

# Are Enhanced Infrastructure Financing Districts (EIFDs) a Solution to Your Agency's Infrastructure and Economic Development Challenges?

(SB 628, codified as Government Code, Title 5, Division 2, Part 1, Chapter 2.99, § 53398.50 et. seq)

In February 2012, after confirmation from the California Supreme Court a couple months earlier, the dissolution of local government redevelopment agencies (RDAs) commenced. For many years prior to this, RDAs had been a frequently used financing method for infrastructure and local economic development. With RDAs gone, local governments are faced with the double specter of aging infrastructure and the elimination of one of their most viable infrastructure and economic development financing sources. In 2014, the State Legislature approved new legislation which reworked and enhanced the 1990 infrastructure financing district law. This new legal construct was included in the Governor's fiscal year 2014/15 budget, and its associated financing mechanisms are called Enhanced Infrastructure Financing Districts (EIFDs). EIFDs, while not an exact replacement for the former RDAs, are a new tool local governments can use to build a wide variety of infrastructure projects. They are meant to create sustainable communities and develop a community's full economic potential. To some, EIFDs are considered "Redevelopment 2.0".

## Who may form an EIFD and what is required for formation?

A California city or county, as the lead participating agency in the formation of an EIFD, may form one. However, a prerequisite to forming an EIFD is the completion of all RDA and Successor Agency (SA) activities with the State of California. Completion of RDA/SA activities means a Finding of Completion from the Department of Finance, complete resolution of all RDA-related litigation against the State, compliance with any RDA-associated asset transfers ordered by the State Controller's Office (SCO), and SCO completion of its review of the RDA/SA enforceable obligations. Once these conditions are met, an agency (or group of agencies) may consider an EIFD formation.

With the RDA/SA items completed, the lead agency determines the project area(s) and improvement alternatives in collaboration with other agencies whose boundaries overlap with the proposed EIFD. Once the project scope is complete, the lead agency's legislative body adopts a resolution of intention to establish an EIFD. The legislative body then designates an appropriate official (may be the city/county engineer or a consultant) to prepare an Infrastructure Financing Plan (IFP), which should be consistent with the general plan of the city or county. The IFP is the formal plan which encapsulates the inter-agency collaboration mentioned above and identifies the actual infrastructure improvements to be included in the EIFD, how the improvements will be funded, and how long the EIFD will be in existence. A public hearing process for EIFD formation is required after all affected agencies have reviewed and approved the IFP. Assuming the public hearing process is successful, the lead agency will establish a Public Financing Authority (PFA) to act as

the governing body of the EIFD, and then approve a resolution of formation of the EIFD, approval of the IFP, and provide for the division of property taxes per the property tax increment revenue identified in the IFP. It is important to note that funding sources for the projects in the IFP may include any combination of: the EIFD's share of ad valorem property tax increment, governmental or private loans, grants, bonds, assessments, special taxes, and fees. Additional steps, including a balloting of qualified electors, are required if the IFP includes debt issuance as part of the financing sources, including tax increment bonds. EIFDs may exist for 45 years after the issuance of bonds or receipt of loan funding. Biennial financial and performance audits are required, and are to be conducted according to California State Controller guidelines.

### **How is an EIFD's financing secured?**

The foundational revenue source for EIFDs is pledged property tax increment from the participating agencies. The EIFD's revenue is the difference between the current year aggregate EIFD property taxes and the aggregate EIFD property taxes of the year prior to EIFD formation among EIFD participating agencies. Ad valorem property taxes for schools, both primary/secondary and post-secondary, cannot be used for EIFDs.

### **How is an EIFD governed?**

As previously mentioned, a Public Financing Authority (PFA) is the governing body of the EIFD. The composition of the PFA Board of Directors depends on the number of participating agencies. If there is only one participating agency, five members make up the PFA: three members from the agency's legislative body and two members of the public, chosen by the agency. Alternatively, if multiple agencies participate in the EIFD, the size of the PFA can be larger; however the majority of the PFA governing board must still be made up of members of the participating agencies' legislative bodies, and include a minimum of two members of the public, as chosen by the participating agencies' legislative bodies. The PFA is a local public agency and as such, all PFA board members are subject to the Ralph M. Brown Act, California Public Records Act, and the Political Reform Act of 1974. No PFA members receive compensation; however, they are eligible for reimbursement of EIFD expenses they incur.

### **What types of improvements can be funded?**

EIFDs may finance a broad spectrum of infrastructure items (purchase, construction, expansion, improvement, seismic retrofit, or rehabilitation) that provide communitywide significance to the EIFD or the surrounding community with a minimum useable life of 15 years, including the following:

- Transit—highways, interchanges, ramps and bridges, arterials, parking facilities and transit priority projects
- Wastewater—sewage treatment facilities, water reclamation plants and interceptor pipelines
- Water—treatment and collection facilities
- Stormwater—flood control levees and dams, retention basins and drainage channels

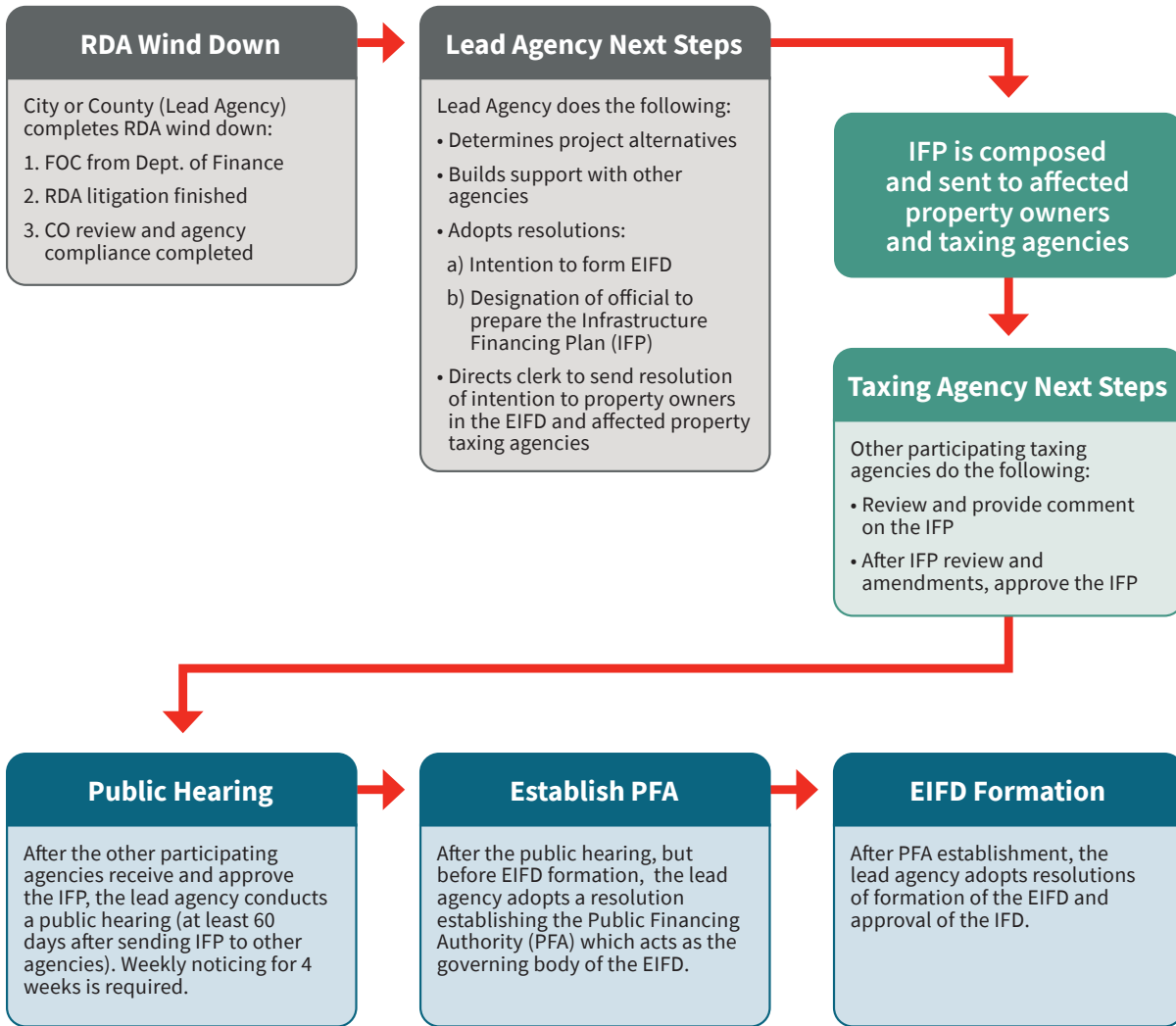
- Childcare facilities
- Libraries
- Recreation—parks, general recreation facilities, and open space
- Solid waste—general solid facilities, transfer stations and associated solid waste vehicles
- Brownfield restoration and environmental mitigation
- Former military base reuse and remediation
- Repayment of funds transferred to a military base reuse authority
- Low and moderate income housing—construction, acquisition or rehabilitation
- Private use industrial—structure construction, acquisition or rehabilitation
- Greenhouse gas mitigation (sustainable communities strategies)
- Polanco RDA Act—hazardous site remediation, etc.
- Any portion of former RDA project, as long as the agency has finished the RDA wind down
- Mixed income housing is allowed, but is restricted to occupancy by low/moderate income families. These facilities can include onsite child care, after-school and social services.

The EIFD improvements can be an upgrade, supplemental, rehabilitative or to make existing facilities more sustainable. In addition, the improvements do not need to be located within the EIFD; however they must have a tangible connection to the work of the EIFD. Planning and design work directly related to all of the improvement types mentioned above may be included in the IFP. EIFDs may reimburse a developer as long as the developer's entire project is located within the EIFD area. Notable exclusions of allowable EIFD expenditures include routine maintenance, repair work, and costs related to ongoing operations or provision of service.

## Summary

An EIFD is a broad-based, multi-faceted financing mechanism that local agencies can use as a present-day proxy to RDAs to build infrastructure and enhance overall economic development. Their strength is in the tremendous range of allowable infrastructure projects and the greater duration of existence. This solution may greatly benefit communities within and around your agency, and as such, could be worthy of greater exploration.

## EIFD Formation Process Chart



**Abbreviated Terms**

- EIFD—Enhanced Infrastructure Financing District
- IFP—Infrastructure Financing Plan
- PFA—Public Financing Authority
- RDA—Redevelopment Agency
- SA—Successor Agency
- SCO—California State Controller’s Office

## About the Author



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Building rapport with clients is one of Alison's specialties. She has worked at Harris for most of her 20 years in the industry, so it's no surprise that Alison has developed long-term relationships that have benefited communities across California.

As a Vice President in the municipal funding and special district finance practices, Alison is an expert in the intricacies of AB1600 requirements and has been an integral player in guiding new developments through the specific plan, EIR, and finance plan process. She's also skilled at acquisition audits—ensuring that public agencies understand the legal aspects of reimbursing developers for constructing public infrastructure. This understanding is essential when precious public funds are involved.

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