



# FORT ORD REUSE AUTHORITY

## SPECIAL MEETING

### FORT ORD REUSE AUTHORITY (FORA) BOARD OF DIRECTORS

March 7, 2018 at 3:30 p.m. | 910 2<sup>nd</sup> Avenue, Marina, CA 93933 (Carpenters Union Hall)

## AGENDA

**ALL ARE ENCOURAGED TO SUBMIT QUESTIONS/CONCERNS BY NOON MARCH 6, 2018.**

#### 1. CALL TO ORDER

#### 2. PLEDGE OF ALLEGIANCE *(If able, please stand)*

#### 3. ACKNOWLEDGEMENTS, ANNOUNCEMENTS, AND CORRESPONDENCE

#### 4. ROLL CALL

FORA is governed by 13 voting members: (a) 1 member appointed by the City of Carmel; (b) 1 member appointed by the City of Del Rey Oaks; (c) 2 members appointed by the City of Marina; (d) 1 member appointed by Sand City; (e) 1 member appointed by the City of Monterey; (f) 1 member appointed by the City of Pacific Grove; (g) 1 member appointed by the City of Salinas; (h) 2 members appointed by the City of Seaside; and (i) 3 members appointed by Monterey County. The Board also includes 12 ex-officio non-voting members.

#### 5. PUBLIC COMMENT PERIOD

#### INFORMATION

Members of the public wishing to address the Board on matters within its jurisdiction, but **not on this agenda**, may do so for up to 3 minutes or as otherwise determined by the Chair and will not receive Board action. Whenever possible, written correspondence should be submitted to the Board in advance of the meeting, to provide adequate time for its consideration.

#### 6. BUSINESS ITEMS

#### INFORMATION/ACTION

**BUSINESS ITEMS** are for Board discussion, debate, direction to staff, and/or action. Comments from the public are **not to exceed 3 minutes** or as otherwise determined by the Chair.

- a. Marina Successor Agency Request that FORA subordinate its Right to Statutory Payments – agenda item necessary to allow Board a potential 2d Vote to protect FORA's right to approve/disapprove Successor Agency request within 45 days of receipt of request.

**Recommendation:** Direct staff to transmit a response letter requesting more information and denying the request to subordinate FORA's right to statutory payments.

#### 7. ITEMS FROM MEMBERS

#### INFORMATION

Receive communication from Board members as it pertains to future agenda items.

#### 8. ADJOURNMENT

**NEXT REGULAR MEETING: March 9, 2018 at 2:00 P.M.**

Persons seeking disability related accommodations should contact FORA 24 hours prior to the meeting. This meeting is recorded by Access Monterey Peninsula and televised Sundays at 9 a.m. and 1 p.m. on Marina/Peninsula Chanel 25. The video and meeting materials are available online at [www.fora.org](http://www.fora.org).

# FORT ORD REUSE AUTHORITY BOARD REPORT

## BUSINESS ITEMS

<b>Subject:</b>	Marina Successor Agency Request that FORA subordinate its Right to Statutory Payments – agenda item necessary to allow Board a potential 2d Vote to protect FORA’s right to approve/disapprove Successor Agency request within 45 days of receipt of request.	
<b>Meeting Date:</b>	March 7, 2018	<b>INFORMATION/ACTION</b>
<b>Agenda Number:</b>	6a	

### RECOMMENDATION(S):

Direct staff to transmit the attached response letter (**Attachment A**), requesting more information and denying the request to subordinate FORA’s right to statutory payments.

### BACKGROUND/DISCUSSION:

On January 25, 2018, FORA received a letter (**Attachment B**) from the Successor Agency to the Marina Redevelopment Agency (Successor Agency) requesting that the Fort Ord Reuse Authority (FORA) subordinate its right to receive certain statutory payments, pursuant to Health and Safety Code section 34177.5(c) from the Successor Agency’s Redevelopment Property Tax Fund (RPTTF) revenue, to the Successor Agency’s debt service obligations on the 2018 Tax Allocation Refunding Bonds (Bonds). In its letter, the Successor Agency also informed FORA that, within 45 days of receipt of their letter, FORA is required to approve or disapprove the request for subordination with respect to the Bonds.

After detailed review by Authority Counsel and staff, staff recommends that the FORA Board direct staff to transmit a letter (Attachment A), requesting more information and denying the Successor Agency’s request to subordinate FORA’s right to statutory payments. Staff finds that the Debt Coverage Table, included with the Successor Agency’s letter, does not demonstrate the Successor Agency’s ability to make such payments for the following reasons:

1. The Successor Agency did not provide evidence of past revenue collection, such as audited financial statements, which would substantiate the revenue assumptions used in the Debt Coverage Table;
2. Property tax revenues typically increase on an annual basis as assessed value increases. The revenue assumptions in the Debt Coverage Table appear incorrect because they do not increase over time and are therefore misleading and inaccurate;
3. Jurisdictions on former Fort Ord cannot create any land-based financing without the FORA Board’s consent, except for purposes specified in the FORA Capital Improvement Program according to the FORA Act, California Government Code section 67679(d)(12). The Successor Agency did not request or obtain the FORA Board’s consent to create land-based financing;
4. The Successor Agency did not provide assurance or analysis of whether its proposed Bonds will interfere with FORA’s ability to issue debt as needed to carry out its responsibilities; and
5. The Successor Agency did not provide assurance or analysis of whether the proposed Bonds will interfere with other jurisdictions’ efforts to use this revenue source to fund former Fort Ord basewide obligations, such as water augmentation, transportation/transit, Habitat Management, and Building Removal.

In 2002, FORA issued revenue bonds under similar circumstances. FORA's revenue bonds were backed by FORA's share of Preston Park lease revenue. FORA agreed not to affect Marina's share of the lease revenue and to only access FORA's 50% share. FORA retired those 2002 revenue bonds without affecting Marina's income stream. Given this example and FORA's financial obligations, FORA has the prerogative to expect the same treatment from the Successor Agency. FORA staff are willing to meet with Successor Agency staff to identify an equitable solution that allows both the Successor Agency and FORA to meet their financial needs.

**FISCAL IMPACT:**

Reviewed by FORA Controller HF signing by Helen Rodriguez

Staff time for this item is included in the approved annual budget.

**COORDINATION:**

Authority Counsel and Executive Committee.

Prepared by Jonathan Brinkmann  
Jonathan Brinkmann

Approved by Michael A. Houlemard, Jr.  
Michael A. Houlemard, Jr.



## FORT ORD REUSE AUTHORITY

920 2<sup>ND</sup> Avenue, Suite A, Marina, CA 93933  
Tel: 831 883 3672 | Fax: 831 883 3675 | [www.fora.org](http://www.fora.org)

**Attachment A to Item 6a**  
FORA Board Meeting, 3/7/18

March 7, 2018

Layne Long  
City Manager  
City of Marina  
211 Hillcrest Avenue  
Marina, CA 93933

Re: Successor Agency's request that FORA subordinate its right to statutory payments

Dear Mr. Long:

I am writing this letter to respond to your letter (received January 25, 2018), requesting that the Fort Ord Reuse Authority (FORA) subordinate its right to receive certain statutory payments, pursuant to Health and Safety Code section 34177.5(c) from the Successor Agency's Redevelopment Property Tax Trust Fund (RPTTF) revenue, to the Successor Agency's debt service obligations on the 2018 Tax Allocation Refunding Bonds (Bonds).

FORA is writing to inform you that FORA disapproves your request for subordination with respect to the Bonds. As asserted by you, and pursuant to HS§34177.5(c)(2), a requesting agency is required to provide substantial evidence that it can pay amounts required by Section 34183(a)(1). However, FORA's payments are paid pursuant to Chapter 4.5 of the Military Base Act and, more specifically, tax increment allocations are made pursuant to 33492.70 and following.

FORA is unable to determine, based upon the information provided, that Marina will be able to meet its indebtedness to FORA pursuant to Health and Safety Code section 33492.15. Additionally, FORA believes that subordination at this time will interfere with its ability to issue debt as needed to complete its responsibilities. In your letter, you note that FORA is required to approve or disapprove the request for subordination with respect to the Bonds within 45 days of receipt of this letter. This letter meets this requirement. We are requesting that you provide us with substantial evidence that you have the right that you assert and any supporting information that substantiates it.

FORA finds that the Debt Coverage Table does not demonstrate the Successor Agency's ability to make such payments for the following reasons:

1. The Successor Agency did not provide evidence of past revenue collection, such as audited financial statements, which would substantiate the revenue assumptions used in the Debt Coverage Table;
2. Property tax revenues typically increase on an annual basis as assessed value increases. The revenue assumptions in the Debt Coverage Table appear incorrect because they do not increase over time and are therefore misleading and inaccurate;

3. Jurisdictions on former Fort Ord cannot create any land-based financing without the FORA Board's consent, except for purposes specified in the FORA Capital Improvement Program according to the FORA Act, California Government Code section 67679(d)(12). The Successor Agency did not request or obtain the FORA Board's consent to create land-based financing;
4. The Successor Agency did not provide assurance or analysis of whether its proposed Bonds will interfere with FORA's ability to issue debt as needed to carry out its responsibilities; and
5. The Successor Agency did not provide assurance or analysis of whether your proposed Bonds will interfere with other jurisdictions' efforts to use this revenue source to fund former Fort Ord basewide obligations, such as water augmentation, transportation/transit, Habitat Management, and Building Removal.

FORA has a right to this revenue stream stemming directly from a tax sharing formula included in the California Health and Safety Code sections 33492.70 and following. Under similar circumstances, FORA issued revenue bonds in 2002, backed by FORA's share of Preston Park lease revenue. FORA agreed to only access FORA's statutory 50 percent share of the lease revenue and not affect Marina's share of the lease revenue. FORA retired those revenue bonds without affecting Marina's share of the revenue. FORA would expect the same treatment from the Successor Agency to the Marina Redevelopment Agency. FORA staff are willing to meet with you and your staff to discuss this matter further and come to an equitable solution that allows the city to proceed with efforts to accomplish its objectives.

Sincerely,

Michael A. Houlemard, Jr.



CITY OF MARINA  
211 Hillcrest Avenue  
Marina, CA 93933  
831-884-1278; FAX 831-384-9148  
www.ci.marina.ca.us

January 22, 2018

Fort Ord Reuse Authority  
902 2nd Avenue, Suite A  
Marina, CA 93933

Ladies and Gentlemen:

The Successor Agency to the Marina Redevelopment Agency (the "Successor Agency"), as allowed under Health and Safety Code Section 34177.5(a)(4), intends to issue 2018 Tax Allocation Refunding Bonds (the "Bonds") in accordance with the requirements of the Disposition and Development Agreement with Marina Community Partners originally entered into in 2006 as amended by the Second Implementation Agreement entered into in 2008 ("DDA") providing for the development of what is referred to as the Dunes Development. The DDA is an enforceable obligation listed annually on the Successor Agency's Recognized Obligation Payment Schedule ("ROPS"). The DDA, along with a Tax Increment Financing Plan and Agreement entered into in 2008, pledged to Marina Community Partners ("MCP") the tax increment generated by the Dunes development as well as additional low and moderate income housing fund tax increment from the Marina Heights development project to pay for infrastructure and affordable housing costs associated with the Dunes project. The Second Implementation Agreement as well as the Tax Increment Financing Plan and Agreement provides that MCP may from time to time request that the Former Redevelopment Agency issue bonds secured by the pledge of tax increment in the DDA and the Tax Increment Financing Plan. MCP has made such a request and the Successor Agency and the Oversight Board to the Successor Agency have approved the issuance of the bonds.

The Successor Agency is proposing to issue bonds in an amount not to exceed \$17,500,000 in two series of bonds. The bonds would have a 20-year term. The actual amount of bonds to be issued will depend upon interest rates at the time of issuance and whether the bonds are tax exempt or taxable bonds. The debt service on the bonds will be paid solely from the funds that are pledged to MCP pursuant to the DDA and that are currently paid to MCP pursuant to the ROPS process. The proceeds of the bonds will be paid to MCP to reimburse MCP for costs associated with the Dunes development project.

By this letter we request that the Fort Ord Reuse Authority ("FORA") subordinate its right to receive certain statutory payments from the Successor Agency's RPTTF revenue, to the Successor Agency's debt service obligations on the Bonds.

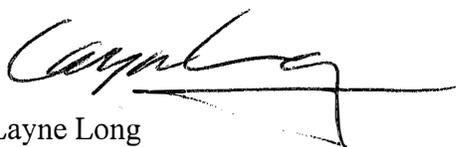
## Statutory Pass-Through Payments

Pursuant to Section 33492.71 of the California Health and Safety Code (the "Statute"), the FORA is entitled to receive statutory pass-through payments (the "Statutory Payments") from RPTTF revenue received by the Successor Agency from the Former Fort Ord Redevelopment Project Area (the "Project Area").

Health and Safety Code Section 33492.72 provides for the subordination of the FORA's right to receive the Statutory Payments to the Successor Agency's debt service obligation under the Bonds, upon a showing by the Successor Agency that there will be sufficient revenue to pay the debt service on the Bonds affecting the Project Area, as well as meet the Successor Agency's other obligations, including making the Statutory Payments to the FORA pursuant to Health and Safety Code Section 34183(a)(1). Accordingly, attached as Exhibit A to this letter, is a debt coverage table from the Successor Agency's fiscal consultant (the "Debt Coverage Table") which shows that the Successor Agency will have sufficient revenue to repay the Bonds associated with the Project Areas without demand being made on the Statutory Payments due the FORA under Section 34183(a)(1).

Under the terms of Health and Safety Code Section 33492.72, the FORA is required to approve or disapprove the request for subordination with respect to the **Bonds within forty-five (45) days after receipt of this letter.** Under Section 33492.72(c), the FORA may disapprove the request only if it finds, based upon substantial evidence, that the Successor Agency will not be able to pay debt service on the Bonds, as well as make the Statutory Payments to the FORA under Section 34183(a)(1). The attached Debt Coverage Table demonstrates the Successor Agency's ability to make such payments. If the FORA does not act within forty-five (45) days after receipt of this request, the request for subordination of the Statutory Payments with respect to the refunding Bonds associated with the Project Areas shall be deemed approved, all in accordance with Section 33492.72.

Sincerely,



Layne Long  
City Manager  
City of Marina

## SUBORDINATION CERTIFICATE

### CERTIFICATE OF THE FORT ORD REUSE AUTHORITY IMPLEMENTING SUBORDINATION OF PAYMENTS FROM THE SUCCESSOR AGENCY TO THE MARINA REDEVELOPMENT AGENCY

By its execution of this Certificate below, the Fort Ord Reuse Authority, ("FORA"), hereby certifies and agrees as follows:

1. Pursuant to Section 33492.71 of the California Health and Safety Code, the FORA is entitled to receive statutory pass-through payments (the "Statutory Payments") from the tax increment revenue received by the Successor Agency from the Former Fort Ord Redevelopment Project Area.

2. The Successor Agency has requested that FORA approve a subordination of its right to receive Statutory Payments, to the Successor Agency's pledge of RPTTF funds for the repayment of Bonds.

3. In connection with such request, the Successor Agency has submitted evidence (including a Debt Coverage Table) relating to the Successor Agency's anticipated ability to repay the Bonds without demand being made on the statutory and contractual pass-through payments, due to FORA.

4. The evidence submitted by the Successor Agency demonstrates to FORA's satisfaction that the RPTTF Revenue needed to make the statutory and contractual pass-through payments due to FORA, will be used in the cash-flow for the Bonds only for additional security (debt service coverage) and that the RPTTF revenue, together with other pledged funds, will be adequate, over the term of the Bonds, to pay 100% of the actual debt service thereon, to pay the Successor Agency's pass-through obligations, and to pay all other enforceable obligations of the Successor Agency with respect to the Redevelopment Project Area, whether statutory or contractual, which are or would be superior to the Successor Agency's pass-through obligations.

7. FORA hereby approves the Successor Agency's request and agrees to the subordination of the District's statutory pass-through payments, to the pledge of RPTTF for the repayment of the Bonds.

Dated: \_\_\_\_\_

\_\_\_\_\_

Attachment A  
 Projection of Revenues Available to Fully Satisfy Subordinated Pass Through Obligations  
 City of Marina Successor Agency

December 18, 2017

\$Thousands

	A.	B.	C.	D.	E.	F.	G.	H.	I.
Fiscal Year	Assessed Valuation of the Dunes Project <sup>(2)</sup>	Gross Property Tax Revenues: Dunes Project @1% of AV	Less: County Admin Expense @1.55%	Sea Haven Housing Revenues <sup>(3)</sup>	Projected Site-Specific Revenue Available for Debt Service and Pass Throughs	Less: Estimated Debt Service on 2017 Bonds (Series A and B) <sup>(4)</sup>	Balance Available for Pass Throughs	Projected Site Specific Pass Through Obligations: Dunes Project	Excess Available Above Pass Through Requirements
2017-18	288,998	2,890	(45)	67	2,912	(359)	2,553	1,600	953
2018-19 <sup>(1)</sup>	326,835	3,268	(51)	71	3,288	(1,133)	2,156	1,815	341
2019-20	326,835	3,268	(51)	71	3,288	(1,135)	2,154	1,815	339
2020-21	326,835	3,268	(51)	71	3,288	(1,136)	2,152	1,410 <sup>(5)</sup>	742
2021-22	326,835	3,268	(51)	71	3,288	(1,132)	2,156	1,410	746
2022-23	326,835	3,268	(51)	71	3,288	(1,137)	2,151	1,410	741
2023-24	326,835	3,268	(51)	71	3,288	(1,131)	2,158	1,410	748
2024-25	326,835	3,268	(51)	71	3,288	(1,133)	2,156	1,410	746
2025-26	326,835	3,268	(51)	71	3,288	(1,133)	2,155	1,410	745
2026-27	326,835	3,268	(51)	71	3,288	(1,132)	2,156	1,410	746
2027-28	326,835	3,268	(51)	71	3,288	(1,135)	2,154	1,410	744
2028-29	326,835	3,268	(51)	71	3,288	(1,135)	2,153	1,410	743
2029-30	326,835	3,268	(51)	71	3,288	(1,133)	2,155	1,410	745
2030-31	326,835	3,268	(51)	71	3,288	(1,135)	2,154	1,410	743
2031-32	326,835	3,268	(51)	71	3,288	(1,134)	2,154	1,410	744
2032-33	326,835	3,268	(51)	71	3,288	(1,131)	2,157	1,410	747
2033-34	326,835	3,268	(51)	71	3,288	(1,136)	2,152	1,410	742
2034-35	326,835	3,268	(51)	71	3,288	(1,128)	2,160	1,410	750
2035-36	326,835	3,268	(51)	71	3,288	(1,133)	2,155	1,410	745
2036-37	326,835	3,268	(51)	71	3,288	(1,135)	2,153	1,410	743
2037-38	326,835	3,268	(51)	71	3,288	(1,134)	2,154	1,410	744

Notes:

(1) Increase in revenues in 18-19 is due to AV added from 2017 construction completions and recorded home sales totaling \$43.6 M for Dunes Project and \$2 M for Sea Haven, as offset for an estimated \$5.7 million reduction in AV as a result of assessment appeals.

(2) For purposes of the projection, County reported FY 2017-18 assessed values are assumed to remain constant, with the exception of new construction completed in 2017 per note 1.

(3) Includes former low and moderate income housing funds from the Sea Haven project.

(4) Payment of principal and interest on the proposed 2017 Bonds is secured by a pledge of certain site-specific property tax revenues only. Estimated debt service provided by Stifel Nicolaus & Company, November 14, 2017.

(5) Decrease in pass throughs in 2020-21 is due to sunset of the Fort Ord Reuse Authority (FORA) on June 30, 2020 pursuant to Section 67700 of the California Government Code and redistribution of pass through amounts currently paid to FORA.

Actual taxable values and RPTTF revenues may vary from the amounts in this projection.

Prepared by Keyser Marston Associates, Inc.

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