Item 8A – Update and Discussion on the Development of CAFE (California Authority of Fairgrounds and Expositions) Joint Powers Authority Initiative

Reggie Mundekis, September 19, 2021

I appreciate CEO Richards public discussion of what CDFA is doing to privatize State owned fairgrounds and fairs and to exit the State-run fairs business. CEO Richards is to be commended for being out front on this issue. I have participated in the public meetings regarding this proposal.

Several issues problems with the process to date exist and remain unaddressed by CDFA:

- CDFA has refused to put the proposal in writing despite discussions to privatize one or more State owned fairgrounds have been ongoing since 2019.
- CDFA has not identified the State owned fairgrounds engaged in privatization discussions.
- CDFA has not reached out to the cities and counties which will be impacted by fairgrounds privatization to include those entities in the conversation. Fairgrounds do not operate in a vacuum with the stakeholders limited to those who work on or transact business on the property but are part of a larger economic, governmental, and social community.

The proposed plan is a soft-sell of a way for the State to exit the fair business to allow private entities to take over the business of conducting fairs in California. There now appear to be two parts to this proposal:

> **Issue 1: CAFE JPA Proposal:** Creation of a JPA to provide service programs and administrative functions which are currently provided by CDFA and potentially other entities.
>
> **Issue 2: Privatization Proposal:** A privatization proposal would allow State owned fairgrounds to be governed by a JPA comprised of a DAA and a non-profit which operates the property. The non-profit would have the responsibility of conducting the annual fair and other events at the DAA's property. This is an exit of the State from the business of California fairs by privatizing operations of the fairs, in addition to other functions.

<u>Issue 1: CAFE JPA Proposal</u>

A number of questions arise from this proposal. This list is not exhaustive:

- What happens if a DAA does not join the proposed CAFE JPA?
- Will the DAA be able to choose which of the CAFE offered services the DAA wants to use or is it "all or nothing"?
- Will DAA's joining the CAFE JPA still be subject to any and all State statutes, policies, and/or regulations? If the answer is "no", what are the statutes, policies, and/or regulations which CAFE JPA members will be exempted from.
- What is the role of CDFA's Fairs and Expositions Branch after CAFE JPA is functional?
- Once CAFE is operational, what happens to CFSA and CCA?

Issue 2: Privatization Proposal

This discussion, which are not exhaustive, includes:

- Proposed Privatization Structure
- Issues with the Proposal
- Payment of Prevailing Wage
- State Can Exit Fairs Business and Use Property for Housing

Proposed Privatization Structure

The proposed JPA structure for State owned fairgrounds is to create multiple JPAs comprised of the local DAA and fairgrounds based non-profit. The DAA is a shell to allow use of State property while maintaining pension and other obligations for State employees electing to stay with the DAA. The private non-profit conducts the annual fair and other functions. As the annual fair is the single largest event and provides the bulk of the money for operations, allowing a private non-profit to operate the annual fair is a defacto privatization, regardless of whatever name you want to call it.

Attached are “Ask the Right Questions Before Privatizing” published by In the Public Interest, a national nonprofit research and policy organization that studies public goods and services and is a project of Partnership for Working Families, a national network of leading regional advocacy organizations who support innovative solutions to our nation’s economic and environmental problems. Questions raised in “Ask the Right Questions Before Privatizing” are in addition to issues raised at this time.

Issues with the Proposal

This is yet another in a series of privation proposals for State owned fairgrounds and fairs which presents a number of issues. This list of issues with the proposal is not exhaustive.

- **2009 Deja Vu:** Current DAA Directors would be allowed to serve on the Board of the non-profit managing the DAA property. The DAA Directors would set the terms and conditions of the transfer of operations to the organization they are a part of. In other words, the DAA Directors are on both sides of the transaction. In 2009, the 32nd DAA Directors asked for the 32nd DAA property to be put up for sale and formed a non-profit to buy and manage the property. Allowing DAA Directors, either past or present, to form a non-profit to manage DAA property was not acceptable in 2009 and is not acceptable in 2021.
- **Public Losing Right to Oversight:** The non-profit is a private corporation which is allowed to restrict public access to meetings, records, and other privileges enjoyed by the public regarding oversight of public property. The non-profit will be handed State property to use as the non-profit sees fit by a friendly DAA Board and the public will lose oversight of their State property.
- **Expecting a Miracle:** CDFA appears to believe that there can be a miracle which allows the current Board members who have been poor financial and property stewards to become responsible when they are directors of a private non-profit corporation. Multiple DAA's are insolvent or nearly insolvent and/or face major long term maintenance and infrastructure problems with one or more DAA's being subject to

reviews, in whole or in part, by the State Auditors Office. It is foolish, at the most charitable, to expect DAA Directors who cannot operate the properties they currently manage to reach profitability, maintain a property, and not engage in practices which give arise to investigations regarding their actions. Put another way:

- A Board which has managed the property into insolvency or near -insolvency can be reasonably expected do so in the future but will be able to hide financial problems under a private non-profit corporation.
- A Board which failed to maintain the DAA property they manage can be expected to to do in the future.
- A Board which has allowed abuse of credit cards, employees, and facilities to occur, among other issues, can be reasonably expected to do so in the future. The private non-profit corporation will allow their actions to be hidden from scrutiny in addition to penalizing anyone who dares to call out their actions.

Payment of Prevailing Wage
It is not clear if prevailing wage will be paid for construction on DAA property under this proposal. A requirement to pay prevailing wage on construction projects on DAA property regardless of the source of funds or project management by a non-State entity must be required.

State Can Exit Fairs Business and Use Property for Housing
If the State wants to exit the fairs business, the State needs to allow DAA properties to be used for affordable housing and other uses as allowed under the Surplus Land Act. There is a housing crisis in California and DAA land can be used to help with that crisis.

In northern California, the crisis has been exacerbated by fires which have destroyed homes. The State should require DAA's desiring to exit the fairs business to use their statutory authority to contract for affordable housing development in addition to allowing RV and camping property for use by refugees created by fires. The LA Times has covered this issue in depth with heartbreaking stories. A friend's mother lost her home in a fire several years ago and now lives with her daughter in a nearby town. Many people are not as lucky as she is to have a place to live long-term.

Ask the right questions before privatizing

Ask these ten questions—and get the answers—before any final privatization decision.

1 Does the contract limit our democratic rights?

Buried deep in contracts and long-term public-private partnerships are so-called "non-compete" clauses and "compensation clauses" that limit or eliminate our ability—for decades—to make public decisions to improve our cities, transportation systems, and many other public services. These clauses could prevent us from building mass transit that might compete with the private road operator—for decades.

2 Will we still have the right to know?

The public often loses the right to know important details about public services when private contractors take over. Privatize the health department, library, or prison, and the contractor CEO's salary—and lots more—becomes private and confidential.

3 Are there perverse incentives that work against public policy goals?

Private companies are focused on growing revenue, increasing market share, and a healthy "return on investment" for owners or shareholders. That's fine for the company that makes your breakfast cereal, but privatization means that the goals of private interests may take precedence over the public good. For example, prison contracts are sometimes based on the number of full prison beds. So, more people in prison is good for business but isn't good for society.

4 How will we hold the contractors accountable?

When public agencies don't have enough staff to regularly monitor contracts, the public loses. Anyone who contracts for services—whether Boeing subcontracting the manufacture of jet components or a family hiring a contractor to expand the size of their kitchen—knows that if you don't watch the contractor closely, you get cost overruns, missed deadlines, and mistakes.

5 Do we have a Plan B?

Contractors that fail to deliver cost the public millions when contracts have to be cancelled. Legal fees and overtime for public employees or back-up contractors to fix problems add up. And, once a public agency downsizes the front line workers who know how to do the work, it takes time to re-create an in-house team with experience and expertise.

6 Will the outsourced jobs have health care benefits?

Privatization proponents frequently promise cost savings that come from turning jobs with health benefits into ones that don't have health care. That's irresponsible and simply shifts costs to someone else—usually the public or local hospital emergency rooms.

7 If a private company thinks they can make money, why can't we?

Desperate for cash, cities and states are selling off assets and programs that are actually moneymakers. For example, local governments are selling landfills and privatizing recycling programs that generate revenue for cash strapped cities and counties.

8 Are there limits on the contractor's ability to raise fees, tolls, or rates?

Public officials think that they don't get blamed when a private contractor raises rates. They're wrong. Contractors take over and raise rates to meet their financial projections. The result is that we pay higher fees, while the contractor gets the money. If we must raise rates, local governments should keep the money and fund libraries, parks, or other public services.

9 50 years? 75 years? You're kidding, right?

The infamous Chicago parking meters privatization was a 75-year deal. That's a long time and a lot could change—from where we live and work, to how much we drive and much more. Even small changes could significantly impact revenues and profits. Beware of financial projections that predict an unknowable future.

10 Have you read the contract? (The devil is always in the details.)

Contracts often have provisions that impact things we all care about—from environmental protection to neighborhood services and everything in between. Take the time and read the contract because once it's signed, it's too late to change. Ask Chicago.

Local and state governments are scrambling to fill gaping budget holes. Multinational corporations and investors offering cash and conservative politicians bent on downsizing government are pushing hard and moving fast. The promises of privatization are always oversold—cost overruns instead of cost savings, information no longer available to the public, and corners cut that impact services.

Asking the right questions is the first step to putting the common good first and avoiding decisions that we'll regret—*for 75 years*.

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