



October 3, 2017

Mayor Ralph Rubio, Chair
Fort Ord Reuse Authority (FORA) Board of Directors
920 2nd Avenue, Suite A
Marina, CA 93933

Dear Chair Rubio and Board of Directors,

We understand that at its October 13, 2017 meeting FORA will consider adoption of what FORA staff is calling a “transition plan,” described in the Transition Task Force Status Update memo dated September 8, 2017. A vote on this “transition plan” in October would be premature and inconsistent with state law because the memo is by no definition a transition plan. Rather, it is vague proposal to extend FORA and preserve the status quo. We urge you to direct the Transition Task Force to address legislative mandates as well as public expectations for a thoughtful and thorough examination of transition options, including FORA’s sunset as the Legislature originally contemplated.

Assembly Bill No. 1614, Chapter 743, signed into law in 2012, requires FORA to “approve and submit a transition plan” that “shall assign assets and liabilities, designate responsible successor agencies, and provide a schedule of remaining obligations.” To date, no such plan has been provided to public review. Ignoring AB 1614, FORA has proposed a single entity successor, joint powers authority (JPA). A JPA is an extension of FORA, not a transition that distributes FORA’s responsibilities to other entities. While FORA may choose to seek an extension, it is still mandated to produce a detailed transition plan in the event the Legislature does not extend FORA.

Furthermore, before deciding to seek an extension, good governance mandates that FORA examine its original mission, weigh its accomplishments over the past 23 years, and determine, in consultation with local governments and Monterey County residents, whether it continues to serve the public good. The following issues remain of serious public concern and must be addressed prior to contemplating any sort of extension:

1. Blight Removal

Blight removal at Fort Ord was a principal reason for FORA’s establishment. Yet after 20 years, Fort Ord still has significant blight that is expected to cost at least \$54 million to remove. How will the extension of FORA speed removal of this blight when FORA has no blight removal funding mechanism, beyond its remaining limited obligation of the Marina Stockade and some buildings in Seaside’s Surplus II area?

2. Groundwater Overdraft and Water Limitations

In 1946 the California Department of Water Resources identified saltwater intrusion in the Salinas River Basin, and for the past 70 years the problem has only worsened. Experts agree that the 6,600 AFY of groundwater that the Army ostensibly transferred in 1993 for development does not represent a safe yield for Fort Ord pumping. The 2016 State of the Salinas Valley Groundwater Basin report commissioned by the County explains that the existing level of groundwater pumping is well beyond the basin's safe yield. The California Department of Water Resources confirms this by identifying the Salinas Basin as critically overdrafted. Moreover, the 1997 Program Environmental Impact Report (EIR) for the Base Reuse Plan makes it clear that the FORA did not necessarily expect that 6,600 AFY could be pumped from beneath Fort Ord without causing further seawater intrusion. The mitigation described in the Program EIR does not permit the agencies to delay a solution if saltwater intrusion persists. Nonetheless, saltwater intrusion persists, 20 years and counting. Without addressing this fundamental problem, how will the Base Plan achieve its ambitious economic goals? How would FORA's extension address this problem?

3. Water Management

Given that Marina Coast Water District (MCWD) owns the infrastructure, serves as the legal water supplier for the Fort Ord area, and is responsible for any future water augmentation project, why can't the responsibility for remaining water obligations be assumed by MCWD?

4. Environmental Services Cooperative Agreement (ESCA)

Given that ESCA cleanup will be completed by 2020, what remains for FORA to do that the County of Monterey or a limited JPA couldn't do?

5. Transportation

Why is FORA needed to complete road projects when the Transportation Agency of Monterey County can complete regional road projects, and local jurisdictions can complete local road projects, using the additional money they will receive when FORA expires (additional money being 50% of land sales that now goes to FORA, property taxes, and agency dues)? Development fees collected over multiple decades will fund CEQA-required transportation mitigations. Wouldn't an ongoing community facilities district (CFD) be a less costly alternative to FORA?

6. Habitat Conservation Plan (HCP)

The HCP is scheduled for completion within the next year and long-term stewardship is to occur through the establishment of an endowment. With regard to the HCP, what role would FORA serve beyond 2020?

7. Public Trust

FORA recently lost the lawsuit related to the unpopular Eastside Parkway, having violated CEQA. In her conclusion, Judge Lydia Villareal wrote "When an agency has not only expressed its inclination to favor a project, but has increased the political stakes by publicly defending it over objections, putting its official weight behind it, devoting substantial public resources to it, and announcing a detailed agreement to go forward with the project, the agency will not be easily deterred from taking whatever steps remain toward the project's final approval." Also, several years ago, FORA lost another lawsuit related to its failure to produce public documents in violation of the Public Records Act. These lawsuits resulted in payment of large amounts of public tax dollars for attorneys' fees. FORA was also discovered to have modified its rules and regulations in violation of the Sierra Club settlement agreement by changing "shall" to "may" on a series of critical rules. FORA made the correction only after being confronted by citizen

watchdogs and the Sierra Club. There is a public perception that FORA is not operating as openly, transparently, or honestly as a public agency should. If FORA were to continue, what leadership and other organizational changes would it undertake to regain public trust?

8. Legislative Mandate Completed

The California Legislature established FORA in order to create a long-term regional development plan and a fair and equitable funding structure for capital improvements, both of which have been accomplished. By 2020 FORA will have completed the Base Reuse Plan, a habitat mitigation plan, Capital Improvements plan, ordinance cleanup, and transfer of lands to jurisdictions. Enacting legislation contemplated that FORA would sunset before development was completed on the Base and local jurisdictions assumed responsibilities. The 6-year extension granted by the Legislature in 2013 provided FORA a reasonable period of time ensure that these programs were positioned to survive beyond FORA. How can one justify the continuation of FORA when it has accomplished its legislative mandates? Won't continuation of FORA simply delay the development and implementation of a transition plan to local jurisdictions?

9. Lack of Legislative Support

In 2013 when FORA first requested a 10-year extension and pointed to the economic slowdown as justification for more time, the Legislature only granted a six-year extension with the message "no more extensions, take care of business in the next six years." The economy is doing well, with a lot of projects moving forward in Fort Ord. How does FORA justify more time?

10. Justification for Continued Tax Increment

Unlike redevelopment agencies that were abolished by the State of California in 2012, FORA continues to collect tax increment revenue that comes from local property taxes. These property taxes would otherwise flow to the County, local cities, and K-14 education. In fiscal year 2015-16 FORA collected \$1.6 million in property taxes. In fiscal year 2016-17 FORA projects it will receive \$2.3 million. Property tax revenues are growing significantly as development is rapidly occurring on Fort Ord. How much will revenues be in five or ten years? Is it equitable to divert millions of dollars from the K-14 system to FORA, the functional equivalent of a redevelopment agency? Why should FORA's legacy power to collect and spend tax increment revenue be extended when it has been eliminated across the rest of the State?

11. Accountability

Even though 20 years have passed since the FORA Board adopted the Base Reuse, 21% of the policies and programs that were supposed to form a foundation for and guide development on the former Fort Ord were incomplete at the time of Scoping Report. This is simply unacceptable. Why should the public expect better accountability in the future?

In sum, is FORA serving the public good? The public won't know until these very difficult questions are answered.

Regards,



Michael D. DeLapa
Executive Director