

DO WE HAVE REDEVELOPMENT BACK?

FINANCING TOOLS

CALED ANNUAL TRAINING CONFERENCE 03.15.2018

ABOUT RSG

- Economic development consultant based in Southern California
 - Real estate, affordable housing, financing and P3
- ~90 city clients each year
- Jim Simon, Principal
 - 28 years with firm





WHY REDEVELOPMENT GREW

- Before Prop 13 (1978)
 - Property taxes funded most of local government activities
 - Cities and taxing agencies could set property tax levy rates annually based on need and other funding availability
 - Cities received from 0-50% of the total local property taxes
- After Prop 13
 - Cities and other taxing agencies had their "share" of taxes capped based on whatever rate was in place in 1978
 - State-mandated shifts of taxes away from cities, Prop 211 and other measures reduced property taxes to local government
- Redevelopment agencies allowed local government to capture more property taxes from other agencies, esp after Prop 13



WHY WAS REDEVELOPMENT A NECESSARY INCENTIVE?

- It's Expensive to Redevelop
 Improved Property
 - Ownership Division -Assembly Small Properties Difficult
 - Demolition Costs
 - New Development Frequently not Large Enough to Offset Costs
 - Cheaper to Build on Vacant, Ready Sites

- With Redevelopment, an RDA could:
 - Assemble Land that the Private Sector Otherwise Would Not
 - Use Tax Increment to Reduce Costs for Project Viability
 - Attract Investment that Would Otherwise Not Occur
 - Clean Up Blight Not an Incentive for Real Estate Investors



REDEVELOPMENT BY THE NUMBERS

- \$40.79 billion.
 - Redevelopment's economic contribution to California in 2006-2007.
- \$13.
 - Every \$1 of redevelopment agency spending generates nearly \$13 in total economic activity.
- 303,946.
 - Full and part time jobs created in just one year (2006-2007).
- 78,750
 - Units of affordable housing built or rehabilitated since 1995 by redevelopment agencies.
- \$2 billion.
 - State and local taxes generated through redevelopment construction activities in 2006-2007.
- Largest source of affordable housing in CA after the federal government.





TODAY'S TOOLS

DO WE HAVE REDEVELOPMENT BACK?

TYPES OF TIF TOOLS

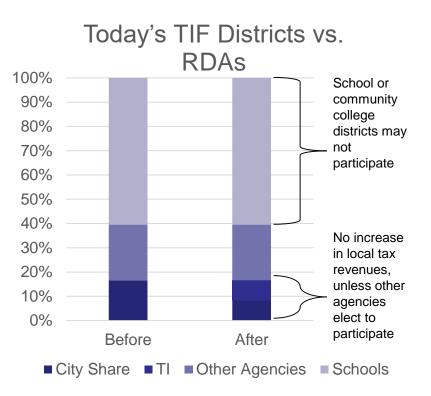
- Financing Tools
 - EIFD: Enhanced Infrastructure Financing Districts
 - AHA: Affordable Housing Authorities (AB 1598)
 - IRFD: Infrastructure Revitalization Financing Districts
 - IFD: Infrastructure Financing Districts
- Financing and Redevelopment Tools
 - CRIA: Community Revitalization & Investment Authorities
- None of these are really like what we had in Redevelopment



TAX INCREMENT W/ EIFD OR CRIA

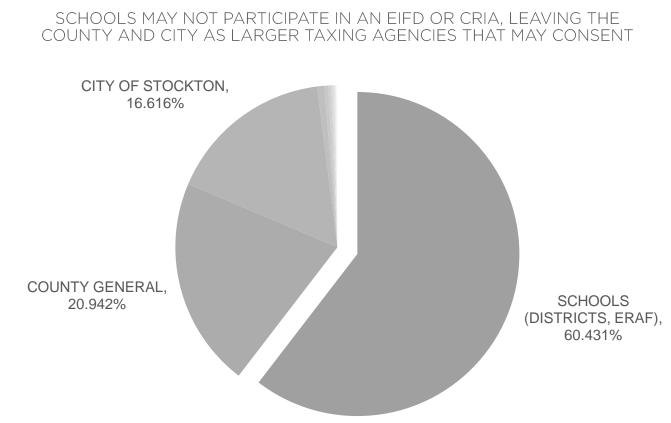
• Similar to old RDA financing, BUT

- Taxing agencies must consent to participate, set their level of funding
- No school participation allowed
- Taxing agencies participating share in governance of district
- Voter approval
 - EIFD: Approving bond issuance
 - CRIA: Potential protest vote
- Other Considerations
 - Successor Agency obligations have seniority over other debts
 - May use RPTTF residual distributions as well
 - District may reimburse startup costs





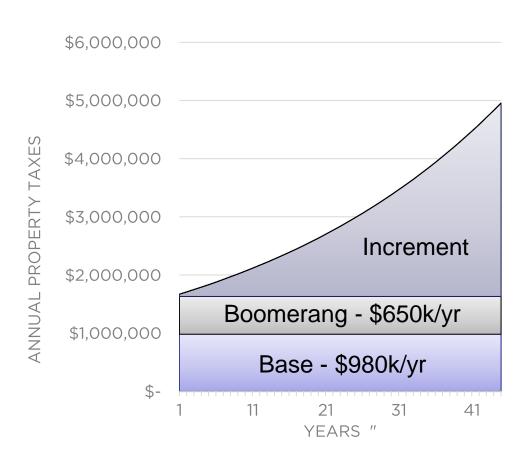
BREAKDOWN OF 1% PROPERTY TAX LEVY WITHIN STOCKTON (2016-17)



Source: San Joaquin County Auditor Controller, 2015-16 citywide average shares. Shares vary by tax rate area throughout City.



PROPERTY TAXES TO CITY



- Tax Increment
 - Future growth in taxes over today's base and boomerang
- Residual RPTTF "Boomerang" Funds
 - Funds returned to General Fund due to dissolution of RDA.
 New monies now that RDAs eliminated
- Base Year
 - Amount of Property Taxes Currently Going to General Fund Directly from County Today



DEMAND FOR REDEVELOPMENT CONTINUES

FINANCING TOOLS

- "Elective" tax increment financing for cities, counties and special districts
- Much less helpful without participation from county and other agencies
- No blight findings

REDEVELOPMENT & FINANCING TOOLS

- CRIAs: Similar "elective" financing mechanism to EIFDs, plus:
 - Ability to acquire by eminent domain for redevelopment purpose
 - Mandatory 25% tax increment housing set aside
 - Ability to partner with private developers on projects beyond merely financing
 - Other redevelopment-like attributes



LIMITATIONS OF NEWER TOOLS

- Demand for Redevelopment requires more participation than merely city in most cases
 - LA County: 8/17 adopted policy framework to limit participation
- Prevailing wage requirements for all projects
- Political pressure to avoid eminent domain
- Costly process, return on initial costs prohibitive
- Governor Brown not supportive of widespread reform



HOPE ON THE HORIZON

- New Governor coming in less than a year, many publicly supporting expansion of some form of redevelopment
- Legislature working on a "6th" tax increment financing tool that may be geared towards affordable housing
- Several bills introduced this year (by CALED) to make modest streamlining to EIFD and CRIA law
- BUT:
 - For any tax increment financing tool to work in <u>most</u> communities, the County and other agencies would absolutely have to participate and growth in tax base would need to occur



DO WE HAVE REDEVELOPMENT BACK: OVERVIEW OF NEW TOOLS

CALED's 38th Annual Training Conference March 15, 2018

> Lynn Hutchins Goldfarb & Lipman Ihutchins@goldfarblipman.com

> > goldfarb lipman attorneys

15 "OLD" REDEVELOPMENT TOOLS

- Tax Increment Financing & Bonding Authority
- Land Assembly (including possibility of Eminent Domain)
- Property Disposition (flexibility)
- Environmental Remediation Polanco Act
- Site Development & Public Improvements
- Commercial Development Assistance goldfarb lipman attorneys

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OVERVIEW OF TAX INCREMENT FINANCING (TIF) TOOLS

- CALED website has some excellent tools on the new TIF tools: https://caled.org/tiftechnical-committee/
- Key choose the most effective tools for the best fit to achieve your community's goals
- Consider creative layering tools

EXISTING TIF TOOLS

- Overview of Tax Increment Financing Tools for Community Economic Development
 - Community Revitalization Investment Authorities (CRIA)
 - Infrastructure Financing Districts (IFDs)
 - Enhanced Infrastructure Financing Districts (EIFDs)/ Seaport Infrastructure Financing Districts (SIFDs)
 - Infrastructure and Revitalization Financing Districts (IRFDs)
 - Annexation Development Plans (ADPs)

NEW TIF TOOLS

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AB 1568: NEIGHBORHOOD INFILL FINANCE AND TRANSIT IMPROVEMENT DISTRICTS (NIFTIS)

- Allows cities, counties, and non-education taxing districts to, by resolution, allocate property tax and other revenue to the EIFD.
- A community may adopt a <u>resolution</u> designating one or more NIFTIs prior to or after adoption of infrastructure financing plan for an EIFD.
- A community may adopt an <u>ordinance</u> pledging sales & use taxes and transaction & use taxes to the NIFTI overlay of an EIFD
- NIFTI funds may be used to fund affordable housing & infrastructure upgrades to meet current and future capacity demands in infill areas –but not for highways or interchanges

NIFTIS CONTINUED

- 20% of all funds received by the EFID must be set aside for acquisition, construction, and rehabilitation of <u>very low and low</u> <u>income</u> housing.
- Housing assisted by the EIFD must be subject to recorded deed restriction 55 years for rental and 45 for owner occupied housing.
- 20% of any new housing units constructed within the EIFD must be affordable to <u>low or moderate income</u> households:
 - At least 6% of new units available for very low income households;
 - At least 9% of new units affordable to low income households; and
 - Up to 5% of new units affordable to moderate income households.
 - Requirements must be met every 10 years and for the life of plan

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- Created by a City or County (must have 1 public member)
- All taxing entities other than school entities can participate
- Taxing entities other than school entities can allocate some or all of the tax increment and/or sales tax in the area to the Low and Moderate Income Housing Fund
- Boundaries of the Authority can be coterminous with the boundaries of the City or County that forms the Authority.

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Use of Funds:

- Governed by an Affordable Housing Investment Plan adopted by entity forming authority
- 95% of funds must be used to increase, improve and preserve community's supply of affordable housing (up to 120% of AMI)
- Not more than 5% of the funds can be used for administrative costs

- Permitted Uses:
 - Provide for low and moderate income housing
 - Utilize Polanco Act
 - Provide for seismic retrofits
 - Acquire and transfer real property and retain controls over property sold or leased for public uses
 - Issue bonds

Permitted Uses (Cont'd):

- Borrow money, receive grants or other financial assistance
- Can enter agreements to coordinate with investments of NMTC funds
- Adopt an affordable housing plan
- Make loans/grant to owners/tenants to improve structures
- Construct foundations, platforms, etc. for air rights parcels to provide affordable housing

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GATTO ACT

- Expands Polanco Act type of powers to cities, counties and successor housing agencies to clean up contaminated properties for reuse
- Addresses the concern that no one wants to invest in these contaminated properties given the strict liability provisions of environmental laws such as CERCLA, RCRA, & California Porter Cologne Water Quality Act.

GATTO ACT POWERS

- Local agency can require landowners to provide environmental assessment studies
- Limited immunity for clean-up efforts for the local agency, developer and its successors, and lenders under state environmental law
- Cost recovery provisions for staff costs and attorneys fees
- Local agency can force 3rd party clean-up

GATTO ACT LIMITATIONS

- Limited immunity under state environmental law does not shield from
 - Federal Liability
 - Third Party Liability
- Cost recovery must use applicable procurement procedures



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LOCAL ECONOMIC DEVELOPMENT ORDINANCE I

- Cities and counties can enact local economic development strategies to increase jobs, create economic opportunity, and generate tax revenue.
- SB 470: in the public interest for local communities to advance or expend public funds for specified economic development purposes and to adopt means by which economic opportunity could be created

LOCAL ECONOMIC DEVELOPMENT ORDINANCE II

- Gov't Code 53083: local agency approval of any economic development subsidy of \$100,000 or more,
 - Noticed public hearing
 - Report available to public (must be on website), including a description, schedule beneficiary, public purpose, and public benefits (including job creation) of the economic development subsidy
- Gov't Code 53083: every 5-years public meeting with same written information – accountability & transparency
- Establish clear land disposition requirements

SB 470/AB 806: ECONOMIC OPPORTUNITY

- □ Statute Defines "economic opportunity":
 - Agreements that create/retains at least 1 FTE permanent job for every \$35k of investment
 - Agreements that create property tax increase of at least 15% compared to year before property acquired by the public entity
 - Creation of affordable housing
 - Project included in an adopted sustainable communities strategy or comparable plan
 - Transit priority projects

AB 806: LIMITS ON EMINENT DOMAIN

- Existing law prohibits the use of eminent domain for economic development purposes – confirmed in AB 806
- Prohibits transfers, for economic development purposes, of real property acquired through eminent domain at a price that is less than fair market value except for:
 - Properties governed by a LRPMP (old RDA non-housing properties)
 - Redevelopment housing assets if finding of completion issued by DOF

AB 806: LAND DISPOSITION PROCESSES

- Must be at noticed public hearing, with once a week notice for 2 weeks
- Available at time of 1st notice proposed lease/sale agreement and report with following information:
 - Cost of the agreement to the local agency
 - Estimated FMV at highest and best use
 - Estimated value of interest transferred given conditions in agreement
- Explanation of why sales price or lease payments less than FMV, if applicable
- May use other available disposition methods not exclusive

AB 806 PROCESS

- Creation of economic development opportunities must follow process in Gov't Code 53803
- Not exclusive method to create economic development opportunities

COMMERCIAL REHAB LOANS

- Commercial rehabilitation loans to owner or tenants of commercial buildings or structures.
 - Written agreement must include:
 - Payment schedule
 - Terms of interest calculation
 - Rights and remedies upon default
 - Other material terms of the loan
 - Must make a finding, after a public hearing, that the assistance is necessary for the economic feasibility of the development and that the assistance cannot be obtained on economically feasible terms in the private market

ASSISTANCE FOR INDUSTRIAL AND MANUFACTURING USES

- Local agency may assist with financing of facilities or capital equipment, including pollution control devices
- Approval at public hearing with following findings:
 - Assistance is necessary for economic feasibility of development
 - Assistance cannot be obtained on economically feasible terms in the private market



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ADDITIONAL CED TOOLS

- □ Assessment Tools- CFDs, BIDs
- Land Use Tools- Density Bonus, SB 35, Zoning, Development Incentives, Specific Plans, CEQA Documentation, Transfer of Development Rights
- Financing Tools- General Funds, Bonds, COPs, Infrastructure Loan Programs, Fee Producing Infrastructure, New Market Tax Credits
- Real Estate Tools- Land, Government Code Development Agreements, Historical Preservation
- Remediation Tools- Gatto Act, US EPA Clean Up Grants Brownfield Loan Fund

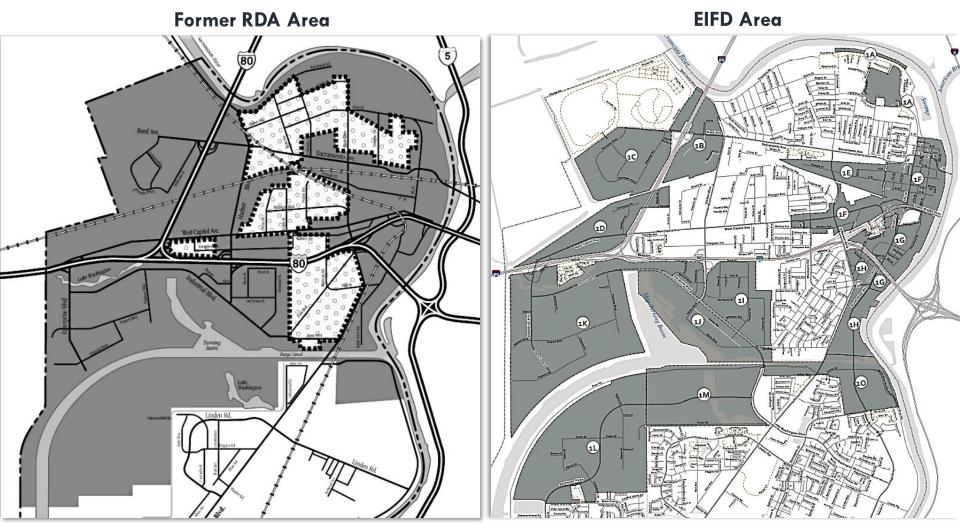
POST-REDEVELOPMENT TOOLS:

CITY OF WEST SACRAMENTO

CASE STUDIES

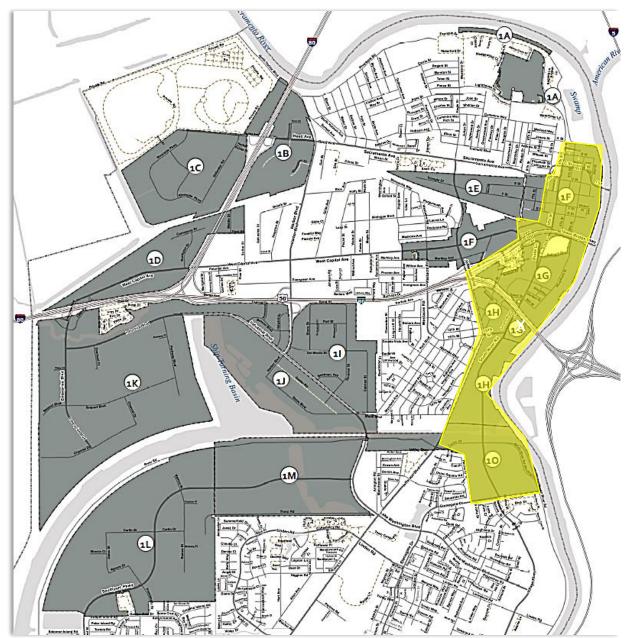


WEST SACRAMENTO EIFD



4,127 Acres

WEST SACRAMENTO EIFD





BRIDGE DISTRICT



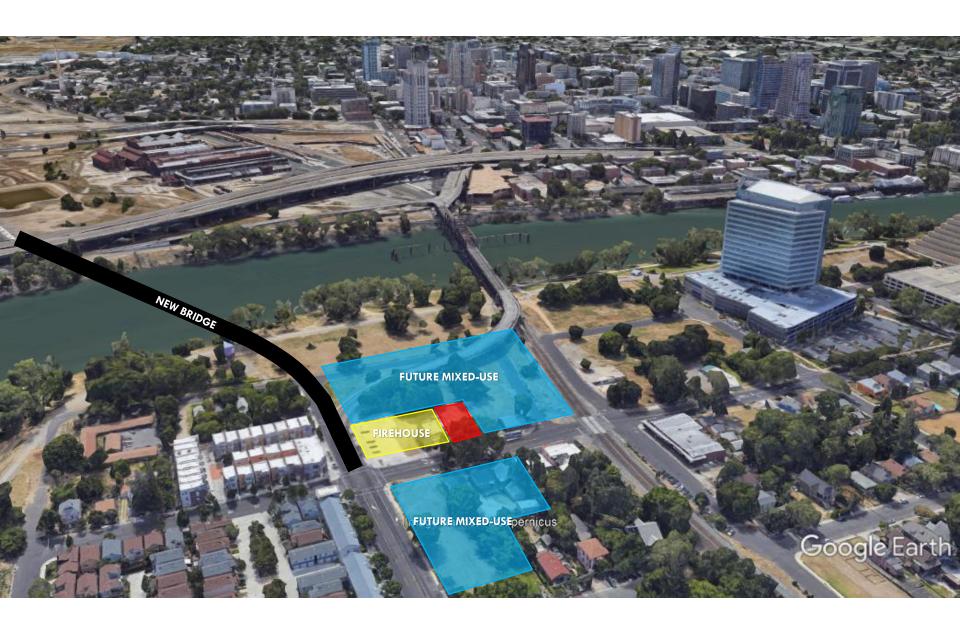


GATTO ACT: 3RD & C STREET REDEVELOPMENT









AB 806: GRAND GATEWAY PROJECT



PROPERTY ACQUISITION

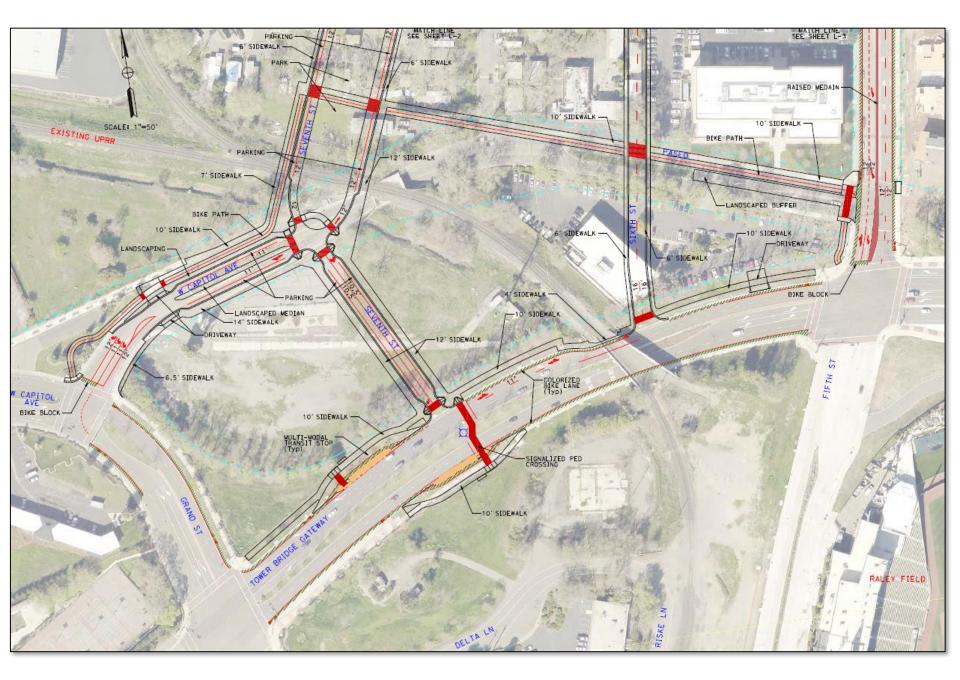












GRAND GATEWAY DEVELOPMENT SITE

Google Earth