Value Capture Toolkit

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METROPOLITAN
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TABLE OF CONTENTS

I. INTRODUCTION

This toolkit is designed to encourage the use of property-based funding strategies – also known as "value capture" – to assist in funding transportation projects in the San Francisco Bay Area. Value capture tools include special assessments and taxes, tax increment financing mechanisms, developer contributions and other public sector real estate strategies. The Metropolitan Transportation Commission (MTC) developed this toolkit in an effort to expand the use of value capture for projects included in Plan Bay Area 2040. Following this introduction, it is organized into three main sections:

- **Value Capture Overview:** an overview of value capture in the context of transportation funding.
- **Value Capture Tools**: specific information about the tools and strategies available in California, including permitted use of funds, voting requirements, how funds are administered, steps of the implementation process, and resources for further exploration of the tools. This section also includes case study examples of value capture.
- **Draft Value Capture Proposal Process for Plan Bay Area 2040**: information for project sponsors who are considering the use of value capture as part of project funding.

OVERVIEW OF TOOLS

The toolkit focuses on the following categories and tools:

Special Assessments and Taxes

These mechanisms rely on an additional assessment or tax paid by the property owner or business in a specific district or jurisdiction, including:

- Special Assessment Districts,
- Mello-Roos/Community Facilities Districts, and
- Parcel Taxes.

Tax Increment Financing

Tax increment financing diverts a portion of new property tax revenues generated within a district that would otherwise go to certain taxing entities. Two tools have recently been enabled by state legislation:

- Enhanced Infrastructure Finance Districts, and
- Community Revitalization and Investment Authorities.

Developer Contributions

This category includes any mechanism whereby developers directly fund transportation projects, either through fees or payments, or through direct provision of improvements. The category includes:

- Development Impact Fees,
- Negotiated Agreements, and
- Density Bonuses.

Public Sector Real Estate Strategies

This category covers a variety of actions involving publicly-owned land, such as joint development, land sales or ground leases.

II. VALUE CAPTURE OVERVIEW

This section provides a general introduction to value capture, discusses the role of value capture in transportation funding, and describes key considerations in implementing value capture strategies.

DEFINITION

Many public investments in infrastructure generate value for nearby property owners. The term "value capture" generally refers to any strategy whereby a public agency "captures" a portion of the increased property values to help pay for the infrastructure itself. Value capture tools consist of a variety of local public financing mechanisms that can be used to fund a wide range of public improvements. These tools are also referred to as "property-based funding sources", and include special assessments and taxes, tax increment financing, developer contributions and other public sector real estate strategies.

The concept of value capture is increasingly discussed in the context of local transportation finance, particularly for transit improvements. Examples of transportation improvements that create value include:

- Roads and bridges
- Transit improvements and expansion
- Complete streets improvements
- Bicycle and pedestrian connections
- Street trees and landscaping

A significant body of research demonstrates that transportation investments enhance the value of nearby properties through the increased access and other benefits they provide, creating a strong rationale for value capture strategies. Unless this value is captured through a tax or other mechanism, this increase in value represents a "windfall gain" for property owners. It is important to note that many value capture tools, including tax increment financing and developer fees, are designed to capture value from new development.

THE ROLE OF VALUE CAPTURE IN TRANSPORTATION FUNDING

In addition to value capture (i.e., property-based sources), the traditional types of revenue that California cities, counties, and transit agencies rely on to pay for transportation improvements fall into four general categories:

- **General Fund revenues**, including property, sales, and other jurisdiction-wide taxes and revenues that are not designated for a specific use;
- **Grants**, or funds coming from a federal, state, or regional agency that do not need to be repaid, and are typically allocated according to a competitive process;
- **Local fees and charges for service**, including parking fees, transit fares, and other fees associated with "revenue generating" infrastructure and services; and
- **State and county taxes and fees for transportation**, which are typically authorized under state law and include state gas taxes, and county half cent sales taxes and vehicle registration fees.

Nearly all transportation improvements will rely on a combination of multiple funding sources from the above list (see the text box below for an example).

Combining Multiple Funding Sources: The Case of the Ohlone Greenway Master Plan in El Cerrito, CA

Revenues from any single source, including property-based value capture tools, are rarely sufficient to cover the full cost of a major capital improvement. Indeed, even relatively small projects typically combine funding from many different sources.

In 2009, the City of El Cerrito adopted a Master Plan for the Ohlone Greenway, a multiuse pedestrian and bicycle path that connects Berkeley to Richmond through the City of El Cerrito. The goal of this plan is to enhance the Greenway by providing pedestrian, bicycle, and safety improvements, including signage, path widening, bulb-outs, landscaping, and street furniture. Although not yet fully funded, the City has secured a range of funding sources and is in the process of implementing identified improvements. Funding and financing sources include:

- General Fund
- Property-Based Financing / Value Capture
  - Park-in-lieu fund
- Competitive Grants
  - One Bay Area grant (OBAG) funding
  - Prop 84/Urban Greening grant
  - Measure J/Transportation for Livable Communities (TLC) grant
  - Measure 2/Safe Routes to Transit grant
- State and County Taxes and Fees
  - Measure J/Transportation funds
  - Sub-regional Transportation Mitigation Fee program (STMP) funds
- Other
  - BART Earthquake Safety Program
  - Former redevelopment agency capital bonds

PAY-AS-YOU-GO VS. DEBT

There are two basic ways to approach paying for transportation improvements (and most types of infrastructure): "pay-as-you-go" and debt financing. In a **pay-as-you-go** approach, an improvement is made only once sufficient revenue is collected to cover the entire cost of the improvement. In a **debt financing** approach, the improvement is paid for immediately, typically by borrowing against future revenues – in other words, issuing debt (usually in the form of bonds) that is paid back over time. Both approaches require a designated **funding source** – i.e., revenue – to pay for the cost of the improvement itself and, when a financing mechanism is used, to cover interest and other costs associated with issuing debt (these are known as "debt service costs"). Many value capture strategies require debt financing to make funding available up front to pay for improvements before value is created.

Property Taxes in California

In California, Proposition 13 and subsequent voter-approved measures have placed significant limitations on cities and counties' ability to raise revenues from taxes and fees.

Under Proposition 13, passed by voters in 1978, properties are reassessed to current market value only when they change ownership or undergo new construction; otherwise, real property valuations may only increase at a factor tied to the rate of inflation, but by no more than 2 percent a year. Proposition 13 also limited the general property tax rate to one percent of assessed value, with revenues from the one percent rate allocated to city and county General Funds, K-12 schools, community college districts, special districts, and until recently, redevelopment agencies.

As a follow up to Proposition 13, voters passed Proposition 218 in 1996, which requires that all new taxes, assessments and property-based fees be approved by a two-thirds majority vote, further tightening the conditions under which local government can raise revenues.

Prior to Proposition 13, General Fund revenues were one of the most common ways that cities and counties paid for local infrastructure. However, the one percent limitation and other provisions under Proposition 13 and subsequent voter initiatives restricted local governments' ability to increase property taxes, significantly reducing the availability of General Fund dollars for infrastructure. As a result, local governments now rely much more heavily on user fees, property-based financing tools (value capture), formula funding, and grants to pay for infrastructure.

In addition to the restrictions imposed by voter-approved measures, a widely accepted rule of thumb in the California public finance and development fields is that total property taxes and assessments on development (including the one percent rate and any special taxes and assessments) should not exceed two percent of total assessed property value. It is typically assumed that if the total tax burden exceeds this threshold it could impact the feasibility of a project. However, in places like downtown San Francisco and elsewhere in the Bay Area with relatively high property values and a scarcity of developable land, this feasibility threshold is likely to be higher than in other places with less competitive locations and weaker real estate markets.

CONDITIONS THAT SUPPORT VALUE CAPTURE

Value capture is not a "silver bullet" strategy that can be applied to every transportation project and as noted in the text box above, value capture tools are typically used in combination with other funding sources. There are certain conditions that make the use of value capture possible (however it is not a requirement that all of these conditions be in place):

- **A strong real estate market.** Because value capture strategies typically rely on development, they are most likely to be successful in locations with relatively strong real estate markets.
- **Ability to secure debt.** One of the fundamental challenges for value capture strategies is the need to secure debt in advance of expected future increases in property values. Where it is difficult to predict future development or property value increases, obtaining debt financing can be particularly challenging.
- **Private sector interest.** Because most value capture strategies capture value from rising property values or real estate development, and many also require property owner or voter approval, projects require active support and engagement from the private sector. For successful implementation, this means the private sector must see a clear value proposition in contributing to the transportation

projects being considered, which is more likely to occur in places with significant development potential.

- **Scale.** Value capture strategies are time consuming and complex. Projects must be of sufficient scale and offer significant potential for the public and private sectors in order to justify the time and effort involved. These major projects are also more likely to leverage a wider array of funding sources.
- **Capacity and commitment.** Value capture strategies typically require the expertise of municipal-bond financing experts, economic development experts, real estate appraisers, financial analysts, and planners. Because value capture projects require robust public support and an array of multiple funding sources, they require strong public and private sector champions to ensure successful implementation.
- **A limited number of jurisdictions.** Because most value capture tools are designed to be deployed within a single jurisdiction, transportation projects that pass through multiple jurisdictions are more challenging locations for value capture.

EQUITY CONSIDERATIONS

Because value capture strategies are most likely to be successful in neighborhoods with stronger real estate markets, it is important to consider social equity when they are implemented. For example, a policy that promotes value capture by encouraging investments in stronger market neighborhoods runs the risk of limiting investments in low-income neighborhoods that might in fact benefit the most from investment. Similarly, value capture strategies have the potential to encourage land use decisions that are designed to maximize value at the expense of other uses desired by the community. Rising property values and new development can also raise concerns about loss of housing affordability and displacement of existing residents. While these concerns are critically important to consider when implementing value capture strategies, their use does not inevitably result in inequitable outcomes. For example, to the extent that value capture strategies free up other funding sources, they can expand the total amount of funding available to all neighborhoods.

III. VALUE CAPTURE TOOLS

This section describes ten value capture tools in more detail. Each tool description includes the following sub-sections:

- Overview;
- Voting, nexus or other requirements (nexus refers to a reasonable and quantified relationship between the development and the payment);
- Permitted uses of funds;
- Who pays and who administers;
- Process steps;
- Resources and examples (when applicable); and
- Case study (when applicable).

The value capture tools are divided into four categories: special assessments and taxes, tax increment financing, developer contributions, and public sector real estate strategies.

Special Assessments and Taxes

- Benefit Assessment Districts
- Transit Benefit Assessment Districts
- Mello-Roos/Community Facilities Districts
- Parcel Taxes

Tax Increment Financing

- Enhanced Infrastructure Finance Districts
- Community Revitalization and Investment Authority

Developer Contributions

- Development Impact Fees
- Density Bonus Programs
- Negotiated Agreements

Public Sector Real Estate Strategies

It should be noted that many of the presented tools can serve to fund improvements or services that are unrelated to transportation. For example, developer impact fees are used to fund affordable housing, parks, and other types of infrastructure, and special assessment districts can be used to fund a wide variety of infrastructure and services, including sewer and water. For the purposes of this toolkit, the description of the tools will focus on their potential to fund transportation-related improvements and services.

SPECIAL ASSESSMENTS AND TAXES

This category encompasses a number of value capture tools which all rely on an additional assessment or tax paid by the property owner or business in a specific district in order to fund the acquisition, construction, operations or maintenance of capital improvements, including transportation infrastructure. These taxes and fees are in addition to the "one percent" property tax limitations of Proposition 13 (see text box above on Property Taxes in California). All of the tools presented in this section have some type of voting requirement, and vary in the permissible use of funds. The three special assessments and taxes examined in this section are: Special Assessment Districts, Mello-Roos/Community Facilities Districts, and Parcel Taxes. A fourth tool, Transit Benefit Assessment Districts, is also profiled, but because of its novelty there is no case study showing its use.

SPECIAL ASSESSMENT DISTRICTS

Overview

Special assessment districts are designated districts where property owners pay an additional assessment in order to fund specific improvements or services. A Business Improvement District, or Property-Based Improvement District (BID or PBID) is a type of special assessment district that assesses and provides benefits to either business owners (in a BID) or commercial property owners (in a PBID). In some jurisdictions (such as in San Francisco and Oakland), special assessment districts are referred to as "Community Benefits Districts".

Voting, Nexus or Other Requirements

In order to establish an assessment district, a local government agency is required to hold a ballot proceeding for the businesses or property owners who are subject to the assessment. A special assessment district must be approved by a simple majority (50 percent plus one) of the assessees in a process where ballots are weighted by the amount of the proposed assessment to be paid by property owners.

Permitted Uses of Funds

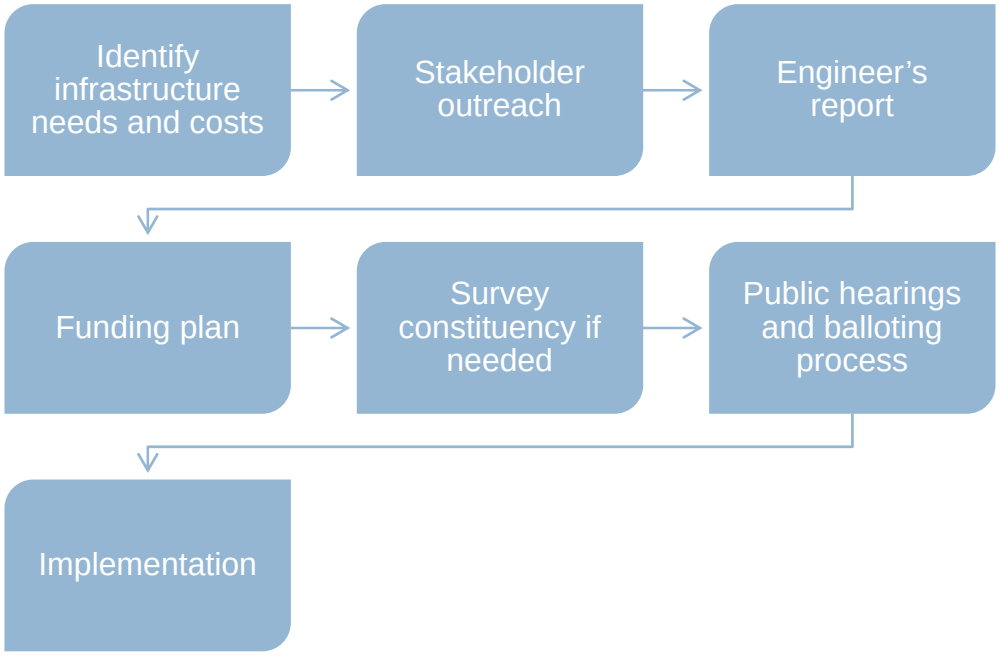
In California special assessments may be used to fund a wide variety of capital improvements and services including streets, sidewalks, water, sewer, fire suppression, lighting, drainage or flood control facilities, and transit-related capital improvements and services. However, assessments may not fund routine operations or maintenance of a transit system. California law defines a number of specific types of assessment districts (e.g., Lighting and Landscaping Districts, Parking Districts, BIDs, and PBIDs), most of which can issue tax-exempt bonds.

Under Proposition 218, a constitutional amendment passed by California voters in 1996, the amount that each property owner pays must be directly proportional to the "special benefit" the property will receive from the proposed improvement. The assessment district may not be used to pay for the portion of an improvement that accrues to the community at large (known as the "general benefit"), which limits the amount and types of revenue that can be generated through assessment districts. As a result of this special benefit requirement assessment districts are most commonly used to fund relatively small, primarily local-serving infrastructure and services. Although California law varies depending on the type of assessment district, most types of districts can issue tax-exempt bonds.

Who Pays and Who Administers

Assessments are levied on businesses or property owners within the boundaries of the district who receive a special benefit, in addition to the one percent property tax and other fees and property taxes paid by the property owner. The funds can be administered by a city, county, special district or transit agency. In the case of a Property and Business Improvement District (PBID), the administering entity is a board comprised of businesses or property owners, and/or representatives of a city or county.

Process: Special Assessment Districts



Resources and Examples

Opportunities to Use Assessment Districts to Finance Facilities and Services in California Today, California Debt and Investment Advisory Commission (CDIAC), No. 15.07, July 2015, http://www.treasurer.ca.gov/cdiac/publications/opportunities.pdf

Overview of Community Facilities Districts ("CFDs") vs. Assessment Districts ("ADs"), Fieldman, Rolapp & Associates, http://www.fieldman.com/PDFs/Chart_2_ADvsCFDsnapshot.pdf

Downtown Burlingame Avenue Streetscape Improvements Assessment District, City of Burlingame, CA. Engineer's report, May 2014: http://burlingameca.granicus.com/MetaViewer.php?view_id=3&clip_id=249&meta_id=19240.

Citywide Landscape and Sidewalk Assessment District, City of Menlo Park, CA. Engineer's report, May 2015: http://www.menlopark.org/DocumentCenter/View/7139

Emery-Go-Round Property and Business Improvement District, City of Emeryville, CA. See case study below.

SPECIAL ASSESSMENT DISTRICT CASE STUDY: EMERY-GO-ROUND PROPERTY AND BUSINESS IMPROVEMENT DISTRICT

The Emery-Go-Round is a free local circulator system that annually shuttles 1.5 million commuters and residents between Emeryville and Bay Area Rapid Transit (BART) MacArthur Station in Oakland. The shuttle service represents the culmination of what began in 1996 as a partnership formed between the City of Emeryville and a constituency of local businesses.

Emeryville has historically been a location of relatively high employment density, but with a small residential population. As Emeryville redeveloped in the early 1990s into a major East Bay employment center, it began addressing its congestion issues with a new transportation demand management strategy. In 1994, Emeryville enacted an ordinance requiring all new commercial/manufacturing properties to provide shuttle service for employees. The City then approached major employers – many of whom had already created shuttle services for their employees – about the potential of starting a high capacity shuttle to further mitigate congestion. Approximately two years later, the Emery-Go-Round began operations. In 2001, property owners established a citywide Property and Business Improvement District (PBID) to fund the Emery-Go-Round: property owners (both of commercial and residential space) and businesses have elected to pay a small assessment on their square footage to support the shuttle's operation. The system is managed by a Transportation Management Association (TMA) comprised of representatives from the local business community. Although the project was initially proposed and planned by City staff, the City's role in funding and operation was largely phased out in the first three years of operation, as the TMA took over operations.

The TMA maintains control of the operations and management of the Emery-Go-Round and it is also the administrative entity of the Emeryville PBID. It has the authority to increase the annual assessment rate of properties by 5 percent each year. The TMA Board is completely autonomous of Emeryville city government. The board currently consists of the top ten contributors to the PBID (by default, the largest commercial property holders); a residential property liaison; and a small business liaison. Due to the overwhelming success and expansion of the program, in August 2015, property owners in Emeryville voted to approve an extension of the PBID until 2030.[1]

While the PBID is composed of the entire City of Emeryville, only parcels located within a quarter mile of shuttle stops are subject to the assessment. Currently, property-based assessments make up about 90 percent of the TMA's $3.9 million total budget.[2] Other revenues include contributions from the City's General Fund, grants, donations, fees for service, contracts for unassessable properties within the Emery-Go-Round service area, and in-kind donations. Assessment rates vary according to land use and to whether the stop is serviced seven days or five days a week. For buildings within a quarter mile of a stop serviced seven days a week, offices are subject to an assessment of approximately $0.20 per square foot, general retail/shopping centers are subject to an assessment of $0.77 per square foot. For residential, the assessment per unit is $171.52 for single-family, and $111.49 for multi-family.

[1] "Emeryville Voters Resoundingly Approve Emery-Go-Round Assessment District", The E'Ville Eye, August 5 2015, http://evilleeye.com/news-commentary/emeryville-voters-resoundingly-approve-emery-go-round-assessment-district/
[2] Fiscal Year 2015/2016 Budget, City of Emeryville, Citywide Property and Business Improvement District, Engineer's Report, June 2015.

A New Type of Assessment District: Transit Benefit Assessment Districts

Transit Benefit Assessment Districts (TBAD) are a new variety of special assessment districts defined by state law, geared towards the funding of transit. Senate Bill (SB) 142, enacted in October 2013, provided transit agencies with the authority to create TBADs within a half-mile of a transit station in order to finance the construction and maintenance of eligible transit projects. To date, no TBADs have been implemented statewide, however BART is currently evaluating the potential to create TBADs in its station areas.

TBADs are subject to the same requirements as special assessment districts: their formation requires approval under a balloting process by a simple majority of property owners subject to the assessment, with ballots weighted by the amount of the proposed assessment on each property.

As a tool specifically designed for transit improvements and expansions, TBADs may fund transit-related improvements and services, but may not fund routine operations or maintenance of the existing transit system. TBAD revenues may be used on a pay-as-you-go basis or to issue bonds.

As in the case of other assessment districts, TBADs are subject to the constraints imposed by Proposition 218: the improvements and services funded by the district must provide a direct and special benefit to the properties subject to the assessment, over and above any general benefit to transit riders accessing the station, other property owners, or the public at large. Because of this special benefit restriction, use of TBADs will likely be limited to transit-related projects that directly benefit adjacent property owners such as pedestrian improvements, lighting and landscaping, and shuttles or other transportation demand management programs.

A key feature of Transit Benefit Assessment Districts is that they are administered by transit agencies, rather than municipal governments. As with other assessment districts, the assessment is levied on property owners within the boundaries of the district who receive a special benefit.

Process:

1. Identify infrastructure needs and cost
2. Begin stakeholder outreach
3. Survey constituency
4. Develop financial feasibility study
5. Stakeholder outreach
6. Board plan, ballot process, and adoption
7. Appeals (if any)
8. Implementation

Resources:

Senate Bill No. 142 Public Transit,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB142

MELLO-ROOS/COMMUNITY FACILITIES DISTRICTS

Overview

Mello-Roos Community Facilities Districts (CFDs) are a type of special taxing district formed when registered voters or property owners within a geographic area agree to impose a new tax on property in order to fund infrastructure improvements, the development of public facilities, or ongoing maintenance, repair, or services.

Voting, Nexus or Other Requirements

In contrast to assessment districts, CFDs do not require that the property owners reap a "special benefit" from the improvement or service. CFDs do, however, carry a higher voting requirement: two thirds of property owners (weighted by property area), or two thirds of voters if more than 12 are registered in the district.

Because of this voter approval requirement, CFDs are most commonly formed in undeveloped areas where the district encompasses a single property owner or a small number of property owners who intend to develop the property and/or subdivide the land for sale. One provision of the Mello-Roos Community Facilities District Act is that the taxes can be proportionally subdivided with the land and passed on to the future owners. While there are some limited examples of CFDs that include numerous property owners – including a CFD that voters in downtown Los Angeles approved in 2012 in order to fund the development of a downtown streetcar – such districts are relatively unusual and may require significant community outreach in order to build support among both voters and the property owners who will pay the special tax. Although approval by voters (including renters) would be needed to implement a special tax in a populated urban area, concerted opposition from property owners or other opponents could significantly undermine voter support. A case in point is the proposed CFD in Sacramento that would have funded a streetcar linking Sacramento and West Sacramento: a CFD was found to be acceptable to property owners through a straw poll, but was voted down by voters. On the other hand, it may be possible to pass a higher special tax in districts where many renters are voting if it can be shown that the project will benefit residents.

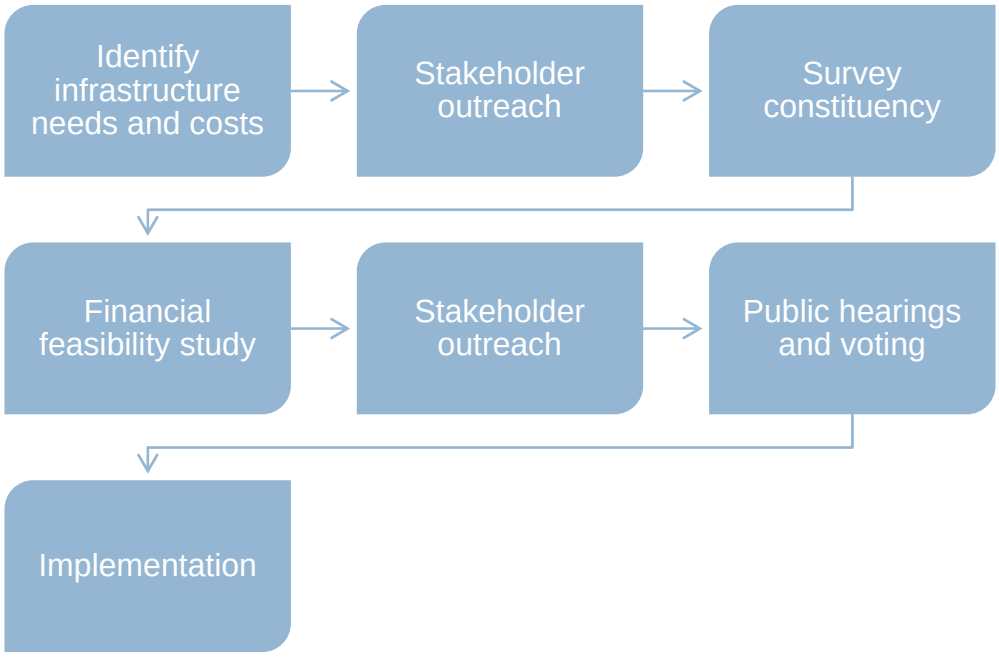
Permitted Uses of Funds

Community Facilities Districts are a flexible tool that can be used to fund a number of improvements or services. CFDs are commonly used to fund the construction or acquisition of public facilities, such as transit infrastructure, streets, streetscaping, parks, schools, or libraries. CFDs may also fund specific ongoing services (such as fire, police, lighting), but may not fund transit operations. Tax revenues can be saved in a fund for use on a pay-as-you-go basis, or used to issue a bond.

Who Pays and Who Administers

Property owners within the district are subject to a special tax, in addition to the one percent property tax and any other taxes and fees to which property owners are subject. CFDs are relatively flexible, and the special tax rates may be set on any reasonable basis determined by the local legislative body (e.g., on the basis of building area, parcel size, or linear feet of parcel frontage). However, the special tax associated with the CFD cannot be *ad valorem*, or based on the value of the property. CFD boundaries can be drawn to include non-contiguous parcels, and different special tax rates can be set for different parcels within the CFD, based on land use/property type, distance from a transit station, which parcels are "upzoned", densities, or other material factors. The funds can be administered by a city, county, special district, school district or joint powers authority.

Process: Mello-Roos/Community Facilities Districts



Resources and Examples

An Introduction to California Mello-Roos Community Facilities Districts, Orrick, Herrington & Sutcliffe LLP, https://www.orrick.com/Events-and-Publications/Documents/1180.pdf

Overview of Community Facilities Districts ("CFDs") vs. Assessment Districts ("ADs"), Fieldman, Rolapp & Associates, http://www.fieldman.com/PDFs/Chart_2_ADvsCFDsnapshot.pdf

Advantages and Disadvantages of Community Facilities Districts for Issuer, Developer, and Ultimate Property Owner, Fieldman, Rolapp & Associates, http://www.fieldman.com/PDFs/Advantages-Disadvantages%20of%20CFDs.pdf

San Mateo Community Facilities District (Bay Meadows), City of San Mateo, CA. "San Mateo City Council Approves Special Tax for Public Improvements", San Mateo County Times, August 11 2008: http://www.insidebayarea.com/localnews/ci_10171773

Los Angeles Streetcar Community Facilities District, City of Los Angeles, CA. "Downtown L.A. Voters Approve Streetcar Tax by Landslide", The Source, December 3 2012: http://thesource.metro.net/2012/12/03/downtown-l-a-voters-approve-streetcar-tax-by-landslide/

Transbay Transit Center Community Facilities District, City of San Francisco, CA. Resolution of Intention to Establish Community Facilities District No. 2014-1 (Transbay Transit Center), June 2 2014: http://onesanfrancisco.org/wp-content/uploads/Agenda-Item-5-Transbay-Resolution-to-establish-CFD.pdf

Mint Plaza Community Facilities District, City of San Francisco, CA. See case study below.

Railroad Avenue Specific Plan Area Community Facilities District, City of Pittsburg, CA. See case study below.

MELLO-ROOS/COMMUNITY FACILITIES DISTRICT CASE STUDY 1: MINT PLAZA, SAN FRANCISCO

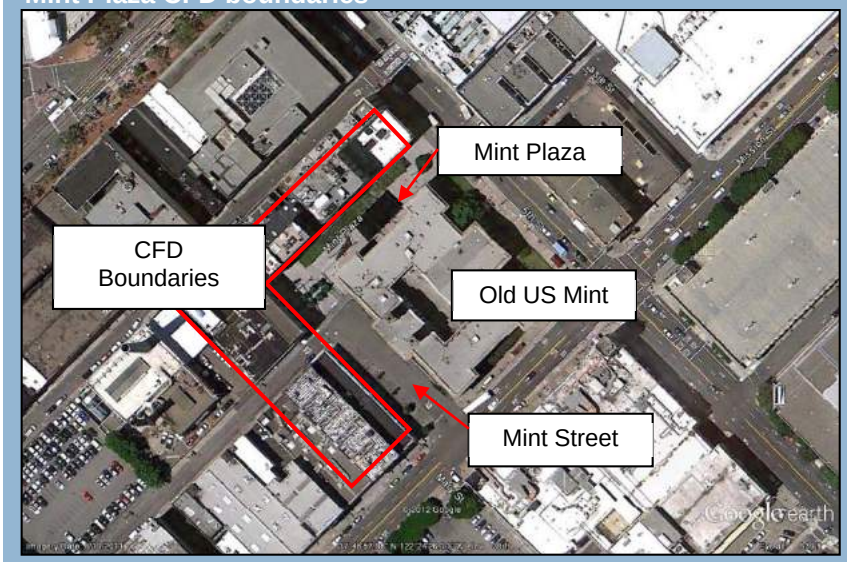
The Mint Plaza Community Facilities District was formed in 2006 to finance the creation of a 290-foot by 54-foot pedestrian plaza and lighting, landscaping and parking improvements to Mint Street adjacent to the old United States Mint building in San Francisco (see figure). The CFD boundaries encompass five historic buildings that ring the plaza and Mint Street, ownership of which was primarily concentrated in the hands of five entities – four of which were related – at the time of the vote to establish the CFD (since the vote, several of the buildings have been subdivided as condos).

The special tax was set at $1.02 per square foot for two of the buildings, and $1.785 per square foot for the other three buildings in FY 2007-08, subject to a two percent increase per year. In 2007, the Association of Bay Area Governments (ABAG) Finance Authority issued $3.27 million worth of bonds backed by the special tax revenues, which were used to finance about $2.7 million of construction work plus issuance costs and a reserve fund.

The improvements were constructed by McNerney Development Company (which also owned or managed four of the five buildings subject to the tax); upon completion of construction, the bond proceeds were used to reimburse the developer and the City and County of San Francisco took ownership of the plaza. As part of the agreement to create Mint Plaza, the City required that the non-profit Friends of Mint Plaza assume full responsibility for the costs of maintaining the plaza, in addition to indemnifying the City for any claims related to its management of the plaza area. In exchange, Friends of Mint Plaza was granted the authority to generate revenue to fund maintenance and programming by charging user fees for the temporary use of portions of the plaza area for public or private events and programs.

Source: ABAG Finance Authority for Nonprofit Corporations, Community Facilities District No. 2006-2 (San Francisco Mint Plaza Area) Special Tax Bonds, Series 2007A, October 18, 2007.

Mint Plaza CFD boundaries



Source: Google Earth, June 2011; Strategic Economics, 2012.

MELLO-ROOS/COMMUNITY FACILITIES DISTRICT CASE STUDY 2: PITTSBURG'S EBART COMMUNITY FACILITIES DISTRICT

The case of the City of Pittsburg's eBART Community Facilities District is an example of creative use of the CFD tool, as it is here structured to trigger payments only when new development occurs. In June 2014, commercial property owners in Pittsburg approved the formation of the CFD. Under the new district, property owners who file a building permit for new construction within a quarter mile radius of the station will be assessed a one-time tax of $1.50 per square foot for commercial development and $2,000 per residential unit. That tax decreases to 99 cents per square foot for commercial development and $1,320 per residential unit for parcels between a quarter mile and a half mile from the future Pittsburg Center station. The CFD is expected to raise $1.5 million in proceeds towards the completion of the eBART station.

Sources:
City of Pittsburg, Community Facilities District No.2014-1 (Railroad Avenue Specific Plan Area), Community Facilities District Report, http://apps.ci.pittsburg.ca.us/sirepub/cache/2/yegd3mvhmbz5x345lhmovmqq/3013263111920150405 23119.PDF
"Vote Gives Pittsburg eBART Station Efforts a Big Boost", Contra Costa Times, June 17 2014, http://www.contracostatimes.com/contra-costa-times/ci_25977528/vote-gives-pittsburg-ebart-station-efforts-big-boost

PARCEL TAXES

Overview

A parcel tax is a special tax that is levied based on characteristics of the parcel, rather than on the value of the property being taxed. In California, parcel taxes must be approved by two-thirds of voters, and can be imposed within a city, county, community college or school district, or other special district (e.g., park, fire, sewer, or water districts). They are most commonly used to fund schools but can be used for practically any municipal use including transportation maintenance and repair.

Voting, Nexus or Other Requirements

Because they are special taxes, parcel taxes require approval by a "supermajority," or two thirds of the votes in the jurisdiction or relevant district.

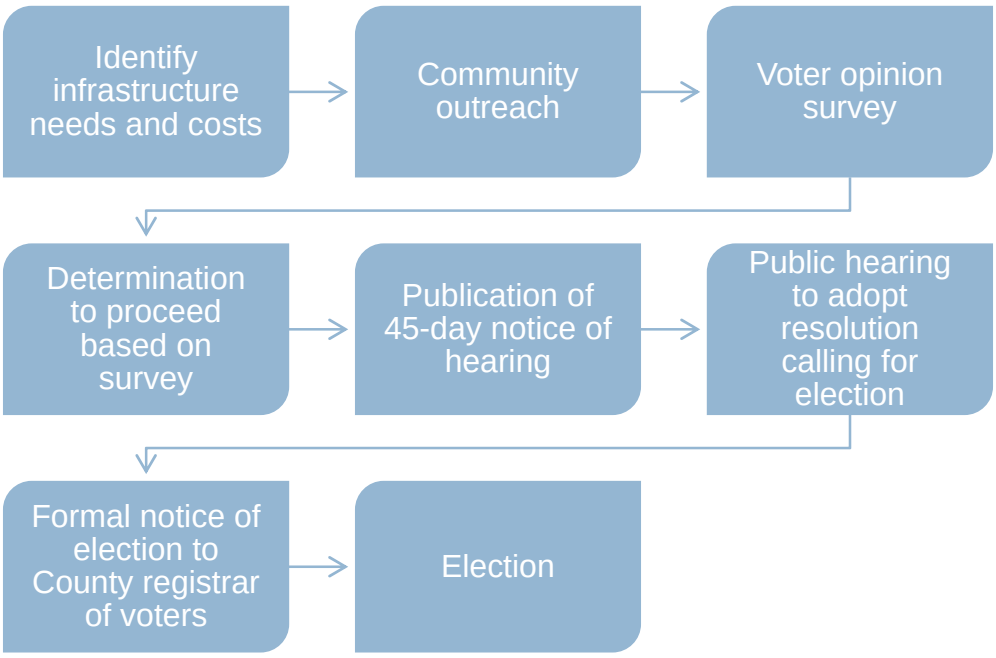
Permitted Uses of Funds

Because of the stricter voter approval requirement of two thirds, funds resulting from a parcel tax can be used more flexibly than for many other tools. While parcel taxes may be imposed for practically any type of municipal purpose, including transit and other transportation uses, the most common use of such taxes is for school districts. There is at least one case of a parcel tax being used to fund transit services, as discussed in the Alameda-Contra Costa Transit District case study below. Parcel tax revenues can be used on a pay-as-you-go basis or to finance the issuance of bonds.

Who Pays and Who Administers

A parcel tax is levied on property owners within the district, in addition to the one percent property tax and any other taxes and fees to which property owners are subject. Certain groups of property owners, most commonly senior citizens, may be exempted from paying parcel taxes. Parcel taxes cannot be *ad valorem*, or based on the assessed value of a property. Instead, parcel taxes are most commonly calculated as a fixed or flat amount on a per-parcel basis, but may also be calculated based on a physical attribute of the parcel (e.g. square footage or frontage). Funds can be administered by a city, county, special district, community college district, or school district.

Process: Parcel Taxes



Resources and Examples

Understanding California's Property Taxes, Legislative Analyst's Office, California State Legislature, November 29, 2012, http://www.lao.ca.gov/reports/2012/tax/property-tax-primer-112912.aspx

Atherton's Special Parcel Tax, Town of Atherton, CA. See case study below.

Alameda-Contra Costa Transit District Parcel Tax, AC Transit. See case study below.

PARCEL TAX CASE STUDY 1: TOWN OF ATHERTON SPECIAL PARCEL TAX

In November 2013 voters in Atherton, CA approved an ordinance extending an existing parcel tax for an additional four years. The measure passed by 74 percent, which exceeded the two thirds requirement for parcel taxes. The special parcel tax, estimated to cost property owners from $225 to $960 per year depending on residential lot size, provides funding to maintain police emergency response services and neighborhood patrols, street repair and maintenance, and drainage facility repair and maintenance. Total annual revenue from the parcel tax is estimated to be $1.86 million, which is a significant portion of the Town's annual General Fund revenues of about $14 million. Atherton's sales tax revenues are very low relative to other revenue sources, accounting for around two percent of annual General Fund revenues. In part due to these low sales tax revenues Atherton has relied on a special parcel tax to fund a variety of municipal services since 1980.

Source: Town of Atherton Financial Data Transparency Portal, https://athertonca.opengov.com/transparency#

PARCEL TAX CASE STUDY 2: ALAMEDA-CONTRA COSTA TRANSIT DISTRICT

The Alameda-Contra Cost Transit District (AC Transit) partly funds its operations in Alameda and Contra Costa Counties with a parcel tax that has been increased and extended by the voters multiple times. In 2002, 68 percent of voters approved a parcel tax to help close AC Transit's projected budget deficits, which threatened service levels. The $24 tax per parcel was levied on parcels in AC Transit's District One, which includes Central and Northern Alameda County and parts of Western Contra Costa County. Undeveloped and vacant parcels were exempt from the parcel tax. The tax revenue was designated to maintain transit service levels in those areas. Two years later, 71 percent of voters in District One approved an increase of the parcel tax to $48 per parcel and extended it until 2015. The revenue, estimated at $14 million annually, were again designated for transit maintenance and operations, and to prevent a scheduled $5.00 increase in monthly transit passes for youth, seniors, and the disabled. Another measure was passed in 2008 to increase the parcel tax to $96 and extend it to 2019; annual revenue was estimated to be $29.5 million.

More recently, AC Transit has considered the feasibility of placing a measure on the ballot in 2016 that would extend the parcel tax in District One and initiate a new parcel tax in District Two, which consists of the cities of Fremont and Newark. However, polling in District Two indicated a lack of support to reach the necessary two-thirds majority threshold. In addition to the current parcel tax in District One, AC Transit relies on a variety of revenue sources including other property taxes, fare-box revenue, and sales taxes. In 2014, voters in Alameda County approved a half cent increase (from 0.5 to 1.0) in sales tax to fund transportation improvements in the county, including expansion of transit services. With the increase, AC Transit's revenue from sales tax increased from $24 million annually to almost $51 million annually.

Source: AC Transit Staff Report: Feasibility of 2016 Ballot Measure to Extend Measure VV, May 13, 2015, http://www.actransit.org/wp-content/uploads/board_memos/15-148%20Measure%20V%20V.pdf

TAX INCREMENT FINANCING

Tax increment financing tools are value capture strategies that rely on diverting tax revenues from taxing entities in a specific district. These tools capture only the increase, or "increment", in tax revenue that is usually associated with new development and/or increase in property values due to an infrastructure improvement. This means that the participating taxing entities continue to receive a base tax revenue during the duration of the tax increment district; only the increase in tax revenue is diverted in order to fund the improvements. The amount diverted is determined by agreement with the taxing entities. The two tools described in this section – Enhanced Infrastructure Finance Districts and Community Revitalization and Investment Authorities – were created or modified after the dissolution of redevelopment in California, and examples of their use are limited.

ENHANCED INFRASTRUCTURE FINANCE DISTRICTS

Overview

Established in 2014 by Senate Bill 628, Enhanced Infrastructure Finance Districts (EIFDs) capture a portion of the growth in property tax revenues resulting from new development and increasing property values to fund the acquisition or construction of public facilities and infrastructure. A specially constituted public financing authority comprised of elected officials from the participating taxing entities and appointed members of the public is established to govern the EIFD. The participating taxing entities may choose to allocate a share of revenues from several sources to an EIFD, including property tax increment and property tax in-lieu-of vehicle license fee (VLF) revenues. EIFDs may not capture revenues from school districts or community college districts.

Voting, Nexus or Other Requirements

EIFDs are established by a city or county. Because EIFDs capture a share of tax revenues that would otherwise go to other taxing entities, each affected taxing entity has to approve of the EIFD financing plan. Voter or property owner approval is not required to establish the district, but a 55 percent vote is required prior to bond issuance. If there are 12 or more registered voters in the district boundaries, approval by those registered voters is required. Otherwise, the vote is by the property owners in the district.

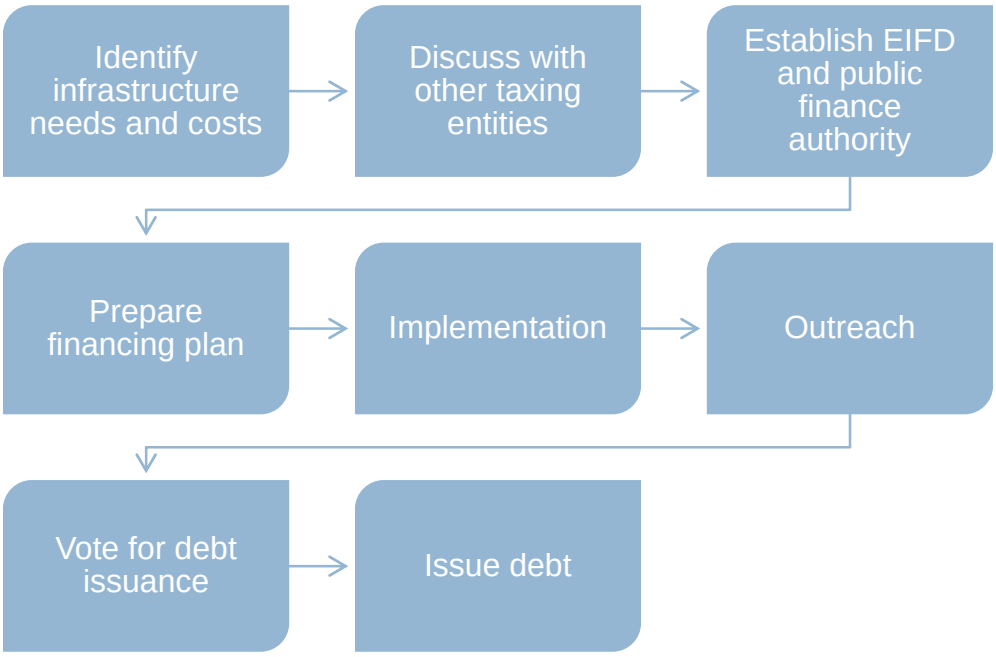
Permitted Uses of Funds

EIFD revenues may be used to pay for a wide range of capital improvements, but may not be used to pay for operations and maintenance. EIFDs may be also used to pay for the development of very low, low, and moderate income housing. The public finance authority administering the EIFD may use the revenues on a pay-as-you-go basis, or issue bonds (subject to voter or property owner approval as described above). It should be noted that EIFDs can be established in former redevelopment areas, and that residual funds from former Redevelopment Agency obligations can be redirected to an EIFD.

Who Pays and Who Administers

EIFDs do not place an additional tax on property owners in the district. Their revenue is derived from diverted tax revenues that would otherwise go to other taxing entities.

Process: Enhanced Infrastructure Finance Districts



Resources and Examples

Assembly Bill No. 313 Enhanced Infrastructure Financing Districts, http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520160AB313

Senate Bill No. 628 Enhanced Infrastructure Financing Districts, https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201320140SB628

Funding Sustainable Communities: A How-To Guide for Using New "Enhanced Infrastructure Financing Districts" (EIFDS), California Economic Summit, August 6, 2014, https://cafwd.app.box.com/s/p8re0h7s6vkhm1st2uwq

Redevelopment Inches Back in California, Keeley Webster, The Bond Buyer, September 23, 2015 http://www.bondbuyer.com/news/regionalnews/redevelopment-inches-back-in-california-1085301-1.html

San Francisco Infrastructure Financing Districts Policy resources page: http://onesanfrancisco.org/cpc-meeting-jan-31-2011/#more-1722

West Sacramento Infrastructure Financing District, City of West Sacramento, CA. Consideration of Resolution 14-1 Declaring An Intention To Establish Infrastructure Financing District No.1 ("Bridge District"): http://www.cityofwestsacramento.org/civica/filebank/blobdload.asp?BlobID=10439

Rincon Hill Infrastructure Financing District, City of San Francisco, CA. See case study below.

INFRASTRUCTURE FINANCING DISTRICT CASE STUDY: RINCON HILL, SAN FRANCISCO

EIFDs are a new tool currently being explored by a few jurisdictions, including West Sacramento. Prior to the establishment of EIFDs, Infrastructure Financing Districts (IFDs) – a tax increment financing tool with similar requirements and characteristics – was a rarely used tool with many similar features. The Rincon Hill IFD was created in 2011 as a pilot IFD for the City of San Francisco, largely because a development project sponsor had expressed interest in using the tool to fund a public park in this neighborhood. The Rincon Hill IFD was established a month prior to Governor Brown's announcement of the end of redevelopment in the state of California. The EIFD (see description above) subsequently came to replace prior tools relying on redevelopment funding.

The Rincon Hill IFD was formed in February 2011 to finance the development of three new parks and the redesign of various surrounding streets and alleys, at a total cost of about $31.6 million. No bonds have been issued to date. The district is composed of ten sites for residential development, which are expected to provide a combined total of 2,541 units of new housing by 2022. Over the course of the 30-year life of the IFD, the IFD Plan[1] calls for the district to divert approximately 16 percent of the total available tax increment (i.e., of the new tax revenues generated over and above tax revenues in the base year, FY 2010/11) for a total of $41.7 million. The diversion of tax increment will be front-loaded to support early bonding: approximately 100 percent of the tax increment will be diverted as soon as it becomes available in 2014-15 and 2015-16; by 2022-23, the share of tax increment captured by the district will have fallen to approximately 14 percent.

After accounting for issuance costs, interest payments, and inflation, the bond consultants project that this increment will support the issuance of $15.1 million in net bond proceeds.[2] Including $300,000 in increment deposits that are not required to service debt, it is estimated that the IFD will provide a total of $15.4 million worth of improvements by the end of 2016/17. The remaining cost of the infrastructure improvements (estimated at $16.5 million) will be funded by a specially adopted, $14 per-square-foot Rincon Hill Community Infrastructure Impact Fee. Alternatively, the City and property owners may agree to form a Mello-Roos Community Facilities District, or for the developers to provide the improvements in-kind (i.e. construct them directly).[3]

In accordance with San Francisco's IFD Policy, the Board of Supervisors is unlikely to approve the issuance of bonds against the Rincon Hill IFD until a dedicated revenue source for maintenance is in place. Property owners are currently in the process of establishing a Community Benefits District, a type of special assessment district that is known as a Business Improvement District in most other cities, to cover ongoing maintenance costs.

INFRASTRUCTURE FINANCING DISTRICT CASE STUDY: RINCON HILL, SAN FRANCISCO (CONTINUED)

Rincon Hill IFD boundaries (approximate)

[1] Keyser Marston Associates, Inc., "Draft Infrastructure Financing Plan: Infrastructure Financing District No.1 (Rincon Hill Area)," prepared for the City and County of San Francisco Office of Economic Development," December 2010.
[2] In two issuances: $5.4 million in FY 2014/15 and $9.7 million in 2016/17.
[3] The zoning ordinance that established the Rincon Hill Impact Fee provides that the City may waive the fee if the developers agree to provide the improvements in-kind or through a CFD.

COMMUNITY REVITALIZATION AND INVESTMENT AUTHORITIES

Overview

Authorized by the State of California in September 2015, Community Revitalization and Investment Authorities (CRIA) are a new type of tax increment financing tool targeting very distressed areas. Given how recent this tool is, there are not yet any examples of implementation, and many questions remain regarding the interpretation of the text of the legislation.

Voting, Nexus or Other Requirements

A CRIA is created by a city, county or joint powers authority, and follows a "majority protest proceeding":

- The process of formation of a CRIA is terminated if more than 50 percent of the combined number of property owners and voters submit a protest ballot.
- If between 25 and 50 percent of the combined number of property owners and voters submit a protest ballot, a vote on the formation of a CRIA must be held. In this case, a simple majority of the combination of property owners and residents must approve the plan in order for it to be implemented.
- If less than 25 percent of combined number of property owners and residents protest the CRIA, then the authority creating it may approve the plan.

In addition to these voting requirements, all the affected taxing entities must consent to allocate a share of incremental property tax revenues to the authority. CRIAs may be only formed in areas within which 80 percent of the Census Tract or Block Groups meet the following criteria:[1]

- The annual median household income is less than 80 percent of the statewide annual median income.
- And three of the following four conditions are met:
  - Unemployment is at least 3 percent higher than the statewide median unemployment rate.
  - Crime rates are at least 5 percent higher than the statewide median crime rate.
  - Infrastructure is deteriorated or inadequate.
  - Commercial or residential structures are deteriorated or inadequate.

Due to the income restrictions and other requirements it is likely that this tool will be applicable to relatively few places in the San Francisco Bay Area.

Permitted Uses of Funds

A CRIA must adopt a Community Revitalization and Investment Plan to guide implementation and authorize revenue collection and spending. The CRIA may provide funding for infrastructure

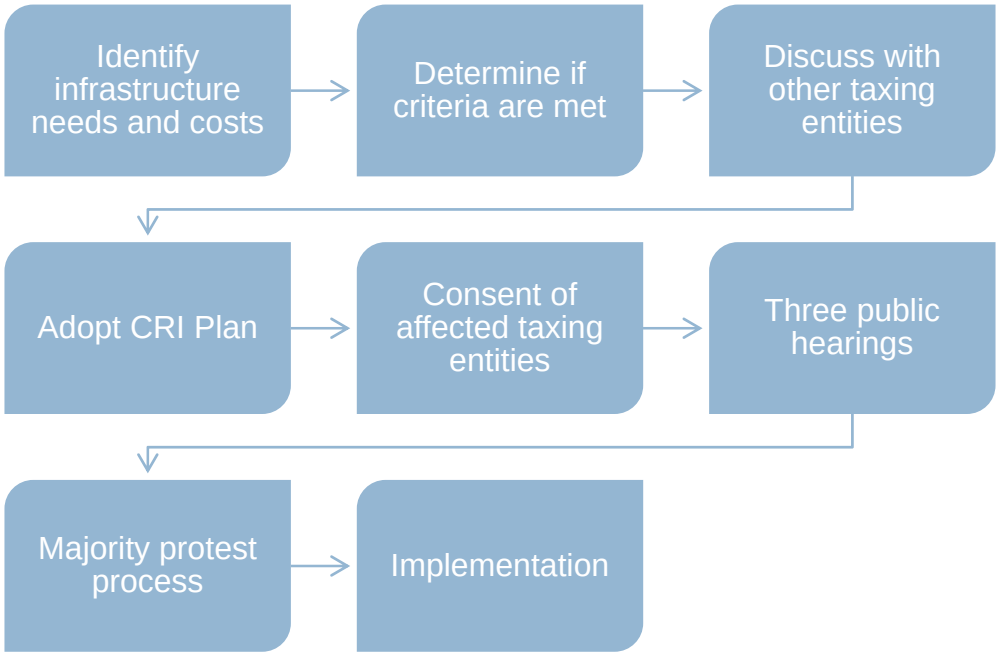
[1] As an alternative to these criteria, a Community Revitalization and Investment Authorities may also be established within a former military base that is principally characterized by deteriorated or inadequate infrastructure and structures.

improvements, affordable housing, property acquisition, brownfield cleanup, loans or grants for property owner and tenant improvements, and other specified purposes. The authority may pay for improvements on a pay-as-you-basis, or finance improvements through the issue of bonds. Twenty-five percent of revenues must be set aside to pay for low- and moderate-income housing.

Who Pays and Who Administers

CRIAs can be created by cities, counties and joint powers authorities. As with other tax increment financing tools, no additional tax is placed on property owners in the Community Revitalization and Investment Area. CRIAs divert a portion of the increase in tax revenue that would otherwise go to other taxing entities. The authority may not collect revenues from school districts or community college districts. The CRIA adheres to the following time limits: 30 years for establishing indebtedness, and 45 years for the repayment of debts and obligations.

Process: Community Revitalization and Investment Authorities



Resources

Assembly Bill No. 2 Community Revitalization Authority,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB2

Open Questions About New Calif. Redevelopment Bill, Nossaman LLP,
http://www.nossaman.com/CalifRedevelopmentBill

Redevelopment Inches Back in California, Keeley Webster, The Bond Buyer, September 23, 2015
http://www.bondbuyer.com/news/regionalnews/redevelopment-inches-back-in-california-1085301-1.html

DEVELOPER CONTRIBUTIONS

Developer contributions can be in the form of fees or payments, or the provision of the improvements themselves. Some types of developer contributions require that a "nexus," or reasonable relationship, be established between the development and the payment, while other contributions may be negotiated on a voluntary basis. The three types of developer contributions examined in this section are: Development Impact Fees, Density Bonus Programs, and Negotiated Agreements.

DEVELOPMENT IMPACT FEES

Overview

Established under California's Mitigation Fee Act, development impact fees are one-time fees assessed on new development and used to mitigate impacts resulting from development activity.

Voting, Nexus or Other Requirements

Development impact fees are established by cities, counties, special districts, or school districts. There are no voting requirements from property owners or residents. To be adopted, development impact fees must be based on the findings of a reasonable relationship, or nexus, between the development paying the fee, the amount of the fee, and the use of fee revenues.

Permitted Uses of Funds

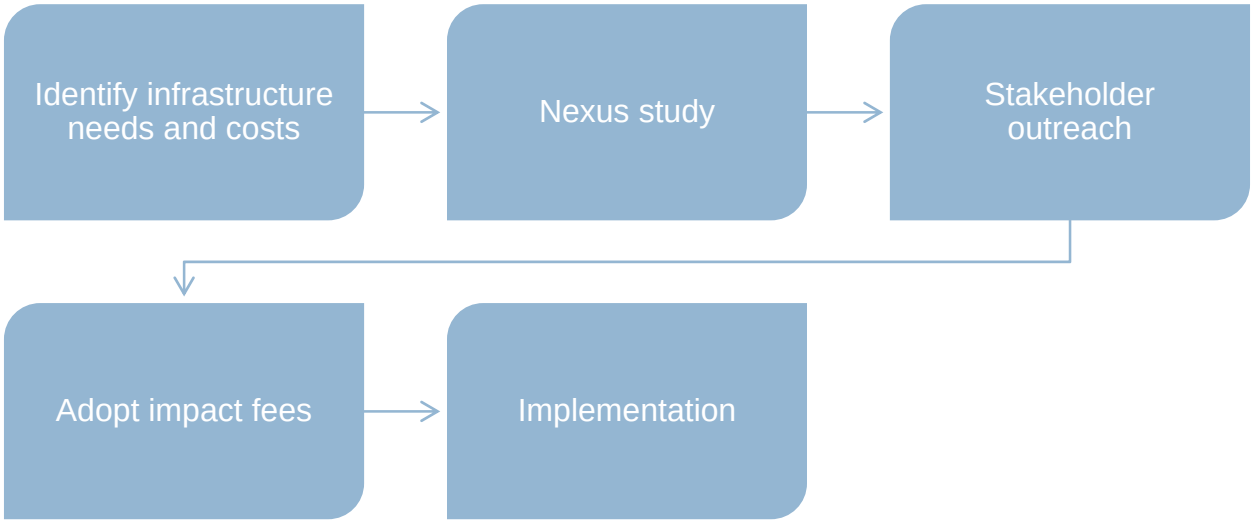
Development impact fees can only be imposed on new development to mitigate their impact on the need for infrastructure, such as roadways and transit improvements, and cannot be used to fund existing infrastructure deficiencies (e.g., repair or maintenance of existing infrastructure to serve existing needs). Impact fee revenues may be used only for construction or expansion of capital improvements and may not be used for operations and maintenance.[2] For improvements that benefit existing as well as new development, impact fee revenues can only pay for the portion of the improvement that benefit the new uses. Because impact fees are dependent on new development projects, they are not usually consistent or predictable enough to serve as security for the issuance of bonds.

Who Pays and Who Administers

Development impact fees are paid for by developers at the time of development of new residential or commercial space, and are administered by a city, county, special district, or school district.

[2] http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=65001-66000&file=66000-66008

Process: Development Impact Fees



Resources and Examples

City and County of San Francisco Planning Department's Impact Fees webpage, http://www.sf-planning.org/index.aspx?page=3958

Impactfees.com, http://www.impactfees.com/faq/general.php#

Solano County Public Facilities Fees:
https://www.solanocounty.com/depts/rm/buildingnsafety/public_facilities_fees.asp

San Francisco's Transportation Sustainability Fee, City of San Francisco, CA. See case study below.

DEVELOPMENT IMPACT FEES CASE STUDY: SAN FRANCISCO'S TRANSPORTATION SUSTAINABILITY FEE

San Francisco's Transportation Sustainability Fee (TSF) is a Developer Impact Fee geared towards mitigating the impact of new development on transit, voted in November 2015. The TSF is projected to pay for $1.2 billion ($38 million annually) in transportation improvements over the next 30 years.[1]

The TSF replaces the previously established Transit Impact Development Fee (TIDF) by expanding its applicability and increasing its rates. The TIDF contributed about $24 million a year in development fees, and applied to most non-residential development citywide. In 2012, the City of San Francisco began the process of development of a Transportation Sustainability Program (TSP) which included an update on TIDF rates, adopted in the same year. The TSP is a three-pronged approach to improving and expanding the transportation system in order to accommodate growth that includes investing in transit and safer streets, modernizing the environmental review by focusing on Vehicle Miles Traveled (VMT), and encouraging sustainable travel by providing transportation amenities that reduce reliance on driving.[2]

The TSF applies citywide to new commercial development, market rate residential developments with more than 20 units, and certain large institutions. Affordable housing developments, subsidized middle-income housing, market rate housing with 20 units or less and most nonprofit developments are exempt from the fee. The fee is $18.04 per gross square foot for small commercial projects, $19.04 per gross square foot on large commercial developments, $7.74 per square foot for residential developments between 20 and 100 units, and $8.74 per square foot for residential developments over 100 units.

[1] Transportation Sustainability Fee Fact Sheet, San Francisco Planning Department, http://www.sf-planning.org/ftp/files/plans-and-programs/emerging_issues/tsp/tsp_TSF_Fact_Sheet_072115.pdf
[2] Transportation Sustainability Program Fact Sheet, San Francisco Planning Department, http://www.sf-planning.org/ftp/files/plans-and-programs/emerging_issues/tsp/tsp_TSP_Fact_Sheet.pdf

DENSITY BONUS PROGRAMS

Overview

Under density bonus programs, development is eligible for a pre-defined increase in density or floor area ratio (FAR) in exchange for providing public benefits (which may be selected from a list of improvements), or funding at a pre-determined, per-square-foot price (which the city uses to pay for district-wide improvements). Different levels of density or FAR may be available in exchange for providing additional public benefits.

Voting, Nexus or Other Requirements

There are no voting requirements for the establishment of a density bonus program. As participation in the density bonus program is voluntary, cities with density bonus programs often do not present a legal nexus between the improvement and the payment. However, programs that offer increased density in exchange for specific community benefits must be structured carefully to avoid being subject to the Mitigation Fee Act. Cities with established community benefits programs have taken care to ensure that the expected level of contribution is reasonable, both to achieve desired outcomes and avoid potential legal and political challenges. For example, San Diego (see case study below) negotiated extensively with developers prior to adopting its FAR Payment Bonus Program. These negotiations resulted in a fee that had the support of the development community. Because there is some legal uncertainty around whether density bonus programs require the establishment of a nexus, this issue should be addressed with the assistance of a city attorney.

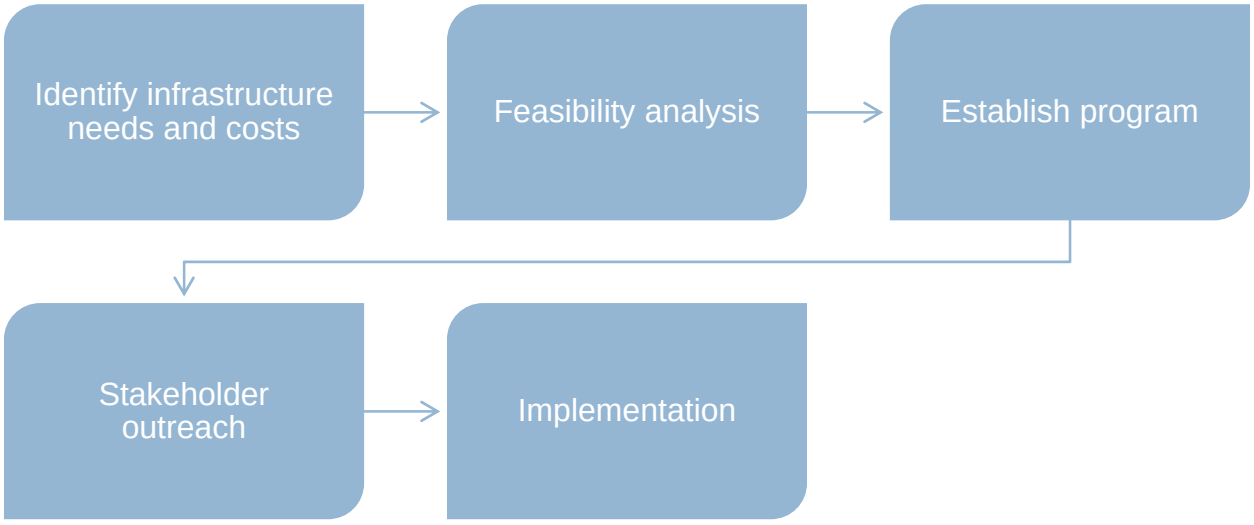
Permitted Uses of Funds

Public benefits may be provided on-site and/or off-site. Some programs ask developers to provide community benefits directly by building public facilities, while other programs encourage developers to make financial contributions to a centralized fund. The former approach places responsibility for implementation on the developer, and may result in more immediate provision of desired benefits. However, having a centralized fund can enable the city to have more flexibility in directing resources to larger projects or at a district scale. The magnitude of the community benefits that can be expected depends on the overall value of the bonus density to developers. The increased density or height may or may not result in greater developer returns. The actual value of the increased FAR or height depends on a range of factors, including the relative profitability of the base density, construction costs for different building types, and strength of the real estate market. If the bonus density offered by the program provides a substantial economic incentive, developers are more likely to participate, resulting in the provision of more significant public benefits.

Who Pays and Who Administers

Public benefits are provided by developers at the time of development of new residential or commercial space. These programs are typically administered by cities, but could be implemented by counties or other agencies with authority over development.

Process: Density Bonus Programs



Resources and Examples

City of San Diego, "The Centre City Planned District," San Diego Municipal Code, Chapter 15, Article 6, Division 3, http://docs.sandiego.gov/municode/MuniCodeChapter15/Ch15Art06Division03.pdf

Public Benefit Bonus Policy Brief, Greenbelt Alliance, http://www.greenbelt.org/wp-content/uploads/2013/06/public-benefits-bonus-policy-brief.pdf

DENSITY BONUS PROGRAM CASE STUDY: SAN DIEGO'S FAR BONUS PAYMENT PROGRAM FOR THE DOWNTOWN COMMUNITY PLAN AREA

San Diego's FAR Bonus Payment program collects a dollar amount per square foot of bonus density, up to a specified maximum density. The payments go into a fund that is used for parks and local infrastructure improvements. The program was initially authorized in the 2006 Downtown Community Plan and implemented in 2007, following a financial feasibility analysis that determined that the average value of the bonus to developers was $30 per square foot. The initial fee amount of $15 per square foot was set after a negotiation with the local development community, and has since increased to $16.16 based on consumer price index adjustments. The fee is significantly lower than the calculated value of the bonus FAR from the financial analysis, but it saves the city considerable time by eliminating extensive negotiations on a project-by-project basis. The program was vetted by the City's legal department and has the support of the local development community, and has not been legally challenged to date.

NEGOTIATED AGREEMENTS

Overview

In some cases, cities and counties may choose to negotiate directly with developers in order to obtain desired improvements in exchange for development rights. Depending on the jurisdiction and the project, developer contributions may be negotiated as part of a development agreement (a structured bilateral negotiation authorized under state law), or required as part of the conditions of approval for a project.

Voting, Nexus or Other Requirements

There are no voting requirements for negotiated agreements. Because such agreements are voluntary and negotiated between the city or county and the developer, there is no requirement that a nexus exist between the benefits and the proposed development.

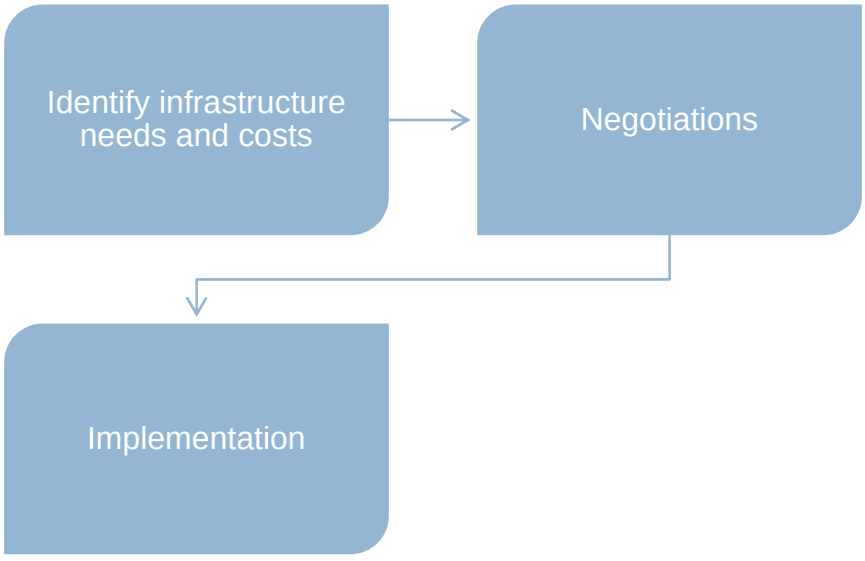
Permitted Uses of Funds

A negotiated development contribution may take the form of an in-kind improvement built and paid for directly by the developer, or a financial contribution to a project that the city or county is constructing. The extent to which a development project contributes to the provision of infrastructure or other public improvements depends on the results of the negotiation, and is affected by the projected profitability of the development project (which in turn depends on construction costs, market prices, lot size and configuration, parking requirements, etc.).

Who Pays and Who Administers

Developer contributions are made by developers at the time of development of new residential or commercial space. Negotiated agreements are more typically used by cities, but could be implemented by counties or other agencies with authority over development.

Process: Negotiated Agreements



Resources and Examples

Menlo Park El Camino Real & Downtown Specific Plan Chapter E, http://www.menlopark.org/DocumentCenter/Home/View/293

Public Benefit Bonus Policy Brief, Greenbelt Alliance, http://www.greenbelt.org/wp-content/uploads/2013/06/public-benefits-bonus-policy-brief.pdf

CPMC Development Agreement, City of San Francisco, CA. San Francisco Planning Department resources page with CPMC annual compliance statements: http://www.sf-planning.org/index.aspx?page=3840

San Antonio Center Negotiated Agreement, City of Mountain View, CA. See case study below.

NEGOTIATED AGREEMENT CASE STUDY: SAN ANTONIO CENTER IN MOUNTAIN VIEW

San Antonio Center in Mountain View is an example of a large-scale development project that is contributing to the cost of infrastructure improvements. The project involves the redevelopment of an aging big box shopping center at El Camino Real and San Antonio Road with new residential units, office space, a hotel, theater, and restaurants and retail. Phase I was completed in early 2014, and included 144,000 square feet of retail and 330 multi-family residential units. Phase II was approved in December 2014, and is slated to include 400,000 square feet of office space, a 167-room hotel, an 8-screen cinema, and 80,000 additional square feet of restaurants and retail.

Under the conditions of approval for the project, the developer (Merlone Geier Partners) provided significant infrastructure improvements as part of Phase I, including a park and sidewalk and streetscape improvements on El Camino Real and San Antonio Road. As part of Phase II, the developer agreed to make improvements to the intersection of El Camino Real and San Antonio Road; redesign and reconstruct San Antonio Road between El Camino Real and California Street to include new median, landscaping, bicycle lanes, improved pedestrian connections, and new lane configurations; and make additional improvements to California Street.

Streetscape improvements on El Camino Real, provided in Phase I of the San Antonio Center project

Image source: Strategic Economics, 2013.

PUBLIC SECTOR REAL ESTATE STRATEGIES

Overview

Public sector real estate strategies include a variety of transaction types involving publicly-owned land. Such strategies include a land sale, ground lease, sale of "air rights" or other type of development project on publicly-owned land. Joint development, one type of real estate strategy, generally refers to a real estate development project that involves a cooperative arrangement between a private entity and a public entity like a city, county, redevelopment agency, or transit agency. Joint development arrangements can take a number of forms, including sale or ground lease of publicly owned land or air rights for specific types of development, or joint construction of a transit or other public facility.

Voting, Nexus or Other Requirements

There are no voting requirements for public sector real estate strategies. Because such transactions involve publicly-owned land, there is no requirement that a nexus be established.

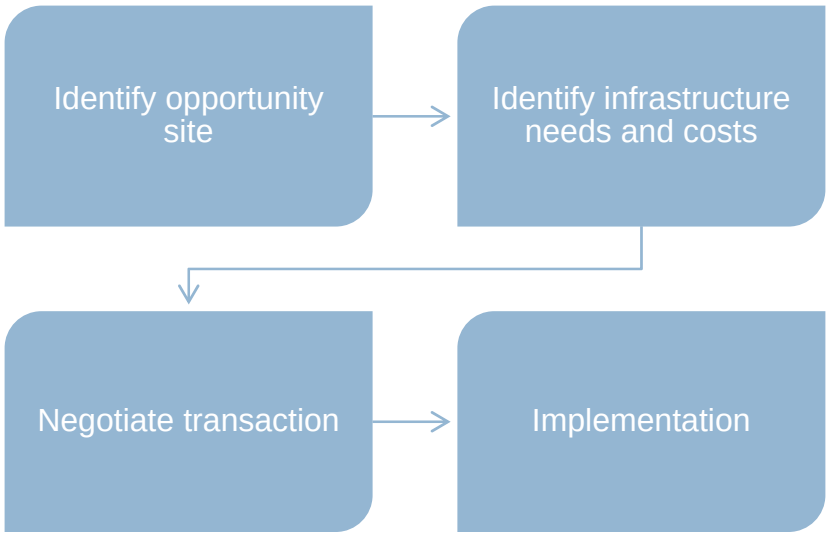
Permitted Uses of Funds

Revenues from public sector real estate strategies may be used for the provision of infrastructure or public services, however there may be limitations on how revenue is used or land is disposed of. For example, the California Surplus Lands Act places specific requirements on cities and counties that choose to sell surplus properties, including requiring that a right of first refusal be offered to affordable housing developers. Similarly, where transit agencies used federal funds to purchase land, restrictions may be placed on how the proceeds from a land sale may be used. Depending on the particular arrangement of a strategy, the public and private partners may share costs for providing improvements, revenues, and/or financial risk.

Who Pays and Who Administers

Public sector real estate strategies are administered by agencies that own land.

Process: Public Sector Real Estate Strategies



Resources and Examples

SamTrans Transit-Oriented Development Program:
http://www.samtrans.com/Planning/Planning_and_Research/Transit-Oriented_Development_and_Station_Area_Planning.html

BART Transit Oriented Development Program: http://www.bart.gov/about/business/development

City of Oakland Real Estate Services Division,
http://www2.oaklandnet.com/Government/o/CityAdministration/d/NeighborhoodInvestment/o/RealEstate/index.htm

West Dublin BART Station Parking Garage Funding, City of Dublin, CA. See case study below.

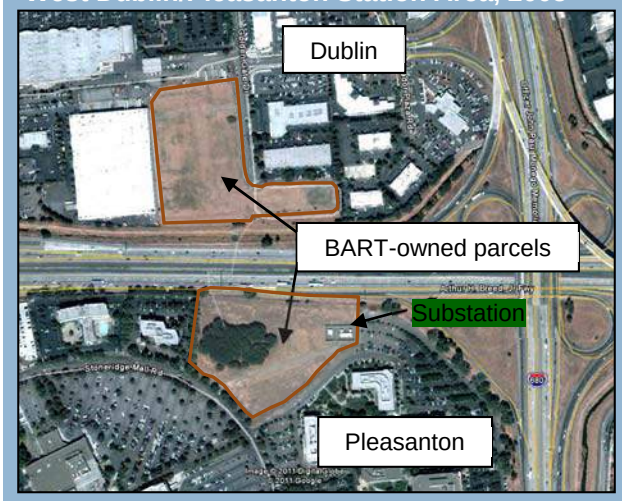
PUBLIC SECTOR REAL ESTATE STRATEGY CASE STUDY: WEST DUBLIN/PLEASANTON BART STATION AND PARKING GARAGES

The West Dublin / Pleasanton Bay Area Rapid Transit (BART) station opened in February of 2011, after a nearly 15-year effort to fund and construct the station. The station is situated in suburban Alameda County, on the border between the towns of Dublin and Pleasanton. The West Dublin / Pleasanton Station provides a unique example of using joint development as a value capture strategy to fund the construction of a rail station and other improvements.[1]

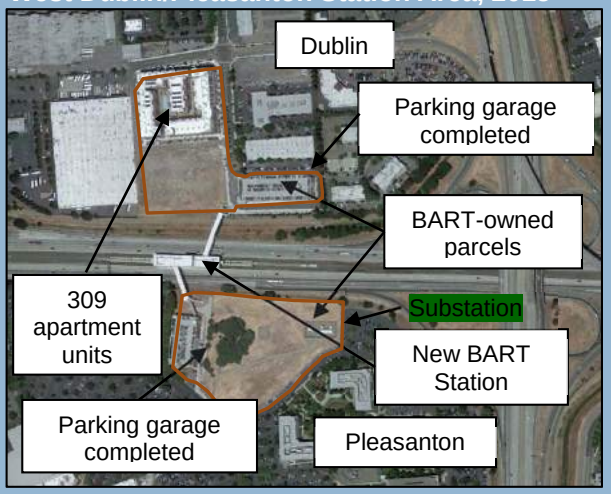
While BART had sought to construct the infill station since the late 1980s, the California Infrastructure Financing Act (IFA) of 1996 allowed for the actual first steps of project development. The IFA allowed regional and local government entities like BART to plan and implement development projects related to infrastructure improvement that would generate income or revenue. This essentially provided the legislative framework for local agencies to create value capture funding mechanisms in concert with private sector developers. The IFA allowed for much of the internal pre-project planning, such as the identification of a station location, to occur prior to the completion of an environmental impact report.

In addition to being located in two adjoining jurisdictions, the station area itself presented its own set of unique development challenges. The station needed to be built in the median of a major freeway (Interstate 580); as a result, two pedestrian bridges needed to be constructed for rider access to the station. BART also needed to provide parking for the typical park-and-ride patrons of a suburban station. The agency hoped to roll as much of the cost of constructing these infrastructure improvements (including station construction) into a value capture strategy whereby BART would sell or ground lease BART-owned parcels located adjacent to the station to private developers. BART's property acquisition team set about coordinating with the other government agencies whose jurisdiction overlapped the station area – the City of Dublin, the City of Pleasanton and the Alameda County Surplus Property Authority. At the same time, BART solicited interest for station area development from private property developers.

West Dublin/Pleasanton Station Area, 2005



West Dublin/Pleasanton Station Area, 2015



Source: Google Earth, June 2011; Strategic Economics, 2012.

[1] BART, http://bart.gov, accessed January 26, 2011.

PUBLIC SECTOR REAL ESTATE STRATEGY CASE STUDY: WEST DUBLIN/PLEASANTON BART STATION (CONT.)

In the City of Dublin, an affordable housing requirement for new residential construction in the City's General Plan would have made it difficult to create enough value for private investment to be financially feasible. BART, acting as a go-between for the City and private developers, was able to secure a variance that permitted 100 percent of new residential units in the station area to be sold at market rate. After securing the variance, BART then sold and leased land to a competitively selected private developer. The developer paid an initial sum of $15 million for the land.[2] The conditions of the lease stipulate private use of the parcel for a 99-year period, with the potential for BART to realize even more revenue based on the level of development of the land. The development plan called for a "Transit Village" consisting of over 300 residential units, a hotel and space for mixed use retail. However, in the wake of the housing and financial market collapse in 2008, development of the Dublin site was halted. The private developer was unable to meet project costs and the parcel went into foreclosure. The site was then resold to a different development company at a sheriff's sale.[3] A 309-unit apartment complex was built on the BART-owned site in 2013.

In Pleasanton, another BART-owned parcel was originally zoned for commercial/office uses, but the BART property team was able to secure a change to residential/retail uses under a specific plan that the City was completing for the area. A similar ground lease agreement was struck between BART and a private developer, this time with the developer paying $5 million in up-front costs. No construction has occurred on the Pleasanton-side BART-owned parcel at this time, but the proposed use has been changed back to commercial/office and Workday Inc., a software company, plans to build a 430,000 square foot office building on the site.

Once the private developer agreements were in place and a source of project funding was secured, BART was able to begin constructing the station and the adjacent infrastructure improvements. BART was able to apply the payments from the original land agreements to infrastructure improvements around the station, which opened in 2011. BART's property team was able to secure approval for a General Obligation Bond from the BART Board of Directors and the project cost was rolled into BART's system-wide bond debt service. BART's willingness to roll construction costs into a larger system-wide bond was due in part to the fact that the parking garages built as part of the project were the first in the system to implement a paid parking strategy. The parking fee revenues from the garages will help pay for the cost of operations and helped to make the project feasible. The garage on the Dublin side consists of 722 parking spaces, while the garage in Pleasanton holds 488 parking spaces.[4] In addition to parking garage construction, BART built two pedestrian bridges above I-580 to connect the station to both municipalities. The overall cost of the project was originally estimated at $87 million dollars but eventually rose to $106 million, due to complications with the pedestrian bridges.

[2] John Rennels (Project Manager, Real Estate and Property Development Department, BART).
[3] Ibid.
[4] BART, http://bart.gov, accessed January 26, 2011.

IV. DRAFT VALUE CAPTURE PROPOSAL PROCESS FOR PLAN BAY AREA 2040

Given the limited availability of discretionary funding in Plan Bay Area 2040 (PBA2040), MTC intends to allow public agency project sponsors that have identified value capture revenue opportunities to submit a proposal to MTC to have that revenue and the corresponding project included in Plan Bay Area 2040, provided that the project is fully funded after inclusion of the value capture revenue.

DRAFT PROPOSAL PROCESS

MTC is considering a two-step process for project sponsors to propose adding value capture revenue as a committed funding source for a PBA2040 project. In step one, MTC will call for, and interested project sponsors will submit, a Letter of Interest (LOI). MTC staff will evaluate the LOIs and determine if there is a potential for the proposed value capture strategy to yield revenue sufficient to fund the project within the proposed timeframe. For those proposals that staff deem promising, project sponsors would be requested to submit a more detailed proposal and provide a letter of staff concurrence with the proposal from the project sponsor's relevant Congestion Management Agency (CMA). Following a more thorough evaluation of the detailed proposal by an evaluation committee comprised of MTC staff and MTC consultants, successful proposers would be allowed to include revenue from their value capture strategy in PBA2040 as a committed fund source for their project.

STEP ONE

Proposers must submit a two to three page (three-page maximum) letter to MTC explaining their transportation project and value capture plan including the following elements:

- Project Information:
    - Identify the project title, name of proposer, project manager, and contact information;
    - Describe the proposed project and project goals;
    - Describe the project funding needs including funding required for capital and operating/on-going maintenance of the project, as well as funding currently available for the project; and
    - Provide the planned/preferred timeline for project delivery.
- Value Capture Strategy:
    - Revenue potential (this may be based on development potential and/or market strength);
    - Stakeholder/community involvement/support (some tools require voter and/or property owner approval);
    - Leadership/decision-maker support;
    - Potential challenges or barriers; and
    - Pre-planning required (nexus studies in place, legislation needed, etc.).

In addition, the proposer should describe any experience with value capture strategy implementation (apart from former redevelopment agencies) that the proposer's agency has had.

STEP TWO

MTC staff will review all LOIs and contact proposers, as needed, for additional information, clarification, and/or modification. Staff will then identify those projects that show promise and invite these proposers to submit a more formal proposal for further evaluation including:

- Project Description: Identify the project title, name of proposer, project manager, and contact information. Explain the purpose and need for the project, state the specific goals and objectives of the project.
- Scope of Work and Schedule: Detail the actions/tasks, work products, estimated completion dates and key partners.
- Project Cost and Funding: Provide a detailed budget that shows total capital project costs as well as on-going operating and maintenance costs. Provide a funding table that details existing funding, fund sources, and remaining funds required.
- Provide key data for the project environment and area that would be impacted by the project or value capture financing mechanism:
    - Population and population density;
    - Commercial/residential mix;
    - Property values;
    - Taxing entities;
    - Public education entities (property taxes cannot be diverted from public schools); and
    - Traffic/mode-share.
- Value Capture Strategy: Detail the proposed value capture mechanism(s), funding that is expected to be derived from it and expected timing of cash flow. Discuss plan for coordination with required entities and potential challenges to implementation. Provide a preliminary schedule of activities involving implementation of the value capture mechanism.
- Response to Questions from MTC on LOI: Provide a detailed response to questions posed by MTC staff as a result of its review of the LOI.

Final proposals will be assessed on the proposed value capture strategy's likelihood of successful implementation and generation of needed revenue by an evaluation committee comprised of MTC staff and MTC's consultants. CMA staff concurrence of the proposal will be required prior to incorporation into PBA2040. Further, as proposal acceptance is not competitive, all proposals that are deemed likely to be successful and contain project elements that meet PBA2040 requirements will be accepted.

PROPOSED SCHEDULE

Milestone	Date/Month
Value Capture Workshop	December 14, 2015
Call for Letters of Interest	December 18, 2015
LOI Deadline	January 15, 2016
LOI Evaluation	January 15 – 29, 2016
Request for Formal Proposals	February 1, 2016
Proposal Deadline	March 18, 2016
Proposal Evaluation	March 18 – 31, 2016
Notification of Acceptance	April 1, 2016
Inclusion of Value Capture Revenue/Projects in RTP	April 13, 2016

V. APPENDIX: MATRIX OF VALUE CAPTURE TOOLS

Mechanism	Administering Entity	Geographic Scale	Revenue Source	Voting Requirements	Nexus or Special Benefit Requirement?[a]	Permitted Uses of Funds	Examples
DISTRICT-BASED							
Mello-Roos Community Facilities District (CFD)	City, county, special district, school district, joint powers authority	District	Special tax on property	2/3 of property owners or registered voters[b]	No	Construction or acquisition of public facilities (e.g., transit, parks, schools, libraries). May also fund specified ongoing services (e.g., fire, police, lighting). May not fund transit operations.	--Local infrastructure projects: Bay Meadows CFD in San Mateo raised $90 million for streets, utilities, parks; Mint Plaza CFD in San Francisco raised $3 million for pedestrian plaza --Transit projects: Los Angeles Streetcar CFD; Transbay Transit Center CFD in San Francisco; Railroad Avenue Specific Plan Area CFD in Pittsburg
Enhanced Infrastructure Finance District (EIFD)	Established by a city or county; administered by a separate Public Financing Authority	District	Future increases in revenues from the existing property tax rate, as well as other specified sources	No vote required for formation; however, 55 percent of property owners or registered voters must approve issuance of tax increment bonds[c]	No	Construction or acquisition of public facilities and infrastructure, including transit facilities. May not fund routine operations or maintenance.	--No EIFDs have been established to date, and very few IFDs --San Francisco plans to use original IFD legislation for park and street improvements at Rincon Hill --West Sacramento has established an IFD in the former Bridge Redevelopment Project Area
Community Revitalization and Investment Authority[d]	Established by a city, county, or joint powers authority	District	Future increases in revenues from the existing property tax rate	Protest process, and 50 percent plus approval by a combination of property owners and voters required in specific situations	No	Rehabilitation, repair, upgrade, or construction of infrastructure; may not be used to fund operations or maintenance.	--This tool has not yet been used.
Special Benefit Assessment District	City, county, special district, or transit agency	District; occasionally jurisdiction-wide	Assessment, usually of property	50% plus one of property owners (weighted by financial obligation of each property under proposed assessment)	Use of assessment must provide special benefit to property owners, and size of assessment must be proportional to special benefits received by property owners	Uses are specified in various assessment acts; typically includes local street, sidewalk, lighting and landscaping improvements and maintenance.	--Local infrastructure projects: Burlingame's special assessment district for Downtown streetscape improvements; Menlo Park's citywide Landscape and Sidewalk Assessment District --Transit projects: Some BIDs/PBIDs operate shuttle programs (see examples below).
Property/Business Improvement District (PBID or BID); Community Benefit District (CBD)	Board comprised of business or property owners (or city or county)	District	Assessment of properties or businesses	50% plus one of property or business owners (weighted by financial obligation of each property or business under proposed assessment)	Use of assessment must provide special benefit to assessees, and size of assessment must be proportional to special benefits received by assessees	Districts may provide services that include safety, maintenance, marketing, capital improvements, economic development, and special events.	--Local infrastructure projects: Downtown Oakland Association CBD, Temescal/Telegraph BID, etc.--Transit projects: Emeryville PBID pays for operation of the Emery-Go-Round shuttle.
Transit Benefit Assessment Districts (TBADs)	Transit agency	District	Assessment of property	50% plus one of property owners (weighted by financial obligation of each property under proposed assessment)	Use of assessment must provide special benefit to property owners, and size of assessment must be proportional to special benefits received by property owners	Transit-related capital improvements and services. May not fund routine operations or maintenance of the transit system.	--No TBADs have been established to date. Likely project types include pedestrian improvements, lighting and landscaping, and shuttles or other transportation demand management programs.

Mechanism	Administering Entity	Geographic Scale	Revenue Source	Voting Requirements	Nexus or Special Benefit Requirement?[a]	Permitted Uses of Funds	Examples
OTHER TOOLS							
Parcel Taxes	City, county, special district, school district	Jurisdiction-wide	Special tax on property	2/3 of registered voters	No	Flexible; typically pay for local government services that benefit the community at large. Most commonly used for schools but have been used to fund transit and local infrastructure maintenance.	--Local infrastructure projects: Atherton's Measure S Special Parcel Tax provides funding for street and drainage facility repair and maintenance, police services --Transit projects: AC Transit's operations are partially funded by a parcel tax[e]
Development Impact Fee	City, county, special district, school district	District or jurisdiction-wide	One-time fee on new development, authorized under the Mitigation Fee Act	None	Requires reasonable relationship ("nexus") between the development paying the fee, the size of the fee, and the use of fee revenues	Funds may only be used to mitigate impacts caused by new development, which may include impacts on transit system	--Local infrastructure projects: Many cities have mitigation fees for traffic, water, sewer, and/or storm drainage impacts --Transit projects: San Francisco's Transit Impact Development Fee (TIDF)
Community Benefits Fee/Agreement	Land use authority (city or county)	Development site	Negotiated contribution or fee structure (e.g., through development agreement or conditions of approval)	None	No nexus required so long as contribution is voluntary	Negotiable	--Developers in San Antonio Center in Mountain View are making improvements to streetscape, intersections, bicycle facilities, etc. under conditions of approval
Public Sector Real Estate Strategies (e.g. joint development, land sale)	Transit agency or other public land owner	Development site	Sale or ground lease of publicly owned land	None	No	Negotiable	--West Dublin/ Pleasanton BART Station

Notes:
(a) Requirement for a "nexus" (or reasonable relationship) between the entities paying the fee, the amount they pay, and the benefit they receive, or a "special benefit" to the property owners subject to the assessment, over and above any general benefits to other property owners or the public at large.
(b) CFDs may be approved by a two-thirds majority of property owners in the proposed district, so long as there are no more than 12 registered voters living within the proposed boundary. If there are more than 12 registered voters living within the boundary, two-thirds approval by voters living within the district is required.
(c) Tax-increment bond issuances may be approved by a 55 percent majority of property owners in the proposed district, so long as there are no more than 12 registered voters living within the proposed boundary. If there are more than 12 registered voters living within the boundary, 55 percent approval by voters living within the district is required.
(d) Community Revitalization and Investment Authorities may only be formed in areas where the annual median household income is less than 80 percent of the statewide median, and three of the following four conditions are met: the unemployment rate is 3 percent higher than the statewide median; crime rates are 5 percent higher than the statewide median; infrastructure is deteriorated or inadequate; commercial or residential structures are deteriorated.
(e) BART is funded in part by an ad valorem property tax, which was initially authorized before voters passed Proposition 13 in 1978. Proposition 13 limited the total ad valorem general property tax rate to one percent. Since the BART property tax was passed prior to Proposition 13, BART now receives a share of the one percent property tax that property owners in the three-county district pay. Parcel taxes became more popular after Proposition 13; since they are not charged on an ad valorem basis, they are not subject to the one percent cap.

Source: Strategic Economics, 2015.