CHANGING FACE OF ECONOMIC DEVELOPMENT: LAND USE, SUSTAINABILITY AND HOUSING

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THE GAME PLAN

- 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 (RIFDs)

COMMONALITIES BETWEEN TIF TOOLS

- Rely on percentage of growth in property taxes to be to fund activities
- Authority to pledge tax increment to issue debt
- Exclude participation of educational taxing entities
- Require voluntary pledge of tax increment by participating taxing entities
- No findings of blight are required
- Can fund similar economic development and infrastructure improvements
- Cannot financing routine maintenance, repair work, or costs of on going operation or service
- Effectiveness is dependent on participation of taxing entities

KEY DISTINCTIONS BETWEEN TIF TOOLS

- Formation
  - Initiation/participation
  - Voter approval requirements
  - Qualification criteria for inclusion of property
- Governing bodies
- Fund allocation and bonding requirements
- Purpose and allowable activities
- Affordable housing obligations
  - Mandatory housing set-aside
  - Replacement and production obligations
  - Requirement for recorded restrictions
- Reporting/Accountability requirements
- Term and time limits

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COMMUNITY REVITALIZATION AND INVESTMENT AUTHORITIES (CRIAs)

COMMUNITY REVITALIZATION AND INVESTMENT AUTHORITIES (CRIA)

- A CRIA is a "public agency" created by adoption of an ordinance by sponsoring community's legislative body
- A CRIA implements a Revitalization Investment Plan that must meet the requirements in Govt. Code §62003
- Two types of CRIAs:
  - A single member CRIA consisting only of the city, county, or base reuse authority that initiates its creation
  - A multimember CRIA with one or more public agencies joining one or more special districts creating a Joint Powers Authority
- Formation of a CRIA is not subject to voter approval but is subject to a potential protest proceeding

CRIA

- At least 80% of property (calculated by census tract, census block group or a combination of both) within a CRIA area must be characterized by:
  - Annual median income (AMI) less than 80% of statewide, countywide, or citywide AMI; and
  - Three of four of the following conditions:
    - Unemployment rate at least 3% higher than the statewide average
    - Crime rates at least 5% higher than the statewide average for violent or property crimes
    - Deteriorated or inadequate infrastructure
    - Deteriorated or inadequate commercial or residential structures
- Alternatively, a CRIA can be carried out on property located on a former military base or census tracts, or census block groups that are within a "disadvantaged community"

CRIA

- A CRIA area can include properties in former RDA project area(s) if the sponsoring community of the Former RDA:
  - Has received Finding of Completion
  - Is not using any assets of the Former RDA subject to pending litigation to benefit the CRIA
  - Has complied with State Controller Asset Transfer Review orders
- CRIAs are governed by a separate governing body
  - Single member CRIAs are governed by 3 members from the sponsoring community's legislative body and 2 public members who live or work in the CRIA area
  - JPA CRIAs are governed by a majority of members from participating public agencies' legislative bodies and at least 2 public members who live or work in the area

CRIA

- A sponsoring community may make pledge of all or a portion of tax increment and RDA residual distributions
- Affected taxing entities affirmatively make revocable pledge all or a portion of their tax increment
- A CRIA can issue long-term debt without voter approval

CRIA

- Most flexible list of eligible activities
  - Can fund any project that IFD, EIFD/SIFD, IRFD can fund
  - Not limited to projects with "community wide significance"
  - No 15 years useful life requirement
- A CRI can only operate within its community revitalization and investment area.
- A CRIA can exercise the power of eminent domain to acquire property

CRIA

Housing Obligation	Description
Set-Aside Funding	25% of tax increment allocated to CRIA must be spend on low and moderate income housing, CRIA must plan for excess surplus
Require payment of relocation benefits	Yes
Replacement Housing Obligation	1:1 replacement for units inhabited by low or moderate income households Replacement required w/in 2 years of unit removal w/in CRIA area
Inclusionary Production Requirement	30% of units constructed or substantially rehabilitated *by CRIA* and not less than 50% of units made available to and occupied by VLI households 15% of units constructed or substantially rehabilitated by CRIA and not less than 50% of units made available to and occupied by VLI households
Recorded Restrictive Covenant	55 years for rental 45 years for owner-occupied units 15 years for self-help units

CRIA

- Subject to10-year protest proceedings
  - Terminate CRIA activities if 51% residents and property owners file protest
  - Require election if 25-50% residents and property owners file protest
- Required to produce annual report and an annual independent financial audit
- CRIAs are subject to the following time limits:
  - Establish debt (30 years)
  - Repay debts (45 years)
  - Complete Activities (45 years)

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INFRASTRUCTURE FINANCING DISTRICTS (IFDs)

IFD

- An IFD is a "district" created by adoption of resolution by sponsoring community's legislative body
- An IFD implements an Infrastructure Financing Plan that must meet the requirements in Govt. Code §53395.14
- Formation of an IFD must be approved by 2/3 of eligible voters
  - If 11 or fewer registered voters live in prospective IFD, only property owners eligible to vote
  - If 12 or more registered voters live in prospective IFD, then those registered voters are eligible

IFD

- There are no blight findings or other specific requirements to form geographically-defined IFD areas but legislative intent is to limit creation to “substantially undeveloped” areas
- IFD areas can include properties in former RDA project areas if sponsoring community of former RDA has received Finding of Completion
- IFDs are governed and controlled by the legislative body of its sponsoring community

IFD

- Community and specified tax entities can pledge their share of incremental tax revenue for up to 30 years as security for bonds issued by IFD
- IFDs authority to issue bonds requires 2/3 voter approval
  - If 12 or more registered voters live in prospective IFD, then those registered voters are eligible
  - If 11 or fewer registered voters live in prospective IFD, only property owners eligible to vote 1 vote per acre or partial acre
- Fiscal limits on tax increment appropriated for IFD uses requires only a majority vote
- Only handful of IFDs have been formed to date because of significant impediments and limitations on their application and availability of superior alternative (RDAs)

IFD

- Can only be used to finance facilities of "communitywide significance"
  - Commonly interpreted as large scale infrastructure improvements, including highways, transit, water and sewer projects, flood control, libraries, and parks, waste facilities
  - Must provide benefits beyond IFD boundaries
  - Should have useful life of at least 15 years
- An IFD can fund projects outside of the district boundaries
- Cannot be used for non-replacement affordable housing
- Cannot be used to pay developer until facilities are complete

IFD

Housing Obligation	Description
Set-Aside Funding	No
Require payment of relocation benefits	Yes
Replacement Housing Obligation	1:1 replacement for units inhabited by low or moderate income households 20% replacement obligation for market rate units Replacement required w/in 4 years of unit removal w/in IFD boundaries
Inclusionary Production Requirement	20% of units constructed or substantially rehabilitated by the IFD must be made available to and occupied by low and moderate income households
Recorded Restrictive Covenant	Not specified

IFD

- IFDs are not subject to 10-year protest proceedings
- No annual report and annual independent financial audit required
- IFDs are required to cease their existence 30 years from the adoption ordinance, subject to statutory exceptions

ENHANCED INFRASTRUCTURE FINANCING DISTRICTS (EIFDs) SEAPORT INFRASTRUCTURE FINANCING DISTRICTS (SIFDs)

EIFD/SIFD

- An EIFD is a new "district" created by adoption of resolution by public financing authority
- An SIFD is a new district created by adoption of resolution by public financing authority
- An EIFD implements an Infrastructure Financing Plan that must meet the requirements in Govt. Code §53398.63
- Adoption of an EIFD/SIFD is not subject to voter approval AND it is not subject to potential protest proceeding

EIFD/SIFD

- Two types of EIFDs/SIFDs:
  - A single member EIFD consisting only of the city, county, or base reuse authority that initiates its creation
  - A multimember EIFD with one or more taxing entities
- There are no blight findings or other specific requirements to form geographically-defined EIFD area (noncontiguous property ok)

EIFD/SIFD

- EIFD districts can include properties in former RDA project areas if sponsoring community of former RDA:
  - Has received Finding of Completion
  - Is not using any assets of Former RDA subject to pending litigation to benefit the CRIA
  - Must have completed and complied with State Controller Asset Transfer Review orders
- Single entity EIFDs are governed by a Public Financing Authority consisting of 3 members from the sponsoring community's legislative body and 2 public members chosen by legislative body
- Multimember EIFSs are governed by a Public Financing Authority consisting of a majority of members from participating entities legislative bodies and 2 public members chosen by legislative bodies of the participating entities
- SIFDs are governed by the Harbor Agency

EIFD/SIFD

- Sponsoring community may pledge all or a portion of tax increment and RDA residual distributions
- Affected taxing entities make affirmative decision to pledge all or a portion of their tax increment by revocable resolution
- EIFDs authority to issue bonds requires 55% voter approval
- SIFDs authority to issue bonds requires 2/3 voter approval
  - If 12 or more registered voters live in prospective EIFD/SIFD, then those registered voters are eligible
  - If 11 or fewer registered voters live in prospective EIFD/SIFD, only property owners eligible to vote 1 vote per acre or partial acre

EIFD/SIFD

- State Lands Commission must authorize SIFD bond issuances prior to vote
- Districts may also be funded through a combination of governmental or private loans, grants, bonds, assessments and fees (including among others, VLF, Mello-Roos)

EIFD/SIFD

- Can only be used to finance facilities of "communitywide significance"
  - Commonly interpreted as large scale infrastructure improvements, including highways, transit, water and sewer projects flood control, libraries, and parks
  - Must provide benefits beyond EIFD boundaries
  - Should have useful life of at least 15 years
- EIFDs can be used to fund affordable housing
- EIFDs can fund facilities outside the district if tangible connection to district is established
- SIFDs can be use to fund port and harbor infrastructure

EIFD/SIFD

Housing Obligation	Description
Set-Aside Funding	No
Require payment of relocation benefits	Yes
Replacement Housing Obligation	1:1 replacement for units inhabited by low or moderate income households *at any time 5 years prior to adoption of EIFD or SIFD* 25% replacement obligation for market rate units Replacement required w/in 2 years of unit removal w/in ½ mile of removed unit
Inclusionary Production Requirement	No
Recorded Restrictive Covenant	55 years for rental 45 years for owner-occupied units

EIFD/SIFD

- EIFDs/SIFDs are not subject to10-year Protest Proceedings
- EIFDs/SIFDs are not required to produce annual report
- If EIFD issues bonds, EIFD is required to have independent financial audits conducted every 2 years
- EIFDs/SIFDs must cease to exist w/in 45 years of controlling entity's approval of bond issuance or first loan issuance

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INFRASTRUCTURE AND REVITALIZATION FINANCING DISTRICTS (IRFDs)

IRFD

- An IRFD is a new "district" created by adoption of a resolution initiated by city, county or base reuse authority
- An IRFD implements an Infrastructure Financing Plan that must meet the requirements in Govt. Code §53369.14
- Formation of an IRFD must be approved by 2/3 of eligible voters
  - If 11 or fewer registered voters live in prospective IRFD, only property owners eligible to vote
  - If 12 or more registered voters live in prospective IRFD, then those registered voters are eligible

IRFD

- There are no blight findings or other specific requirements to form IRFD
- IRFD areas can include properties in former RDA project areas if sponsoring community of former RDA has received Finding of Completion
- District area may contain noncontiguous parcels/project areas
- IRFDs are governed and controlled by the legislative body of its sponsoring community

IRFD

- Sponsoring community may pledge all or a portion of tax increment and RDA residual distributions
- Affected taxing entities make affirmative decision to pledge all or a portion of their tax increment by irrevocable resolution
- IRFDs authority to issue bonds requires 2/3 voter approval
  - If 12 or more registered voters live in prospective IRFD, then those registered voters are eligible
  - If 11 or fewer registered voters live in prospective IRFD only property owners eligible to vote; 1 vote per acre or partial acre

IRFD

- Can only be used to finance facilities of "communitywide significance"
  - Commonly interpreted as large scale infrastructure improvements, including highways, transit, water and sewer projects flood control, libraries, and parks
  - Must provide benefits beyond EIFD boundaries
  - Should have useful life of at least 15 years
- IRFD funds can be used to fund affordable housing
- IRFDs can fund facilities located outside the district boundaries
- IRFDs can supplant existing facilities if the facilities or services are essentially nonfunctional, obsolete, hazardous, or in need of upgrade or rehabilitation

IRFD

Housing Obligation	Description
Set-Aside Funding	No
Require payment of relocation benefits	Yes
Replacement Housing Obligation	1:1 replacement for units inhabited by low or moderate income households 20% replacement obligation for market rate units Replacement required w/in 4 years of unit removal w/in IRFD boundaries or anywhere on former military base consistent with base reuse plan
Inclusionary Production Requirement	20% of units constructed *by IRFD* must be made available to and occupied by low and moderate income households
Recorded Restrictive Covenant	55 years for rental 45 years for owner-occupied units

IRFD

- IRFDs are not subject to10-year protest proceedings
- IRFDs are required to produce annual reports and post those reports on the sponsoring community's website
- IRFDs must cease to exist w/in 40 years of controlling entity's approval of formation or later date specified by ordinance

SB 540- WORKFORCE HOUSING OPPORTUNITY ZONES (WHOZ)

- Allows a community to adopt a specific plan and EIR to establish a WHOZ to streamline housing approvals and allows HCD to provide grants or no-interest loans to develop the specific plan and related EIR.

- The Specific Plan must, among other requirements:

  - Specify distribution and location of 100 to 1,500 units; but may not include more than 50% of the community's RHNA, unless total RHNA is 100 or less

  - Specify traffic, water quality, public utility, and natural resources protection mitigation measures

  - Specify density ranges to accommodate housing

WHOZ

- 50% of units constructed or substantially rehabilitated within the WHOZ must be affordable, and subject to recorded restriction:
  - At least 13% affordable to moderate income households;
  - At least 15% affordable to low income households;
  - At least 5% affordable to very-low income households
  - Not more than 50% of the units sold or leased to above-moderate income households
  - If development includes more than 50% for above-moderate income households, 10% of development must be made available to lower income households.

WHOZ

- For 5 years after approval of the specific plan, developments consistent with the specific plan and project specific criteria (including requirement to pay prevailing wages) must be approved within 60 days of a completed application without further environmental review
- Within 5 years community must determine if a supplemental or subsequent EIR must be prepared, and consider whether any amendments are required to the specific plan for the zone
- Limited ability to deny projects related to the changes in the physical condition of the site

AB 73: HOUSING SUSTAINABILITY DISTRICTS (HSD)

- Community may, with HCD's approval, designate a housing sustainability district, to permit low-and moderate income housing through ministerial process.
- A community must submit application to HCD, prior to adoption of an HSD and the HSD is subject to annual re-certification

HOUSING SUSTAINABILITY DISTRICT

- Property included within HSD must:
  - Be located w/in ½ mile of public transit or be in an area with existing infrastructure, transportation access, and highly suitable for residential or mixed-use development
  - Zoned to permit residential uses through ministerial issuance of permit
  - Allow housing development consistent with neighborhood building and use patters and applicable code
  - Not be subject to limitations or moratoriums on residential use

- Community may not include more than 15% of total land within its jurisdiction in a HSD, or more than 30% of total land under all HSDs

- Housing units within the district must comply with federal, state, and local fair housing laws

HOUSING SUSTAINABILITY DISTRICT

- Project Requirements:
  - 20% of units w/in district must be affordable to very-low, low and moderate income households
  - Project may not involve a subdivision, with specified exceptions
  - Requires payment of prevailing wages and use of a "skilled and trained workforce" for projects
- Local agency may receive incentive payment administered by HCD.

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

- Existing law allows for the creation of Enhanced Infrastructure Financing Districts (EIFDs) and 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 resolution designating one or more NIFTIs prior to or after adoption of infrastructure financing plan for an EIFD.

- A community may adopt an ordinance 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

NIFTIs CONTINUED

- 20% of all funds received by the EFID must be set aside for acquisition, construction, and rehabilitation of very low and low income 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 low or moderate income 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

AFFORDABLE HOUSING AUTHORITIES

- Created by a City or County
- 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 are coterminous with the boundaries of the City or County that formed the Authority.

AFFORDABLE HOUSING AUTHORITIES

- 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
  - Not more than 5% of the funds can be used for administrative costs