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To: City of Oakland Finance Department

From: Sperry Capital and HR&A Advisors Team

Date: January 19, 2024

Subject: Assessment of Enhanced Infrastructure Financing Authority

Section 1: Executive Summary

The City of Oakland (the "City") is evaluating the feasibility of implementing one or more enhanced infrastructure financing district(s) (each an "EIFD") with an emphasis on funding affordable housing and related infrastructure.[1] Kosmont Companies ("Kosmont") completed a preliminary feasibility study of a proposed Citywide EIFD as well as the East Oakland and West Oakland focus areas.[2] The City requested that the Sperry Capital and HR&A Advisors Consultant Team ("Consultant Team") review the preliminary feasibility analysis prepared by Kosmont and provide a report on the results. The City has requested that the Consultant Team also provide guidance regarding EIFDs and their implementation.

EIFDs are one form of a tax increment financing ("TIF") district. TIF districts provide a funding/financing mechanism to capture incremental property tax revenues that result from property value growth. This incremental property tax, called tax increment, is collected within the TIF district to fund designated public facilities and improvements, potentially including affordable housing. Current California law enables several types of TIF districts, of which the EIFD is one type.

Tax increment revenue depends on, and lags, assessed property value growth, so near-term revenue from TIF districts is generally limited. As a result, TIF districts, including EIFDs, are generally best suited where a significant amount of near-term revenue is not needed, in areas of high growth/significant private development activity, and/or in combination with other funding/financing tools.

Participation of taxing entities in EIFDs by cities or counties is voluntary, and each taxing entity that chooses to join the EIFD and contribute tax increment has the option to allocate up to 100% of its tax increment (however, school districts and successor agencies are precluded from participating). Bonds can only be issued secured by tax increment revenue when a sufficient and mature enough tax increment revenue stream has built up over time.

Generally, factors that allow an EIFD to be successful include: [3]

- A strong real estate market with high assessed valuation growth potential;
- Significant private development plans;
- Multiple contributing taxing entities with a large share of the 1% base property taxes;
- The ability for taxing entities to partner and contribute tax increment (e.g., city and county);
- Support of property owners and the community to increase the likelihood of the EIFD proceeding through the protest process.

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[1] https://oakland.legistar.com/LegislationDetail.aspx?ID=5864477&GUID=2BA47B99-2E9B-4BF3-AAD1-3D3D370AB932&Options=&Search=

[2] Enhanced Infrastructure Financing District Memo, 2022 https://oakland.legistar.com/View.ashx?M=F&ID=11365931&GUID=7368DB9B-CCD6-4ECF-AC89-D47CA300B4DC

[3] The above list is not exhaustive as to what makes an EIFD successful, it rather provides potential key contributing factors.

- A specific infrastructure plan, which allows the community to recognize the tangible benefits of the EIFD and the public infrastructure it is being implemented to fund;
- Other funding sources that can increase the amount for the EIFD funded projects.

As part of this assignment, the Consultant Team:

- Identified a set of conditions typically required for EIFD success;
- Assessed the City's proposal for EIFD(s) to fund affordable housing and related improvements as well as Kosmont's preliminary feasibility analysis results based on the information available to Consultant Team; and
- Proposed recommendations and next steps for the City's consideration.

The key considerations for the City based on the Consultant Team's review include:

- The proposed boundaries of a Citywide EIFD may pose an unnecessary fiscal risk to the City;
- The City could conduct a series of assessments over alternative boundaries to evaluate the potential for suitable/effective EIFDs;
- EIFD(s) tend to be a more powerful infrastructure funding/financing tool when more than one taxing entity contributes tax increment, and as such the City could work to secure a contribution from Alameda County;
- Consideration could be given to allocating a share of EIFD funding/financing for affordable housing and a share of EIFD funding/financing for public investments that trigger private real estate development and assessed value growth, with the public facilities to be financed clearly defined/specified;
- EIFD policy can be created which may assist the City in evaluating EIFD proposals and further define the types and costs of targeted infrastructure projects that may be best suited for an EIFD funding/financing. The Consultant Team **strongly recommends** that the City consider this option.

First, this brief memorandum provides an overview of EIFDs generally and potential key evaluation criteria for proposed EIFDs, then discusses the City's proposal and Kosmont's preliminary feasibility analysis and concludes with recommendations for the City's consideration.

Section 2: EIFD Evaluation Criteria

Key Conditions for EIFD Success

As discussed, EIFDs are only one option within the value capture toolkit, and value capture constitutes a subset of infrastructure funding/financing tools. To assist the City in determining the potential effectiveness of an EIFD for funding affordable housing, the Consultant Team describes certain key evaluation criteria for consideration below:

Criteria 1: Whether the public sector infrastructure investments to be funded by the EIFD are likely to trigger land/property value increases that will produce a meaningful amount of tax increment revenue over time when combined with other sources of funding.

Proposition 13 limits the amount existing assessed value can grow at 2% per year, unless/until property is transferred or renovated, in which case the assessed value becomes the market value at the time of the sale or improvements. In addition, new development/construction value is added to the tax roll as construction occurs, with a lag. As a result, the highest assessed value growth tends to occur in high private real estate development areas. Generally, new development takes place when:

- There is an existing or anticipated demand for real estate development in the area;

- There are vacant sites or infill sites that can be profitably redeveloped by private developers; and
- Land use regulations and community preferences allow for such development.

As described, the public sector may also make infrastructure investments that incent private development and property values in the area (e.g., in transit, horizontal infrastructure). The general objective of an EIFD is to assist the public sector in capturing back the property value increases that result from such public investments. As a result, it is critical to understand whether some or all of the public facilities funded/financed by the EIFD will trigger such increases and if the tax increment will be substantial.

Criteria 2: Whether the creation and implementation of the EIFD provides a net fiscal benefit to the City.

Creating an EIFD implies a decision by a taxing entity, often a city, to direct some or all of its future property tax increment to projects designated to be funded by EIFD revenue in the Infrastructure Financing Plan ("IFP") (as a result such redirected revenues are not available to the general fund for other public purposes). Generally, analysis should show that the EIFD's implementation generates a positive fiscal impact for the jurisdiction(s) contributing tax increment to the EIFD. This positive fiscal impact is assessed by analyzing whether estimated fiscal revenues (net of the tax increment contribution to the EIFD) including things like remaining tax increment, sales taxes, transfer taxes, business license taxes, will more than cover increases in public service costs that result from the increased private development and related economic activity. Furthermore, the tax increment allocated to the EIFD should not be such a large share of its future tax revenues that it jeopardizes the fiscal health of a city's general fund.

Criteria 3: Whether the timing of those revenues and their amounts match the timing of funding need for those public sector projects when combined with other available sources of funding for such projects.

EIFD revenues rely on, yet lag, assessed value increases. It takes time for EIFDs to generate tax increment revenue that is sufficient and mature enough to provide the ability to raise debt financing (e.g., bonds) secured by it. As an example of this, despite the formation of multiple EIFDs across California since the financing tool's inception in 2014, as of September 5, 2023, there have not been any stand-alone EIFD bond financings. However, Treasure Island (San Francisco) issued bonds under an Infrastructure and Revitalization Financing District structure, which is similar to an EIFD in that the bonds are secured by tax increment. The par amount of those bonds was $24.27M for the Series 2022A and $5.12M for the Series 2022B bonds.[4] Additionally, the Otay Mesa EIFD (San Diego) approved the issuance of bonds and discussed bonding capacity and capital infrastructure needs for the Otay Mesa EIFD in February 2022. Tax allocation bonds for the Otay Mesa EIFD were expected to close in 2022; however, such bonds have not been issued to date. The timing of the revenue and potential future EIFD financings should be assessed in the context of other potential sources of financing for the projects identified to be financed by the EIFD to ensure sufficient availability of funding for those projects in the time required.

Additional Considerations for EIFD Formation

In addition to fulfilling the threshold conditions described above, sponsoring entities typically follow certain other practices in determining whether to implement an EIFD (and/or other TIF instruments):

Establishment of EIFD Framework and Policy: To assist with screening EIFD proposals and ensure those implemented have good grounds for doing so, establishment of an EIFD framework, which sets conditions

[4] https://emma.msrb.org/P21606350-P21238536-P21662197.pdf

that proposals must meet can be useful. For example, the County of Los Angeles has an EIFD policy that dictates certain basic prerequisites for LA County to initiate or participate in an EIFD, including: i) a positive net impact to the county general fund; ii) a "but-for" analysis that evaluates whether LA County's participation is a necessary pre-condition for the infrastructure projects to be undertaken; iii) a requirement that a city's contribution of property tax in the project must be equal to or greater than LA County's contribution; and iv) a requirement that LA County cannot contribute 100 percent of its share of property tax.[5]

Participation of more than one entity: Participation in the EIFD from more than one taxing entity increases the potential for revenue generation. If there are other entities besides the City interested in participating, then it is more likely that the EIFD will be successful for all parties.

Early-Stage Collaboration and Planning across Stakeholders: EIFDs do not require voter approval for formation or to issue bonds but are subject to a protest process before they can be formed, as described previously. Therefore, early-stage collaboration and planning across stakeholders is critical to garner support for a potential EIFD and avoid a protest vote.

Funding Affordable Housing: Some taxing jurisdictions have used TIF mechanisms to expressly fund affordable housing. TIF mechanisms in California can assist local communities in developing affordable housing. There are currently no low- or moderate-income housing requirements for EIFDs, but EIFDs may finance affordable and mixed income housing projects[6]. However, long-term affordability requirements are required for housing financed by EIFDs.[7] Other California TIF mechanisms, such as CRIAs, require that 25% of tax increment revenue collected be used for affordable housing. Additionally, some jurisdictions have created EIFD policies to help guide what tax increment revenues can be used for. For example, Los Angeles County's EIFD policy requires that rental housing proposed for an EIFD must allocate a minimum of 20% of all units for affordable housing.[8]

Section 3: EIFD Proposal

Rationale for Proposed EIFD

In October 2022, Mayor Sheng Thao (then Councilmember) and Councilmember Carroll Fife jointly introduced Resolution 89480 to Oakland's City Council expressing an interest in establishing one or more EIFDs to fund affordable housing *"that affirms the City's commitment to furthering fair housing and infrastructure improvements."* This resolution also directed the City Administrator to produce a report evaluating the creation of EIFDs that contemplated three boundaries, including one in East Oakland, one in West Oakland, and another which would combine both areas, effectively covering the entire City. Resolution 89480 directed the City Administrator to work with Kosmont to produce these reports.

In November 2022, Mayor Thao and Councilmember Fife issued a letter stating that the EIFD "*is designed to help us fund the infrastructure, affordable housing, environmental cleanups, and street safety we need as well as the intentional reinvestment into East and West Oakland via a Black New Deal.*" The letter emphasizes the "Report on Redlined Neighborhoods in City Council District 3", produced by the City's

[5] "Approval of Board Policy for Evaluating Enhanced Infrastructure Financing District and Community Revitalization and Investment Authority Projects" (Board of Supervisors, County of Los Angeles, August 2017), http://file.lacounty.gov/SDSInter/bos/supdocs/115680.pdf.
[6] Including transit-oriented development and infill housing
[7] 55 years for rental housing and 45 years for ownership housing
[8] https://file.lacounty.gov/SDSInter/bos/supdocs/115680.pdf

Department of Race and Equity, focusing on the detrimental impacts of urban renewal policies on West Oakland, specifying that a West Oakland-specific EIFD could conservatively generate anywhere in the range of $16.5 million to $33.7 million in revenue and bonding capacity over a 10-year period.

Review of Kosmont's Analysis

Kosmont conducted a preliminary feasibility analysis of potential EIFDs within the three potential boundaries discussed in Resolution 89480.[9] Based on the distribution of taxes collected from the Tax Rate Areas within each boundary, Kosmont identified that the City currently receives approximately 28%-29% of every $1 collected in property taxes within the study areas. Kosmont then estimated future increases in the assessed value within the boundaries proposed, estimated property taxes based on these increases (the tax increment), and then the share of the property tax that the City receives based on its percentage share of each $1.

Kosmont produced an EIFD revenue generation analysis assuming scenarios in which the City contributes different percentages of its share of tax increment (25%, 33%, and 50%) assuming a 50-year district lifetime with the first bond issuance at year 5.[10] To estimate future increases in assessed value, Kosmont assumed two scenarios, where existing assessed value would increase at a set of low and high growth rates. In its analysis, Kosmont included only property tax contributions from the City, and excluded potential contributions of motor vehicle in-lieu tax or any contributions from Alameda County.

Based on the above, Kosmont conducted a high-level projection of EIFD revenues and debt capacity at different years. According to Kosmont's preliminary feasibility analysis, accumulated revenue, and bonding capacity by year 10 of the EIFD life ranges between $33 and $85 million in East Oakland, $13 and $34 million in West Oakland, and $46 and $119 million for West plus East Oakland boundaries.[11] The full range of estimates by scenario is set in the table below.

[9] Across all scenarios, Kosmont excluded the Howard Terminal area.

[10] Pursuant to Government Code 53398.63 et. seq., the maximum duration of an EIFD is 45 years from the date on which the issuance of bonds is approved

[11] Kosmont PowerPoint, August 2022, p. 17

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EIFD Revenue Contribution Scenario (City as only Taxing Entity contributing)	Year 5 Annual Revenue	Year 5 Accumulated Revenue + Bonding Capacity	Year 10 Annual Revenue	Year 10 Accumulated Revenue + Bonding Capacity	50-Year Present Value at 6%	50-Year Nominal Total
E. OAK, 25%, Low	$1,242,000	$15,623,000	$2,087,000	$32,831,000	$51,979,000	$300,206,000
E. OAK, 25%, High	$1,664,000	$21,311,000	$2,640,000	$42,363,000	$61,446,000	$342,439,000
E. OAK, 33%, Low	$1,639,000	$20,843,000	$2,755,000	$43,549,000	$68,612,000	$396,272,000
E. OAK, 33%, High	$2,197,000	$28,343,000	$3,485,000	$56,131,000	$81,108,000	$452,019,000
E. OAK, 50%, Low	$2,484,000	$31,908,000	$4,174,000	$66,325,000	$103,957,000	$600,412,000
E. OAK, 50%, High	$3,329,000	$43,285,000	$5,281,000	$85,388,000	$122,891,000	$684,877,000
W. OAK, 25%, Low	$496,000	$5,841,000	$833,000	$12,710,000	$20,753,000	$119,860,000
W. OAK, 25%, High	$665,000	$8,111,000	$1,054,000	$16,517,000	$24,533,000	$136,721,000
W. OAK, 33%, Low	$655,000	$7,922,000	$1,100,000	$16,989,000	$27,394,000	$158,215,000
W. OAK, 33%, High	$877,000	$10,919,000	$1,392,000	$22,014,000	$32,383,000	$180,472,000
W. OAK, 50%, Low	$992,000	$12,344,000	$1,667,000	$26,083,000	$41,506,000	$239,719,000
W. OAK, 50%, High	$1,329,000	$16,885,000	$2,109,000	$33,696,000	$49,065,000	$273,442,000
Citywide, 25%, Low	$1,738,000	$21,464,000	$2,920,000	$45,541,000	$72,732,000	$420,066,000
Citywide, 25%, High	$2,329,000	$29,422,000	$3,694,000	$58,880,000	$85,979,000	$479,160,000
Citywide, 33%, Low	$2,294,000	$28,765,000	$3,855,000	$60,538,000	$96,006,000	$554,487,000
Citywide, 33%, High	$3,074,000	$39,262,000	$4,877,000	$78,145,000	$113,491,000	$632,491,000
Citywide, 50%, Low	$3,476,000	$44,252,000	$5,841,000	$92,408,000	$145,463,000	$840,131,000
Citywide, 50%, High	$4,658,000	$60,170,000	$7,390,000	$119,084,000	$171,956,000	$958,319,000

In addition, Kosmont conducted a fiscal impact analysis within the West Oakland EIFD proposed boundary. The Consultant Team understand that this analysis is meant to inform whether, net of EIFD contributions, future development in the area can produce enough tax revenues to support future increases in the cost of public services triggered by development activity. This assessment was based on an assumed future development program as per the West Oakland Specific Plan as well as assessed values for each use, as summarized below.

Assumption	West Oakland EIFD	Citywide EIFD
Key Land Use Assumptions (Stabilized Year 25)	2,890 units of market-rate rental residential at $400,000 per unit 510 units of market-rate for-sale residential at $650,000 per unit 850 units of property tax-exempt affordable residential 2,375,000 SF of commercial/office at $412 PSF 360,000 SF of commercial/retail at $341 PSF 1,110,000 SF of industrial/flex at $169 PSF.	Kosmont did not provide a Fiscal Impact Analysis for East Oakland

Kosmont estimated that the anticipated costs from this development program in terms of public services provision would amount to $829 million over a 50-year period (in net present value). Moreover, Kosmont estimated that, under the most conservative tax increment contribution scenario where 50% of the tax increment goes to the EIFD, fiscal revenues going to the general fund (including the remaining property tax increment as well as other sources of revenue) would amount to $847 million (in net present value), leaving a surplus of $19 million, or 2% of the anticipated tax increment revenues net of EIFD contributions.

Kosmont did not produce a fiscal impact analysis for East Oakland, and therefore the impact of diverting part of tax increments to a citywide EIFD is not currently available. Kosmont also proposed an illustrative EIFD formation schedule of 2.5 years from the initial outreach to adopting the resolution approving the Infrastructure Financing Plan.

Section 4: Assessment of Oakland's EIFD Proposal

Based on the information provided, the Consultant Team used the evaluation framework described above to evaluate the City's proposal to create an EIFD.

Criteria 1: Whether the public sector infrastructure investments to be funded by the EIFD are likely to trigger land/property value increases that will produce a meaningful amount of tax increment revenue over time when combined with other sources of funding.

Kosmont's analysis does not address how public infrastructure improvements and/or real estate conditions would affect the value creation potential in the EIFD boundaries contemplated. Specifically, Kosmont's projections of assessed value growth are based on historic growth rates. Kosmont does not assume assessed value growth rates that are projected to occur because of public improvements funded by an EIFD. In other words, no increases in value that would likely result from the public infrastructure improvements have been identified/specified.

Criteria 2: Whether the creation and implementation of the EIFD provides a net fiscal benefit to the City.

The EIFD boundaries proposed include East Oakland and Citywide boundaries. Kosmont did not assess the fiscal impact of an EIFD, except in West Oakland. This assessment is particularly critical given that the proposal includes boundaries covering a substantial portion or all of the City's taxable base (30% in West Oakland boundaries and 70% in East Oakland boundaries).

Creating an EIFD implies a decision by a taxing entity, often a city, to direct some or all of its future property tax increment to projects designated to be funded by EIFD revenue in the IFP (and away from a city's general fund for other public purposes). Generally, analysis should show that the EIFD's implementation generates a positive fiscal impact for the jurisdiction(s) contributing tax increment to the EIFD. This positive fiscal impact is assessed by analyzing if the remaining tax increment will cover increases in public service costs in the EIFD area and if the EIFD revenues will potentially impair a city's ability to appropriately fund its general fund. Moreover, the share of tax increment allocated to the EIFD should represent a share over future citywide tax revenues that is small enough to not jeopardize a jurisdiction's ability to appropriately feed its general fund.

Criteria 3: Whether the timing of those revenues and their amounts match the timing of funding need for those public sector projects when combined with other available sources of funding for such projects.

The extent of capital expenses required for the affordable housing and other infrastructure efforts targeted in the proposal is unknown as are other funding sources for these projects, so the Consultant Team is not able to make a judgement as to the potential sufficiency and timeliness of EIFD revenues for its intended purposes.

Section 5: Recommendations

As proposed currently, an EIFD to primarily fund affordable housing is not certain to meet the threshold criteria to be an appropriate infrastructure funding tool and may pose other fiscal risks to the City, as discussed above. If the City intends to pursue the EIFD(s) proposed for the funding of affordable housing, then the Consultant Team suggests that the City consider the following:

First, **the configuration of the proposed boundaries may pose an unnecessary fiscal risk to the City**. The City could consider a set of narrower EIFD boundaries that balance the need to secure funds for infrastructure and affordable housing, while minimizing future fiscal risks from long-term earmarking of substantial (e.g., citywide) incremental property tax revenue. The areas within these boundaries should have high assessed valuation growth potential and significant private development plans. The EIFD boundary can be noncontiguous areas. Ideally, if funding of affordable housing is a key objective, the EIFD boundaries could be established around areas with strong real estate market potential, whose tax increment can be used to subsidize affordable housing and other public infrastructure projects that spur economic development within that area, and/or in areas of high need with soft real estate markets (if structured appropriately, including with an appropriate tangible connection to the EIFD). Furthermore, all else equal, fiscal risk becomes more significant with a very large EIFD that covers a significant portion of a city. It leads to a large share of City property tax revenue dedicated to a specific purpose, away from the general fund, limiting the City's flexibility in the use of those funds for other purposes (e.g., emergency, fiscal downturn).

Second**, conducting a series of assessments over the alternative boundaries** may help inform the City of:

a) areas with high potential real estate demand that may generate the magnitude, predictability, and timeliness of EIFD revenues to support City objectives for the EIFD;

b) the type of public infrastructure projects that would be necessary for and/or assist in triggering such increased demand; and

c) the fiscal impact of anticipated new development within EIFD boundaries, including revenue generation (net of EIFD tax increment contributions) and the associated increases in public costs associated with servicing the new development.

These will be key factors in determining suitability of the EIFD boundary and proposal. The City should also consider the extent to which EIFD contributions constrain the City's future fiscal resilience as described above.

Third, **EIFD(s) tend to be a more powerful infrastructure funding/financing tool when more than one taxing entity contributes tax increment, and as such the City could work to secure a contribution from Alameda County**. This would allow the City to benefit from capturing additional funds from another jurisdiction to fund the intended infrastructure works and ensure broader support for the EIFD funding/financing objectives.

Fourth, and as an alternative to using all EIFD proceeds to fund affordable housing and related infrastructure, the City could consider **setting a certain share of proceeds for affordable housing** (e.g., 25%, similar to the requirement set by the Los Angeles County EIFD Participation Policy) and use the remaining contributions for a set of targeted EIFD-funded infrastructure works that can trigger increases in properties' taxable base and property tax revenue that can feed into an EIFD, as discussed.

Fifth, the City should consider **further defining/specifying the types and costs of targeted infrastructure projects**. The language in Resolution 89480 and the letters from members of the City Council do not specify with any detail which projects would be funded with the projected revenue and bond proceeds from the EIFDs. As described, the choice of EIFD-funded projects is critical to determine whether the structure meets regulatory requirements, the projects are likely to trigger real estate development/property assessed value increases, and whether the revenue profile associated with the EIFD matches the timing of these public infrastructure needs.

Sixth, **the City should strongly consider creating an EIFD policy** which may assist the City in evaluating EIFD proposals and further define the types and costs of targeted infrastructure projects that may be best suited for an EIFD funding/financing. **The Consultant Team strongly recommends that the City consider this option** as a prerequisite best practice that other jurisdictions in California have chosen.

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Appendix A: EIFD Fundamentals

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Value Capture Tools for Infrastructure Funding

An EIFD is a type of value capture tool that communities can consider to help meet their public infrastructure funding/financing needs. Value capture refers to the recovery of a portion of the real estate value created as a result of public infrastructure investment. Value capture tools have traditionally been used to help fund infrastructure projects that lead to further real estate development, higher property values (for instance, in the case of transit facilities, studies have linked proximity to them to higher commercial and residential property values and sale prices) and resulting higher property tax revenues.

The use of value capture tools generally requires agreement among different stakeholders and public bodies as well as coordination with land use, private development, and real estate-related decisions. Many value capture tools are enabled in California, including TIF districts, Mello-Roos Community Facilities Districts, assessment districts, development impact fees, joint development agreements, zoning bonuses/incentives, and air rights among others. The Kosmont preliminary feasibility analysis focused on EIFD(s), a form of TIF district.

Overview of TIF

As described, TIF districts can be used to provide a financing mechanism to capture incremental property tax revenues collected within a designated district to fund public facilities and improvements. The incremental property tax, called tax increment, is generated as assessed property values grow over time above a certain base value (see Figure 1). Current California law enables several types of TIF districts, of which the EIFD is one type. Others include Community Revitalization & Investment Authorities ("CRIA"), Infrastructure Financing District ("IFD"), and Infrastructure and Revitalization Financing District ("IRFD"). Each type has its own nuanced requirements.

Tax increment revenue depends on, and lags, assessed value growth, so near-term revenue from the TIF districts is generally limited. As a result, TIF districts are generally best suited where near-term revenue is not needed, in areas of high growth/significant private development activity, and/or in combination with other funding/financing tools. For example, TIF districts are often used in combination with CFDs,[12] which can often be structured to generate revenue earlier than a TIF district because of the flexibility allowed for setting the special taxes used in CFDs.

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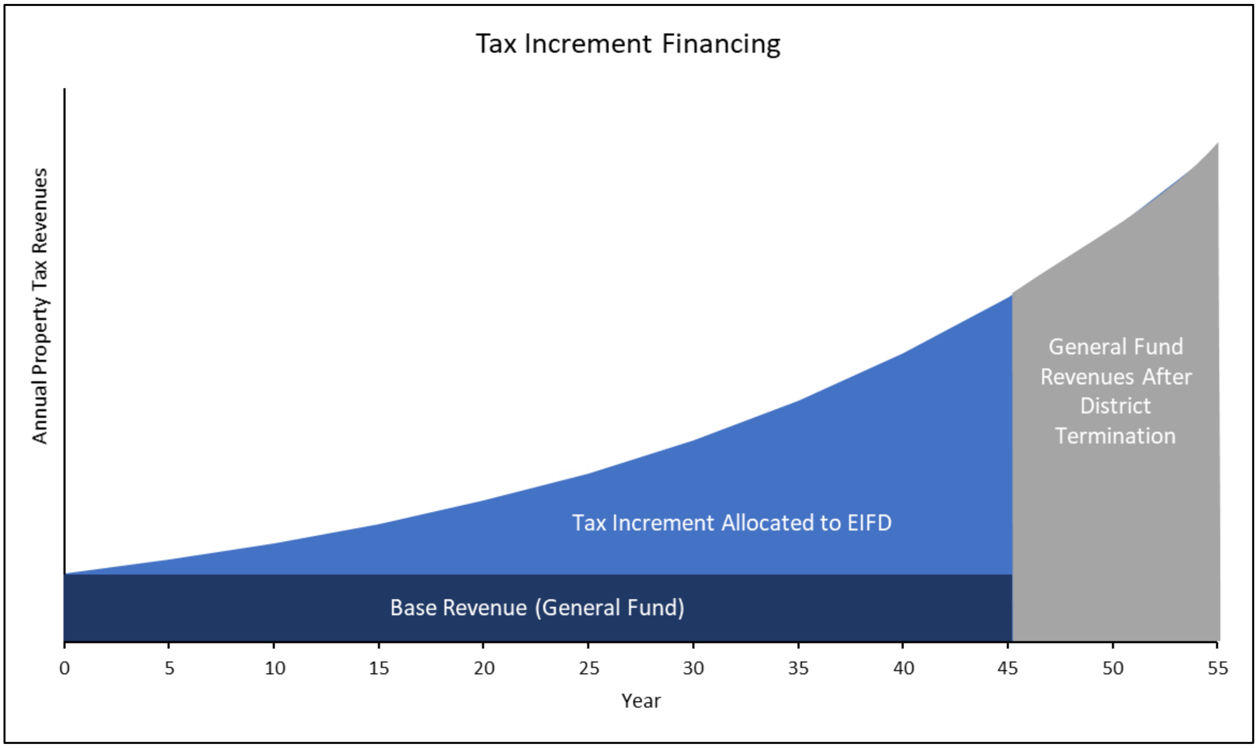
[12] Community Facilities Districts are frequently referred to as Mello-Roos districts as a nod to their legislative founders.

Figure 1 | Timing of Revenues from Tax Increment Financing



Participation of taxing entities, such as cities or counties, is voluntary, and each taxing entity that chooses to join the EIFD and contribute tax increment has the option to allocate up to 100% of its tax increment (however, school districts and successor agencies are precluded from participating). As a tax increment revenue stream generated by the district becomes sufficient and mature enough, as assessed value growth is added to the property tax rolls, the revenue can be pledged as security to raise debt financing. The proceeds of that debt financing can be used to pay for the public facilities and other improvements that the TIF district was formed to fund/finance. Bonds, secured by tax increment revenue, can be issued when a sufficient and mature enough tax increment revenue stream has built up over time. Several EIFDs have been formed in California. However, in large part due to the lag in revenue generation, no EIFD bonds have been issued to date.

The concept that underlies TIF is that public investments in infrastructure and services can induce private development, which in turn will lead to higher property values, and the public should benefit from some of that value growth. Furthermore, additional sales, income, and other tax revenues generated by new economic activity in the area may offset some of the property tax increment diverted to the TIF district.[13]

Background on and Specifics of EIFD as a TIF Tool

TIF was originally an economic development tool used by Redevelopment Agencies ("RDAs") throughout California. In 2012, the State of California dissolved RDAs due to the perception that RDAs were capturing property tax revenues needed by other taxing entities/districts (e.g., school districts) and that funds were

[13] "Tax Increment Financing: A Primer | CBCNY," December 5, 2017, https://cbcny.org/research/tax-increment-financing-primer.

not being spent properly. In 2014, the State legislature authorized several TIF-like instruments, including EIFDs. EIFDs were enabled by Senate Bill 628 (SB 628) and are regulated by the California Government Code ("CGC").[14]

An EIFD is a separate and distinct governmental entity from the public jurisdiction that establishes it, and it is governed by a Public Financing Authority ("PFA"). The PFA oversees the creation of the District's Infrastructure Financing Plan ("IFP"), which is the governing document for the EIFD and designates the facilities to be financed among other things. With regards to EIFD formation, it is typically initiated by a city or county. As mentioned, more than one taxing entity can agree to share some or all its tax increment within the district, so support and collaboration among more than one taxing entity can help to increase an EIFD's funding/financing capacity. Some features of EIFD regulations that may relate to the City's proposal to fund affordable housing are:

1. SB 628 does not mandate either a blight requirement or a "but for" test for the creation of an EIFD;
2. EIFD-funded projects are not required to be physically located within the boundaries of the EIFD (as long as those facilities have a tangible connection to the district);
3. An EIFD may include areas which are not contiguous;
4. Broad requirements for eligible expenditures of the EIFD include:
    a) Public capital facilities or other specified projects of communitywide significance that provide significant benefits to the district or the surrounding community;
    b) The acquisition, construction, or rehabilitation of housing for persons of very low, low, and moderate income, for rent or purchase; and
    c) Mixed-income housing developments, but only those units in such a development that are restricted to occupancy by persons of very low, low, or moderate incomes.

The process for EIFD formation commences with the legislative body of a city or county adopting a Resolution of Intention ("ROI") proposing the formation of the EIFD and the establishment of the PFA. The legislative body must provide a copy of the ROI to landowners within the district, each affected taxing entity, and the PFA. The PFA is responsible for the preparation of an Infrastructure Financing Plan and the adoption process, and it designates a city or county engineer to prepare such a plan. After the IFP is completed, it is sent to all taxing entities and property owners that are affected by the formation of the potential EIFD.

The PFA considers the adoption of the IFP at three public hearings that must take place at least 30 days apart. Before commencement of the public hearing process, the draft IFP must be made available to the public and each landowner in the district at a noticed meeting that is held at least 30 days before notice is given for the first public hearing. This meeting allows the PFA staff to present the draft IFP, answer questions and consider comments. The PFA must give notice of this meeting and the public hearings with information that includes: the boundaries of the proposed district, the purpose of the IFP, and the day, time, and place where any person may provide oral or written comments.

The requirements and process for the three public hearings are summarized in the Figure below.[15]

[14] CGC Sections 53398.50-53398.88.
[15] AB 116

Notice Information Requirements*	***Hearing Process***
First Public Hearing	
EIFD information (e.g., purpose, public facilities to be financed, development plans, financial arrangements, district boundaries)	PFA hears written and oral comments but takes no action
Second Public Hearing	
EIFD information, a summary of changes to IFP as a result of the oral or written testimony, and identification of a location where the proposed IFP is available for public review	PFA considers additional written and oral comments and takes action to modify or reject the IFP
Third Public Hearing (if IFP is not rejected at the Second Public Hearing)	
EIFD information, a copy of the IFP, and notice that landowners and residents can submit oral/written protest before closing of hearing	PFA conducts protest proceeding and hears recommendations, if any, of affected taxing entities.** Results: • Terminate proceedings if majority protest of over 50% • Adopt IFP subject to an election with between 25% and 50% protest • May adopt the IFP by ordinance and form EIFD at meeting conclusion if less than 25% protest

Note: The PFA cannot enact the resolution unless first each participating taxing entity governing body has adopted a resolution approving the IFP.

**The PFA must place notices in an easily identifiable and accessible location on the EIFD website and mail written notice of the meeting or public hearing to each landowner, each resident, and each taxing entity at least 10 days before the meeting or public hearing. Additional notice requirements exist for each of the first, second and third public hearings.*

***An election, if required, must be held within 90 days of the public hearing and may be held by mail-in ballot. If a majority of the landowners and residents vote against the IFP, the PFA will take no further action.*

If the results of the public hearing process support IFP adoption, the PFA may adopt a resolution proposing adoption of the IFP, as modified, and formation of the EIFD. In terms of timing, the PFA cannot enact a resolution to form the EIFD and adopt the IFP unless first each participating taxing entity governing body has adopted a resolution approving the IFP.[16]

In addition, the PFA may, by majority vote, issue debt/bonds by adopting a resolution that includes, among other things, a description of the facilities to be financed with bond proceeds and their estimated cost, determination of the estimated tax revenues available to pay debt service on the bonds, and other information on the bonds (e.g., maximum interest rate, term). It is worth noting that several EIFDs have been formed in California.

[16] 53398.68. (a) The public financing authority shall not enact a resolution proposing formation of a district and providing for the division of taxes of any affected taxing entity pursuant to Article 3 (commencing with Section 53398.75) unless a resolution approving the plan has been adopted by the governing body of each affected taxing entity which is proposed to be subject to division of taxes pursuant to Article 3 (commencing with Section 53398.75) and has been filed with the legislative body at or prior to the time of the hearing.