Attachment A to Item 7b
FORA Board Meeting, 4/30/20

FORA CalPERS Liability Funding Strategy

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April 27, 2020

Scoping the CalPERS Issue

- Every CalPERS member has an asset balance that will be used toward covering the liabilities associated with plan members
  - The amount the liability is greater than the funded assets is called the unfunded accrued liability ("UAL")
  - FORA has a current UAL of about $150,000 (as of 6/30/2018 valuation report)
  - Each year, CalPERS updates the the amount owed, assuming that its public agency members remain liable for future payments through the death of its former employees who retire through CalPERS
- In view of the termination of FORA as a public entity on June 30, 2020, FORA's board voted (December 2019) to terminate its contract with CalPERS on the same date
  - FORA will not be available to make additional payments to cover a shortfall in the future, so FORA must make a one-time termination payment to CalPERS after June 30
  - Calculating the unfunded termination liability so that FORA's CalPERS assets are sufficient to cover all required payments to beneficiaries, assuming investment in risk-free assets
  - Difference between termination liability and asset value is the **unfunded termination liability – the amount FORA will owe CalPERS to terminate the plan**
- CalPERS will provide the final termination payment calculations about 90 days after FORA's dissolution
  - CalPERS termination payment calculations expected in early October 2020

Estimating the Termination Liability

- CalPERS normally assumes that assets it invests to pay employee pensions earn about 7% per year when it calculates the UAL
  - This assumes that the FORA assets that CalPERS has on hand are invested in a diversified market portfolio
- When CalPERS no longer has any recourse to the former member to cover shortfalls that might develop in the future, CalPERS will take the assets for covering the future payments to FORA plan members and invest them in risk-free to minimize any risk of loss of capital
  - For purposes of calculating unfunded termination liability, CalPERS assumes investment returns equal to the 20-year Treasury yield (currently about 1%)
  - Based on most recently available plan data (6/30/2019) and current treasury rates, FORA's unfunded termination liability is estimated $10.5 million
  - **This figure is likely to increase because the stock market has declined significantly since the last calculation of FORA's UAL**

Estimated Unfunded Termination Liability Based on 6/30/2019 Plan Data*

Plan	As of	6/30/2019 Funded Ratio	Termination Liability	6/30/2019 Asset Value	Unfunded Termination Liability
Miscellaneous	6/30/2019	97.6%	$19,197,067	$9,330,700	**$9,866,367**
PEPRA Miscellaneous	6/30/2019	94.6%	$1,079,203	$436,800	**$642,403**

**Source: CalPERS; these estimates for discussion purposes only; uses plan participant data, funded status, and asset values as of 6/30/2019; assumes 1.21% discount rate for termination calculations; analysis to be updated by CalPERS after 6/30/2020*

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Why the CalPERS Problem Matters for the Proposed Bond Issue

- While CalPERS obligations are not technically a "debt", the bankruptcy courts in the San Bernardino and Stockton bankruptcies de facto treated them as debts
- In the event that the CalPERS obligation is not satisfied before FORA's termination, it is possible that CalPERS could seek recourse by legally attempting to get an allocation of FORA's pledged tax increment revenues
- Such a legal intervention by CalPERS could impair the security for the bonds
- **To sell the bonds for building removal we need to be able to represent to bond investors that the CalPERS obligation is satisfied**

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Resources Available to FORA

- FORA has set up a Section 115 Trust to fund its potential CalPERS liabilities
  - Section 115 Trust balance is irrevocably dedicated to paying future retirement costs for employees
  - FORA's Section 115 Trust currently has a balance of about $6.9 million
- Board has approved reserving $1.5 million of General Fund dollars for CalPERS termination
- Total funding available to pay the CalPERS Termination Payment is consequently **$8.4 million**
- Remaining funding gap of at least $2.1 million, though the final number will not be known until CalPERS actuaries provide the final termination payment calculations (by October 2020)

Description	Amount
Current Section 115 Trust Balance	$6.9M
Board directed General Fund Set Aside	$1.5M
Total Available to Pay Termination Payment	$8.4M
Current Estimate of Termination Payment	$10.4M
Funding Gap	**($2.1M)**

Note: Recent stock market declines due to COVID-19 will likely result in termination liability higher than $10.5M

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Suggestion for Addressing Remaining Liabilities

- Most common method by public agencies to fund their UAL is the issuance of pension obligation bonds ("POBs")
  - POB proceeds are given to the pension benefits provider (CalPERS)
- POBs are typically secured by the general revenues of the public agency issuing the POBs
  - FORA's general revenues are its statutory allocation of tax increment under its Authorizing Statute
- FORA has already committed its general revenues (tax increment) to secure bonds to be used for building remediation
- FORA's finance team believes that a portion of the proceeds of the proposed FORA bond issue could be allocated to a "POB" and used to satisfy FORA's remaining CalPERS obligation

Implementing the Suggested Strategy

- FORA can retain an actuarial consultant to estimate the required termination payment
  - This number will be an estimate, and cannot be considered final until we receive the actual final termination calculations in early October
- An amount equal to this estimate, perhaps with a "cushion" could be held back from allocation of bond proceeds
  - This amount, in conjunction with the $8.4 million in the Section 115 Trust, would be transferred to CalPERS after receipt of the final termination calculations
  - This transfer would terminate all remaining liability to CalPERS for FORA and for any of its stakeholders
- Remaining proceeds to be distributed to building removal funding recipients as has been previously decided

Item	Amount	Notes
Estimated Bond Proceeds	$35,000,000	Based on current market; no interest rate cushion
Estimated CalPERS Unfunded Termination Liability	$10,500,000	Does not reflect increases due to recent stock market declines
FORA Section 115 Trust Balance	$8,400,000	Assumes an additional $1.5M from FORA fund balance is transferred to Section 115 Trust
Estimated CalPERS Termination Shortfall	$2,100,000	($10.5 – $8.4)
Additional Cushion for Shortfall	$2,900,000	Amount TBD; current amount purely for illustrative purposes
Total Deposited to "POB" Escrow from Bond Proceeds	$5,000,000	
Net Bond Proceeds Allocated to Funding Recipients at Closing	**$30,000,000**	

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Next Steps

- Retain actuary to estimate the termination payment
- Reach consensus amongst FORA stakeholders regarding use of "POB" approach to funding the final CalPERS Termination Payment
- Issue bonds as planned
- Escrow a portion of bond proceeds for termination payment
- Send termination payment to CalPERS
- Release any unused bond proceeds after termination, allocating them to various Funding Recipients pursuant to allocation percentages

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