Attachment 2
Financial Assets-Community Facilities District Discussion

Discussion:

A major source of funding the Base Reuse Plan (BRP) is the Special Tax imposed by the FORA CFD. FORA is scheduled to sunset on June 30, 2020 and the CFD will cease to exist, along with the Special Tax. Remaining BRP infrastructure and other impact mitigation measures, estimated at $194.5 million, will not have been completed by the FORA sunset date and must be funded from other sources, unless FORA is extended. Funding sources under consideration by FORA and its Transition Plan Committee include:

- FORA Extension
- Continuation of CFD under a JPA
- Individual jurisdiction-based replacement CFDs
- Nexus based fees.

FORA Extension: If FORA is extended, the CFD will continue to fund infrastructure and other BRP measures, until the end of the extension period. It is possible that when any such extension sunsets again, there will remain unfinished considerable infrastructure and BRP measures, unless the extension is lengthy (10 + years). Under a short extension scenario, funding after FORA would remain uncertain. FORA could be extended, temporarily to aid in transition and long term, as taxing and funding agency, to preserve the CFD and to fund some of the activities assigned to other agencies. (See FORA transition issue paper.)

Continuation of CFD under JPA: It may be possible to continue the present CFD under a Joint Powers Authority, created by the individual entities with BRP obligations within their jurisdictional territories. Under this option, the decision making on taxing levels, funding allocations, and priority setting would be transferred to the JPA. This JPA would exist strictly for the purpose of funding the needed infrastructure and other BRP measures. This option would allow for the orderly transition of funding responsibilities.

Individual jurisdiction-based replacement CFDs: Each individual jurisdiction, Monterey County, Seaside, and Marina, could form CFDs within their jurisdictions and could continue to collect a Special Tax in the amounts needed to complete the BRP infrastructure. The option to create individual CFDs within Marina, Seaside, and the County raises a series of issues, including:

- Until the CFD is established, the development agreement calling for the developer to support the creation of a CFD can be amended, without input from the rest of the affected parties, unless the affected parties are also signatory to the agreement. If the replacement CFD is created prior to the dissolution of FORA, the creation documents, setting the Maximum Annual Tax and the intended uses, can also be amended, without the County having a say. This issue could be addressed by giving the County and other affected jurisdictions the right, by formal agreement, have a say in any amendment to the development agreement or the CFD formation documents.

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- Agreeing to create a CFD and agreeing to the terms of the CFD can be two different things. CFDs cannot be imposed unilaterally by a jurisdiction because the affected property owners are entitled to vote on the creation of the CFD and on the amount of the Special Tax.
- The County may not be able to create a CFD within the County. It may not have the ability to get property owners, such as East Garrison, to agree to a separate CFD.
- Coordinating priorities for the three or more CFDs would be difficult and would require some entity to prioritize the schedule and use of the funds collected.

Some of these concerns can be addressed through agreements between the interested parties.

Nexus-based fees: Instead of generating revenue through a CFD**,** jurisdictions can impose development impact fees to mitigate the impact of development. Such fees can only be imposed by following nexus-based analyses and the fee can only be imposed to address the proportionate share of the impact by each type of and use. Imposition of such fees are not subject to a vote of those affected, but the fee can be challenged by any affected party. Such fees could be imposed by individual jurisdictions, a JPA, and entity such as TAMC or the Marina Coast District. Coordination challenges, such as those described above under the individual CFD discussion. may still be encountered and the advantage of allocating costs using factors such as economic development impacts on specific land uses are not available. One further complication may be that Jurisdictions may not be able to impose new development fees on already entitled development.

<u>Possible Approach:</u>

If the BRP is to be completed, funding is imperative. Maintaining the existing CFD will continue to provide funds required for implementation of Base Reuse Plan required infrastructure. It will also provide future flexibility, should the BRP be changed in the future. Currently FORA is not using full CFD Maximum Special Tax amount. Options for extending the CFD and the Special Tax include:

- Extend FORA, as is, for a period (Kick can down the road)
- Extend FORA, for a specified period, with a gradual reduction in functions and powers. Gradually transfer FORA functions to other entities, following a plan such as the one suggested by the Transition Task Force.
- Let FORA sunset as scheduled and seek legislation to transfer CFD authority to new jurisdiction, i.e. a JPA.

Under any of these options the CFD may be able to be extended and transferred to another jurisdiction by seeking an amendment of Government Code Section 53368.1, which allows the transfer of a CFD from a County to a City (and vice versa) to authorize a transfer from any legislative body established to implement a base reuse plan to a County, City, or JPA. This should be pursued even if FORA is extended because FORA will go away, eventually. There may be other available legislative approaches to transferring the CFD to a JPA.

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Fiscal Impact

After June 30, 2020, the FORA CFD is expected to generate $72 Million from already entitled development and $55.2 million from currently unentitled development subject to the Special Tax, a total of $127.2 Million. Prior to dissolution, the CFD is expected to generate $19.2 million. The largest contributors to the CFD post 2020 are: Marina, $55,333,761 (all entitled); Seaside, $29,659,102 ($2.6 Million entitled); Monterey County, $13,980,905 (all entitled); UCMB, $7,966,189 (all unentitled); Del Rey Oaks, $20,075,070 ($20,032,700 unentitled); City of Monterey, $192,946 (all unentitled). The entitled development revenue would be most at risk, unless the individual jurisdictions are able to replace the FORA CFD with one of their own. This would require renegotiation of existing Development Agreements and cannot be done unilaterally by any of the jurisdictions.

If FORA is extended or a JPA is created and the CFD is successfully transferred to the JPA, the revenues would be protected. The FORA CFD creation documents allow CFD Special Tax funds to be used for the collection and administration of the tax.