

FORT ORD REUSE AUTHORITY BOARD REPORT

BUSINESS ITEMS

Subject:	Transition Planning Workshop – 2d Vote	
Meeting Date:	November 17, 2017	INFORMATION/ACTION
Agenda Number:	8b	

RECOMMENDATION:

Second Vote on the Transition Task Force (TTF) Recommendation.

Motion: On motion by Board member Edelen and second by Board member Gunter to approve the Transition Task Force recommendation to create a single entity successor/Joint Powers Authority, seek extension of Community Facilities District/powers to the successor and utilize implementation agreement/percentage assignment for jurisdictions fair and equitable contribution for the successor to complete FORA program.

BACKGROUND/DISCUSSION:

The October 26, 2017 Board report is provided as **Attachment A**. Additional information has been posted in our FAQ's on the FORA website in response to questions raised by public and others, especially regarding the Community Facilities District (CFD) termination language. It was noted in the presentation that there were only two ways to extend the CFD: extend the FORA Act and/or amend Mello Roos statute which would provide that FORA could transfer the CFD to successor entity(ies). It was noted that FORA's existing CFD has a language ambiguity regarding the end date. That ambiguity results from the language in the Notice of Special Proceeding and in the ordinances levying the special tax. Nonetheless, after reviewing formation documents, voting records, and levying ordinances, and consulting with FORA Counsel, Special CFD Counsel and others, it is most likely that the CFD cannot be extended without a vote. If a vote successfully extended the CFD, the Mello Roos statute would still need amendment in order to transfer the CFD to a successor entity or entities.

Additional background/discussion may be added to respond to the Board/public questions and comments from the October 26, 2017 Board special meeting.

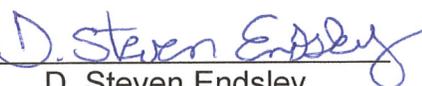
FISCAL IMPACT:

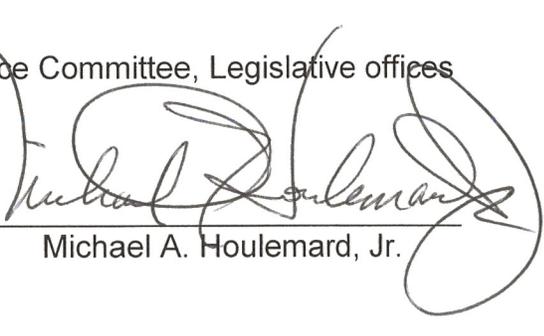
Reviewed by FORA Controller 

Staff time/legal are within the approved annual budget. Earlier staff PowerPoint versions were presented to Finance Committee. As transition planning continues, staff anticipates presenting future transition plan budget items for Board consideration.

COORDINATION:

TTF, Executive Committee, Legislative Committee, Finance Committee, Legislative offices

Prepared by 
D. Steven Endsley

Approved by 
Michael A. Houlemard, Jr.

FORT ORD REUSE AUTHORITY BOARD REPORT

BUSINESS AGENDA

Subject:	Transition Planning Workshop	
Meeting Date:	October 26, 2017	INFORMATION/ACTION
Agenda Number:	5a	

RECOMMENDATION:

- i. Conduct a Transition Planning Workshop;
- ii. Receive Staff Briefing;
- iii. Review/Consider Transition Task Force Recommendation;
- iv. Provide Direction to Staff; and
- v. Schedule follow up discussion/meetings for this topic.

BACKGROUND/DISCUSSION:

The Fort Ord Reuse Authority Board, at its October 13, 2017 meeting, heard introductory remarks from staff regarding the background and framework for complying with CA Legislative direction to complete a Transition Plan and present such to the Local Area Formation Commission (LAFCO) by the end of 2018. At the close of the initial presentation, several Board members suggested moving toward a workshop to more fully explore the options for Transition Planning that could best inform a path forward. Consequently, at the direction of the Board, staff has scheduled a Transition Planning workshop to address issues, legal framework, and questions related to formulation of the legislatively mandated transition plan required by Government Code section 67700(b)(2). A final Transition Plan will assign assets and liabilities, designate responsible successor agencies, and provide a schedule of remaining obligations. The final plan requires a majority vote of the Board. LAFCO is required to ensure that all contracts, agreements and pledges to pay or repay money are honored and properly administered. The plan is required to be submitted to the LAFCO **on or before December 30, 2018**.

This reports supplements the staff report of October 13, 2017, which is available on the FORA website. First, staff recognizes that what was presented in the staff report of October 13, 2017 was not the Transition Plan and expects there will be more focused meetings on responsible successor agency structure and how assets, liabilities and obligations will be assigned and implemented.

With respect to a Transition Plan approach, the Transition Task Force recommended:

1. The responsible successor entity be a single entity Joint Powers Agency; and
2. Seek legislative extension of CFD and other powers to the successor entity; and
3. Utilize Implementation Agreement/Percentage assignment for a jurisdiction's fair and equitable contribution to successor to complete FORA program.

Although, it is implied in the Authority Act, there is a fundamental direction that the Base Reuse Plan and its attendant obligations be fully implemented and addressed. Accordingly, the Transition Task Force considered a set of fundamental goals for the Transition Plan which were previously presented to the Board.

The basic components to the Transition Plan are found in FORA's current Capital Improvement Program (Obligations and schedule for improvements), Public Retirement System (CalPERS) contract requirements and the Environmental Services Cooperative Agreement munition and

explosives cleanup, monitoring and reporting. This information has been presented to the Board, the Legislative Committee, and the Transition Task Force.

A list of transportation projects and a plan for assignment and completion is summarized and attached as **Exhibit A**. This list was presented and considered by your Transition Task Force. As identified by your Capital Improvement Program, the post 2020 projection for Transportation/Transit is estimated at **\$115.5M**. Some key considerations include funding (who and how and attendant policy implications), who would implement projects in the absence of FORA, and how roadway priorities might be addressed. FORA Board currently has a policy of completing on-site projects first – while sustaining the obligation to also fund off site projects. A major consideration is that FORA CFD fee elimination, which funds basewide facilities and mitigation measures, alters the funding structure and results in multiple contract and equity issues. For example, the Transportation Agency of Monterey County is required to follow the Mitigation Fee Act (Government Code section 66000 and following) which requires a **nexus** to development. The FORA CFD is a **special tax** which does not require nexus.

The Transition Task Force was presented with information that should FORA sunset in 2020, the contract with Marina Coast Water District terminates by its terms and Marina Coast will control both the infrastructure and water to supply Fort Ord developments. Currently, that contract requires that Marina Coast serve all of Fort Ord development, existing and proposed. However, in the absence of FORA and the Facilities Agreement, future projects on Fort Ord will be required to annex to the Marina Coast Water District in order to receive water service from them. Accordingly, FORA staff assumed, based upon existing contract terms that water service and wastewater rights will be assigned to Marina Coast Water District. Water augmentation and waste water service, The Capital Improvement Program identifies **\$17.8M** for water/water augmentation costs. If the CFD terminates, MCWD will need to add an assessment to its fee program to cover that CEQA requirement.

Regional habitat conservation is perhaps one of the largest components of the capital improvement program. A regional habitat conservation plan outlines and funds an ongoing plan for maintaining the regionally integrated habitat corridors and species preservation, restoring degraded habitat. In exchange, development, such as trails through habitat lands, and development and limited infrastructure are provided with a plan for how to mitigate impacts on habitat lands. The habitat conservation plan is projected to be broken down into two primary parts: one is habitat management, process and reporting, and the second is financing. It is currently projected that the management piece would be accomplished by a habitat cooperative (joint powers agency – JPA)). Currently FORA policy sets aside thirty percent (30%) of community facilities district fees to fund the habitat conservation. The Capital Improvement Program identifies **\$46.2M** post 2020 fee. In the absence of the FORA CFD, a replacement revenue stream must be identified to meet the projected habitat conservation program financial requirements – including staffing/operations cost to support the habitat JPA.

The munitions and explosive clean up obligations are projected to be in the neighborhood of **\$8-10M**. FORA staff has been seeking an amendment to the Army's grant to address this shortfall. Post-FORA it is anticipated that there will be ongoing requirements for construction support, land use control monitoring/reporting, and discovered ordnance procedures/action. It is anticipated (but not approved) that this obligation will be fully funded by the Army.

While the above, encapsulate the majority of FORA's obligations, there are additional liabilities which have been identified primarily as administrative obligations. The largest of those is the Cal PERS obligation for terminated agency unfunded liability. FORA Board, Finance Committee and staff have been keeping a close eye on that obligation as it is routinely adjusted based upon

actuarial evaluations by CalPERS. The CalPERS hypothetical termination liability is between **\$6.9M and \$8.8M**. For fiscal year 2017, the Finance Committee and the FORA Board have set aside approximately **\$7.3M** to address this projected liability. The more that this liability is funded, the financial risk associated with an assignment of this non-real property liability is reduced. The policy issue for the Board to address is: should all voting members be required to bear some responsibility for any portion of outstanding obligations/liabilities or should the entire amount be borne by only the underlying land holding jurisdictions?

Funding is key to assuring that the Capital Improvement Program is implemented. In the absence of FORA's Community Facilities District tax, the underlying land use jurisdictions will be required to create a **replacement funding** stream to address these issues. A basic understanding of how FORA's Capital Improvement Program is funded may assist the Board Staff has created a separate briefing memo addressing funding attached as **Exhibit B**. It is FORA staff's recommendation that at a minimum the Board consider directing staff to bring back language revisions to the Mello Roos statute to address building removal funding and assignment of FORA's CFD, thus preserving and promoting flexibility for assignment or creation of any new CFD's.

FORA has received multiple questions about the transition planning process. FORA staff appreciates the early nature of those questions and the opportunity to address them. Responses have been previously provided for some of these questions and additional responses will be provided at or before the meeting.

There are other policy issues which must be addressed in order to implement the above outlined obligations and liabilities.

- Should one entity be the successor agency or multiple agencies?
- Should all the jurisdictions create a JPA or just the ones that wish to create one?
- How is that addressed in the Transition Plan?
- What if one jurisdiction wishes to implement growth control and not build to full potential?
- How is this addressed? What are the considerations or issues associated with each?
- In the absence of assignment of FORA's CFD, how will revenues be generated and who will generate those?
- What are some of the pros and cons associated with a replacement funding structure?
- If there is no single entity successor, how will the projects in the Capital Improvement Program be prioritized and implemented?
- What is the forum for that and who controls priority?

These are complicated issues, legally, fiscally and politically. Some peoples' pros are another's cons. However, the Legislature charged FORA with fully transitioning the base to civilian use. FORA job is roughly forty percent (40%) complete, pursuant to the Annual Report and other reports. Staff does not expect the Board to come to resolution on all aspects of the Final Transition Plan, however, staff does require policy direction to refine documents to compile a comprehensive draft Transition Plan for the Board's consideration.

FISCAL IMPACT:

Reviewed by FORA Controller _____

Staff time/legal are within the approved annual budget. Earlier staff PowerPoint versions were presented to Finance Committee. As transition planning continues, staff anticipates presenting future transition plan budget items for Board consideration.

COORDINATION:

On October 4, 2017, the Administrative Committee reviewed the TTF recommendation as part of their review of the October 13, 2017 draft FORA Board Packet.

On September 28, 2017, the Legislative Committee considered the TTF recommendation and made no recommendation to change the Legislative Agenda until the Board's consideration of the TTF recommendation at the October 13, 2017 Board meeting.

On October 4, 2017, the Executive Committee considered the TTF recommendation and recommended the two October meetings format for discussion of this item, and stressed ample time for public participation and comment.

TTF, Administrative Committee, Executive Committee, Legislative Committee, Finance Committee, Legislative offices

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