# Primer on California's New Tax Increment Financing Tools

*Complete projects with CRIAs and EIFDs to further your economic development goals*

California Association for Local Economic Development

2017 Edition

## *Acknowledgments*

The California Association for Local Economic Development (CALED) initiated this primer because we saw a need to help California jurisdictions understand some of the basics of using Enhanced Infrastructure Financing Districts (EIFDs) and Community Revitalization Investment Areas (CRIAs) in order to meet some of their economic development goals. Completion of this primer could not have been possible without the contributions of CALED's Technical Tax Increment Financing Committee and the leadership of Co-Chairs Aaron Laurel and James Hamill.

Additionally, appreciation is extended to Gurbax Sahota, CALED President & CEO for coordinating this project and to Helen Schaubmayer, CALED Project Manager for assistance in editing. We are also grateful for the financial support provided by the California Enterprise Development Authority. This primer is the result of the combined effort of many individuals, and we appreciate all of their contributions.

## About CALED

**CALED is the premier statewide professional economic development organization dedicated to advancing its members' ability to achieve excellence in delivering economic development services to their communities and business clients.**

*Economic development is the creation of wealth in which community benefits are realized. It is more than a jobs program, it's an investment in growing your economy and enhancing the quality of life for all residents.*

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# Executive Summary

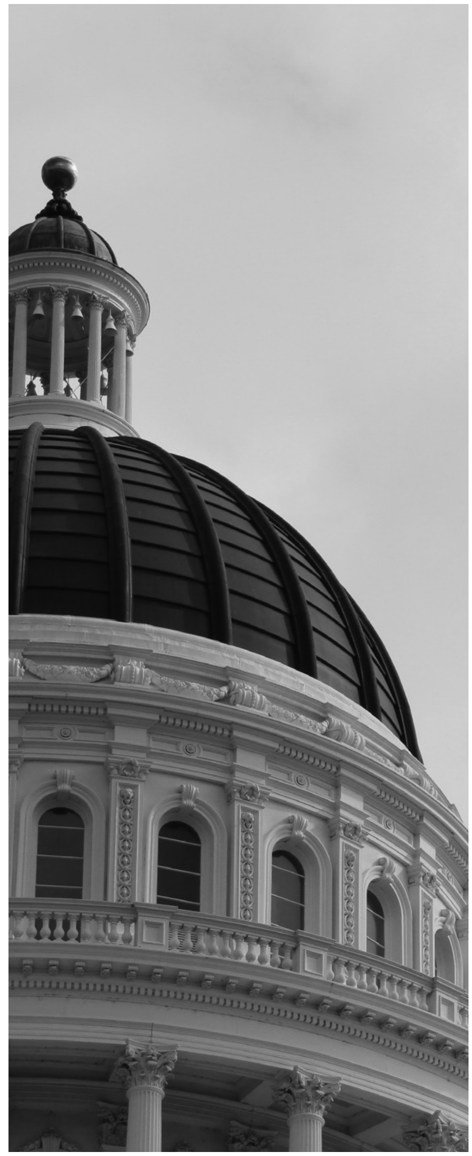
***In 2011, concerns over the State's budgetary obligation to backfill diverted property tax funds for local school districts led to the dissolution of Redevelopment Agencies.***

As a result, cities and counties were left without a means of utilizing tax increment financing, an essential economic development tool. Through its use under Redevelopment, tax increment financing was critical to building infrastructure, revitalizing communities, growing jobs, and aiding the development of affordable housing.

In the aftermath of Redevelopment, new forms of tax increment financing have emerged to give local jurisdictions options to finance infrastructure and economic development projects. Of these new tools, Enhanced Infrastructure Financing Districts (EIFDs) and Community Revitalization and Investment Authorities (CRIAs) authorize the broadest uses of tax increment financing allowed in California since Redevelopment. However, EIFDs and CRIAs are more limited than their Redevelopment Agency predecessors. Effective use of these tools will require integrated and innovative financing approaches and cooperation among local government agencies.

The California Association for Local Economic Development (CALED) has created a technical committee on tax increment financing comprised of expert practitioners, attorneys, and consultants to share knowledge and resources to help communities leverage these new tools.

This primer was authored by committee members to give local governments and economic development organizations a practical guide to EIFDs and CRIAs to assist in the deployment of these new tools. This first edition of the primer is based on current State law applicable to EIFDs, CRIAs, and other available forms of tax increment financing. CALED will issue periodic updates to the primer to reflect any new legislation affecting these tools or to highlight innovative uses of EIFDs and CRIAs in practice throughout California.



# CHAPTER I
# Introduction to Tax Increment Financing (TIF)

## *Property Tax Basics*

The California Constitution defines how property is taxed in the state and is primarily based upon the 1978 voter initiative Proposition 13, or "Prop 13" as it's commonly called. In broad terms, the county assessor determines the value of real property, and taxes are levied annually upon that property at a rate equal to 1% of its value.

**Example of How Property is Taxed:**

| | |
|---|---|
| *Assessed Value:* | *$1,000,000* |
| *General Tax Levy:* | *1%* |
| *Tax Revenue Generated:* | *$10,000* |

For most communities, property tax revenues are largely generated by secured properties, with some value coming from unsecured properties. Secured property includes land and structures, and unsecured property can include machinery, equipment, aircraft, and boats.

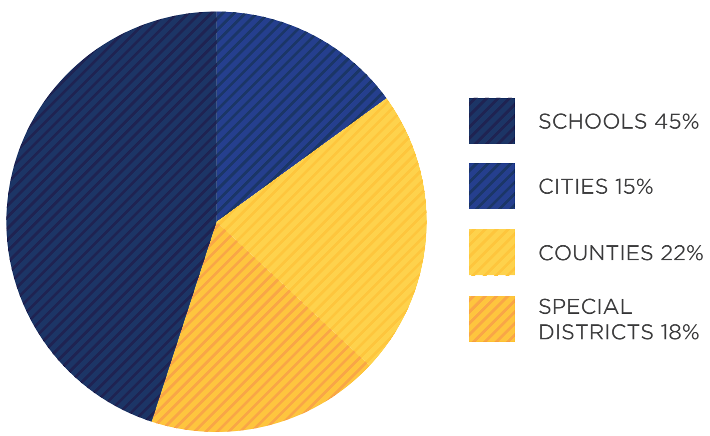
The county assessor[1] sets the initial value of a property when it is purchased or constructed. When a property is purchased, the initial assessed value is typically equal to the acquisition price, also known as the market value. Each year following acquisition, the assessed value of the property can increase up to a maximum of 2% per year, pursuant to Prop 13. Thus, if a property is held for a long period of time, its assessed value may be well below market value, if market values increase at a faster rate. This 2% inflationary limitation means that the largest increases in assessed value come from (a) new development that triggers reassessment, or (b) property sale when the property is reassessed to the current market value.

The annual inflationary rate for property is determined by the State Board of Equalization, based on changes to the consumer price index. In most years, the consumer price index increases by more than 2%, so the maximum 2% inflationary rate is applied to the assessed value of a secured property. The rate can be lower, or even negative, as was the case during the recession years.

## *Property Tax Allocation*

Property tax revenues are allocated under a formula rooted in Assembly Bill 8 (1979) that followed the passage of Prop 13. Under AB 8, the county auditor controller sets the property tax general levy shares for each taxing agency, each year, based on the statutory formula (AB 8 Share). Property taxes generated by the 1% general levy are collected by the county's tax collector, and then allocated to taxing entities according to their AB 8 shares.

Shares tend to remain relatively consistent from year to year. A typical allocation of funding among taxing agencies in California looks something like the graphic below, but varies from place to place. Most notably, cities that incorporated after the passage of Prop 13 tend to have a smaller share of the general levy compared to older cities.




**Example of Property Tax Allocation:**

| | |
|---|---|
| *Property Tax Generated:* | *$10,000* |
| *Schools Receive 45%* | *$4,500* |
| *County Receives 22%* | *$2,200* |
| *Special Districts Receive 18%* | *$1,800* |
| *City Receives 15%* | *$1,500* |

[1] *With some limited exceptions, primarily utility and railway values that are determined by the state Board of Equalization.*

# CHAPTER I Introduction to Tax Increment Financing (TIF)

## *Roots of Tax Increment*

Stretching back to the New Deal programs that infused federal funding into infrastructure and redevelopment projects, cities have looked for ways to ameliorate blight in deteriorating neighborhoods using resources not otherwise available to them. The idea behind tax increment financing blossomed in California in the 1950s, when the federal government was offering substantial urban renewal grants to communities that could come up with matching funds. Several California local governments decided to sell bonds secured by the future tax revenues they thought would result from the federal investment, and the idea worked.

However, by the 1970s, following a backlash against poor execution of many urban renewal projects, the federal government largely abandoned local redevelopment investment, leaving cities in a lonely struggle to fund roads and services while fending off the impacts of poverty, crime, and building deterioration in aging communities. Many cities and counties reacted – in part - by increasing property taxes to fund services, a practice that led to Prop 13. With the restructured property tax system and lack of state and federal support, California local governments retooled, and tax increment financing became more and more common in the 1980s and 1990s through the formation of redevelopment agencies.

## *How Tax Increment is Generated*

Tax increment is property tax revenue generated above an established "base year" value. This means that for increment to be available, assessed values must increase over the base year value.

**Example**

| | |
|---|---|
| *Base Year Assessed Value:* | *$1,000,000* |
| *Assumed Inflationary Increase Following Year:* | *2%* |
| *First Year After Base Year Assessed Value:* | *$1,020,000* |
| *Incremental Value (Current Year Less Base Year):* | *$20,000* |
| *General Levy* | *1%* |
| *Incremental Revenue Generated* | *$200* |

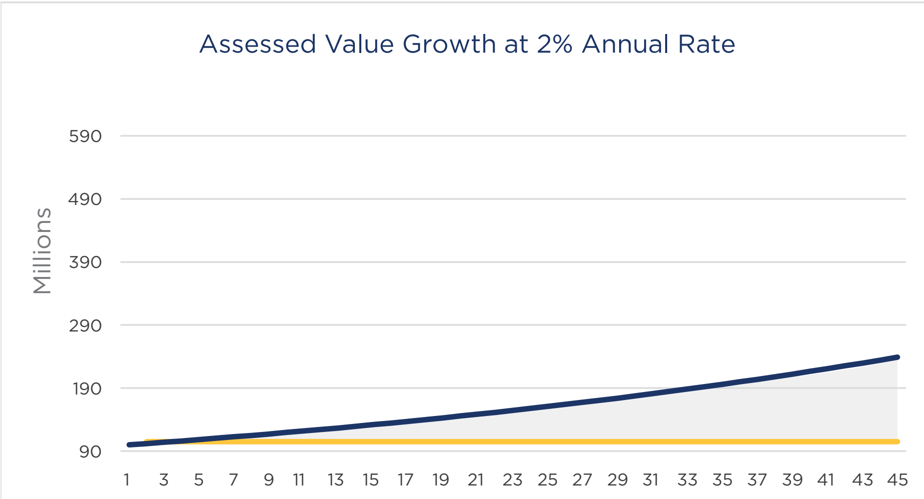
The founding principal from the 1950s-era federal investment program is that if money is infused into a specific area, this will cause assessed values to increase more rapidly through development and property sales, which triggers a reassessment of their value and generates more money. The following outlines an example of how this works:

- An older, run-down commercial area has poor drainage, roads are in disrepair, and businesses have left. As no one wants to occupy the properties, the value of the land is depressed and buildings suffer from lack of upkeep.
- The local government invests a large sum of capital to upgrade the road and install storm water drains to prevent flooding, making the area more attractive to users.
- Developers and other private sector interests begin to invest in the area through improvements to existing buildings and new construction, businesses start to locate there again, and property values go up.
- Improved buildings can now charge higher rents, incenting neighboring property owners to fix their buildings as well, until the area that once was vacant and run down is now on par (or better) than other nearby areas.
- The value of the properties continue to increase, generating more property tax revenue.

## *What Does Tax Increment Look Like Over Time?*

The two examples shown on the next page is an illustration of what tax increment might look like over 45 years in an area with a base year assessed value of $100 million.

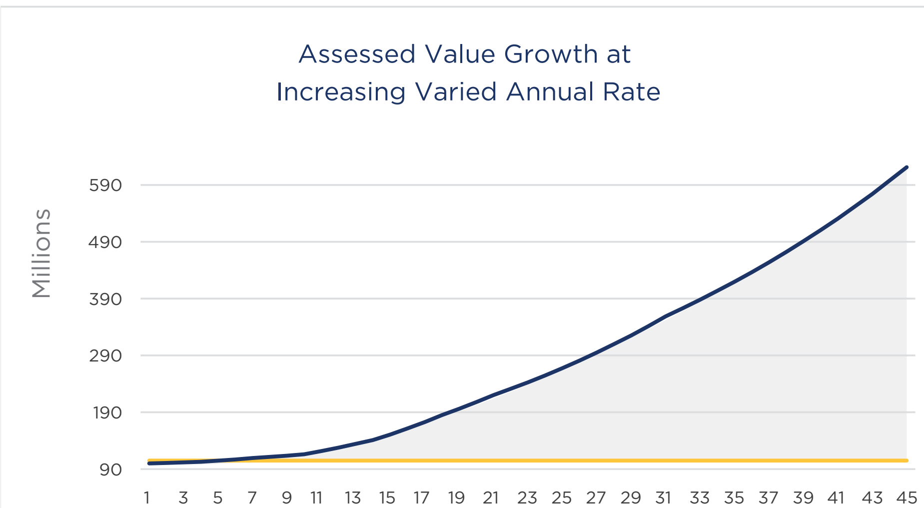
- In the first example, the assessed values grow by 2% each year. This results in $25 million of tax increment revenue over 45 years.
- In the second example, the area is assumed to have new development fostered by public investment, e.g. installation of a new road and storm drains. In this case, a faster rate of assessed value growth was projected, generating $80 million in tax increment revenue over the 45 years.




**Base Year Value:**
$100,000,000

**Assessed Value Growth:**
2% Per Year

**Total Tax Increment Revenue in 45 Years:**
$25 Million




**Base Year Value:**
$100,000,000

**Assessed Value Growth:**
Varied, with New Growth

**Total Tax Increment Revenue in 45 Years:**
$80 Million

## *New Tax Increment Financing Options in California*

Since 1990, California's Government Code has included provisions for the creation of infrastructure finance districts (IFDs). Like redevelopment agencies, IFDs are funded by tax increment. While the formation of an IFD did not require blight findings, voter approval was needed to form the district and to issue bonds. IFDs could not collect increment from school districts.

Because redevelopment agencies had greater ability to leverage funds and did not need voter approval to form or issue bonds, only two IFDs were ever created.

However, following redevelopment dissolution, communities and the legislature began looking at IFDs again as a way to leverage tax increment funds and invest in areas of need. A 2012 bill, Senate Bill 214 (Wolk), brought IFDs back into the spotlight by removing voter approval for formation, and expanding the types of projects an IFD could fund. These changes led to new legislation authorizing the creation of Enhanced Infrastructure Finance Districts (EIFDs) and Community Revitalization and Investment Areas (CRIAs).

A number of parallels to redevelopment law and the original IFD law are imbedded in EIFDs and CRIAs, and the remainder of this document is dedicated to describing these tools.

# CHAPTER 2
# Enhanced Infrastructure Financing Districts (EIFDs)

A number of different types of infrastructure districts have recently been approved by the California Legislature, the most prominent of which was the creation of "Enhanced Infrastructure Financing Districts" (EIFDs), authorized by State legislation enacted in 2014 (Senate Bill 628). The statutory framework for EIFDs is found in Government Code §53398.50, *et seq*

## *Overview*

### Eligible Projects

**Traditional Uses:**
EIFDs are empowered to provide financing for a broad range of infrastructure work, including traditional public works such as:

- roads and highways
- bridges
- parking facilities
- transit stations
- sewage and water facilities
- solid waste disposal
- port and harbor projects
- parks
- libraries
- child care facilities
- flood control and drainage projects

**Other Uses:**
EIFDs may also finance a broader range of public uses for economic development purposes, including but not limited to:

- brownfield restoration and environmental mitigation
- military base reuse projects
- affordable housing
- private industrial buildings
- transit oriented development projects
- projects carrying out sustainable communities strategies
- finance the remediation of contaminated property through the Polanco Redevelopment Act

Other capital projects with a useful life of at least 15 years are also eligible. The financed projects do not need to be located within the EIFD boundaries, but must have a "tangible connection" to the district.

**Eligible Costs:**
Costs eligible for EIFD financing include construction, acquisition and rehabilitation costs, as well as planning and design expenses. An EIFD cannot pay for maintenance, routine repairs or operations, however. An EIFD cannot acquire or sell property itself, and cannot use eminent domain, but it can finance acquisition of property by others.

## *Tax Increment and EIFDs*

Unlike redevelopment agencies EIFDs are only able to collect property tax increment from cities, counties and special districts that voluntarily agree to contribute those funds, and cannot collect tax increment from K-12 school districts, community college districts and county offices of education. Cities, counties and special districts, which are generally allocated close to half of the property tax of an area, may agree to contribute all or part of their tax increment to the EIFD. The potential tax increment that can be generated for an EIFD is substantial, but it is expected that EIFDs may generate far less than the maximum allowable amount, unless all taxing entities participate.

## *Formation*

### Forming an EIFD

There are three main steps to get started:

1. **Initial Meeting:** An initial meeting where the sponsoring agency (County Board of Supervisors or City Council) adopts a Resolution of Intention to begin the process, and forms a Public Financing Authority (PFA) to govern the EIFD process. Copies of the notice are sent to district landowners and the other taxing agencies.

2. **Infrastructure Financing Plan:** An Infrastructure Financing Plan (IFP) is then prepared by the PFA and sent to district landowners and the other taxing agencies for review. The IFP is the heart of the EIFD formation process, serving as a detailed business plan for carrying out the work of the district.

3. **Public Hearing:** The PFA then holds a noticed public hearing where the Infrastructure Financing Plan is adopted and the EIFD is created. If there are other participating agencies, each member agency must pass its own resolution of approval. No public vote is necessary to create the EIFD. An EIFD can be established without finding that the area of the infrastructure district is blighted or urbanized, as was required for the adoption of redevelopment projects.

**Structure of the PFA:**
The EIFD law requires public participation in the governance of an EIFD, mandating that the board of the PFA include at least two public members in addition to members of the legislative bodies of the public agencies that form the district. If the EIFD is formed by a single public agency, three members of the PFA board must be legislative members of the sponsoring agency (i.e., city council or county supervisors). If there is more than one sponsoring agency, a majority of the PFA board will be comprised of legislative members of the sponsoring agency.

The EIFD is a separate legal entity. This separate structure insulates the sponsoring agencies from liability for contracts and bonds of the EIFD, because a debt of the district is not a general obligation of the city, county or special district participating in the EIFD.

**Preparing an Infrastructure Financing Plan for an EIFD:**
After the adoption of a resolution of intention to establish an EIFD, the next major step in the formation process is preparing an IFP. The IFP is the core governing document of the district and includes the following elements:

- the list of facilities to be funded by the EIFD
- the tax revenues to be allocated to the EIFD
- a cap on the portion of tax increment to be allocated to the EIFD
- a cap on the total dollar amount of taxes to be dedicated to the EIFD
- the anticipated fiscal impacts to participating taxing agencies

## Contents of the IFP

An overriding requirement of the IFP is that it be consistent with the general plan of the governing city or county. The required contents of the IFP are provided in Government Code Section 53398.63 and consist of the following:

1. **A map and legal description of the proposed district.** The properties within the proposed district may include non-contiguous properties and may include all or only a portion of the district properties designated in the resolution of intention.

2. **A description of the public facilities and other forms of development or financial assistance that are proposed in the area of the district.** The district will only be permitted to fund improvements that are listed in the IFP, so it is important to identify all improvements that the district may potentially want to finance with EIFD revenues. The EIFD statute requires a more detailed description of facilities to be funded with tax increment revenues than were generally provided in redevelopment plans. The EIFD statute requires that the description include the proposed location, timing, and cost of the facilities, development and financial assistance. The code also requires that all facilities, development and financial assistance that are being provided in the area of the district be described, including:

    a. facilities to be provided by the private sector;
    b. facilities to be provided by governmental agencies without EIFD funding;
    c. facilities to be financed with EIFD revenues; and
    d. facilities to be provided jointly (by private sector and governmental agencies).

A good approach to addressing these requirements is to include both a narrative description and a matrix chart in the IFP that lists each facility, development and financial assistance, its cost, schedule and location, and then identifies the mix of funding sources. The IFP is not required to quantify the mix of funding sources to be used to finance each public facility, just the cost of the improvement and the conceptual mix of funding sources.

3. **If funding from affected taxing entities is incorporated into the financing plan, a finding must be made that the development and financial assistance are of communitywide significance and provide significant benefits to an area larger than the area of the district.** The EIFD statute does not define "communitywide significance" or how to measure "significant benefits." IFPs have included a narrative description of the benefits that will accrue to the broader community to be created by the development in the district and the proposed facilities to be funded by the EIFD.

4. **A financing section, which shall contain all of the following information:**

    a. **Maximum commitment of tax increment.** The plan must specify the maximum portion of the incremental tax revenue of the city/county and each affected taxing entity proposes to commit to the district for each year during which the district will receive incremental tax revenue. This is a policy decision of each participating taxing agency that may be informed by the findings of the fiscal impact analysis and/or other considerations. It is advantageous to the district for the maximum percentage to be established at 100%, but it can be less than 100%. The IFP can also specify a different maximum for each year of the EIFD, and each taxing agency can prescribe its own schedule of annual maximum portions. The maximum portion that is stated in the IFP represents a cap on the portion that may be deposited in any given year, but does not represent an obligatory contribution. As part of its annual budget-setting process, the city/county and any participating taxing agencies may decide in any given year to deposit a portion that is less than the maximum (unless the district has issued bonds whose repayment is secured by a specific deposit of property tax increment to the district).

    b. **A projection of tax revenues to be received by the district on an annual basis over the term of the EIFD.** The IFP is required to provide an annual projection of the tax increment as well as any other public tax revenues to be deposited into the district. Examples of other tax revenues include property taxes in-lieu of motor vehicle license fees (VLF revenue), Community Facilities District (CFD) taxes, net available revenue from the city's Redevelopment Property Tax Trust Fund, assessment district funds, etc. This projection is typically based on the anticipated schedule of growth of assessed property values within the district, which is also typically included in the IFP. This projection reflects the anticipated schedule and growth of assessed value in the district but does not limit the actual dollar amount of revenues to be received by the district.

    c. **A plan for financing public facilities, including a detailed description of any intention to issue debt.** The IFP must include a description of the anticipated financing plan. Typically, the IFP indicates that the district intends to use multiple funding sources, including, for example, pay-as-you-go annual deposits into the EIFD, developer advances, VLF revenues, CFD bond proceeds, and/or California Infrastructure Bank loans to be repaid from EIFD revenues. The IFP should identify the specific sources of tax revenue intended to be deposited into the district and include a level of detail that is responsive to the specific needs of the situation and the adopting jurisdiction. The EIFD statute does not require the IFP to estimate the magnitude of bonds to be issued or include a "sources and uses of funds" statement that quantifies the various sources of revenue.

    d. **A limit on the total number of dollars of taxes that may be allocated to the district pursuant to the plan.** The IFP must contain a cap on the aggregate amount of nominal tax dollars to be allocated to the district over the term of the district. The cap will apply to the sum of property tax increment, VLF, and any other tax revenues to be deposited into the district. This cap will govern the district over the 45-year term and can be modified only through a formal amendment process. Accordingly, it is prudent for the cap to be based on a conservative schedule for securing approval to issue bonds and somewhat aggressive, but realistic assumptions regarding the magnitude, schedule and assessed value of new development within the district, the turnover rate of properties, and the annual growth rate of property values.

e. **A date on which the district will cease to exist.** Typically, the approval to issue bonds will be secured after the district is formed on a date that is not known at the time of formation. To maximize the term of the EIFD's existence, the general recommendation is that the IFP state that the EIFD will terminate 45 years from the date on which the issuance of bonds or loan is approved.

f. **Analysis of the fiscal impacts to the city/county.** The IFP must include an analysis of the cost to the city/county to provide facilities and services as well tax and fee revenues to be received by the city/county from the development anticipated within the district. The analysis is to address impacts during both the construction and post-completion periods. The analysis should estimate the impacts assuming the requested diversion of tax revenue from the city/county to the EIFD. Given that the analysis must address impacts during construction as well as after development is complete, it is helpful for the fiscal impact analysis to provide a cash flow projection of anticipated fiscal revenues and expenses during construction and over the anticipated 45-year term of the EIFD. The fiscal analysis can be provided as an attachment to the IFP, with the findings referenced in the main body of the IFP.

g. **Analysis of the fiscal impacts to other taxing agencies.** In the event that more than one taxing agency agrees to participate (i.e. contribute incremental property tax dollars to the district), the IFP shall include an analysis of the fiscal impacts on those participating agencies. The fiscal analysis should evaluate the net impacts to each agency net of revenues to be dedicated to the district over the anticipated 45-year term of the district.

h. **Financing plan for costs incurred from reimbursing a developer of a Transit Priority Project Program.** The financing plan shall address permit and affordable housing expenses related to the project.

5. **Replacement housing plan.** If any occupied dwelling units are proposed to be removed or destroyed in the course of private development or public works construction within the district, then the IFP shall include a plan for replacing the units and relocating displaced occupants.

6. **The district's goals to be achieved for each public facility and project to be financed by the district.** The IFP shall describe the goals that the district anticipates it will achieve by funding the public facilities and projects that are identified in the IFP.

## *Financing*

### Financing EIFDs – Raising the Capital

One of the keys in the EIFD financing model is the bundling of revenues. While the tax increment revenue component will most likely provide the largest piece of the revenues, it by itself is just a piece of the puzzle.

The largest revenue source likely generated is the tax increment collected from within the boundaries of the EIFD. The level of tax increment collected for the EIFD is set as of the base year and the base year is established at the time the ordinance is adopted establishing the EIFD. Depending on how the IFP is structured, the amount of tax increment collected may vary over time and may be collected in different amounts from the consenting taxing entities.

In addition to tax increment, a related revenue source may include property tax revenue received from the state to backfill local revenue losses following the 2004 reduction in the state vehicle licensing fee (property tax in lieu of VLF revenue).

Following the vehicle licensing fees component, the next level of revenues may come from assessments and Mello-Roos special taxes. An EIFD is authorized to use revenues from any of the following sources:

- Improvement Act of 1911
- Municipal Improvement Act of 1913
- The Improvement Bond Act of 1915
- The Landscape and Lighting Act of 1972
- The Vehicle and Parking District Law of 1943
- The Parking District Law of 1951
- The Park and Playground Act of 1909
- The Mello-Roos Community Facilities Act of 1982
- The Benefit Assessment Act of 1982
- Facilities Benefit Assessments levied by city or any similar assessment levied by a charter city

For purposes of levying the above-mentioned assessments and Mello-Roos taxes, it seems reasonable that both these categories of revenues may be levied by the EIFD as opposed to relying on the authority of a city, county or other special district. Because the EIFD is a legally constituted governmental entity whose sole purpose as a district is to finance public facilities, it may be interpreted that, as a district, the EIFD has the authority to levy special taxes and assessments as appropriate.

### Assembling Revenues for Financing

Leveraging an EIFD's revenues may take several forms. The various types of obligations an EIFD may pursue include the following:

A. **Bonds.** In order to issue bonds, the PFA must first initiate proceedings by a majority vote of its board. The PFA will then submit the proposal to issue bonds to the qualified electors of the EIFD at the next general election or at a special election. Qualified electors may either be the landowners of property within the EIFD boundaries (If there are less than 12 registered voters within the EIFD boundaries within the previous 90 day period) or the registered voters living within the EIFD boundaries.

Similar to the Mello-Roos election process, a special election may be held at least 90 days but not more than 180 days following the PFA's adoption of the resolution of bond issuance. If the qualified electors are the landowners, then it is possible for many of the election formalities to be dispensed with by the unanimous waiver of the landowner electors. The bonds may be issued if at least 55% of the qualified electors vote in favor of the measure.

Once the issuance of bonds is approved, the term of the EIFD is capped at 45 years from the date of approval.

B. **Loans.** Government Code section 53398.87 authorizes a city, county, or special district that contains territory within the boundaries of the EIFD to loan money to the EIFD for purposes of funding authorized activities. Money loaned pursuant to this provision must not exceed the Local Agency Investment Fund (LAIF) rate in effect at the time the loan is approved by the lending agency.

As with the approval of the issuance of bonds, the approval of a loan by the lending agency sets in motion the 45 year term of the EIFD.

C. **Other Financing Instruments.** The statutes governing EIFDs state that the sole purpose of an EIFD is to finance improvements. Furthermore, one of the elements to be included in the IFP is a detailed description of the EIFD's plan to incur debt. Debt is defined to mean any binding obligation to repay a sum of money, including obligations in the form of bonds, certificates of participation, long-term leases, and loans.

Accordingly, while subject to interpretation, it may be implied from these provisions that, in addition to the bonds and loans discussed above, an EIFD may enter into contractual arrangements with lenders and repay these obligations by tax increment revenues. These arrangements may take the form of notes or other types of debt instruments.

## *Other Considerations*

### EIFDs and Redevelopment Agencies

Since the EIFD legislation was formed in the wake of redevelopment dissolution, there is a great emphasis on ensuring that existing redevelopment issues are resolved before going on to an EIFD. EIFDs may overlap the boundaries of former redevelopment projects, but an EIFD cannot be formed until the State issues a finding of completion for the redevelopment project. No former redevelopment agency assets involved in litigation with the State may be used in the EIFD until the litigation is resolved and any debt or obligation of the district shall be subordinate to all enforceable obligations of the former redevelopment agency.

One significant positive provision for cities/counties with former redevelopment project areas is that the city/county forming the district may choose to dedicate to the EIFD any portion of distributions from the Redevelopment Property Tax Trust Fund (RPTTF) that are available to the city/county after all preexisting legal commitments and statutory obligations. These RPTTF monies can provide much needed "seed" money to finance infrastructure improvements until new development occurs within the EIFD and generates tax increment.

## Affordable Housing

There is no low- or moderate income housing requirement for EIFDs, but EIFDs may finance affordable and mixed income housing projects, including transit oriented development and infill housing. Long-term affordability covenants (55 years for rental housing and 45 years for ownership housing) are required for housing financed by EIFDs.

## CEQA

The EIFD legislation does not specify how to comply with the California Environmental Quality Act in the formation and implementation of districts. Proposed EIFDs with detailed infrastructure plans may require environmental impact reports.

## Open Government Laws

Government transparency requirements, including the Brown Act open meeting law, Public Records Act, and Political Reform Act, apply to EIFDs.

## Constitutional Debt Limit

The constitutional debt limit prohibits a city, county, school district or board of education from incurring indebtedness beyond that public agency's ability to repay the obligation from revenues received in the same fiscal year in which the obligation is incurred (Article XVI, section 18 of the California Constitution). While the EIFD does not fall under the umbrella of the constitutional debt limit, the promise of a city or a county to pay its tax increment revenues to an EIFD over multiple years may be interpreted as a debt, because the city or county would be incurring a liability in excess of its revenues for the current year. It is this city/county obligation which may be subject to the constitutional debt limit. There are several opinions on how to deal with this issue. Some parties believe the issue may be resolved as part of a validation proceeding while others believe a re-characterization of the payment of tax revenues to the EIFD would present a possible solution.

CHAPTER 3
# Community Revitalization and Investment Authorities

***Legislation adopted in 2015 (AB 2, as amended by AB 2492 in 2016), often referred to as "Redevelopment 2.0", authorizes the formation of Community Revitalization and Investment Authorities (CRIAs).***

CRIAs provide new opportunities for the use of tax increment financing to address local governments' economic development needs. Although the CRIA legislation draws heavily from the California Community Redevelopment Law, it also imposes additional limitations on CRIAs due to the perception that redevelopment agencies lacked transparency and accountability. This chapter provides an overview of CRIAs.

## *Formation*

Section 62001(a) explains that a CRIA is a separate political body, and it is an "agency" as that term is used in Article XVI, section 16 of the California Constitution for the purposes of receiving tax revenue. To use this new authority, a separate public body (the CRIA) is formed, and then the CRIA's governing board adopts a "community revitalization and investment plan" (Revitalization Plan) for a designated "community revitalization and investment area" (Revitalization Area) as described below.

### Two Types of CRIAs

The legislation authorizes the creation of two types of CRIAs.

1. The first type is a single member CRIA consisting only of the city or county that sponsors the CRIA. The CRIA is adopted by resolution of the city council (or board of supervisors). The sponsoring community's legislative body also appoints the governing body of a single member CRIA, which must consist of three members of the sponsoring community's legislative body and two members of the public who live or work within the Revitalization Area.

2. In the second type, one or more local governments can join with one or more taxing entities to create a joint powers authority to function as a multi-entity CRIA. All taxing entities in a particular jurisdiction, except school and community college districts and redevelopment successor agencies, can participate in CRIAs.

   A majority of the members of a multi-entity CRIA must be members of the legislative bodies of the public entities that created the CRIA and include at least two members of the public who live or work within the Revitalization Area, appointed by the other board members.

There is no clear advantage to selecting one type of CRIA over the other, except that other affected taxing entities might be more likely to pledge tax increment funds and commit long-term to a CRIA that provides the taxing entities a role in its governance.

A community that previously sponsored a redevelopment agency cannot create a CRIA unless the successor agency to the former redevelopment agency first makes the following findings:

- It has received a finding of completion from the California Department of Finance.
- No former redevelopment agency assets that are the subject of litigation with the state can be used to benefit the efforts of the CRIA unless otherwise permitted by the final judgment of a court.
- It has complied with all orders of the State Controller, if any, relating to the return of former redevelopment agency assets that had been transferred to other public agencies by the former redevelopment agency after January 1, 2011.

### Revitalization Areas

Unlike redevelopment project areas, property included in a Revitalization Area need not be blighted. Rather, Revitalization Areas must meet the following specific statutory requirements.

At least 80% of the property located within the Revitalization Area must be characterized by:

- An annual median household income that is less than 80% of any of the following metrics (at the option of the CRIA): statewide, countywide or citywide annual median income

**and**

- Three of four of the following conditions:
  - An unemployment rate 3% higher than the statewide average annual unemployment rate
  - Crime rates 5% higher than the statewide average crime rate for violent or property crime offenses

- Deteriorated or inadequate infrastructure, including streets, sidewalks, water supply, sewer treatment and processing, and parks
- Deteriorated commercial or residential structures

Alternatively, a Revitalization Area may be established in either of the following:

- A former military base with largely deteriorated or inadequate infrastructure and structures
- A Disadvantaged Community, as defined by the State Environmental Protection Agency for investment of the Greenhouse Gas Reduction Fund ("cap and trade") auction funds

Revitalization Areas can include areas located in a former redevelopment project area if the successor agency makes the findings set forth above, and the Revitalization Plan acknowledges that the tax increment amounts payable to a CRIA from the former redevelopment project area properties are subject and subordinate to any pre-existing successor agency enforceable obligations.

## Revitalization Plans

After its creation and prior to conducting any activities, a CRIA must adopt a Revitalization Plan identifying the specific activities it will carry out and finance. Each Revitalization Plan must include:

- A statement of the principal goals and objectives of the plan
- A description of the deteriorated or inadequate infrastructure in the Revitalization Area and a program for construction of adequate infrastructure
- A detailed affordable housing program
- A program to remedy or remove hazardous materials, if any
- A program to provide funding or to facilitate economic revitalization
- A fiscal analysis with projected revenue and expenses over a 5-year planning horizon, including the potential to issue bonds
- A provision for tax increment financing if the CRIA so elects
- Time limits that cannot exceed:
  - 30-year time limit on establishing debt
  - 45-year time limit for plan effectiveness, repayment of debt and receipt of tax increment
  - 12-year time limit for acquiring property by eminent domain
- A description of how the proposed Revitalization Area meets the requirements set forth above
- A prohibition on the reduction of the total number of housing units occupied by low income households, accounting for bedroom size, in the Revitalization Area during the life of the plan
- A requirement to replace any low and moderate income housing units within two years of their destruction or removal

Care must be taken in preparing the Revitalization Plan as the CRIA is prohibited from spending funds on any purposes that are not identified in the plan.

## Adoption Process

The CRIA legislation provides specific processes and procedures that a CRIA must consider in adopting the plan, including a public meeting, three public hearings held at least 30 days apart, a protest process, and if a certain protest threshold is met, an election is required to approve the plan.

The draft Revitalization Plan must be provided to the public and each property owner within the proposed Revitalization Area at a meeting held at least 30 days prior to giving notice of the first public hearing. The purposes of the meeting are to present the plan, answer questions, and consider comments from the public. The public meeting must be noticed by posting on the CRIA's website and by mail to each landowner and resident within the proposed Revitalization Area.

- At the first public hearing, the CRIA's board will consider comments but take no action. The first public hearing is noticed by posting on the CRIA's website, by mail to each landowner and resident within the proposed Revitalization Area, and by publication in the newspaper for not less than once a week for four successive weeks prior to the first public hearing.
- At the second public hearing, the CRIA's board will consider additional comments and may take action to modify or reject the proposed plan. The second public hearing is noticed by posting on the CRIA's website, by mail to each landowner and resident within the proposed Revitalization Area, and by publication in the newspaper at least 10 days prior to the second public hearing. This notice shall include summaries of any changes made to the plan after the first public hearing and indicate where the public can review the plan prior to the hearing.

- If the plan is not rejected at the second public hearing, then at the third public hearing the CRIA's board will consider all comments, conduct a protest proceeding and may then choose to either terminate the plan, refer the plan to an election or adopt the plan. The third public hearing is noticed by posting on the CRIA's website, by mail to each landowner and resident within the proposed Revitalization Area, and by publication in the newspaper at least 10 days prior to the third public hearing. This notice must include a copy of the final plan for consideration and the right to protest. Although one consolidated notice for the public meeting and all three public hearings may be possible if no changes are made to the plan, communities considering a CRIA should be prepared to incur the cost of providing all four of these notices (including separate mailings) and a possible election

During the protest hearing at the third meeting, if more than 50% of combined property owners and residents protest, the plan establishment proceedings terminate. If between 25% and 50% of combined property owners and residents protest, an election (which may be conducted by mail-in ballot) is to be held within 90 days of the third public hearing. If the majority of the combined property owners and residents vote against the plan at the election, the proposed plan is terminated and the CRIA cannot consider a new plan for at least one year. If fewer than 25% of combined property owners and residents protest, the plan can be adopted by ordinance, subject to referendum.

In all likelihood, an Environmental Impact Report will also need to be prepared and processed along with adoption of the Revitalization Plan.

### Powers

CRIAs are authorized to use tax increment revenue to improve infrastructure, assist businesses, and support affordable housing in disadvantaged communities. CRIAs generally have the following powers:

- Adopt a Revitalization Plan
- Provide funding to rehabilitate, repair, upgrade or construct infrastructure
- Provide for low and moderate income housing
- Undertake brownfield cleanup using Polanco Redevelopment Act authority
- Provide for seismic retrofits of existing buildings
- Acquire and transfer real property
- Issue bonds
- Borrow and accept funds or assistance from the local, state or federal government agencies
- Borrow and accept funds or assistance from private entities
- Qualify for funding as a disadvantaged community pursuant to Water Code §79505.5 or under Govt. Code §56033.5
- Enter into an agreement with a qualified community development entity to coordinate investments of funds derived from the New Markets Tax Credits
- Fund owner or tenant improvement loans and grants
- Fund the construction of foundations, platforms or similar structures for provision of air right sites for use as residential, commercial, industrial or other uses contemplated in the Revitalization Plan
- Provide direct assistance to businesses for industrial and manufacturing uses, subject to certain limitations described in Section 5.6 below

In order for a CRIA to exercise its power to acquire property through eminent domain, the subject property may not be condemned for a continuation of its present use. Additionally, if eminent domain is not commenced within three years of adoption of the Revitalization Plan, a property owner may offer to sell the property to the CRIA at fair market value. If so, the CRIA must either purchase the property or commence eminent domain for the property within 18 months of the offer, otherwise the property owner may bring an inverse condemnation action.

## *Financing*

CRIAs are funded with tax increment generated from the increase in property taxes that occurs after adoption of the formation ordinance and which are allocable from to the sponsoring community and each participating taxing entity.

## Tax Increment, Loans & Bonds

**Tax Increment:**
In order to enable the receipt of tax increment revenues by a CRIA, a participating taxing entity must adopt a resolution directing the county auditor-controller to allocate some or all its share of the tax increment funds from properties located within a Revitalization Area. Other taxing entities may also choose to participate in the CRIA by dedicating a percentage of their tax increment funds to the CRIA. Such participation can be without restriction or may be limited in scope and purpose as a participating entity sees fit. Similar in nature to pre-SB 211 negotiated pass through agreements, participating taxing entities may set a time limit to pledges of their shares of tax increment to a CRIA and they may also restrict the use of such funds to specific purposes or programs in the agreement. Prior to adopting such a tax sharing resolution, the participating taxing entity and the CRIA's governing board must agree in writing to limit the amount of administrative and overhead expenses to be paid with tax increment funds. A taxing entity that chooses to participate in a CRIA may also revoke its participation upon 60 days' written notice to the county auditor-controller, subject to repayment of any debt issued by the CRIA against said taxing entity's share of tax increment revenues prior to such a revocation.

A city, county or special district may also adopt a resolution transferring funds to a CRIA from the following other sources:

- property taxes received by a city or county from dissolved redevelopment agencies
- property taxes received by a city or county in lieu of former vehicle license fee funds
- funds derived from various assessments that may be imposed by a special district

**Loans & Other Funds:**
CRIAs may additionally borrow and accept funds or assistance from local, state or federal government agencies and private entities; qualify for funding as a Disadvantaged Community pursuant to Water Code §79505.5 or under Govt. Code §56033.5 (e.g. Prop 1 / 84 grant funds); and/or enter into an agreement with a qualified community development entity to coordinate investments of funds derived from the New Markets Tax Credit program.

Similar to how former redevelopment agencies harnessed the power of tax increment, the most benefit to a Revitalization Area is likely to be derived by utilizing tax increment financing (TIF). A CRIA can leverage its available resources by issuing bonds or other obligations in the capital markets, the repayment of which is to be made from future tax increment and other available revenues of the CRIA.

**Bonds:**
CRIAs are authorized to issue bonds without voter approval, but initial funding of a new CRIA may be challenging to arrange. A CRIA's tax base must grow enough from its original or "base year" size in order for enough incremental tax revenues to be available to support a financing. In these cases, the participating taxing entities may choose to make a loan to a CRIA by utilizing a variety of tools and techniques at their disposal, including advances of reserves or the issuance of their own obligations such as certificates of participation or revenue bonds, or the obligations of financing districts such as special tax bonds or assessment bonds, as well as other forms of obligations that such entities may legally issue. Once a CRIA is able to procure its own financing, such loans from the participating taxing entities can be repaid from the tax increment revenues of the CRIA.

# *Other Considerations*

## Funding for Housing

At least 25% of tax increment allocated to a CRIA must be deposited into a Low and Moderate Income Housing Fund (Housing Fund) to assist with the community's supply of low and moderate income housing within the Revitalization Area. Use of the Housing Fund must comply with very detailed rules which are too extensive for this primer, but are very similar to the Community Redevelopment Law and are summarized below. If a CRIA makes findings that a transfer of the housing funds will reduce administrative costs or expedite the construction of affordable housing, it can transfer these funds to the housing authority within the CRIA's sponsoring community, the housing successor to a former redevelopment agency or a nonprofit housing developer.

Housing receiving assistance from the Housing Fund is required to be affordable for the following time frames through recorded affordability covenants:

- Rental units: 55 years
- Ownership units: 45 years
- Mutual self-help housing units: 15 years

Expenditures of the Housing Fund over each 10 year period must be targeted to low and very low income categories in the same proportion as the total number of housing units needed for low and very low income households bears to the total number of units needed for moderate, low and very low income households within the community, as determined in the community's Regional Housing Needs Allocation.

Expenditures of the Housing Fund over life of the Revitalization Plan must also be targeted to non-senior households in same proportion as the number of low income households with a member under 65 years bears to the total number of low income households in the community as reported in US Census.

The CRIA will be subject to penalties if it fails to expend or encumber the monies in the Housing Fund in a timely manner. An "excess surplus" exists when the unexpended and unencumbered amount in the Housing Fund exceeds the greater of $1,000,000 or the total amount deposited in the CRIA's Housing Fund during the preceding four years. The CRIA has three years after the date an excess surplus exists to expend or encumber the funds or it will face penalties, including a requirement to spend additional funds for affordable housing and imposition of limits on the expenditure of non-housing funds.

## Replacement Housing

CRIAs are subject to the following replacement housing obligations when low and moderate income units are destroyed or removed as part a project that is subject to a written agreement with the CRIA or is assisted by the CRIA:

- One for one replacement obligation, with the same or greater number of bedrooms, for destroyed units housing extremely low, very low, low or moderate income households at the same income categories as the destroyed units
- Units must be replaced within 2 years of unit destruction
- Units must be replaced within the Revitalization Area
- Recorded affordability restrictions for the same affordability periods at set forth above for Housing Fund assistance are required

## Relocation

CRIAs are also required to adopt relocation plans, provide relocation assistance and make all the relocation payments to persons displaced from housing and nonprofit local community institutions displaced from facilities they use for institutional purposes in the Revitalization Area.

## Production of Housing

- Prior to expiration of the Revitalization Plan, 30% of the housing units constructed or substantially rehabilitated by the CRIA must be made available to low and moderate income households at an affordable housing cost, with 50% of those units available to very low income households at an affordable housing cost.
- Prior to expiration of the Revitalization Plan, 15% of the housing units constructed or substantially rehabilitated by any entity other than the CRIA must be made available to low and moderate income households at an affordable housing cost, with 40% of those units available to very low income households at an affordable housing cost.
- Recorded affordability restrictions for the same affordability periods at set forth above for Housing Fund assistance are required.

## Compliance Audit

Beginning in the calendar year in which the CRIA has been allocated a cumulative total of more than $1,000,000 in the Housing Fund and every five years thereafter, the CRIA must conduct an independent audit to determine compliance with the affordable housing requirements based on guidelines to be issued by the State Controller. Fines are imposed for non-compliance.

## Challenges and Limitations

CRIAs are subject to special annual and ten-year review procedures.

CRIAs are required to review the plan at least annually. They must adopt an annual report before June 30 of each year at a public hearing with the report available at least 30 days prior to the hearing. The annual report must describe the following for the fiscal year: projects undertaken and comparative progress with projects, comparison of actual revenues and expenses to budgeted revenues and expenses, the amount of tax increment revenue received, the amount of revenue expended for affordable housing, the amount of revenue used to assist private business, and assessment of the status of completion of the CRIA's projects. The CRIA also must have an annual independent financial audit prepared, paid for from revenues of the CRIA, in connection with annual review.

In addition to the annual report, a CRIA is required to conduct a protest proceeding every 10 years to determine if the Revitalization Plan should continue. If more than 50% of the combined property owners and residents protest, the CRIA shall take no further action to implement the Revitalization Plan. If between 25% and 50% of combined property owners and residents protest, an election (which may be conducted by mail-in ballot) is held within 90 days of the protest proceeding and the CRIA cannot approve or initiate any new projects until the election is held.

If the majority of the combined property owners and residents vote against the Revitalization Plan, the CRIA shall take no further action to implement the Revitalization Plan, provided the CRIA can continue to take all actions to satisfy any outstanding debt, meet any affordable housing obligations and complete any project for which expenditures or obligations were incurred before the date of the majority protest or election.

CRIAs are prohibited from:

- Providing direct assistance to automobile dealerships on land previously undeveloped for urban use
- Providing direct assistance to a development on a parcel of land with five or more acres, if the land was not previously developed for urban use and will generate sales taxes (unless the principal permitted use is office, hotel, manufacturing or industrial)
- Providing direct or indirect assistance to a development or business used for gambling or gaming
- Funding facilities or activities located outside the boundaries of the Revitalization Area

# CHAPTER 4 Practical Considerations for Implementing Tax Increment Financing

## Introduction

***Under California redevelopment law, most of the growth in property tax within redevelopment areas was diverted to the redevelopment agency, away from counties, local entities, and K-12 schools.***

By comparison, EIFDs and CRIAs only divert the sponsor jurisdictions' shares of property tax (i.e., funds that would otherwise accrue to the sponsor's General Fund accounts), providing significantly less property tax revenue for investments in infrastructure and economic development.

Also, while tax increment mechanisms can generate substantial sums, the availability of tax increment revenue is highly contingent on the volume and pace of development activity. In many cases, up-front funds are needed to install improvements needed for "shovel-ready" development sites. Such improvements might include infrastructure upgrades and retrofits, extensions, expansions, or other public facilities necessary to accommodate and catalyze desired development activity. Consequently, the need for funding and availability of tax increment revenues are often misaligned.

For these reasons, in isolation EIFDs and CRIAs may appear to have limited value potential for many California jurisdictions. The new tools will need to be used in concert with a number of other financing approaches in order to be effective. Fortunately, there are creative techniques and strategies that may be applied to maximize the utility of EIFDs and CRIAs. This chapter provides several approaches that local jurisdictions can employ to manage the challenges of implementing tax increment financing.

## Sample Tax Increment Financing Model

Appendix A provides an example of an EIFD tax increment model to demonstrate the timing and magnitude of funding available relative to a hypothetical development project and associated assessed value growth. This example highlights the primary challenge to implementing one of the new tax increment tools – tax increment revenues are needed well before development commences in order to fund the required infrastructure and public facilities.

Revenue generation, however, is dependent on the timing and pace of development – contingent on market absorption and associated finished real estate values. Tax increment revenues sufficient to issue bonds rely upon substantial levels of vertical development, which may take many years to achieve.

Other challenges presented by the use of EIFD and CRIA tax increment include the limited availability of tax increment revenues – only the tax increment allocated to participating taxing entities may be utilized. In addition, General Fund revenue constraints may create fiscal challenges to the use of tax increment revenues, as local governments must also consider the funding of public services needed to serve the project.

## Implementation Considerations

Given these limitations and challenges, the following approaches are suggested to maximize the utility of EIFDs and CRIAs as tax increment financing tools for economic development.

**Leverage Other Land Secured Financing Mechanisms.** Several local jurisdictions considering implementation of EIFDs also are considering the parallel implementation of a more traditional land-secured financing mechanism, such as a Mello Roos Community Facilities District (CFD). Property owners that agree to participate in a CFD may be able to accelerate debt issuance through the issuance of tax-exempt municipal bonds with debt repayment secured by special taxes imposed on the subject property(ies).

As sufficient tax increment revenues become available, those revenues would be available to replace debt service repayment revenue streams, either reducing the annual special tax burden on property owners or freeing up project-generated revenues for other uses. The viability of layering a land-secured financing mechanism with formation of an EIFD to accelerate debt issuance will hinge upon development capacity for additional annual special tax burdens sufficient to support the issuance of bonds.

**Consider partnering with other agencies to secure additional tax increment allotment.** While any tax increment, no matter how small, could benefit a marginally financially feasible project, it is important to note that in most cases the local property tax revenue available is very limited (California cities typically get between $0.10 and $0.20 of a property tax dollar). EIFDs and CRIAs will produce maximum benefit when more than one local government jurisdiction (i.e., multiple taxing entities) dedicates tax increment where such funds may be leveraged to complete infrastructure improvements benefiting the region or a specific project.

If the investment in infrastructure provided by the EIFD or CRIA can accelerate development and associated property tax growth, then other taxing entities may see their participation in the district as a worthy financial investment. Unlike redevelopment which typically allocated most or all of taxing entities' property tax increment to the redevelopment agency, under an EIFD or CRIA, taxing entities have a choice of how much tax increment they contribute. This scalability may allow other taxing entities to realize a greater return on investment than they would have received if the EIFD or CRIA had not been created to support new development to spur property tax growth.

**Recognize and strategically manage development constraints.** A key concern related to the potential for CRIAs is that they are targeted for use in areas that likely, given their eligibility requirements, will have weak market conditions and local jurisdictions with minimal flexibility to give up property tax revenue that is otherwise needed to support municipal service costs. Recognizing and managing both development opportunities and constraints is essential as part of development and infrastructure financing. In this regard, it is important to recognize that weak real estate market conditions or extraordinary infrastructure costs may not be overcome with readily available funding resources or financing techniques. In these instances of low development value or high cost, measures will need to be taken by the local jurisdiction to improve market attractiveness of the area, to lower infrastructure costs, or to attract funding from non-development-based funding sources such regional, state, or federal grants.

Unfavorable market conditions are difficult to influence through public policy and public investment. Accordingly, it is important to conduct market analysis and understand the severity of market constraints on development policy objectives and the potential for public actions to influence market conditions.

**Develop an approach to maintain sufficient funding for public services and maintenance.**
Property tax revenue is an important source of General Fund revenues needed to fund public services such as police, fire, libraries, and other government operations. Also, while EIFDs and CRIAs may fund new infrastructure, they are not permitted to finance routine maintenance of those facilities. If other local funding sources are not available for that purpose, a portion of the property tax growth may be needed to provide a sustainable source of maintenance funding. In light of these concerns, dedicating all or a substantial portion of a jurisdiction's property tax increment revenue to building infrastructure or other project subsidies could result in adverse impacts on the City's ability to fund public services needed to serve new and existing development.

Several financing strategies exist to ameliorate this diversion of General Fund property tax revenues while still ensuring adequate service provision. Approaches may include special taxes and assessments (e.g. CFD for services or maintenance, special benefit assessment district, property based improvement districts, etc.), fiscal mitigation payments, public-private partnerships, consideration of service level standards, and other mechanisms to resolve potential fiscal deficits.

## *Conclusion*

The challenges and approaches described above suggest that local jurisdictions need to take a comprehensive and strategic approach to implementing tax increment financing mechanisms. Consideration of these mechanisms must weigh these potential challenges against the benefits anticipated from accommodating and catalyzing desired development activity. Clear policies and criteria regarding the use of these tax increment mechanisms should be established as part of an overall infrastructure financing and development policy strategy and framework.

# APPENDIX A
# Sample Tax Increment Financing Model

***This appendix is provided to support the suggested considerations in Chapter 4 for implementing one of the tax increment financing tools discussed in this primer. Although an EIFD is used in this example, the tax increment model for the other available tools would be similar (net of the affordable housing set-aside for CRIAs).***

## Example EIFD Funding Model

Table 1 on page 23 illustrates the availability of tax increment revenues under a hypothetical EIFD formation and development scenario. As explained in Chapter 1, tax increment revenue streams are generated based on the assessed value of new development as well as growth in the existing assessed value within the Project Area. The example set forth in Table 1 offers a high level summary of tax increment financing mechanics based on hypothetical assumptions as specified in the discussion below.

## Hypothetical Development Scenario

City A is interested in forming an EIFD for an infill development area with an existing assessed value of $500 million. The City estimates that over the next 15 years, this development area can accommodate a combination of industrial, office, retail, and multifamily residential development totaling $1.5 billion in new assessed value. Tax increment generated by new development activity is anticipated to commence approximately 2 years following EIFD formation.

## Tax Increment Revenue Potential

Table 1 identifies the tax increment revenue potential for this hypothetical Project Area over the next 30 years. Tax increment projections are based on the assessed value growth generated by increased assessed valuations for existing development as well as new development activity. Each of the columns in Table 1 are described:

**Beginning Assessed Value:** In this example, the combined assessed value of properties within the EIFD is $500 million at the base year. The base assessed value for the district is established based on the assessed value at the time of EIFD formation, and is the basis for the "Beginning Assessed Value" identified in Table 1.

**Annual Assessed Value Growth:** This example model assumes that the assessed value of existing development within the EIFD will increase at a rate of 3% annually. This assumption incorporates the legislated 2% assessed value increase under Proposition 13 plus additional property transactions which establish a new assessed value basis and account for the remaining 1% assessed value growth on existing development.

**New Assessed Value:** As new development activity occurs, that new development will generate new assessed value added to the property tax rolls. In subsequent years, this "new assessed value" is also assumed to escalate by 3% annually.

**Ending Assessed Value and Cumulative Growth:** Assessed value growth and new assessed value added to the property tax roll are added to the beginning assessed value to calculate the ending assessed value and cumulative growth in assessed value. For any given year, the cumulative growth in assessed value provides the basis for the tax increment calculations, and is calculated by subtracting the base assessed value from that year's ending assessed value.

**Gross Tax Increment:** The gross tax increment generated each year is then calculated by applying the gross 1% property tax rate to the cumulative growth in assessed value for that year.

**Net Tax Increment:** The net tax increment is calculated based on the post-ERAF share of property tax (AB 8) allocation received by the City. In this example, we assume City A's post-ERAF property tax allocation is 20% of the gross tax increment. Note that for the sake of simplicity, this analysis focuses solely on City A's share of property tax revenues only. As discussed in Chapter 2, other types of revenue can be allocated to EIFDs for tax increment financing such as property tax in lieu of vehicle license fee revenue. This net tax increment amount is then reduced by an administrative fee, assumed in this analysis to be $5,000 annually escalated by 2% annually.

**EIFD Project Tax Increment:** In the example on the next page, the EIFD is formed in Fiscal Year (FY) 1, but assessed value generated by new development activity is not anticipated until FY 3.

# APPENDIX A Sample Tax Increment Financing Model

Nevertheless, in FY 1 and FY 2, growth in the existing assessed value generates marginal amounts of tax increment revenue. In FY 3 through FY 17, new development activity in the EIFD generates approximately $100 million in new assessed value annually. As new development activity generates substantial assessed value growth the available tax increment revenues increase commensurately. In FY 3, available tax increment revenues are roughly $287,000. By FY 17 (full build-out of the hypothetical EIFD), this amount grows to nearly $4.4 million, and continues to grow at 3% annually (assumed rate of growth on existing development) through FY 30. Total tax increment generated over the 30 year period exceeds $106 million.

## Bond Issuance

Leveraging tax increment funding streams to issue bonds is one approach to secure required up-front capital, but this approach is limited in its utility by the need to accumulate sufficient tax increment to pay annual debt service. Typically, tax increment revenues of at least $500,000 would be needed to support a bond issuance. This level of tax increment funding will require substantial development activity – in our example this level of funding is not generated until over $200 million of development activity has already occurred (FY 4).

## Table 1

| Item | Beginning Assessed Value | Annual AV Growth [1] | New AV Added to Roll | Ending Assessed Value | Cumulative Growth in AV | Gross Tax Increment [2] | Net Tax Increment [3] | Less County Admin. Fee [4] | EIFD Project Tax Increment |
|---|---|---|---|---|---|---|---|---|---|
| Formula | | | | | *a* | *b=a*1%* | *c=b*20.00%* | *d* | *e=c-d* |
| Base AV | $500,000,000 | | | | | | | | |
| FY 1 | $500,000,000 | $15,000,000 | $0 | $515,000,000 | $15,000,000 | $150,000 | $30,000 | ($5,000) | $25,000 |
| FY 2 | $515,000,000 | $15,450,000 | $0 | $530,450,000 | $30,450,000 | $304,500 | $60,900 | ($5,100) | $55,800 |
| FY 3 | $530,450,000 | $15,913,500 | $100,000,000 | $646,363,500 | $146,363,500 | $1,463,635 | $292,727 | ($5,202) | $287,525 |
| FY 4 | $646,363,500 | $19,390,905 | $100,000,000 | $765,754,405 | $265,754,405 | $2,657,544 | $531,509 | ($5,306) | $526,203 |
| FY 5 | $765,754,405 | $22,972,632 | $100,000,000 | $888,727,037 | $388,727,037 | $3,887,270 | $777,454 | ($5,412) | $772,042 |
| FY 6 | $888,727,037 | $26,661,811 | $100,000,000 | $1,015,388,848 | $515,388,848 | $5,153,888 | $1,030,778 | ($5,520) | $1,025,257 |
| FY 7 | $1,015,388,848 | $30,461,665 | $100,000,000 | $1,145,850,514 | $645,850,514 | $6,458,505 | $1,291,701 | ($5,631) | $1,286,070 |
| FY 8 | $1,145,850,514 | $34,375,515 | $100,000,000 | $1,280,226,029 | $780,226,029 | $7,802,260 | $1,560,452 | ($5,743) | $1,554,709 |
| FY 9 | $1,280,226,029 | $38,406,781 | $100,000,000 | $1,418,632,810 | $918,632,810 | $9,186,328 | $1,837,266 | ($5,858) | $1,831,407 |
| FY 10 | $1,418,632,810 | $42,558,984 | $100,000,000 | $1,561,191,794 | $1,061,191,794 | $10,611,918 | $2,122,384 | ($5,975) | $2,116,408 |
| FY 11 | $1,561,191,794 | $46,835,754 | $100,000,000 | $1,708,027,548 | $1,208,027,548 | $12,080,275 | $2,416,055 | ($6,095) | $2,409,960 |
| FY 12 | $1,708,027,548 | $51,240,826 | $100,000,000 | $1,859,268,375 | $1,359,268,375 | $13,592,684 | $2,718,537 | ($6,217) | $2,712,320 |
| FY 13 | $1,859,268,375 | $55,778,051 | $100,000,000 | $2,015,046,426 | $1,515,046,426 | $15,150,464 | $3,030,093 | ($6,341) | $3,023,752 |
| FY 14 | $2,015,046,426 | $60,451,393 | $100,000,000 | $2,175,497,819 | $1,675,497,819 | $16,754,978 | $3,350,996 | ($6,468) | $3,344,528 |
| FY 15 | $2,175,497,819 | $65,264,935 | $100,000,000 | $2,340,762,753 | $1,840,762,753 | $18,407,628 | $3,681,526 | ($6,597) | $3,674,928 |
| FY 16 | $2,340,762,753 | $70,222,883 | $100,000,000 | $2,510,985,636 | $2,010,985,636 | $20,109,856 | $4,021,971 | ($6,729) | $4,015,242 |
| FY 17 | $2,510,985,636 | $75,329,569 | $100,000,000 | $2,686,315,205 | $2,186,315,205 | $21,863,152 | $4,372,630 | ($6,864) | $4,365,766 |
| FY 18 | $2,686,315,205 | $80,589,456 | $0 | $2,766,904,661 | $2,266,904,661 | $22,669,047 | $4,533,809 | ($7,001) | $4,526,808 |
| FY 19 | $2,766,904,661 | $83,007,140 | $0 | $2,849,911,801 | $2,349,911,801 | $23,499,118 | $4,699,824 | ($7,141) | $4,692,682 |
| FY 20 | $2,849,911,801 | $85,497,354 | $0 | $2,935,409,155 | $2,435,409,155 | $24,354,092 | $4,870,818 | ($7,284) | $4,863,534 |
| FY 21 | $2,935,409,155 | $88,062,275 | $0 | $3,023,471,429 | $2,523,471,429 | $25,234,714 | $5,046,943 | ($7,430) | $5,039,513 |
| FY 22 | $3,023,471,429 | $90,704,143 | $0 | $3,114,175,572 | $2,614,175,572 | $26,141,756 | $5,228,351 | ($7,578) | $5,220,773 |
| FY 23 | $3,114,175,572 | $93,425,267 | $0 | $3,207,600,839 | $2,707,600,839 | $27,076,008 | $5,415,202 | ($7,730) | $5,407,472 |
| FY 24 | $3,207,600,839 | $96,228,025 | $0 | $3,303,828,865 | $2,803,828,865 | $28,038,289 | $5,607,658 | ($7,884) | $5,599,773 |
| FY 25 | $3,303,828,865 | $99,114,866 | $0 | $3,402,943,731 | $2,902,943,731 | $29,029,437 | $5,805,887 | ($8,042) | $5,797,845 |
| FY 26 | $3,402,943,731 | $102,088,312 | $0 | $3,505,032,043 | $3,005,032,043 | $30,050,320 | $6,010,064 | ($8,203) | $6,001,861 |
| FY 27 | $3,505,032,043 | $105,150,961 | $0 | $3,610,183,004 | $3,110,183,004 | $31,101,830 | $6,220,366 | ($8,367) | $6,211,999 |
| FY 28 | $3,610,183,004 | $108,305,490 | $0 | $3,718,488,494 | $3,218,488,494 | $32,184,885 | $6,436,977 | ($8,534) | $6,428,443 |
| FY 29 | $3,718,488,494 | $111,554,655 | $0 | $3,830,043,149 | $3,330,043,149 | $33,300,431 | $6,660,086 | ($8,705) | $6,651,381 |
| FY 30 | $3,830,043,149 | $114,901,294 | $0 | $3,944,944,443 | $3,444,944,443 | $34,449,444 | $6,889,889 | ($8,879) | $6,881,010 |
| 30 Year Total | | | $1,500,000,000 | | $53,276,425,884 | $532,764,259 | $106,552,852 | ($202,840) | $106,350,011 |

*[1] Assessed value estimated to increase by 3% annually, accounting for assumed legislated annual increase of 2% and additional property transactions within EIFD boundary.*

*[2] Gross Tax Increment is 1% of the difference between assessed values in current and base years.*

*[3] Net Tax Increment of 20% reflects an example value for post-ERAF General Fund percentage of the 1% property tax revenue for jurisdiction dedicating their tax increment, which would be available for funding infrastructure, net of the percentage for all other taxing entities within the district boundary.*

*[4] A placeholder administrative cost of $5,000 is assumed to increase annually by 2%.*

# APPENDIX B
# Code Sections

***The table below provides references to the sections of California law that are applicable to each of the tax increment financing tools discussed in this primer.***

| TIF Tool | California Code Section |
|---|---|
| Enhanced Infrastructure Financing Districts | Government Code §53398.50-53398.88 |
| Community Revitalization and Investment Authorities | Government Code §62000-62208 |
| Annexation of Unincorporated Disadvantaged Communities | Government Code §56653<br>Revenue and Taxation Code §99.3 |
| Infrastructure Revitalization Financing Districts | Government Code §53369-53369.49 |
| Infrastructure Financing Districts | Government Code §53395-53397.11 |

# APPENDIX C
# Glossary of Terms

***The following defined terms appear in this primer.***

**Assessment Roll:** A record of taxable property in a city or county prepared by the county tax assessor. An assessment roll of a city, for example, includes each individual parcel within its taxing jurisdiction and shows the assessed value of each.

**Assessor:** A county government official who determines the value of a property for local real estate taxation purposes.

**Auditor Controller:** The chief accounting officer of a county responsible for budget control, disbursements and receipts, and financial reporting.

**Base Year:** The fiscal year that is the starting point that is used to calculate annual property tax growth in the years following the formation of a tax increment financing district.

**General Levy:** The ad valorem property tax rate levied by counties, which in 1978 was set to a maximum of 1% by Proposition 13.

**Increment:** The incremental increase in property taxes above the base year level derived from increases in land value resulting from new development, land transactions, or the 2% inflationary rate.

**Inflationary Rate:** The rate at which property taxes increase from year to year. In California, this rate is limited to no greater than 2% per year pursuant to Proposition 13.

**Secured Assessed Value:** The assessed value of real property, including land and improvements such as buildings, structures, fences, and fixtures that are permanently attached to the land.

**Taxing Entity:** A government entity, such as a city, county, school district, or special district that receives a designated portion of property tax.

**Unsecured Assessed Value:** The assessed value of personal property, including any tangible, movable property that is not designated as real property such as aircraft, boats, factory equipment, computers and other office equipment, and improvements on the real estate of others.

**Utility Value:** The assessed value of property owned by utilities, such as power generating plants, power lines, cable, railroads, etc., except for property held for investment purposes only. Utility property is divided into non-unitary property (railroads) and unitary property (all other types).

APPENDIX D

# Summary of Other Tax Increment Financing Tools

***The demise of redevelopment led to a flurry of legislation to authorize more limited forms of tax increment financing tools available to local government.***

In addition to the EIFDs and CRIAs featured in this primer, there are other forms of tax increment financing tools available to local governments in California. These include Annexation Development Plans (ADPs) for Unincorporated Disadvantaged Communities and Infrastructure and Revitalization Financing Districts (IRFDs). This appendix discusses the formation, powers and limitations of these tools.

## ADPs for Unincorporated Disadvantaged Communities

SB 614 was adopted to provide additional options for financing infrastructure in unincorporated disadvantaged communities. When a city or district proposes a change of organization or reorganization under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (annexation proposal) to a local agency formation commission (LAFCO), the applicant is required to prepare a plan for providing services within the affected territory. SB 614 allows an applicant for an annexation proposal that includes an unincorporated disadvantaged community to adopt an ADP to fund the services and structures identified in the ADP. An unincorporated disadvantaged community is defined as an inhabited territory that constitutes all or a portion of a community with an annual median household income that is less than 80% of the statewide area median household income.

a. **Formation**

All applicants for annexation proposals must submit a plan for providing services within the affected territory that is required to include the information below, along with any additional information required by the LAFCO or its executive officer:

- An enumeration and description of the services to be extended to the affected territory.
- The level and range of the services.
- An indication of when those services can feasibly be extended to the affected territory.
- An indication of any improvement or upgrading of structures, roads, sewer or water facilities, or other conditions the local agency would impose or require within the affected territory if the change of organization or reorganization is completed.
- Information with respect to how those services will be financed.

Through January 1, 2025, an annexation proposal that includes annexation of an unincorporated disadvantaged community may include in the resolution of application an ADP to improve or upgrade infrastructure to serve the territory through the formation of a special district or reorganization of one or more existing special districts.

The ADP must include information that demonstrates that the formation or reorganization of the special district will provide all of the following:

- The necessary financial resources to improve or upgrade structures, roads, sewer, or water facilities or other infrastructure.
- The identity of the local entity that will be responsible for the delivery and maintenance of the services identified in the application.
- An estimated timeframe for constructing and delivering the services identified in the application.
- The governance, oversight, and long-term maintenance of the services identified in the application after the initial costs are recouped and the tax increment financing terminates.

A LAFCO may approve an annexation proposal to include the formation of a special district or reorganization of a community services district, municipal water district, sanitary district or other special district with such special district's consent. The LAFCO must include in its resolution making determinations an explanation of the financing mechanism including any plans to issue debt.

**b. Powers**

If an annexation proposal for an unincorporated disadvantaged community is approved with an ADP, the district has the authority to carry out the ADP, collect tax increment, and finance the services and infrastructure improvements identified in the ADP. Infrastructure improvements that can be funded include, but are not limited to, water, wastewater, storm water systems and local streets, roads, and sidewalks, to serve the territory.

**c. Financing**

An ADP may, with the consent of each special district's governing body, also contain a provision for the sharing of tax increment for areas included in the territory. The tax increment will be calculated from the date the "certificate of completion" is recorded with the county recorded confirming the successful completion of the annexation proposal and must be deposited into a special fund of the special district. If the ADP authorizes the allocation of tax increment to the special district, the ADP must also specify the date upon which tax increment allocations will terminate.

The services and infrastructure identified in an ADP may be financed with tax increment on a pay as you go basis. Additionally, the annexation development plan may include authority to issue bonds to finance those services and infrastructure improvements. A consenting local agency may also advance funds to the special district which can be used solely for the purposes identified in the ADP. Any funds advanced to the special district may be repaid from tax increment received by the special district.

**d. Special Requirements**

There are no special affordable housing or other requirements applicable to the activities conducted under an ADP.

**e. Challenges and Limitations**

ADPs are only available in the instance where an annexation proposal includes territory that qualifies as an unincorporated disadvantaged community and unless extended by the State legislature will only be available through January 1, 2025, thus limiting this tool's applicability.

Any portions of unincorporated disadvantaged communities that overlap with a former redevelopment project area may not be included in an ADP. Also, the distribution of tax increment under an ADP may not result in a reduction of property tax revenues allocated to school entities.

## Infrastructure and Revitalization Financing Districts (IRFDs)

Infrastructure and Revitalization Financing Districts (IRFDs) were authorized under AB 229, the primary purpose of which was to give local governments tools and resources to fund public infrastructure, affordable housing, economic development and job creation, and environmental protection and remediation. To that end, IRFDs are authorized to undertake and finance specified activities to meet those goals.

**a. IRFD and EIFD Distinctions**

Since the laws enabling IRFDs and EIFDs were both adapted from Infrastructure Financing District law (discussed later in this appendix), IRFDs share many common elements with EIFDs. However, there are some key differences between IRFDs and EIFDs. Mainly, EIFDs have the advantage of not requiring a vote of district residents or property owners to form the district. The key financing benefits of the EIFD are that the district can receive revenue for up to 45 years and the list of tax revenues that can be allocated to the district is broad.

While the IRFD has a shorter, 40-year term, there are some distinct advantages, as follows:

1. *Flexibility in determining a start date for the 40-year term.* The start date can be set to coincide when tax increment reaches a specified dollar threshold, which will enable the district to maximize revenues over the 40-year term.
2. *Project areas.* An IRFD permits the adoption of project areas, with each project area having its own 40-year term, which affords the opportunity to maximize the district's revenues, but doesn't limit the ability to issue debt secured by the entire district. A city or county may form multiple EIFDs to maximize tax increment revenue in distinct project areas, but there is no

provision in the EIFD law to cross-collateralize debt issued by multiple EIFD districts. Given that the marketability/cost of debt is impacted by the size and diversity of the property securing the debt, the ability to secure debt with revenue from multiple project areas is a distinct advantage.

3. *Ability to annex property.* The legislative body may at any time add territory to an IRFD. There is no comparable provision for EIFDs.

4. *Governance by legislative body – not a separate Financing Authority.* IRFDs are governed by the legislative body, which can be less cumbersome and than establishing separate financing authorities for multiple EIFDs.

The key disadvantages of an IRFD relative to an EIFD are as follows:

1. Voter approval for formation. Unlike an EIFD, forming an IRFD is subject to a vote of qualified electors and two-thirds of the cast votes must be in favor of creating the district.

2. VLF revenues cannot be dedicated to IRFD.

**b. IRFD Formation Process**

A city, county, city and county, or joint powers authority (a sponsoring agency) can form an IRFD. The sponsoring agency's legislative body may designate one or more proposed IRFDs within the sponsoring agency's jurisdiction. An IRFD may be divided into "project areas" which share a common purpose or goal and an overall financing plan, but with differing limitations. Any taxing entity may join in the district except for educational entities and redevelopment successor agencies. The governing board of the sponsoring community that sponsors the IRFD (either a city council or county board of supervisors, or the base reuse authority's governing board) is the governing board of the IRFD. The process to form the IRFD involves several legislative actions, creation of an Infrastructure Financing Plan (IFP) and an election, all as further described below.

The first step in establishing an IRFD is the adoption of a resolution of intention by the sponsoring agency's legislative body. A copy of the resolution must be mailed to each landowner within a proposed IRFD and to each Taxing Entity. The legislative body must then designate and direct the city engineer or other appropriate official (the "designated official") to prepare a proposed IFP.

**c. Infrastructure Financing Plan**

Like EIFDs, IRFDs require the preparation of an Infrastructure Financing Plan (IFP). The contents of the IFP for the two types of districts share many common elements, but there are some differences. The required elements of an IFP for an IRFD include:

- Finding of consistency with the general plan of the governing city or county.
- Map and legal description of the proposed district.
- Description of the public facilities and other forms of development or financial assistance that is proposed in the area of the district.
- Finding that public facilities or of communitywide significance.
- Financing section, which shall contain all of the following information:
    a. Maximum portion of the incremental tax revenue of the city/county and each affected taxing entity proposes to commit to the district for each year during which the district will receive incremental tax revenue (the portion can vary over time);
    b. Plan for financing public facilities;
    c. A limit on the total number of dollars of taxes that may be allocated to the district pursuant to the plan;
    d. Analysis of the fiscal impacts to the city/county;
    e. Analysis of the fiscal impacts to other taxing agencies; and
    f. Financing plan for costs incurred from reimbursing a developer of a Transit Priority Project Program.
- Date on which the district will cease to exist. The term is either 40 years from the date that the ordinance forming the IRFD is adopted or a later date specified in the formation ordinance. One approach that has been used is for the date to be the start of the fiscal year when tax increment within the district achieves a specified dollar amount. This enables the district to be formed early but not trigger the start of the 40-year term until the district is receiving significant tax revenue. In comparison, the termination date for EIFDs is tied to the date that the issuance of bonds or a loan from the city/county to the district is approved. Theoretically, if bonds or a city/county loan is not issued, then the EIFD could remain active indefinitely.

- Maximum portion of "net available revenue of the city" to be committed to the district. The IRFD code requires that if the city is electing to allocate a portion of revenues distributed to the city from the Redevelopment Property Tax Trust Fund, then the IFP must specify the maximum portion of net available increment to be committed to the district for each year that the district will receive revenue.
- Replacement housing plan. Under an EIFD, a replacement housing plan must be included if any occupied dwelling units are proposed to be removed or destroyed in the course of private development or public works construction within the district. For IRFDs, the obligation to replace lost units and provide a replacement housing plan is limited to lost dwelling units that are occupied by persons of low or moderate income. Note: Section 53369.6 (b) requires 20% of units that are destroyed and not occupied by Low/Mod households to be replaced with Low/Mod units.

The proposed IFP and any CEQA documentation must be sent to each landowner within the boundaries of the IRFD, and to each Taxing Entity, the planning commission, and the sponsoring agency's legislative body. Once the proposed IFP is prepared, mailed, and made available to the public, the designated official must consult with Taxing Entities, upon request by any Taxing Entity. The sponsoring agency's legislative body must then conduct a public hearing to adopt the proposed IFP with notice mailed to landowners and Taxing Entities as well as published in the local newspaper. The legislative body has the discretion to modify the proposed IFP by eliminating or reducing the size and cost of proposed public works, by reducing the amount of proposed debt, or reducing the portion, amount, or duration of tax increment revenue to be committed to the IRFD.

### d. IRFD Formation Election

At the conclusion of the public hearing on the IFP, if the legislative body adopts a resolution proposing formation of an IRFD, then an election must be held to approve the formation of the IRFD and adoption of the IFP. If at least 12 persons are registered to vote in the proposed district, the vote is by registered voters within the proposed district; otherwise the vote is landowner vote, with each landowner receiving one vote per acre or partial acre of land owned within the proposed district. The IRFD formation and adoption of the plan must receive two-thirds (2/3) of the votes.

If the voters approve the IRFD and IFP, the sponsoring community's legislative body forms the IRFD and adopts the IFP by ordinance. The sponsoring agency's legislative body may add territory to an existing IRFD or amend the IFP by following same procedures for establishing the IRFD discussed above.

### e. Powers and Uses of IRFD Funds

IRFDs can finance capital facilities through the purchase, construction, expansion, improvement, seismic retrofit, or rehabilitation of any property with an estimated useful life of at least 15 years and that is of communitywide significance, including:

- Highways, interchanges, ramps and bridges, arterial streets, parking facilities and transit facilities
- Sewage treatment and water reclamation plants and interceptor pipes
- Facilities for collecting and treating of water for urban uses
- Flood control levees and dams, retention basins and drainage channels
- Child care facilities
- Libraries
- Parks, recreational facilities, open space and habitat restoration
- Facilities for the transfer and disposal of solid waste, including transfer stations and vehicles
- Brownfield restoration and other environmental mitigation
- Purchase of land and property for development purposes and related site improvements
- Acquisition, construction, or repair of housing for rental or purchase, including multipurpose facilities
- Acquisition, construction, or repair of commercial or industrial structures for private use
- Repayment of the transfer of funds to a military base reuse authority
- Any project that implements a sustainable communities strategy

IRFDs can also finance the planning and design work that is directly related to the purchase, construction, expansion, or rehabilitation of the public facilities. The facilities funded by the IRFD need not be physically located within the IRFD's boundaries.

Revenues available to the IRFD may be used to directly pay for eligible work or accumulated for up to 5 years to fund that work; pledged to pay the principal of, and interest on, tax increment bonds, Mello Roos bonds, or improvement bonds; advanced for allowable purposes to an Integrated Financing District; and used to acquire completed facilities. The IRFD may pay for the costs of complying with the replacement housing obligations, relocation assistance obligations, and administrative costs to the county in connection with property tax distribution under the IRFD and may also fund any action necessary to implement the powers under the Polanco Redevelopment Act.

An IRFD may finance projects in former military bases, only if the project is consistent with the authority reuse plan and is approved by the military base reuse authority, if applicable.

**f. Financing**

The activities of IRFDs are primarily funded with tax increment. IRFDs are structured to mainly rely on tax increment dedicated by the sponsoring community and each participating Taxing Entity, and any additional commitment of "net available revenues" by the sponsoring agency. "Net available revenues" are distributions to the city from the Redevelopment Property Tax Trust Fund that are available to the city after the payment of existing obligations.

The governing board of any participating Taxing Entity must adopt a resolution agreeing to the amount of its participation and that resolution must be received by the sponsoring community no later than the public hearing on the IRFD. The sponsoring community may pledge any portion of residual distributions it receives from the redevelopment agency dissolution process.

IFRDs can issue bonds but must obtain voter approval for bond issuances using the same election criteria as for establishment of the district (two-thirds majority vote). Sponsoring communities may wish to schedule the bond election at the same time as the adoption election. Sale of the bonds can be made at negotiated sale or public sale, and must be sold at par or at a discount not to exceed 5% of par. Negotiated sales are limited to bond issuances that do not exceed $5,000,000. Public sales must be noticed by publication in a newspaper of general circulation and in a financial newspapers published in the City and County of San Francisco and the City of Los Angeles.

Like redevelopment agencies, IRFDs can enter into various debt obligations in the form of bonds, certificates of participation, long-term leases, loans from governmental agencies, banks, other financial institutions, private businesses or individuals with all debt of the IRFD required to mature within 30 years of issuance. IRFD revenue may be pledge to pay debt service on Improvement Bonds and Community Facility District bonds. Any debt obligation of the IRFD must be subordinate to an enforceable obligation of a successor agency to a former redevelopment agency. The bonds and obligations of the IRFD are obligations only of the IRFD and not of the sponsoring community, State or any of its political subdivisions.

**g. Special Requirements**

Similar to EIFDs, IRFDs are subject to a number of affordable housing related requirements:

- Replacement Housing:

If any dwelling units occupied by low or moderate income persons are proposed to be removed or destroyed, then a replacement housing plan is required to be part of the IFP. IRFDs require a one for one replacement obligation for units housing low- or moderate-income households that are destroyed by projects financed by the district. 20% of any market rate units destroyed by the IRFD must be replaced. The replacement housing requirements do not specify any particular percentage of units in particular income categories, nor are there requirements for recorded affordability restrictions or affordability terms. Destroyed units must be replaced within 4 years (compared with a 2-year requirement for EIFDs) and must be located within district boundaries, or in the case of a military base, anywhere within the territory of the former base consistent with the base reuse plan. Low and moderate income dwelling units cannot be destroyed until there are suitable housing units, at comparable cost to the units from which households were displaced, available and ready for occupancy. The housing units shall be suitable to the needs of the displaced households and shall be decent, safe, sanitary, and otherwise standard dwellings.

- Relocation Assistance:

The IRFD must provide relocation assistance and make all the relocation payments to persons displaced by any public or private development activity occurring within the IRFD. The law appears to require relocation assistance for displacement even if there is no public involvement in the development as long as the displacement occurs in the district.

- Affordable Housing Production:

20% of units constructed by the IRFD must be made available to and occupied by low- and moderate-income households at an affordable housing cost. There is no inclusionary housing production requirement for all other units constructed or rehabilitated within district. The production requirements do not specify any particular percentage of units in particular income categories, nor is there a requirement for recorded affordability restrictions or affordability terms.

g. **Other Conditions**

Once established, an IRFD can exist for a term of up to 40 years, or such later date as specified by the ordinance establishing the IRFD. The IRFD cannot supplant facilities or services already available within that territory when the IRFD was created, except if those facilities or services are essentially nonfunctional, obsolete, hazardous, or in need of upgrading or rehabilitation. The additional facilities or services may supplement existing facilities and services as needed to serve new developments. Additionally, an IRFD may not finance routine maintenance, repair work, or costs of ongoing operations or for providing services of any kind.

Similar to an EIFD, an IRFD cannot be formed in an area that overlaps a former redevelopment project area unless the successor agency has received a finding of completion from the California Department of Finance. Any debt of the IRFD will be subordinate to the pre-existing enforceable obligations of the former redevelopment agency so that must be accounted for in the IRFD's financing plan.

No later than June 30 of each year after the adoption of an IFP for an IRFD, the sponsoring agency's legislative body must post an annual report on its internet website containing a summary of the IRFD's expenditures, a description of the progress made toward the IRFD's goals, and an assessment of completion of the IRFDs' projects.

## Infrastructure Financing Districts

Infrastructure Financing Districts (IFDs) have been an available tax increment financing tool since the early 1990s. They were not widely used during the era of redevelopment as IFDs were considerably less flexible than redevelopment agencies. The IFD law was the predecessor of the new EIFD and IRFD laws that were enacted by State legislation following the end of redevelopment, but the old IFD law still exists under a separate section of the California Government Code because a handful of IFDs still exist. While technically IFDs are still an option for cities and counties seeking to use tax increment financing, EIFDs and even IRFDs are far superior tools. For example, the 30-year term of an IFD is one of many limitations of the tool when placed in comparison to their successor options.

**We would like to thank the California Enterprise Development Authority (CEDA) for its support on this primer.**

The California Enterprise Development Authority's (CEDA) experienced finance team facilitates statewide tax-exempt financings to encourage economic development throughout California.

*To learn more about CEDA, please visit www.ceda.caled.org*

*The California Association for Local Economic Development (CALED) has created a technical committee on tax increment financing comprised of expert practitioners, attorneys, and consultants to share knowledge and resources to help communities leverage these new tools.*

*This primer was authored by committee members to give local governments and economic development organizations a practical guide to EIFDs and CRIAs to assist in the deployment of these new tools. This first edition of the primer is based on current State law applicable to EIFDs, CRIAs, and other available forms of tax increment financing. CALED will issue periodic updates to the primer to reflect any new legislation affecting these tools or to highlight innovative uses of EIFDs and CRIAs in practice throughout California.*

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