

## Transition Planning - Questions & Answers

This is a running list of generic draft responses to questions FORA staff received regarding the FORA transition planning process. They are not meant to be exhaustive but are intended to provide background for the Board as they work through these issues in the coming weeks. This list will be updated and new information added as new questions (normal font) are presented and answered (bold font) and will be available online <http://www.fora.org/Transitiontaskforce>

1. The staff memo states: “In December 2016 . . . the Board directed that FORA staff seek a legislative extension on one hand, and proceed with transition planning on the other.... In March 2017, the FORA Board chair re-convened the ad hoc transition group to provide information and a recommendation to the Board regarding a FORA transition plan..... Upon Board direction, the staff would take the TTF and Boards direction and incorporate this information into draft transition plan documents during 2018 for the next phase of the transition plan to be presented to LAFCO by December 2018.”

This summary clearly outlines that the Transition Task Force was asked to “provide information and a recommendation to the Board regarding a FORA transition plan.” This memo does not contain information or a recommendation of any substance. We do not seek to criticize anyone’s efforts, but merely want direct acknowledgement that we are not being presented with information or a recommendation beyond a list of goals on Attachment A which are broad in nature and do not provide a framework for staff to draft a transition plan.

**A: The Staff Report was drafted to accurately reflect the majority Motion that came out of the TTF. The TTF was charged with making a recommendation to the Board regarding the Transition process. The TTF noted that the final decision, however, is the Board’s and it is important that the Board begin to wrestle with the subject matter itself. Friday’s action is meant to be a briefing and ‘touch base’ with the Board to receive direction, any questions for further study, and receive feedback regarding the specific recommendations made to it by the TTF. There is also a shrinking window of time for providing any specific requests for legislative assistance to the region’s State Legislators. At least two specific questions were raised in the TTF regarding how to give FOR A’s successor the financing powers it will need to complete BRP obligations, and to allow the financing mechanism to be used for building removal activities. In the opinion of Staff, and the Executive Committee, the requested Action from the Board was not the approval of a final Transition Plan, or even to review a Draft Transition Plan or make a final decision about any particular successor entity, but rather to review the TTF recommendation and provide feedback so Staff can flesh out and bring back to the Board more detailed information. State Legislation requires the final Transition Plan to be transmitted to LAFCO by December 2018 and we remain on the Timeline originally presented to the Board and TTF. In addition, Executive Committee asked that the Board review of this issue be structured to include multiple meetings in October 2017 and to allow ample time for public participation. We have restructured the presentation slide in the Power Point to clearly reflect what is being requested of the Board on Friday.**

2. The staff memo states: “The majority of the TTF recognized that the financing component is critical . . . . Because the FORA CFD terminates when FORA terminates, it was requested that FOR A seek legislation allowing continuation of the FORA CFD .... A majority of the TTF believed that a legislative solution, either extension of FORA’s CFD and regional powers similar to FORA’s would eliminate a major issue facing the individual jurisdictions of creating a replacement financing mechanism.... This is the crux of why this item is brought forward at this time.” Several questions:

(a) The word “either” does not have corresponding “or”. Is there supposed to be an “or”?

**A: It’s possible there was a typo here. The basic concept is whatever entity were to replace FORA would need to have similar powers, especially the ability to create a CFD or other financing mechanism in order to complete the BRP obligations. State legislation might assist in this process, but the window for getting a bill or bills into the State Legislative hopper for 2018-19 is closing.**

(b) What are “regional powers similar to FORA?” Is this the counter option to extending the CFD, such that you meant to say “or” instead of “and”?

**A: The TTF was simply recommending that the Board endorse a request to the area’s State Legislators to help ensure that any successor to FORA have the benefit of a financing mechanism similar to FORA’s CFD.**

(c) Did you consider simply extending the CFD without seeking to include any regional powers of FORA?

**A: Numerous options were considered and passage of such a bill would depend on the individual Legislator’s judgement as to what wording will suffice, and the Board could also limit its’ request. Our restructured Board request for consideration will reflect your comment and focus on ‘financing powers’ and ‘building removal.’**

(d) Did you consider simply extending the CFD without seeking to include FORA’s entitlement to property tax increment, which is the controversial aspect of the agency with the State legislature?

**A: FORA’s receipt of Property Taxes are a function of specific State Health and Safety Code provisions enacted in the 1990’s. Neither the TTF or Staff recommendation include reference to continued Property Tax revenues.**

(e) If this is the “crux of the reason” for bringing this issue to the Board now, wouldn’t it make more sense to simply ask the Board to weigh in on the option of extending the CFD, and allow the TTF to continue meeting to identify what action is needed by the Board to actually create a transition plan?

**A: The TTF majority made a specific recommendation to the Board and it is a good time to get feedback from the Board on that and related items. Because the legislative window is closing, it is important that the Board initiate a discussion regarding options and approaches before that window closes.**

3. The staff memo concludes with a discussion about the question of PERS liability, and whether it should be assumed only by the land holding jurisdictions. Is the Board being asked to answer this question on Friday? If the Board adopts “the staff recommendation”, what is that recommendation on this question of PERS liability?

**A: The Board is not being asked to answer this question on Friday. Feedback would be helpful. Currently so-called non-Land Use Agencies (Carmel, PG, Salinas, Sand City) have some liability for general and/or administrative claims against FORA. The TTF recommendation leaves this assumption in place. The FORA Board Finance Committee has recommended that FORA fully fund it’s PERS obligations before any sunset, and the FORA budget reflects this, therefore any current PERS liability to the jurisdictions, either Land Use or non-Land Use, is zero.**

4. Has there been any discussion of hiring an independent consultant with finance and taxation expertise to assist in the creation of a transition plan, since it appears the issues may be too complex to sort out without such assistance?

**A: The issues are complex, but not too complex to work through. The primary need at this juncture is for the Board as a whole to begin having a discussion about desires, informational needs and tradeoffs, so that Staff is given direction regarding targeted work effort to abet a Board decision in 2018 on a final Plan. This is not to say that some targeted consulting would not be useful. In particular, Staff believes retention of meetings facilitation services could be of benefit to the Board as it engages this issue.**

5. Has there been any consultation with a qualified law firm to answer the questions raised regarding whether entitled developments will have to pay a fee if FORA goes away? If research has been completed on this question, with legal citations and all, we’d like to see it.

**A: Staff can report on what the law says in specific cases, but the answer will depend on what the final chosen successor entity is. This information would be included in the comparison of successor agencies that staff would bring back to the Board in early 2018. Again, the Board is not being asked on Friday to make a final decision as to Successor Agency, only to target certain approaches for focused research. This can only be accomplished by a wide ranging discussion amongst the Board.**

6. Has there been any consideration for the option of seeking Declaratory Relief on the obligation of entitled developments to pay fees?

**A: This option can be studied and brought back to the Board, and is an example of the kind of questions/direction that Staff needs and appreciates.**

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1. 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:

**A: The FORA Transition Task Force (TTF) recently submitted a recommendation to the FORA Board. The Staff Report clearly indicates that what is requested is not a 'Transition Plan,' but rather direction regarding the TTF's majority recommendation regarding 'Transition Goals,' authority to prepare draft materials and agreements that would be necessary to implement any resultant Transition Plan, which by State Legislation is due in December 2018. FORA remains on track for this deadline and the purpose of Friday's meeting is to receive direction from the Board regarding the TTF recommendations. The FORA Board, as part of its Legislative Agenda approved in 2016, has already endorsed extension of FORA and also endorsed a 'dual track' that answers the question, what if FORA is not extended? The purpose of Friday's discussion is to give the Board an opportunity to respond to the TTF recommendation and give specific feedback to staff that narrow the scope of desired outcomes.**

#### Blight Removal

2. 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?

**A: Specifically, 'Building Removal' is not among FORA's principal reasons for establishment in State Law or elsewhere. Building Removal is an obligation of the individual FORA jurisdictions**

and their developers where buildings need removal. It was assumed in the original Business Plan that 'land value' would finance building removal. The issue of building removal was indeed daunting and early on it became apparent that the Cities and County would have trouble financing building removal without help. The FORA Board made the decision to designate a portion of FORA's State mandated 50% share of Land Sales/Leasing proceeds (the jurisdictions get the other 50%) to helping the jurisdictions (primarily Marina, Seaside, Monterey County) with building removal activities for specific/selected building removal locations. This was forecast as a roughly \$75 million contribution by FORA to be funded only from actual revenues FORA received or borrowed against. This was later modified to allow for 'credits to land sales prices' so the developer could take on the expense of building removal in exchange for future land sales payments to FORA. To use as an example, FORA made an agreement with Marina and their developer for the Dunes area building removal and paid them \$22 million in cash and \$6 million in credits on an overall removal cost of \$46 million. The remaining \$18-20 million in credits were to be deducted from future land sale payments to be made by the developer due FORA. The value of FORA has been its ability to leverage land sale and other revenues coming in from all jurisdictions on the former base, package grants for removal and pilot programs, and otherwise augment building removal with other resources. We recognize the task is difficult for a single entity to finance, and stand ready to think about solutions.

For example, there may be ways to created more "bang for the buck" by combining Del Monte Extension road building activities with the building removal necessary to implement the project. This is an example of how regional cooperation can be more effective than leaving the entire burden on single jurisdictions to fund and construct/deconstruct.

#### Groundwater Overdraft and Water Limitations

3. 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 over-drafted. 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?

**A: The issue of saltwater intrusion, as noted, has been identified, studied, monitored, and mitigations applied, for many decades in the region. The issue is at the forefront of the region's**

attention. It is unclear why only Fort Ord is called out in the question, as any solution will likely be applied uniformly across users and those who benefit from the water, but FORA has a right to a portion of the 6,600 afy noted in the comment by agreement with the Federal Government/U.S. Army and has in turn allocated the water to the FORA jurisdictions. In addition numerous water augmentation projects are being planned in the region and the FORA Board recently earmarked a \$6 million payment towards a pipeline and infrastructure that help to address this issue.

#### Water Management

4. 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?

**A: MCWD and/or a Successor Agency to FORA can be assigned a 'Function Transfer' of the Water/Sewer system and the Water Augmentation project, which is a mitigation of the Base Reuse Plan (BRP). The real issue is, how will they pay for it? Currently FORA Community Facilities District (CFD) revenues pay for the Water Augmentation Project. If FORA goes away, a replacement revenue stream for this mitigation of the BRP would have to be found and agreed upon by the parties, including increased capacity charges, which have an impact on rate payers and project developers.**

#### Environmental Services Cooperative Agreement (ESCA)

5. 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?

**A: The cleanup itself will be completed, as noted, but there is a requirement by the federal and state regulatory bodies for continued reporting and monitoring, through possibly as late as 2037. FORA is negotiating with the Army for a roughly \$10 million grant that would cover the costs of this multi-year post 2020 reporting activity. The Army has indicated that it wants one single entity to represent the local community and to inherit any such funds. It's possible that a JPA, as noted, could perform that role, but this would be subject to Army approval.**

#### Transportation

6. 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?

**A:** The issue of completing BRP required Transportation and Transit mitigations has been much on people's minds in the Transition planning process. As noted, a function transfer to TAMC for regional projects, and possibly some on-base projects could assume a portion of the burden. Note TAMC's Nexus based transportation finding model is not capped as FORA's is under CEQA. Therefore, ord transportation costs under TAMC would increase from \$\_\_ to \$\_\_\_. Another issue with TAMC's nexus based financing mechanism is the rules of transportation/transit funding would change. Some developers who are already entitled may end up not having to pay because the law is different depending on financing method selected and the amount paid per land use type would change from emphasis on impacts of residential development, to fall on job generators, which could harm the economic development component of reuse. Another issue is the TAMC board represents jurisdictions that extend from Watsonville to King City which may not lend as much local control as currently provided.

This is not to say such a function transfer couldn't take place, just that there are numerous issues to work through. As to where existing revenues would go, we have modeled that the land use agency a land sale transaction takes place in would indeed receive FORA's 50% land sale share. It is less clear whether those land sales will occur as forecast, or whether the Cities and County would receive anywhere near the revenues FORA currently receives in property taxes by targeted State legislation designed to complete military base reuse. It is likely that the tax allocation formula would revert to that for all other property taxes, resulting in a loss of millions of dollars to reuse. If replacement CFD's can be established by the jurisdictions and/or replacement JPA, perhaps they could be designed to compensate for this funding shortfall.

### **Habitat Conservation Plan (HCP)**

7. 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?

**A:** The major function served by FORA is coming up with the up to \$50 million in CFD revenues necessary to fund the endowment so the issue of how to replace the FORA CFD revenues that has come up in other areas is especially relevant here. FORA has set aside roughly \$12 million for HCP funding as of this writing and expects to set aside another \$6 million or so by 2020. There will be a funding gap in 2020 if FORA goes away and that would have to be made up by the Successor Agency. FORA also staffs the HCP process and could provide value added to the Habitat Cooperative until or even after function transfer takes place.

### **Public Trust**

8. 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?

**A: The events described in the comment have been fully vetted in other venues but the basic response is that FORA has acknowledged any issues that have come up in the past and taken steps to prevent problems in the future, including engaging a forensic audit that revealed no wrong doing, responding appropriately to the numerous Public Records requests we receive, reversing the words 'shall' and 'may' as requested, and complying to the letter of CEQA in any upcoming project approvals. As for the Eastside Parkway, FORA has always intended to engage in a full and appropriate CEQA process that includes public participation and board discretion.**

#### **Legislative Mandate Completed**

9. 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?

**A: FORA is proud to have accomplished a large portion of its legislative mandate, as well as numerous other base wide obligations undertaken by the FORA Board. Among the major issues the current Board and other interested parties need to consider are: what replaces the regional clearing house function of FORA as a venue for local leaders to get together and solve problems? How will the region make up the dollars FORA brings in through the CFD, property taxes, grants, subject matter expertise, institutional knowledge? How will the BRP and its growth management/consistency requirements be enforced? How will regional planning issues be refereed and adjudicated? Will the "fair and equitable" funding of Capital Improvements on the**



former Fort Ord continue if FORA goes away? A good philosophical question, and we appreciate the complexities inherent.

### Lack of Legislative Support

10. 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?

**A: Justification isn't really the issue. The economy, needed revenue streams, national and state politics, all of these things influence whether a project is completed in the hoped-for time frame. The real issue is, what is the best, most efficient, yet also equitable way to complete the required BRP mitigations?**

### Justification for Continued Tax Increment

11. 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 equipment 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?

**A: FORA's property tax revenues come as the result of state legislation that was specifically targeted to this military base reuse project. The commenter is right that any expenditure of these funds should be directed to projects that serve the public good.**

### Accountability

12. 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?

**A: This comment is about a report that came out roughly 5 years ago and most of the items included in it have since been completed. Statistically, a number of the items used by the commenter are multiple requirements of the FORA jurisdictions themselves, not FORA. Nonetheless, FORA created a Board endorsed Work Plan aimed at clearing and completing the**

items noted in the report and even stepped in to help the FORA jurisdictions complete their own uncompleted items. Among the more noteworthy projects accomplished by FORA the last few years: Regional Urban Design Guidelines, pipeline financing for Water Augmentation, Trails Blueprint, Oak Woodland Planning, post-Reassessment planning and document cleanup, Munitions and Explosives of Concern primary fieldwork, assistance and staffing to both Phase 1 and Phase 2 Veterans Cemetery planning and financing, and this initial phase of transition planning. This is in addition to the routine project and consistency determination work, economic development efforts, prevailing wage monitoring, and oversight, budgeting and accounting that FORA does as part of its mission. It is a list of projects that total in the millions of dollars and person hours that have been donated to the region, and we will continue to do so until the lights are turned out.

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1. **Habitat Conservation Plan:** FORA has made a commitment to fund an endowment for the support of the Habitat Conservation Plan. What is the nature of that commitment - Is it contractual, a formal obligation or an intent? What is the \$ gap between the goal and what is currently set aside? What happens if FORA cannot/does not meet the intended amount of an endowment?

**A:** FORA's requirement is consensual, but stems from the regulatory powers of the U.S. Fish and Wildlife Service, and the State of California Department of Fish and Wildlife. Without approval of the regulatory agencies, take permits would have to be pursued by individual development projects and their jurisdictions, and permanent basewide financing of habitat protection would not occur. It is unclear whether current and future protection of endangered species would be take place. The Regulators require an Endowment format to produce the annual revenue needed to perform all habitat protection components. \$12 million has already been collected by the CFD. It is estimated that another \$6 million will be collected by June 30, 2020. It is further estimated that another \$46.2 million would need to be funded post-FORA if FORA sunsets. There is a 'stay ahead' provision that would provide some cushion in the early years, and staff is still negotiating with the federal and state governments regarding the amount of additional contingencies to fund, so there are some dollars in the 'bank.' Habitat Conservation is a CEQA mitigation under the BRP so FORA funds this activity with Community Facilities District revenue.

2. **Supplemental Water:** In order to fully realize the various proposed (and entitled?) plans of the Land Use Jurisdictions (LUJ) requires more water than is currently available. Marina Coast has agreed (contracted?) to provide both the current water needs and to secure an additional supply of water. What is the status of the agreement to provide additional water? What is the gap between current development plans and the available water supply? Which entities are likely to be constrained by a shortage?

**A: MCWD is under contract with FORA to serve as purveyor to the former Fort Ord, which includes both potable water and an 'augmented supply.' FORA has a right to potable water through agreement with the U.S. Army who in turn have agreement with the Monterey County Water Resources Agency. The Augmented Water is ultimately to be provided through a planning partnership between MCWD, Monterey 1, and FORA. Last year the FORA Board authorized up to \$6 million for the first phase of this project, a pipeline through Fort Ord to deliver the water. This program is also a mitigation under the BRP because it is aimed primarily at shifting landscaping, golf courses, and other uses from potable to augmented/recycled water, so CFD money is being used to finance it. That also means all FORA Jurisdictions are impacted by the CEQA requirement that this additional water source be developed. In addition to the \$6 million already authorized, FORA projects another \$18 million is needed for this project post 2020. Additional conservation measures may be contemplated in later phases, as well as the effect of market demand for future phases.**

- 3. Roads:** In the past FORA decided to focus available funding on "on-site" roads at the expense of regional roads. Some of the "on-site" roads are part of regional plans, and "on-site" road projects are mostly due to be completed by 2020. What will not be completed by 2020? What is the gap between FORA's obligation to fund regional roads and the funds set aside for that purpose? Is there anything that prevents TAMC from taking over road responsibilities today? Please clarify the complications caused by "entitled" development.

**A: FORA's CEQA obligation for Roads and Transit are estimated to be \$ 115.5 million which includes contingencies. The remaining uncompleted on-site roads are currently South Boundary, Eucalyptus to Eastside Parkway, and Gigling. The total for regional Transit is \$10 million and the total for Regional Projects that might be 'function transferred to TAMC is \$50 million (Highway 156, Highway 1 Improvements). If partially funded by FORA, the TAMC regional projects would not be built for a number of years because matching funds are not available. In addition, if TAMC takes on FOR A's on-site transportation CEQA obligation it would have to fold that work into its own existing financing mechanisms which have different rules from that of the FORA CFD. In particular, TAMC uses a nexus based approach that would not allow some entitled Fort Ord developers to be taxed, and would shift the burden from housing land uses to job generating land uses. In addition, under CEQA the FORA mitigation is capped, whereas TAMC would peg it's costs to construction indexes so it is likely that the program would be more expensive under the function transfer. This does not mean that a function transfer to TAMC can't be designed, only that there are issues of equity and structure that would have to be worked out.**

- 4. Taxation:** Currently, FORA is the authorized taxing authority. What will LUJ's need to do to take over taxing for the purposes of funding building removal, infrastructure (roads), HCP endowment, and water supply?

**A: We got into some of this in the prior answers. To summarize, Roads, HCP, and Water Augmentation could be function transferred but there is as yet no replacement funding mechanism in place that would make it easy for the Successor Agency or the Jurisdictions take**

on these assignments. Potable Water Supply would transfer to MCWD as it is currently structured to do so under the contract with they have with FORA, after annexation. Building Removal is the responsibility of the jurisdictions but due to the large and daunting nature of this activity, the FORA Board voluntarily took on partial funding of this Function. FORA funds this assistance using its State mandated 50% share of land sales revenues, i.e. dollars that developers pay the jurisdictions for property. If FORA goes away, the 50% FORA receives would default to the jurisdictions any particular land transaction takes place in. The jurisdiction would be free to use any such dollars for building removal or for other municipal needs. Ability to finance or leverage revenue streams as FORA has done in the past to borrow dollars for building removal, would be impacted.

5. **BRP Implementation:** How are BRP limitations, restrictions and requirements intended to be assured? What mechanisms are in place to legally restrict and assure that terms are met absent oversight by a governmental entity (deed restrictions, covenants, MOAs)?

**A: The BRP and Deed Restrictions are assumed to continue post-FORA, but oversight and enforcement would have to devolve to another entity. Consistency Determinations and BRP CEQA activities would presumably become the responsibility of the individual jurisdictions. Any regional oversight would have to be recreated either in the legal structure of the Successor Agency or by Agreement and MOA's between the jurisdictions.**

6. **Equitable investment:** over time, all LUJs have contributed to the "greater good", with the intent that all would be equally served eventually. If FORA sunsets today, what inequalities exist?

**A: There are some issues relative to jurisdictions, developers, and projects that went 'first,' and those that are in the cue. The TTF explored various percentage allocations of FOR A's remaining obligations, which if applied on a percentage basis would result in a monetary contribution to an escrow by jurisdictions to ensure that all required obligations are completed, this would limit some of the inequities inherent in being the last projects to be completed. The difficulty is in picking the most appropriate proxy to apply the percentage methodology to, eg: Buildout, Water Allocation, Acreage, Voting Rights, etc. Ultimately the TTF recommended using the existing Implementation Agreements the jurisdictions have with FORA, which are based on a Fair and Equitable distribution of responsibilities and financial contribution to basewide obligations.**

7. **Cleared land:** If FORA has no further obligation to clear any buildings/blight, how will municipalities take over that accountability? When?

**A: This was partially answered above. To expand on that answer, the original FORA Business Plan assumed that land value would fund building removal. As alluded to in other answers to frequently asked questions, this is a huge undertaking for a small to mid-sized jurisdiction. FORA stepped in to assist, but it too is limited to land based valuation as the source of funds for Building Removal, primarily Land Sales and Property Taxes. These two revenue sources go**

away if FORA goes away, which is to say, the jurisdictions and the region to some extent will have a portion of those dollars redirected to them, but without the specific targeting that those revenues be spent on Building Removal. Finally, building removal could be 'fronted' by individual developers, and in fact, FORA has contractual agreements with jurisdictional developers to give them a credit to their future land sales payments commensurate to building removal they perform, but the recession has made it difficult for the developers to follow through with such front-loading of costs.

8. **Munitions:** When will funding for munitions removal cease? Will the current plans complete the Army's obligation and will all munitions be removed? What are the specific reporting and contractual obligations going forward?

**A: The actual munitions removal has been completed by FOR A's privatized sub-contractor. What is not yet complete is the final bureaucratic review and approvals by the regulatory agencies, in particular U.S. EPA and State of California Department of Toxics and Substance Control, as well as certain reporting obligations the U.S. Army requires through 2037. FORA staff have met with the Army and the outlook is promising for receiving additional grant funding to cover the costs of this work, and possibly shortening the reporting period to 2030, but the Army is reluctant to provide the funding to other than a single entity successor format.**

Thank you for your attention to these issues as we go forward. While the Transition Task Force generally accepted the proposed allocation methodologies, one topic that was only tangentially addressed was the range and scope of any successor entity. It is time to have a discussion about what is absolutely essential, core and irreplaceable about FORA going forward. Since trimming FORA necessarily reallocates resources, that discussion must take place sooner, rather than later.

**We agree completely. This is why the subject matter has been elevated to the Board as a whole, the body that must make the final decisions by December of 2018.**