EIFD Program

ENHANCED INFRASTRUCTURE FINANCING DISTRICTS ("EIFDS")

Senate Bill ("SB") 628, which was signed by Governor Brown in September 2014, is intended to replace the now-defunct State of California redevelopment program with a new but similar financing technique that will not require the State to backfill local educational districts for the revenue losses they would otherwise experience due to Tax Increment Financing ("TIF"). This new program, which is called the Enhanced Infrastructure Financing District ("EIFD") Program, is based on revisions to existing State infrastructure financing district statutes that facilitate the sale of property tax increment bonds. **DTA has formed six (6) EIFDs to-date, and is working on the formation of one-half dozen additional EIFDs at the present time.**

Under the latest version of these revised statutes, the Legislative Body of a public agency (with the exception of school districts, community college districts, and County Offices of Education, which cannot participate in the EIFD Program) appoints a five-member Public Financing Authority ("PFA") to implement the EIFD and then adopts a Resolution of Intention to begin the formation process. The PFA consists of three representatives of the participating Legislative Body and two members representing the public.

The PFA then directs local agency staff to prepare an Infrastructure Financing Plan (the "Plan") that includes, among other requirements:

- Names of one or more participating agencies willing to give up all or a portion of their property tax increment for a period of up to 45 years after the approval of bonded indebtedness by the qualified electors within the EIFD;
- List of public improvements with a useful life of 15 years or more that are to be financed by the EIFD;
- Projection of tax increment revenues available to the EIFD; and
- Report analyzing the fiscal impacts of the EIFD on all the participating public agencies.

No voter approval is required for the formation of the EIFD. In addition, unlike the old State redevelopment program, there is no affordable housing set-aside required in an EIFD and no requirement for any pass-through to a public agency, so all of the property tax increment can theoretically be used to fund the selected public improvements. The major problem with the EIFD funding process, aside from the difficulty of finding public agencies willing to give up some of their future property tax revenues, is that the property tax increment itself is not generated until a project is at least partially built, meaning that an EIFD cannot generally provide upfront funding for a development project prior to its construction. This financing technique is instead utilized to either reimburse a property

owner or public agency for their upfront funding of infrastructure, or to take out all or a portion of a Community Facilities District ("CFD") or Assessment District ("AD") bond issue or other upfront public funding mechanism once construction is completed to reduce or eliminate further debt service payments from property owners.

As previously noted, an EIFD may finance the purchase, construction, expansion, or improvement of any real or tangible public improvement with an estimated useful life of 15 years or longer. As was the case with redevelopment funding, any revenues that result from an increase in assessed value above the corresponding value of the base year are called tax increment revenues and a portion of these revenues can be retained by the EIFD to fund public facilities. However, tax increment revenues that are obligated to public agencies directly involved in educational activities may not be allocated to an EIFD. Furthermore, tax increment revenues generated on behalf of non-educational public agencies, including the local City or County in which a project is located, may be allocated to an EIFD, but only for those agencies that agree to participate in the EIFD by resolution.

For projects located within a given City, it is possible that only the City itself will agree to give up all or a portion of its property tax increment. As a result, the total funding available through an EIFD is likely to be substantially less than the funding generated under prior redevelopment law, which had access to the property tax increment generated by <u>all</u> impacted taxing agencies. However, this decrease in available funding can be somewhat mitigated because, in addition to including the City's share of property tax increment, the new EIFD legislation does allow a City to allocate its entire annual *ad valorem*-based in-lieu Motor Vehicle License Fee ("VLF") increment to an EIFD, which in some cases could double the size of the available increment. Furthermore, since there is no required affordable housing set-aside or 20% revenue pass-through to the City under the new EIFD legislation, 100% of the City's property tax increment and in-lieu VLF increment could be made available to finance infrastructure through an EIFD.

If you have a community or development project that you think may be suitable for the EIFD Program, please contact David Taussig or Leni Zarate at (800) 969-4DTA or by e-mail at Support@FinanceDTA.com.