

# MONTEREY COUNTY



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September 27, 2018

### **Via First Class Mail and E-Mail**

Board of Directors  
Fort Ord Reuse Authority  
920 2d Avenue, Suite A  
Marina CA 93933  
[board@fora.org](mailto:board@fora.org)

Re: September 28, 2018 Agenda Item 8e – FORA Transition Plan

Dear Chair Rubio and Honorable Members of the FORA Board of Directors:

This letter is written on behalf of the County of Monterey regarding the draft “Resolution of the Governing Body of the Fort Ord Reuse Authority Adopting a Transition Plan,” item 8e on FORA’s September 28, 2018 agenda.

County staff and County Counsel are in the process of analyzing the draft resolution, which was released to the public only on September 21, 2018. On September 25, 2018, we advised the Board of Supervisors that, based on initial preliminary review, the resolution as drafted raises legal, financial, and policy considerations for the County. Accordingly, at its September 25, 2018 meeting, the Board of Supervisors directed County staff and County Counsel to present an analysis of the resolution to the Board of Supervisors on October 2, 2018, and the Board of Supervisors also voted unanimously to request that FORA delay any vote on the draft resolution until FORA’s regularly scheduled meeting in October.

While we are still conducting our review, we would like to bring to FORA’s attention some of the legal questions and concerns that suggest that adoption of the resolution in its current form would be premature. Issues include: assumptions about the legal authority to assign obligations and costs to jurisdictions without the assent and agreement of those jurisdictions; assumptions about assigning to County and other landholding jurisdictions future costs of funding FORA’s Capital Improvement Program based on a future, not yet adopted source of funds without consideration of the limits on jurisdictions’ authority under the Debt Limitation Clause of the California Constitution (California Constitution, article XVI, section 18); assumptions about approval and completion of projects that have not yet undergone environmental review or been approved; and lack of careful distinction between obligations that would survive FORA’s dissolution versus matters over which successor entities would have discretion. Independent of the policy and financial issues raised by the resolution, these legal considerations necessitate revision and more careful wording of the resolution.

Thank you for considering these comments and concerns. The County may have additional comments following the Board of Supervisors' consideration of the draft resolution at its October 2, 2018 meeting.

Sincerely,

Charles J. McKee  
County Counsel

By:

  
Wendy S. Strimling  
Senior Deputy County Counsel

cc:

Michael Houlemard, Executive Director  
Luis Alejo, Supervisor District 1  
John M. Phillips, Supervisor District 2  
Simon Salinas, Supervisor District 3  
Jane Parker, Supervisor District 4  
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