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California Governor Signs Off on New Tax-Increment Financing Structure.

On September 29, Governor Brown signed legislation that is seen as creating a robust new financing tool which will expand the existing mechanism of Infrastructure Financing Districts (“IFDs”) and replicate some of the functions of the state’s abolished local redevelopment agencies. SB 628 (Beall; D-San Jose) authorizes local officials to create Enhanced IFDs and issue bonds to finance capital improvement projects and other specified projects of communitywide significance. Enhanced IFDs may include any portion of a former redevelopment project area.

The tax-increment financing structure could be used to finance, among other initiatives:

- The acquisition and redevelopment of industrial structures for private use
- Parks
- Recreational facilities
- Open space
- Environmental cleanups
- Low and moderate-income housing
- Sewage treatment and water reclamation plants
- Transit priority projects

Significantly, the new financing authority can also use eminent domain powers previously exercised solely by the now defunct redevelopment agencies under the Polanco Redevelopment Act.

Enhanced IFDs require a city or county to establish a governing board for the authority and adopt an infrastructure financing plan with project eligibility requirements. A city or county can create an Enhanced IFD without a vote; however, approval of 55% of the voters in the district is required to issue bonds. Authorization for creating the Enhanced IFDs depends on the completion of certain repayment obligations by successor agencies of the former redevelopment agencies formed by the city or county seeking to create the new district. In response to concerns from affordable housing advocates, successor agencies must remit to the state any low and moderate income housing funds. However, the precise scope and schedule of the repayment obligations remains to be determined by the Department of Finance (“DOF”) through the required notice of completion from DOF and the state office of the Controller. This prerequisite may impact the timing of implementation of the districts.

Local governments may now have an opportunity to build and repair infrastructure by utilizing the tax-increment financing tools they had under redevelopment. Enhanced IFDs will not only support the development of public infrastructure, but can also provide a foundation for the private sector to help build California infrastructure through public-private partnerships.

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