18	1	Davis Rd north of Blanco	Off-Site	MoCo	*$ 773,206*											773,206	773,206
19	R10	Hwy 1-Monterey Rd. Interchange	Regional	TAMC	*$ 3,869,476*											3,869,476	3,869,476
		Transportation and Transit	**GRAND TOTALS**		*$ 136,360,403*	$ 9,821,988	$ 7,020,000	$ 10,585,655	$ 14,229,607	$ 16,856,976	$ 27,198,018	$ 20,154,407	$ 10,936,655	$ 1,000,000	$ 4,000,000	$ 14,557,097	$ 136,360,403

* The Intersection at South Boundary Rd. and General Jim Moore Boulevard (GJMB) is funded by the GJMB Budget. Therefore, the priority of the roadways are associated.

TABLE 3: SUMMARY OF CAPITAL IMPROVEMENT PROGRAM 2018-2019 through 2028-29

	ESTIMATED YEAR-END BALANCE	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26	2026-27	2027-28	2028-29	2018-2020 SUB-TOTAL	2020-2029 SUB-TOTAL	TOTAL	% of Total
A. CFD SPECIAL TAX / DEVELOPMENT FEE FUND (DEVFE)													**A. DEVFE - ANALYSIS**			
DEDICATED REVENUES																
Development Fees		$ 10,734,756	15,158,813	21,147,724	23,127,110	18,663,425	14,000,215	13,457,487	11,100,511	9,011,286	7,287,816	1,994,301	25,893,569	119,789,875	$ 145,683,444	67.1%
OTHER REVENUES																
Property Taxes - CIP Allocation		$ 1,674,613	2,437,306	3,754,961	5,072,518	6,145,834	7,177,715	7,840,781	8,499,668	9,082,205	9,601,237	9,819,262	4,111,920	66,994,181	71,106,101	32.7%
Grants		$ -	-	-	-	-	-	-	-	-	-	-	-	-	-	0.0%
Miscellaneous (Investment Interest)		$ 41,490	30,879	39,230	50,867	63,622	73,997	81,874	87,088	-	-	-	72,368	396,677	469,045	0.2%
TOTAL REVENUES		$ 12,450,859	17,626,998	24,941,915	28,250,496	24,872,881	21,251,927	21,380,141	19,687,267	18,093,491	16,889,053	11,813,563	30,077,857	187,180,733	217,258,590	100.0%
PROJECTS EXPENDITURES																
Transportation/Transit - See CIP Table 2		$ 9,821,988	7,020,000	10,585,655	14,229,607	16,856,976	27,198,018	20,154,407	10,936,655	1,000,000	4,000,000	14,557,097	16,841,988	119,518,414	136,360,402	69.1%
Transportation Contingency		$ 3,928,200	1,965,600	1,587,848	2,134,441	2,528,546	4,079,703	2,191,658	306,208	-	-	-	5,893,800	12,828,404	18,722,204	9.5%
Water Augmentation - RUWAP Pipeline		$ 5,600,000	841,983	-	2,300,000								6,441,983	2,300,000	8,741,983	4.4%
Water Augmentation - RUWAP Other		$ 157,000	-						7,200,000	7,598,686	-	-	157,000	14,798,686	14,955,686	7.6%
TOTAL CFD PROJECTS		$ 19,507,188	9,827,583	12,173,503	18,664,048	19,385,522	31,277,720	22,346,065	18,442,863	8,598,686	4,000,000	14,557,097	29,334,771	149,445,505	178,780,276	90.6%
OTHER EXPENDITURES																
Property Tax - Jurisdiction Share (all jurisdictions)		$ -	-		175,496	307,252	414,583	517,771	584,078	649,967	708,221	760,124	-	4,117,492	4,117,492	2.1%
HCP - UC Regents		$ 98,268	101,648	105,145	-	-	-	-	-	-	-	-	199,916	105,145	305,062	0.2%
General CIP/FORA Costs - Footnote 1		$ 1,018,260	1,053,288	1,220,866	1,262,864	1,306,306	1,351,243	1,397,726	-	-			2,071,548	6,539,005	8,610,553	4.4%
Caretaker Costs (Including Caretaker Emergency Fund)		$ 575,000	500,000	500,000	500,000	500,000	500,000	500,000	500,000	500,000	500,000	500,000	1,075,000	4,500,000	5,575,000	2.8%
TOTAL OTHER		$ 1,691,528	1,654,937	1,826,011	1,938,360	2,113,558	2,265,827	2,415,498	1,084,078	1,149,967	1,208,221	1,260,124	3,346,465	15,261,642	18,608,107	9.4%
TOTAL EXPENDITURES		$ 21,198,716	11,482,520	13,999,514	20,602,408	21,499,080	33,543,547	24,761,563	19,526,941	9,748,653	5,208,221	15,817,221	32,681,236	164,707,147	197,388,382	100.0%
STARTING BALANCES & SET ASIDES																
Net Annual Revenue		$ (8,747,857)	6,144,479	10,942,401	7,648,088	3,373,801	(12,291,620)	(3,381,421)	160,326	8,344,838	11,680,832	(4,003,658)		Revenue	19,870,208	
Set Aside - HCP - See CIP Table 1B	$ (13,829,853)	$ (3,283,386)	(4,608,840)	(6,425,843)	(7,035,254)	(5,699,976)	(4,302,062)	(2,815,032)						Net HCP Set Aside	(48,000,246)	
Set Aside - HCP Contingency - See CIP Table 1B	$ -	$ -	-	-	-	-	-	(4,146,035)	(3,439,442)	(2,721,408)	(2,200,920)	(6,375,927)		Net HCP Contingency	(18,883,733)	
Beginning Balance	$ 24,844,821	$ 11,014,968	-	1,535,638	6,052,197	6,665,030	4,338,854	-	-	-	5,623,430	15,103,342		Starting Cash Balance	24,844,821	
TOTAL BALANCES	$ 11,014,968	$ (1,016,275)	1,535,638	6,052,197	6,665,030	4,338,854	(12,254,827)	(10,342,488)	(3,279,116)	5,623,430	15,103,342	4,723,757		**Net Revenue**	(22,168,950)	
TRANSFER - from LESAL to DEVFE		$ 1,016,275	-	-	-	-	12,254,827	10,342,488	3,279,116	-	-	-		Net Transfers	26,892,707	
DEVFE ENDING BALANCE		$ -	1,535,638	6,052,197	6,665,030	4,338,854	-	-	-	5,623,430	15,103,342	4,723,757		**Net Balance**	**$ 4,723,757**	
B. LAND SALES FUND (LESAL)													**B. LESAL ANALYSIS**			
DEDICATED REVENUES																
Land Sales		$ -	30,921,411	10,242,932	8,125,134	16,914,577	664,849	-	-	16,197,360	16,197,360	12,597,946	30,921,411	80,940,156	$ 111,861,567	121.0%
Land Sales - Building Removal Credits		$ -	(19,425,408)	-	-	-	-	-	-	-	-	-	(19,425,408)	-	(19,425,408)	-21.0%
TOTAL REVENUES		$ -	11,496,003	10,242,932	8,125,134	16,914,577	664,849	-	-	16,197,360	16,197,360	12,597,947	11,496,003	80,940,156	92,436,159	100.0%
PROJECT EXPENDITURES																
Building Removal Obligations - See Table 1B		$ 9,520,871	-	-	-	-	-	-	-	-	-	-	9,520,871	-	9,520,871	98.5%
OTHER EXPENDITURES																
General CIP/FORA Costs (A/E, PM, CM, Staff Costs etc...)		$ 140,873		-	-	-	-	-	-	-	-	-	140,873	-	140,873	1.5%
TOTAL EXPENDITURES		$ 9,661,744	-	-	-	-	-	-	-	-	-	-	9,661,744	-	9,661,744	100.0%
Net Annual Revenue		$ (9,661,744)	11,496,003	10,242,932	8,125,134	16,914,577	664,849	-	-	16,197,360	16,197,360	12,597,947		Revenue	82,774,415	
Beginning Balance	$ 11,185,029	$ 4,536,973	507,009	12,003,012	22,245,944	30,371,077	47,285,653	35,695,674	25,353,185	22,074,068	38,271,427	54,468,786		Starting Cash Balance	11,185,029	
Set Aside - Bldg Removal	$ (6,648,056)	$ 6,648,056	-	-	-	-	-	-	-	-	-	-		Net BR Set-Aside		
UNRESERVED FUND BALANCE	$ 4,536,973	$ 1,523,284	12,003,012	22,245,944	30,371,077	47,285,653	47,950,501	35,695,673	25,353,184	38,271,427	54,468,786	67,066,733		**Net Revenue**	93,959,444	
TRANSFER - from LESAL to DEVFE		$ (1,016,275)	-	-	-	-	(12,254,827)	(10,342,488)	(3,279,116)	-	-	-		Net Transfers	(26,892,707)	
LESAL ENDING BALANCE		$ 507,009	12,003,012	22,245,944	30,371,077	47,285,653	35,695,674	25,353,185	22,074,068	38,271,427	54,468,786	67,066,733			$ 67,066,737	
TOTAL ENDING BALANCE-ALL PROJECTS		$ 507,009	13,538,650	28,298,141	37,036,107	51,624,507	35,695,674	25,353,185	22,074,068	43,894,857	69,572,128	71,790,490			$ 71,790,494	

Footnote (1) - Expenditures for transportation projects (contract change orders, general consulting, legal consulting, additional basewide expenditures, street landscaping, site conditions, project changes, printing, additional habitat mitigations) . General Costs provides for staff, overhead, and direct consulting costs. In 2015/2016 , the FORA Board approved Prevailing Wage and Caretaker Costs to be funding with Poroperty taxes.

m | r | wolfe
& associates, p.c.
attorneys-at-law

August 14, 2018

By E-mail

Supervisor Jane Parker
Supervisor Mary Adams
Board of Supervisors Fort Ord Committee
County of Monterey
PO Box 1728
Salinas, CA 93902
district4@co.monterey.ca.us
district5@co.monterey.ca.us

Re: Funding and implementation of common roads, water projects, and habitat management after FORA sunsets

Dear Supervisors Parker and Ms. Adams:

On behalf of LandWatch Monterey County, I attended the Board of Supervisors Fort Ord Committee meeting on August 9, 2010. At the meeting, Supervisor Parker asked that LandWatch outline in writing the suggestions I made regarding financing future roads, water augmentation, and habitat.

There are two methods to finance and implement whatever collective action is desired or legally required after FORA sunsets: by entering into contracts or by creating new agencies. LandWatch proposes that the land use agencies use the contract method wherever possible in order to maximize their autonomy and flexibility. The alternative, relying on new agencies to make decisions later, postpones some hard choices and leaves land use jurisdictions entangled – and effectively perpetuates FORA.

In summary, this letter makes the following points:

A. The most difficult funding problem facing the County and the cities with land use authority is finding a replacement for the current Community Facilities District (CFD) taxes imposed on the six already-entitled development projects, because that tax cannot continue after the 2020 FORA sunset eliminates the CFD's legislative body.

B. The best solution would be to negotiate CFD-replacement payments from the six entitled development projects, which would require those projects simply to pay the same amount as the CFD tax, but to the land use agency rather than to FORA.

C. If CFD-replacement payments cannot be negotiated, then a limited CFD should be continued in order to avoid forfeiture of the $72 million CFD taxes projected from the six entitled projects. To do this, the Mello-Roos Act's CFD transfer provisions should be amended to permit transfer of the existing CFD to a new JPA. That JPA would act only as a funding conduit to the land use agencies and would defer to the land use agencies as to the priority and implementation of the commonly-funded infrastructure projects.

   The required amendment of the Mello-Roos Act should also permit de-annexation of the Fort Ord areas that are currently without development entitlements. Otherwise the CFD and its sponsoring agency would have to persist indefinitely to collect required revenues upon the issuance of the final Fort Ord development permit. If the unentitled future projects can be de-annexed from the CFD map, the land use agencies could instead each raise revenues from these future projects using their own new means, e.g., impact fees, taxes, or ad hoc development agreements.

D. All of the funding for a specified set of *potential* future common infrastructure projects (limited to, at most, the roads, water, and habitat projects in FORA's current Capital Improvement Plan), whether raised via the CFD tax or via new means, should be allocated pursuant to a Memorandum of Agreement entered into now, as part of the transition plan. Otherwise the land use agencies would remain entangled in a FORA-like agency indefinitely. This letter proposes funding allocation methods for common road, water, and habitat projects.

   Unless there is a compelling analysis that the land use agencies are *legally* obliged to undertake particular road, water, and habitat projects, and/or to do so as members of a common agency, each land use agency should remain free to decide whether and when to commit itself to these projects, subject to a joint MOA that specifies *now* how to allocate fair-share funding for future projects of common benefit.

E. The FORA transition process should be informed by a careful analysis of the post-FORA *legal* obligations to implement and fund common infrastructure and habitat management. In particular, the land use agencies should understand the nature and the basis of any continuing obligation to implement adopted CEQA mitigation; Base Reuse Plan and Master Resolution policies, development restrictions, and planned infrastructure; the Implementation Agreements; and the deed covenants. FORA has not provided this analysis.

F. FORA staff's assumption that the Base Reuse Plan and its CEQA mitigation requires only the provision of 2,400 afy of water supply augmentation is incorrect. Regardless of the transition plan for FORA, land use agencies may not approve development that relies on groundwater pumping from the 180-foot, or 400-foot aquifers in Fort Ord or that relies on pumping in excess of a demonstrated sustainable yield from the Deep Aquifer.

Discussion of these points is set out below.

A. The most difficult funding issue is finding a replacement for entitled-project CFD taxes.

When FORA terminates, the land use jurisdiction members (the County and the cities of Seaside, Marina, Del Rey Oaks, and Monterey) may agree, or be required, to fund and/or implement certain joint programs or infrastructure projects. For example, the FORA transition task force has suggested that $194.5 million may be required to fund post-2020 programs for transportation ($132 million), habitat ($45 million), and water supply ($17 million). Funding from land use jurisdictions may be reduced if another agency such as MCWD finances water supply projects or if the habitat program is modified to omit a joint HCP component. The funding may also be reduced if the development envisioned by the Base Reuse Plan does not occur and infrastructure needs are reduced correspondingly. As discussed in sections E and F below, FORA has not spelled out a clear legal basis that would *oblige* the land use jurisdictions to complete these programs.

FORA has relied on Mello-Roos Community Facilities District (CFD) taxes to raise revenues for transportation, habitat, and water supply projects. FORA has concluded that the FORA CFD will terminate when FORA sunsets. Thus, the ability to raise revenues from projects that already have development entitlements will terminate, because no new taxes or impact fees can be imposed on entitled development projects with vested rights. FORA has projected that post-2020 CFD taxes on the six entitled development projects would have totaled $72.2 million.[1]

By contrast, FORA projects that only $55.2 million would have been raised through CFD taxes on expected future projects for which no entitlements have been issued. Since there are no entitlements in place yet, the land use jurisdictions have the power to replace these expected revenues by creating their own funding mechanisms,

---

[1] These six projects are identified by FORA staff as The Dunes, Seahaven, and Cypress Knolls in Marina; East Garrison in the County; Seaside Resort in Seaside; and the RV Resort in Del Rey Oaks. See Draft Transition Plan Study Session, presentation to FORA Board, page 12, June 8, 2018, available at http://fora.org/Board/2018/Presentations/06/TAC-Board_StudySession_060818.pdf.

FORA staff projects post-2020 CFD taxes would have been $14 million for the County's single project; $55 million for Marina's three projects; $2.6 million for Seaside's single project; and $42,370 for Del Rey Oaks' single project. *Id.* at 13.

Remarkably, although FORA was set to sunset in 2014 when the CFD was adopted, no provision was apparently made to replace CFD taxes after 2014.

which might include nexus-based development impact fees, new jurisdiction-level CFDs, or ad hoc impact fees negotiated through development agreements.

Thus, the primary revenue problem for which there has yet to be any consensus solution is to find some means to replace the $72.2 million in potentially foregone CFD taxes from entitled projects.

B. The preferred solution to replacing entitled-project CFD taxes should be negotiated replacement payments from the six entitled projects.

The options for avoiding forfeiture of the $72 million in CFD taxes from entitled development include:

1. Perpetuating the existing CFD by amending the FORA Act to extending FORA.

2. Perpetuating the existing CFD by amending the Mello-Roos Act to permit transfer of that CFD to a JPA consisting of the land use jurisdictions.

3. Negotiating modifications to the six existing development agreements with Marina, the County, and Seaside to substitute direct payments to these land use jurisdictions of an amount equal to the CFD tax (a "CFD-replacement payment"), to be made when building permits are issued.

LandWatch recommends Option 3, which Marina has already embraced. Renegotiating just the six existing development agreements to require CFD-replacement payments would not require perpetuation of FORA or a JPA. As discussed below, by a single memorandum of agreement (MOA) executed as part of the transition plan, the County and cities could specify how those direct CFD-replacement payments from entitled projects and the revenues from future projects would be used for whatever collective action for roads, water, and habitat is either required or desired.

Options 1 and 2 sustain a government mechanism that over the past 20 years has proven to be wasteful and ineffective. Perpetuating the existing CFD, either through a FORA extension or transfer to a JPA, would leave the land use jurisdictions entangled indefinitely as members of a governing agency until the CFD area is built out. FORA staff have proposed perpetuation of the CFD for both entitled *and future development,* even though the nature and timing of that future development is unknown. FORA staff have suggested an extension to 2028 would suffice, and FORA's financial modeling assumes complete build-out of the Base Reuse Plan by 2028.

However, collection of all CFD taxes from entitled and future development through a complete build-out of the development envisioned by the Base Reuse Plan by 2028 is simply unrealistic in light of the historic snail's pace of development, and in light of the possibility that land use jurisdictions may alter their development plans. Thus, capture of the planned CFD taxes through a FORA extension or a new JPA would likely require an *indefinite* commitment to that go-forward agency and to joint decision-making on infrastructure commitments and timing.

Obtaining CFD-replacement payments from entitled projects would leave the land use jurisdiction free to raise needed revenues from *future* projects (i.e., projects not now entitled) through some *other* means, e.g., a combination of local agency impact fees, TAMC impact fees, fees imposed or rates charged by MCWD, fees imposed by a special-purpose habitat JPA, Fort Ord property sales revenues, increased shares of Fort Ord property taxes (if any), and/or even a land use jurisdiction-level CFD by a city or the County. The same MOA that allocates the CFD-replacement payments to the commonly-funded roads, water supply, and habitat could be used to allocate specified revenues from future projects to these common projects.

Importantly, there are only six current entitled projects that need to be addressed. We understand that Marina is negotiating with three of these currently. The County need only negotiate with the East Garrison developers.

C. If the CFD taxes must be perpetuated because CFD-replacement payments cannot be negotiated, the CFD map should be limited to entitled projects and the agency sponsoring the CFD should be limited to acting as a funding conduit.

If it is not possible to negotiate changes to the existing development agreements with the six entitled projects to obtain CFD-replacement payments, then it may be necessary to perpetuate a common agency to avoid forfeiture of those expected revenues. This would require action by the Legislature to amend either the Mello-Roos Act or the FORA Act.

It would be simpler and better to amend the Mello-Roos Act to enable transfer of the existing CFD to a new JPA than to amend the FORA Act to extend FORA. Extending FORA would foster the expectation and temptation to extend other FORA missions. And writing FORA extension legislation would be complex because each section of the Act would have to be modified, replaced, or struck, instead of simply allowing the FORA Act to expire in 2020.

By contrast, the existing CFD could be transferred to a new JPA simply by revising Government Code § 53368.1 to permit FORA to transfer its existing CFD to a JPA consisting of the land use jurisdictions, using the same process now permitted for used for county-to-city CFD transfers. As discussed in the next section, the JPA should act only a conduit to fund those projects that the individual land use agencies decide to undertake, not as the arbiter and implementing agency of those projects. Provision of funding should be conditional on project implementation by one of the land use agencies and should be allocated pursuant to a Memorandum of Agreement entered into as part of the transition plan.

Since legislation would be required to continue the CFD in any event, that legislation should, if possible, also include a provision to *de*-annex those portions of the existing CFD on which there are no current development entitlements. *This would limit the go-forward CFD map to just the six entitled project areas and would ensure that the go-forward JPA and CFD could expire as soon as those existing entitlements are built out.* Unless the un-entitled areas are de-annexed, the go-forward JPA and CFD would have to be perpetuated until the last permit is pulled for the Ord Community, and the land use jurisdictions would not have the flexibility and autonomy to impose alternative fees and taxes. Legislation to permit de-annexation could be added to the Community Facilities Act at Article 3.5, which already permits *annexations* to a CFD. If a CFD map can be expanded, there is no reason in principle that it could not be reduced.

D. Regardless how funding for common projects is *raised* from entitled and future development projects, the land use jurisdictions should agree now by an MOA to an equitable method to *allocate* funds for specified roads, water, and habitat projects, not defer this issue for resolution in the future by some new agency.

Regardless how revenues are raised from entitled and future projects, the equitable funding of required or desired future actions should be determined now by agreement and not simply postponed to future decisions by an extended FORA or a new JPA. Equitable funding of roads, water, and habitat by each development could be assured though an MOA among the land use jurisdictions as discussed below. This method could govern allocation of all revenues raised for common projects, whether by CFD taxes, CFD-replacement payments, or new revenue sources from future projects.

1. Roads

FORA staff have proposed to "assign" the obligation to construct the roads in the current CIP to land use jurisdictions, based on the location of the roadway. This would "obligate" the County to spend $54 million, Marina to spend $9 million, and Seaside to spend $9 million. It is proposed that TAMC continue its responsibility for regional improvements to Highways 1 and 156 applying $36 million raised from Ord Community development.

As discussed in section E below, FORA has not provided a convincing legal argument that the land use agencies have an enforceable obligation to construct these roads. However, the land use jurisdictions may want to agree to such obligation now. Alternatively, they may want to agree only to a *conditional* equitable funding arrangement that would reimburse a land use jurisdiction for a portion of the road cost *if and when* it decides to build the road. In either event, the land use agencies should agree now to a formula that unambiguously allocates revenues from Fort Ord development projects for shared roads.

For example, the MOA could provide that for the roads in the current FORA CIP:

- The jurisdiction in which the on-site or off-site road lies may decide if and when to construct it.

- Each Fort Ord development project would make a contribution toward that road through a CFD tax, a CFD-replacement payment, or an impact fee as follows:
    - Currently entitled projects would either pay the CFD tax to a JPA or make a CFD-replacement payment to the land use jurisdiction. From that amount, the CFD JPA or the land use jurisdiction would then allocate to a common fund for road construction projects (an escrow account) the amount of the CFD tax that was allocated toward on-site and off-site roads in the FORA CIP. If the CFD were continued via a JPA, the JPA would only act as a funding conduit; it would not alter the slate of roads, determine their priority, or increase the CFD tax.
    - Future projects not subject to the CFD would pay a nexus-based fee determined by a nexus analysis of the set of on-site and off-site roads in the FORA CIP based on existing and planned development, e.g., based on a TAMC nexus-study.

- The CFD taxes or CFD-replacement payments from the already-entitled projects and the impact fees or other road-related revenues raised from future, currently un-entitled projects would be escrowed when paid and earmarked for specific road projects in proportion to the amounts allocated to each road in the FORA CIP or the nexus study. The amount of the CFD tax or CFD replacement payment attributable to the roads already built as of 2020 would be reallocated pro-rata to the remaining onsite, offsite, and regional roads in the FORA CIP in proportion to their estimated cost, which would help alleviate the historic under-collection of road construction funds through CFD taxes, which were set below the full-nexus amount for commercial projects.

- The escrowed revenues would be disbursed when and if the road is built.

- Portions of the unused fees would be returned to the developer after a fixed period, e.g., 25 years, if the roads for which those portions were collected were not built.

- TAMC would assume responsibility for regional roads (Highways 1 and 156), funded as follows:
    - For the currently entitled projects, land use agencies would remit to TAMC that portion of the CFD or CFD-replacement payment that would have been allocated toward the regional road improvements in the FORA CIP.
    - Future, currently un-entitled projects would pay a nexus-based fee determined by a nexus analysis from TAMC, e.g., the TAMC Regional Development Impact Fee. This fee could be levied directly by TAMC.

Regardless whether the County is obliged to build $54 million in roads or may merely want to build them *if* development warrants them in the future, it makes sense to have an agreement with other land use agencies to pay a fair share of these County roads. Given the transition to VMT-based significance determinations for transportation impacts, traffic congestion is no longer cognizable as a CEQA impact; and thus, future CEQA mitigation is unlikely to provide a basis to insist on fair share payments from other jurisdictions' development projects. The FORA transition provides an opportunity for the County to get agreement for fair share payments but without committing itself to full buildout of the Base Reuse Plan or to loss of autonomy though an indefinite entanglement in FORA or a similar agency.

2. Water

FORA staff have assumed that MCWD will complete the final project(s) required to provide the assumed requirement for 2,400 afy in water augmentation and that MCWD will recover the $17 million cost through capacity charges on new development, higher water rates, or a combination.

As discussed in section E and F, below, FORA has not provided a legal opinion that this is an enforceable obligation on the land use jurisdictions *or*, more importantly, that it is the *full extent* of the enforceable obligation to mitigate development impacts on groundwater supplies.

LandWatch does not propose in this letter to allocate to specific agencies, or to acknowledge any limitation on, the obligation to fund water augmentation infrastructure projects. The purpose of this letter is to address the mechanics of replacing FORA, an agency that has not provided, will not provide, and perhaps cannot provide a water supply to replace reliance on groundwater pumping in Fort Ord, despite the obligation to do so discussed in section E below.

The land use agencies may acknowledge that they are required not to approve development without a replacement water supply and agree to meet this obligation by agreeing to fund all or part of that replacement supply themselves. To the extent that the land use agencies do agree to fund a replacement water supply, they could agree to do so through an MOA as follows:

- Currently entitled projects would pay the CFD or CFD-replacement payment to the land use jurisdiction, which would allocate that portion for water augmentation that would have been allocated toward water supply augmentation in the FORA CIP.

- Future projects would pay a nexus-based fee for the replacement water supply, determined by a nexus analysis and identification of the cost of that water supply.

- Fees would be escrowed and disbursed when and if the water supply augmentation is built or purchased.

3. Habitat

The land use agencies are each required to implement the management requirements for the Habitat Management Areas under the HMP agreements. Future development projects in certain areas will also need to obtain take permission under the ESA and CESA via Incidental Take Permits predicated on either a basewide or a lesser scale Habitat Conservation Plan (i.e., an HCP for the entire base, for only the land use jurisdiction, or for only the project itself). FORA has reserved 30% of the CFD taxes to implement the combined joint HMP and HCP obligations, assumed to come to $45 million. FORA projects it will have set aside $21 million by 2020.

FORA staff have not identified any legal obligation that the land use agencies act *in concert* to implement the HMP requirements or to obtain HCP/ITP clearance. FORA staff have suggested that there may be economies of scale in joint implementation of HMP and HCP obligations, but they have not quantified those economies. FORA staff have also suggested that some joint agreement may be necessary to ensure availability of mitigation areas for some land use jurisdictions, but they have not explained why this would require a JPA rather than an MOA. Staff have suggested that a joint HCP would be better for the protected species, but they have not provided an analysis that explains those advantages or why a JPA rather than an MOA would be necessary to realize those advantages. Finally, although staff have not discussed this, a JPA may be necessary in order to implement adaptive management measures, which would require changes to plans that could not easily be anticipated or managed through a static MOA.

In sum, the FORA transition planning effort has not provided sufficient analysis of the benefits and scope of cooperative action and there appears to have been no consideration of acting through a habitat MOA rather than through a habitat JPA. The relevant analysis may exist, but it has not been identified and summarized for the transition plan decision makers.

The land use agencies should proceed with whatever joint action is desired or legally required via an MOA as their default choice unless there is a compelling case made for a JPA. If a JPA is justified for either the HMP management or a coordinated HCP, it should be limited to the habitat matters so that its duration and provisions are not confused with any other JPAs that might be needed, e.g., for funding or munitions oversight.

Funding for the future habitat management and HCP efforts should depend on whether there is a case for acting cooperatively.

If there is *no* case for cooperative action, the existing \$21 million reserve fund should be returned to the land use jurisdictions, either in proportion to their past contributions or, alternatively, in proportion to their future habitat management responsibilities as measured by some proxy such as HMA acreage. The land use agencies would then be fund its HMP management obligations and any HCP obligations it chose to assume with

- its share of the previously reserved CFD taxes,
- 30% of future CFD taxes receive by the CFD JPA, which the MOA would require be payable to the land use agency as payments are made,
- 30% of CFD-replacement payments, if negotiated from currently entitled projects, and
- any additional exactions from future projects through impact fees, ad hoc fees, or through other means adopted by the land use agency.

If there *is* a case for collective action, whether by MOA or JPA, funding should be allocated to the habitat JPA, or to a common escrow fund for habitat management and/or common HCP implementation if proceeding via MOA, as follows:

- 30% of the CFD from the CFD JPA, if the CFD were continued,
- 30% of the CFD-replacement payments if such payments can be negotiated,
- For projects not covered by the CFD or CFD-replacement payments, a fee or other exaction should be imposed by each land use jurisdiction that reflects an agreement as to a fair share contribution. Use of ad hoc exactions through development agreements or a land use agency-level CFD could avoid the need for a nexus analysis, and the fee could be set at a level reflecting an agreement among the land use agencies that all development projects should share in certain costs regardless of their proximity to habitat land. Alternatively a nexus-based analysis could be used, which might result in different payments by some projects.[2]

[2] Note that in determining a nexus, it may be possible to exact a fee even from jurisdictions that do not contain habitat lands on the theory that these jurisdictions had and retain an obligation to mitigate base-wide habitat impacts. It might be argued that portions of these jurisdictions' land *could* have been identified as habitat land in the HMP and that their land was identified as 100% developable only because other jurisdictions were assigned a greater proportion of habitat land with its protection burdens. This is a matter for negotiation among the land use agencies.

E. FORA should provide a clear legal analysis of the post-FORA obligations of the land use agencies.

As noted, FORA staff have simply assumed that the land use agencies would be obliged to undertake the roads, water augmentation, and habitat projects contained in the FORA CIP after FORA sunsets. In response to LandWatch's Public Records Act requests for legal analysis of post-FORA obligations, FORA identified only Jon Giffen's January 10, 2018 memo captioned "Assignability of Implementation Agreements (Part 1)," available at the FORA transition website at http://b77.402.myftpupload.com/wp-content/uploads/011018_Board_Memo-CFD-Dev_Fees-LAFCO.pdf. FORA advised LandWatch on August 9, 2018 that further analysis has not been completed.

Giffen's initial analysis seems problematic. First, Giffen expressly considers only whether the Implementation Agreements are "assignable," *not whether the Implementation Agreements create enforceable obligations by the land use jurisdictions that would survive FORA*.

Second, Giffen merely *implies* that the Implementation Agreements create a continuing obligation for the land use jurisdictions to fund the Basewide Costs and Basewide Mitigation Measures. His argument is that the land use jurisdictions "could not reasonably have expected that FORA's credit would assure [their] full completion" because Section 6(f) contains provisions that contemplate that possibility. But Section 6(f) merely obligates the land use jurisdictions to "initiate a process to *consider*" other financing mechanisms if FORA cannot pay Basewide Costs and undertake Basewide Mitigation Measures, and Section 6(f) specifically provides that it does *not* require the "Jurisdictions to adopt any specific financing mechanisms *or contribute any funds to alleviate FORA's funding insufficiency*." In short, Section 6(f) does not create an enforceable obligation for the land use jurisdictions themselves to fund FORA *even when FORA exists*, much less after it sunsets.

More generally, the Implementation Agreements only obligate the land use jurisdictions to (1) levy *FORA's* development fees and assessments on future property owners "in accordance with FORA's adopted fee policy" and (2) to impose deed restrictions that require future land owners pay a Fair and Equitable Share of Basewide Costs and Basewide Mitigation Measures through some type of financing mechanism. Nothing in the Implementation Agreements appears to impose an obligation on the land use jurisdictions *themselves* to pay for Basewide Costs and Basewide Mitigation Measures or to develop and implement a funding mechanism that could be imposed on landowners after the demise of FORA.

Giffen notes that an assignment cannot occur without a willing assignee but then concludes that FORA is not actually looking to assign FORA's rights and obligations but is contemplating its dissolution under the FORA Act and LAFCO law. Nonetheless, Giffen says that LAFCO will be able to "pass along to the appropriate successor entity (ies) authority to continue the levying and collection of special taxes, fees, and assessments on property once within FORA's jurisdiction after FORA ceases to exist." This analysis seems to acknowledge that there will *be* no assignment of the Implementation Agreements at all. More problematically, the analysis only addresses the *authority* to raise revenues, not the *obligation* to do so *or* the obligation to fund and implement road, water, and habitat projects. Furthermore, the analysis simply *assumes* that there will be a successor agency to FORA and that somehow the CFD can be transferred to that agency, even though neither the FORA Act nor the Mello-Roos Act now provide for this. The only successor agency that has been identified other than a FORA extension is a JPA. But if the land use jurisdictions refuse to join that JPA because, for example, they conclude the Basewide Costs and Basewide Mitigation cannot be imposed on them without such a JPA, then there will *be* no entity to which to assign FORA's rights to continue collecting the CFD. There is no legal analysis that suggests that the land use agencies could be compelled to participate in a go-forward agency with specific duties.

This letter does not purport to resolve the question of the continuing obligations of the land use agencies. The FORA transition planning process should provide clear and authoritative legal analysis of this issue. It should also provide legal analysis of the following questions:

1. What Base Reuse Plan EIR CEQA mitigation obligations will remain post-FORA?

   - Are the road, infrastructure plans, and HMP/HCP plans that are identified as CEQA mitigation still mandated?
   - If so, who is responsible to implement this mitigation?
   - What is the consequence of a failure to reach agreement on implementation of these infrastructure and habitat plans?
   - What *development restrictions* identified as CEQA mitigation (as opposed to infrastructure requirements) will remain in effect post-FORA? For example, will the DRMP development caps, the policies requiring assured long term water supply within the safe yield of the aquifer as a condition of development, the policies calling for oak woodlands plans, etc. remain enforceable?
   - What obligation would an agency have if it chooses to alter or ignore these development restrictions?
   - What CEQA analysis and findings regarding mitigation must FORA make in approving a transition plan for submittal to LAFCO if there is evidence that the plan would abandon or alter previously adopted mitigation?

2. What force will the Base Reuse Plan itself, independent of its CEQA mitigation provisions, have post-FORA?

- The Reassessment Report lists dozens of policies not yet implemented at pp. 3-32 to 3-70. See http://www.fora.org/Reports/FinalReassessment/3_TopicsandOptions.pdf. Some policies require affirmative acts such as building infrastructure or adopting plans, whereas other policies simply restrict future acts. Some policies are perpetual and others can be implemented in a final action.
- What policies not yet fully implemented or of a continuing nature must be implemented in the future, if any?
- What specific policies were identified as CEQA mitigation and are subject to CEQA's requirements regarding fulfillment of mitigation?
- If policies must be implemented either because they are CEQA mitigation or because they are enforceable parts of the Base Reuse Plan, what entities have responsibility to implement them?
- What entities have authority to enforce policies if they are not implemented? Land use authorities? Do landowners have standing to enforce, e.g., as parties benefitted through covenants running with the land? Do private parties have standing to enforce CEQA mitigation?

3. What force will the Master Resolution have post-FORA?

- Would it have at least as much force as the Base Reuse Plan itself (if any) since it was adopted as part of the Base Reuse Plan?
- Would section 8 have any more force than the rest of the Master Resolution since it also represents a contractual obligation to the Sierra Club?
- Does the Master Resolution bind only FORA, or is it binding on the land use agencies post-FORA?
- Much of section 8 of the Master Resolution concerns consistency determinations by FORA and imposes a stringent standard of review for consistency determinations. Would that survive in any future land use agency consistency determinations?
- Section 8 of the Master Resolution mandates that each land use agency adopt certain policies contained in the Base Reuse Plan. Will that survive?
- Section 8 bars development approvals unless the land use agency has taken appropriate action to adopt the programs specified in the Reuse Plan, the Habitat Management Plan, the Development and Resource Management Plan, the Reuse Plan Environmental Impact Report Mitigation and Monitoring Plan and the Master Resolution applicable to such development entitlement. Will that survive?

4. What force will the Implementation Agreements have post-FORA.

- Can the Implementation Agreements be "assigned" as was mentioned in the June 5, 2018 Draft Transition Plan at page 22?
- What powers would be conferred and duties imposed by the Implementation Agreements if they were assigned?
- What rights and duties would continue if the Implementation Agreements were not assigned?

5. What force will deed restrictions have?

- Section 8 of Master Resolution obligates deed restrictions binding on future owners that provide that development shall be limited by the Base Reuse Plan including its constraints related to lack of water transportation and infrastructure.
- The Implementation Agreements also mandate deed restrictions related to infrastructure financing.
- Will those deed restrictions be required for *post-FORA* land transfers?
- Will the pre-2020 deed restrictions already in place continue to apply? Note that the only published decision enforcing the covenants does not address FORA's termination.
- If so, will the deed restrictions rely on the specific restrictions set out in in the Base Reuse Plan, HMP, and CEQA mitigation as of 2020?
- Who is entitled to enforce the deed restrictions? Property owners? Non-owners? Private persons? Land use authorities?

6. How will the allocation of land sales revenues and property taxes change?

- Will they revert to the land use agencies? If so, how would they be allocated? If not, what entity would be entitled to them?
- The May 30, 2018 EPS memo purports to address property tax revenues post-FORA and concludes that the cities property taxes will not materially increase, although the County will receive an additional $17 million, *assuming* rapid and complete buildout. See page 8 and Table 10 in http://b77.402.myftpupload.com/wp-content/uploads/053018_EPS_Transition_Memorandum.pdf.
- The April 10, 2018 Willdan report addresses both property taxes and land sales revenues and has been interpreted to suggest that local cities will receive a windfall upon FORA's termination. This conclusion may not be warranted since it may depend critically on land sale revenues that would only materialize at full buildout and only with land unencumbered

by blight removal costs. See pdf pages 2, 112-151 at https://www.ci.seaside.ca.us/ArchiveCenter/ViewFile/Item/455.

7. Is FORA's identification of "entitled" parcels correct?

- FORA has assumed that no new fees or taxes can be imposed on "entitled development" and has estimated that the potentially forfeited post-2020 revenues from the six entitled projects would total $72.2 million.

- Unless and until there is an event that *vests* an entitlement in a private party (e.g., a permit or Vesting Tentative map issued or a DDA signed), an agency would not have foregone the right to impose future taxes or fees. A mere legislative land use act, like a specific plan adoption, does not vest rights without something more. In light of this, does FORA's analysis incorrectly assume that all phases of all projects for which a specific plan has been approved are "entitled?" If so, FORA may have overstated the potential revenue forfeiture from entitled projects.

F. Water supply considerations

As noted, FORA has simply assumed that the land use agencies are obliged to fund completion of the remainder of the 2,400 afy water supply augmentation *and* assumed that this represents the full extent of the CEQA mitigation requirement under the Base Reuse Plan. As discussed in section E, FORA has provided no analysis that the land use agencies are obligated to assume any of the Base Reuse Plan CIP obligations or CEQA mitigation post-FORA.

More problematically, the assumption that the proposed 2,400 afy in water augmentation projects constitutes the fulfillment of required CEQA mitigation is simply incorrect and is clearly inconsistent with the Base Reuse Plan EIR. The clear duty of the land use agencies under the Base Reuse Plan and its CEQA mitigation is not to approve development that relies on groundwater pumping from the 180-foot, or 400-foot aquifers in Fort Ord or to rely on pumping in excess of a demonstrated sustainable yield from the Deep Aquifer.

Specifically, the adopted CEQA mitigation in the Base Reuse Plan EIR mandates that future development not be approved unless and until there is a replacement water supply that does not require pumping from the 180-foot, or 400-foot aquifers in Fort Ord and that does not require pumping in excess of a demonstrated sustainable yield from the Deep Aquifer. Other agreements also limit increased pumping from the Deep Aquifer. The continued reliance on a purported water right of 6,600 afy of pumped groundwater to support Ord Community development misreads the 1993 Army/MCWRA agreement, the requirements of the Base Reuse Plan EIR, and the agreements limiting increased pumping from the Deep Aquifer.

The local agencies should be prepared to acknowledge that a transition plan will obligate agencies making commitments that would alter the adopted mitigation to ensure that alternative mitigation is adopted that would be as effective. This may require funding commitments or restrictions on future development or both.

LandWatch understands that the FORA transition will require additional clarification of a number of issues that this letter does not address. However, LandWatch believes that a contract-based agreement on the scope and funding of shared road and water supply infrastructure and habitat management programs is essential to a FORA transition that will actually disengage the land use agencies from an indefinite commitment to a FORA-like agency.

Yours sincerely,

M. R. WOLFE & ASSOCIATES, P.C.

John Farrow

JHF:hs

Cc:

Kristi Markey, markeyka@co.monterey.ca.us
Yuri Anderson and Kate Daniels, district5@co.monterey.ca.us