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CONCEPTS OF BENEFIT ZONES, IMPROVEMENT DISTRICTS
AND TAX INCREMENTS TO FINANCE RAPID TRANSIT

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In the past several months, there has been a great deal of discussion regarding the financing of rapid transit by benefit district/zones, tax increments and real estate development. The purpose of this report is to analyze each of these concepts and their applicability with respect to the Southern California Rapid Transit District.

Benefit Zones

The basic assumption upon which a benefit zone is based is that this land, immediately adjacent to a rapid transit station or right-of-way, may be expected to increase in value at a more rapid rate than would otherwise be the case without the transit system.

The extent of such a benefit zone is somewhat arbitrary but is generally held to be a reasonable walking district, about 1/4 to 1/2 mile of the transit line and/or radius of a station.

Once the boundaries of the zones are established, a separate property tax on land would be imposed by the District. This tax would be in addition to existing property taxes levied by other taxing agencies. In this manner, it is believed that the transit district would directly receive some of the benefits it presumably created. In our opinion, it is unlikely that this method would yield sufficient tax revenues to entirely fund a fixed guideway system; however, monies produced could be used to meet a portion of capital costs and assist in meeting maintenance and operation costs.

The SCRTD Act does not permit the establishment of these types of benefit zones for the purposes outlined and the method of taxation. If

permitted, it should be assumed that the provisions of SB 90 and AB 2008 would require that such a tax be authorized by majority voter approval within each benefit zone.

Special Benefit Districts

Chapter 1325, Statutes of 1968 (Public Utilities Code Section 9900, et seq.) permits the establishment of special benefit districts and zones therein for the purpose of incurring a bonded indebtedness to acquire, construct, complete or repair transit station facilities. To implement this procedure, the Board of Directors of a district must make a finding that the incurrence of such debt is necessary. A proposed boundary for the benefit district and/or zones is established and a hearing is conducted by the Board to establish the final boundary of the district/zones and the project to be undertaken. Upon conclusion of this hearing, an election is conducted to authorize the amount of the indebtedness and the establishment of an ad valorem assessment, at a uniform rate, upon the land within the benefit district and all zones contained therein for the purpose of paying the principal and interest on the bonds. A sixty percent majority vote is required for approval, if these provisions are utilized by Southern California Rapid Transit District. There are no other provisions within these statutes to levy ad valorem assessments for any other purpose than debt repayment.

It is reported that this particular legislation was introduced to assist the San Francisco Bay Area Rapid Transit District in completing its station construction. However, this method was never used by BART due primarily

to the political reality of having a select area vote an additional tax upon itself when bonds were authorized by the district as a whole to finance the project.

Improvement Districts

Public Utilities Code Section 30960 of the SCRTD Act provides a method for incurring a bonded indebtedness to acquire, construct, complete and repair facilities the District is empowered to own, construct and operate.

Similar to the provisions of the Special Benefit District previously discussed, hearings must be held, boundaries formed and a vote (60%) is required. The major difference is that the tax to pay the bonds and interest thereon is levied upon all the taxable property in the Improvement District, that is, land, improvements and personal property (less exemptions), and not just the land. Also, the purpose for which these district taxes can be utilized are very broad and not limited to just transit stations.

In this respect, these provisions are suitable to finance construction of special transit facilities, such as internal distribution systems, people movers, etc.

Tax Increment Financing

Tax increment financing is available only to Redevelopment Agencies under the Community Redevelopment Law. In California, Redevelopment Agencies may issue tax allocation bonds, payable from property taxes

collected from within a project area, upon the increase in assessed valuation resulting from redevelopment. In order to undertake a redevelopment project and exercise the powers of condemnation, the area involved must be blighted or contain functional blight. Tax increment powers are authorized by the State Constitution and are limited only to redevelopment agencies. It is believed that in order to extend these powers to other public agencies, an amendment to the Constitution may be required.

In a recent publication, reference was made to a transit station (the Embarcadero Station of S.F. Bart) being financed by tax increment financing. On the surface, it appeared that the entire station cost was funded by the use of tax allocation bond financing. This was not the case.

The facts of this particular situation are that at the time the Golden Gateway Project was being developed, the City felt that a BART station would be of great benefit to this project. The original station planning envisioned the first S.F. station to be at Montgomery Street, some five blocks west of the Embarcadero Station site. If the basic structure were not constructed as an integral part of the initial BART system, engineering and other cost considerations dictated that it would be impractical to build such a station at a future time.

Neither the City of San Francisco or BART had the funds to build this station or even a shell. As an interim measure, tax allocation bonds in the amount of \$13,150,000 were issued by the S.F. Redevelopment Agency, Golden Gateway Project, in December 1968 to build the basic shell structure. At that time, it was presumed that the City would provide the funds

to complete the station. The total estimated cost of the Embarcadero Station is in the neighborhood of \$40,000,000, far in excess of the capacity of the tax increment financing of the redevelopment project. Due to a reallocation of BART funds which came about as a result of subsequent plan changes, funds became available to complete the construction of the Embarcadero Station, which is currently underway.

Real Estate Development

It has been suggested that one possible method of financing transit is to capture the increases in land value that are expected to occur around transit stations. In this situation, the transit district would acquire all the land around a station location and resell it, keeping the anticipated profits to repay the costs of the transit development. Novel as this approach appears, there are two major pitfalls. First is the determination of the "public purpose", condemning the land around the proposed stations, by a transit district, or, for that matter, a redevelopment agency where no blight exists. Attorneys in the field of municipal law believe it would require a U. S. Supreme Court decision, probably taking several years, to resolve this issue.

Secondly, funds to construct the transit system would have to be made available at the outset. No bonds could be publicly marketed on the promise of repayment from future land sales. It was contemplated that the U. S. Government would provide the initial capital. In our opinion, this would be the only manner in which this concept could be implemented. How long it would take Congress to establish and fund such a program is anyone's guess.