Presentation to the
California Association for Local Economic Development

Creating Infrastructure Financing Districts to Stimulate Economic Development

FirstSouthwest

William W. Reynolds

Senior Vice President

1620 26th St., Suite 230S

Santa Monica, CA 90404

Direct: 310.401.8054

william.reynolds@firstsw.com

Quint & Thimmig LLP
Attorneys at Law

Paul J. Thimmig

Partner

575 Market Street, Suite 3600

San Francisco, CA 94105

Direct: 415.765.1550

pthimmig@qtllp.com

April 26, 2011

Common Types of California Financing Districts

- Assessment Districts (ADs) / Community Facilities Districts (CFDs)
  - ***Purpose:*** to allow property owners to fund certain public improvements and maintenance costs (CFDs only) for the specific benefit of a designated assessment district or as authorized by a community facilities district
  - ***Types of Projects:*** traffic signals, street improvements, public facilities, schools and parks and certain services and maintenance (CFDs only)
  - ***Financing Mechanisms / Sources of Funds:*** assessment bonds or special tax bonds secured by voter approved property tax assessments or special taxes paid for by property owners in the taxing district

- Business Improvement (BIDs) / Tourism Improvement Districts (TIDs)
  - ***Purpose:*** to allow businesses to jointly fund improvements for the benefit of a designated retail commercial and/or hotel district
  - ***Types of Projects:*** street cleaning, pubic and private capital improvement projects, streetscape enhancements and District marketing efforts
  - ***Financing Mechanisms / Sources of Funds:*** pay-as-you-go using TOT, special program grants, annual business assessments, tax abatements, and other city designated funds.

Common Types of California Financing Districts

- Other Financing Districts
  - Landscaping and Lighting Districts
  - Vehicle Parking Districts
  - Park and Playground Districts
  - Integrated Financing Districts

- Redevelopment Project Areas
  - ***Purpose:*** to eliminate blight within designated project areas by encouraging private sector investment through public investment and the use of eminent domain
  - ***Types of Projects:*** public and private capital improvements, public works projects and housing
  - ***Financing Mechanisms / Sources of Funds:*** pay-as-you-go using tax increment or tax allocation bonds secured by tax increment

- Infrastructure Financing Districts

What is an Infrastructure Financing District under Current Law?

- Current Law Created by 1990 California statute:
  The Infrastructure Financing District Act

- The Act authorizes Cities and Counties to:
  - Create Infrastructure Financing Districts (IFDs)
  - Voluntarily divert tax revenues to the IFD
  - Issue bonds to finance specified public improvements

- Purpose of IFDs
  - To pay for regional scale public improvement projects in previously undeveloped areas
  - To divert property tax increment created in IFDs for up to 30 years to finance eligible projects
  - To issue IFD bonds using a method similar to redevelopment tax allocation bonds
  - To establish procedural requirements similar to those used to form a community facilities district
    - District formation - 2/3rds voter approval by IFD landowners
    - Issuance of IFD bonds - 2/3rds voter approval by IFD landowners
    - IFD appropriations limit – majority voter approval by IFD landowners

What is an Infrastructure Financing District under Current Law?

- Other General Provisions
  - Financed projects must provide benefits to an area larger than the IFD
  - Financial projects must have a useful life of 15 years or longer
  - Property in an IFD does not have to be blighted
  - IFDs cannot overlap existing Redevelopment Project Areas

What Types of Improvements can be Financed in an IFD?

- IFDs can Finance the Purchase, Construction, Expansion, Rehabilitation, Seismic Retrofit or Improvement of:
  - Streets and Highways
  - Ramps and Bridges
  - Transit Facilities
  - Parking Facilities
  - Water and Sewer Projects
  - Solid Waste Facilities
  - Flood Control
  - Child Care Facilities
  - Parks, Recreational Facilities and Libraries
  - Residential Dwelling Units
    - Must replace any units removed with affordable housing within 4 years
    - New units must include 20% affordable housing

What Types of Improvements can be Financed in an IFD?

- IFD's cannot Finance Operations such as:
  - On-going Maintenance
  - Services and Repairs
  - Operating Costs

- IFDs may Finance the Purchase of Facilities:
  - When Construction has been Completed
  - That provide communitywide significance
  - That are not physically located within the IFD Boundaries
  - That have a useful life of 15 years or longer

IFD Financing Mechanisms

- Under the Infrastructure Act, an IFD may receive Tax Increment from Property within the District.

- IFD Tax Increment includes Property Taxes Collected net of:
  - The Base Year (i.e. amount of taxes levied in year prior to IFD creation)
  - Taxes allocated to:
    - school districts
    - community college districts
    - county boards of education
    - other taxing agencies that did not voluntarily approve of the IFD formation

- The IFD may collect tax increment for a period of up to 30 years

- Tax Increment may be used:
  - On a pay-as-you-go basis
  - For the repayment of IFD Revenue Bonds
  - To provide additional security to Assessment or Special Tax Bonds
  - To reimburse a city or county for the costs of a completed qualifying public facility
  - To make advances to an Integrated Financing District

What Procedures are Involved in Setting Up an IFD?

- IFDs are created through proceedings similar to the formation of a CFD including:
  - Adoption of a resolution of intention to establish an IFD
  - Sending notices to each landowner and affected taxing entities in the IFD
  - Preparation of a financing plan containing:
    - A description of the District
    - The proposed public improvements
    - The financing mechanisms expected to be used
    - Any intention to incur debt

- Consultation with affected taxing entities
  - Each taxing entity that will be affected must approve creation of the IFD or the District cannot receive its share of the property tax increases. These include:
    - Cities and counties (normally 30 to 50% of property taxes without redevelopment)
    - special districts (normally less than 10%)
  - Affected taxing entities do not include entities exempted from losing their share of property tax increment (can be as much as 60% including ERAF)
    - schools districts
    - community college districts
    - county boards of education

What Procedures are Involved in Setting Up an IFD?

- Formation of the District and Approval of any Bond Issues requires Voter Approval
  - Voting procedures and requirements are identical to those of a CFD
  - 2/3rds approval of votes cast by qualified electors in the District
  - Qualified electors are owners of land in the District on the last equalized assessment roll when there are less than twelve voters in the District

Are IFD's Constitutional?

- State legislative counsel suggested that the Infrastructure Act may violate the State Constitution
  - The Infrastructure Act was approved by the state legislature anyway
- There has been a reluctance to set up IFDs
  - Questions about constitutional authorization and debt limitations still exist
  - Attorney General's opinion in 1998 rejected those concerns
  - Only used once:
    - 1999 - City of Carlsbad
    - Funded public works projects for a new hotel adjacent to the Legoland theme park
- Proposed Formation Underway in Rincon Hill Area of San Francisco
- Elimination of Redevelopment might Stimulate Interest in the Act

Changes being Proposed to the Current Law by SB 214

- SB 214
  - Introduced on February 8, 2011 by Senator Wolk
  - Proposes significant changes to the Act
- Eliminates the Requirement that an IFD must include Substantially Undeveloped Land
- Extends Current Law Regarding the Date a District would Cease to Exist to 40 Years
- Eliminates the Requirement of Voter Approval and Authorizes Legislative Body to:
  - Create the District
  - Adopt a Plan
  - Issue Bonds by Resolution

Presentation to the California Association for Local Economic Development

QUESTIONS

FirstSouthwest

William W. Reynolds

Senior Vice President

1620 26th St., Suite 230S

Santa Monica, CA 90404

Direct: 310.401.8054

william.reynolds@firstsw.com

Quint & Thimmig LLP

Attorneys at Law

Paul J. Thimmig

Partner

575 Market Street, Suite 3600

San Francisco, CA 94105

Direct: 415.765.1550

pthimmig@qtllp.com

April 26, 2011