Interpretative Supplement to Board of Supervisor Guidelines for the Establishment and Use of Infrastructure Financing Districts in San Francisco Updated as of February 27, 2023 by the Capital Planning Committee

This Interpretative Supplement is intended to supplement the Board of Supervisor Guidelines for the Establishment and Use of Infrastructure Financing Districts in San Francisco (Board Guidelines), which were approved by the Board of Supervisors pursuant to Resolution No. 66-11, which was adopted by the Board of Supervisors on February 8, 2011, and signed by the Mayor on February 18, 2011.

The Board Guidelines are organized into two sets of criteria: (1) "Minimum Threshold Criteria" that must be satisfied for future infrastructure financing districts (IFDs) to be formed by the Board of Supervisors (Board) and (2) "Strategic Criteria" that should be considered by the Board but are not preconditions to forming an IFD. This Interpretative Supplement is similarly organized, and provides guidance to City staff and the development community about application of the Board Guidelines.

The Board Guidelines do not apply to any existing redevelopment project area (although an IFD may include all or a portion of a redevelopment project area of the Office of Community Investment and Infrastructure (OCII), as the successor agency to the former Redevelopment Agency of the City and County of San Francisco) or to any property owned and/or managed by the Port of San Francisco ("Port") unless non-Port land is included in a Port proposed IFD, in which case only the Port owned and/or managed land is exempt.[1]

The Board Guidelines and this Interpretative Supplement existing state laws authorizing the use of IFDs. IFDs may be formed under a variety of state laws, and include infrastructure revitalization and financing districts (IRFDs) and enhanced infrastructure financing districts (EIFDs). Under state law, IFDs can finance the purchase, construction, expansion, improvement, seismic retrofit or rehabilitation of any real or other tangible property with an estimated useful life of 15 years or longer (and any administrative, planning and design work directly related to delivery of the public facility). In general, IFDs can only finance public capital facilities or other specified projects of communitywide significance that provide significant benefits to the district or the surrounding community. Facilities funded by an IFD do not need to be located within the boundaries of the IFD. State IFD laws also state that the creation of the IFD should not ordinarily lead to the removal of existing dwelling units; and that certain relocation requirements

[1] The Port has over $1B in deferred maintenance and plans to apply different IFD policies to assist in its capital repair and maintenance efforts, and IFD law contains provisions unique to land under Port jurisdiction. The Port plans to independently utilize state IFD law to finance capital improvements that address this need. Planned projects will preserve important historic resources and generate economic activity far in excess of the value of the IFD. The Port's proposed use of IFD law more closely resembles a traditional Redevelopment Tax Increment Finance (TIF) "pump-priming" strategy where increment revenues are used on the front-end to build infrastructure that will attract new private investment to create jobs, small business opportunities, serve as regional assets and attract visitors and residents to the waterfront. Accordingly, the Port's IFD policy would not necessarily be predicated on up-zonings that result in net fiscal benefits to the General Fund.

apply if any dwelling units are removed or destroyed in the course of private development or public works construction within the IFD area.

Under state IFD laws, the City (and other non-education taxing entities, as applicable) can allocate the following "incremental property tax revenue" to an IFD:[2]

> (1) property tax revenue annually allocated to the City and generated by the levy of the 1% ad valorem tax rate upon the increased assessed values of taxable property in the IFD above the values shown upon the assessment role that was last equalized prior to the formation of the IFD (general property tax increment) and
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> (2) that portion of any ad valorem property tax revenue annually allocated to the City pursuant to Section 97.70 of the Revenue and Taxation Code and that corresponds to the increase in the assessed valuation of taxable property (MVILF tax increment).

When an IFD is formed, an infrastructure financing plan (IFP) is prepared. The IFP describes the revenue allocated to the IFD and the uses of the revenue, and includes an analysis of the projected fiscal impact of the IFD and the associated development upon any entity allocating revenue to the IFD.

The City can allocate to an IFD all or a portion of the incremental property tax revenue described above that is available to the City's general fund, including amounts that subsequently would be set aside in certain special funds in accordance with the City's Charter.[3]

<u>Minimum Threshold Criteria</u>:

1. **Limit to areas that are (i) rezoned as part of an Area Plan or Development Agreement with extensive need for infrastructure and public facility improvements and for which IFD funding is necessary for the project to be financially feasible and (ii) adopted as a Priority Development Area (PDA)**. PDAs are officially-designated infill development opportunity areas. To be eligible for designation by the Association of Bay Area Governments, an area must be near existing or planned fixed transit or comparable bus service, and be zoned for increased housing densities. PDA designations inform regional agencies, like the Metropolitan Transportation Commission, which areas within a jurisdiction are willing to accept regional growth. Accordingly, Planned PDAs are eligible for additional capital infrastructure funds, planning grants, and technical assistance. Linking creation of future IFDs to PDA areas will allow the City to leverage IFD incremental property tax revenue to increase its chances of receiving matching regional, state or federal infrastructure or transportation grants.

[2] The state laws for IFDs allows the City to allocate to an IFD periodic distributions to the City from OCII's Redevelopment Property Tax Trust Fund that are available after preexisting legal commitments and statutory obligations are funded from the PRTTF ("net available revenue"), and the state law for EIFDs allows the City to allocate certain sales and use tax revenues in specific circumstances. This Interpretative Supplement assumes that only the incremental property tax revenue described herein will be allocated by the City to an IFD, and the Board of Supervisors will consider the allocation of net available revenue and sales and use tax revenue on a case-by-case basis.

[3] Under the City's Charter, property tax revenues are set aside in the following amounts in the following special funds: 2.5% in the Park, Recreation, and Open Space Fund, 4% in the Children's Fund, and 2.5% in the Library Preservation Fund.

2. **Limit formation of IFDs to areas where rezoning is projected to result in a net fiscal benefit to the General Fund (GF) as determined by the Controller's Office.** To determine whether a rezoning will generate a net fiscal benefit, the Controller's Office will calculate the GF revenue (less any GF costs) expected to result from the growth projected to occur within the IFD boundaries after rezoning. The Controller's Office will then subtract the GF revenues (less any GF costs) expected to result from the projected growth that could have occurred within the IFD boundaries under the existing uses. If the result within the IFD boundary is greater than zero, there is a net fiscal benefit from the rezoning. Based on this formula, future IFDs will likely be limited to areas that receive or have received substantial and quantifiable upzoning in the form of (1) net increases in height, bulk, and density that result in greater developable FAR than prior "baseline" zoning, (2) changes in permitted land uses that increase property values, or (3) permit streamlining that increases the certainty and speed of entitlements.

3. **Restrict the maximum incremental property tax revenue that is allocated to an IFD to no more than 50% of the annual incremental property tax revenue over the term of the IFD, and require that each district have a projected positive GF net fiscal benefit over its term after subtracting the incremental property tax revenue allocated to the IFD.** The maximum incremental property tax revenue that may be allocated to the IFD is 50% of the total incremental property tax revenue, however the City may allocate all or a portion of the remaining 50% of the annual incremental property tax revenue on a conditional basis to provide debt service coverage for the IFD's bonds or other debt. The intent of the 50% limit is that each project provides net new property tax revenue to the GF even after the allocation of incremental property tax revenue to the IFD.

4. **Limit to projects that address infrastructure deficiencies in the general area of the IFD.** Because the City has not developed universally-applied and objective citywide standards for assessing the sufficiency (or deficiency) of neighborhood-serving infrastructure, Board-adopted planning documents (like Area Plans) that qualitatively and/or quantitatively describe such deficiencies will suffice until new citywide standards are adopted at a later date. After the adoption by the Board of Supervisors of a revision to the Board Guidelines, the Capital Planning Committee, in coordination with the Planning Department and the Area Plan Infrastructure Finance Committee, should develop and recommend Board approval of standards for assessing neighborhood infrastructure deficiencies in the following areas: (i) parks & open space improvements; (ii) "Better Streets" streetscape & pedestrian safety improvements; (iii) bicycle network improvements; (iv) transit-supportive improvements; and (v) publicly-owned community center and/or child-care facilities. These standards would prevent the use of IFD funds for public facilities that far exceed citywide norms for cost and quality. In areas with previously approved Area Plans that included public infrastructure commitments, these new criteria would be applied to help prioritize spending in direct collaboration with any existing Community Advisory Committees (CACs) or residents' associations.

5. **Limit use of IFD monies to individual infrastructure projects with a long-term maintenance commitment**. Once an IFD is established, limit appropriations to infrastructure projects that have an identified source of funding for ongoing maintenance and operations. This commitment could be in the form of a General Fund appropriation or through public-private financing mechanisms, such as a Master HOA or a Community Benefit District agreeing to maintain a public park, or through formation of a supplemental

property tax assessment district, like a Mello-Roos Community Facilities District or a Special Tax District.

6. **Require that all incremental property tax revenue generated within future IFDs flows directly to the General Fund unless and until specifically appropriated by the Board for deposit into the Special Fund of the IFD or pledged (i) for debt service/coverage on bonds or other debt of the IFD or (ii) other contractual obligations approved by the Board**.

7. **Limit IFD debt (as defined in the IFD laws) across all IFDs such that total annual debt payments do not exceed 5% of annual property tax revenue[4].** This ensures that the share of property tax revenues going to service IFD debt never grows so high that it limits the City's budgetary flexibility. Gradually reinvesting up to 5% of this source in the City's local economy and growing the tax base will not significantly limit the ability of policymakers to allocate the remainder of the revenue. This control applies to property owned and/or managed by the Port of San Francisco or managed by the Treasure Island Development Authority, including already-established IFDs under each departments' jurisdiction. This control does not apply to any existing Redevelopment Area. In no case will this guideline impair the responsibilities of established IFDs, whether established before or after the date of the Board Policy and this Interpretative Supplement.

8. **Include an option to terminate the ongoing allocation of incremental property tax revenue to IFDs that were formed but the benefited development did not meet minimum performance standards.** In the formation documents or IFP of each IFD, the City shall include provisions providing for the termination of its allocation of incremental property tax revenue in future fiscal years or the dissolving of the IFD should the project benefited by the IFD not achieve minimum development milestones. These milestones may be amended or expanded on at the formation of each IFD, but the baseline milestone shall be achieving a final Certificate of Occupancy for the first tax increment-producing building within ten years of the formation of the IFD. The intention of this criteria is to ensure if that if the City has established an IFD to provide assistance to a project, but the project has not made progress with development, the limited capacity under the City's 5% limit (Criteria #7, above) can be reallocated to another project better able to leverage the assistance of the IFD to achieve the City's goals. In preserving this option, however, the City acknowledges that the formation documents or IFP of each IFD that contains such an option shall clearly state that the City's option shall be of no force or effect as long as any bonds or debt of the EIFD is outstanding.

<u>Strategic Criteria</u>:

- **In general, if using an IRFD, limit the district to parcels without any occupied residential use**. The City may want to exclude parcels that contain existing occupied residential structures when forming a new IRFD because IRFD law requires an actual voter-

[4] Annual property tax revenue, for the purpose of this guideline, will include the City's general fund, including amounts that subsequently would be set aside in certain special funds in accordance with the City's Charter, and MVILF revenues.

based election if there are 12 or more registered voters within the proposed boundaries of the IRFD. If there are fewer than 12 registered voters, the law only requires a weighted vote of the property owners, which, in general, should reduce the complexity and time required for forming a district. On the other hand, there may be circumstances where a voter-based election may be both desirable and manageable.

- **Use IFDs strategically to leverage non-City resources**. As noted in Threshold Criteria #1 above, IFDs should be used as a tool to leverage additional regional, state and federal funds, thereby serving a purpose beyond earmarking General Fund resources for needed infrastructure. For example, IFDs may prove instrumental in securing matching federal or state dollars for transportation projects.
- **For future IFDs in newly rezoned areas, require that "best-practices" citizen participation procedures be put in place to help City agencies prioritize implementation of IFD-funded public facilities**. This could be achieved through establishing CACs or other official public stakeholder groups.
- **Develop an annual evaluation process, with specific quantitative and qualitative criteria for monitoring the performance of IFDs and the benefits received by the City and its residents and businesses.**

The Board of Supervisors may, in its sole discretion, approve IFDs that deviate from the Board Guidelines and this Interpretative Supplement. The failure of the City to comply with any provision of the Board Guidelines or this Interpretative Supplement shall not affect the authorization, validity or enforceability of any IFD, including the City's allocation of incremental tax revenues to the IFD, or any bonds or other debt of an IFD.