Working Paper

Financing Infrastructure and Community Facilities

Regional Transit-Oriented Development Strategy

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PREFACE

A series of Working Papers has been prepared for SANDAG as part of its efforts to develop a Regional TOD Strategy for the San Diego Region. The Working Papers focus on issues associated with implementing TODs in the San Diego region, drawing upon the experience and lessons learned from other metropolitan areas in their attempts to address similar issues. The Working Papers address the following topic areas:

- Urban Form, Density and Land Use
- Financing Infrastructure and Community Facilities
- Housing Choices and Affordability
- CEQA Streamlining and Travel Forecasting
- Connections: Travel Options, Mobility Management and Access Enhancements
- Readiness Criteria: Metrics for Transit-Oriented Districts

“TOD” is typically an acronym for “Transit-Oriented Development.” This definition focuses on real estate development projects next to transit stations, often as public/private partnerships; however, this definition is narrow and does not reflect the importance of the relationship between transit stations and the surrounding community.

The Working Papers approach the “D” in TODs as “District,” an area, neighborhood or community that is conveniently accessible to transit. The size of a district will vary by location, topography, community characteristics, the pattern and concentration of residential and employment, and other factors unique to a. Districts are larger areas where some people are close enough to walk to a station, others are close enough to bike to a station or be dropped off by a friend or family member who is driving, or even use a car-sharing service. Thinking of the district in this larger content enables more opportunities to find sites for various types of development that are feasible – small lot housing and town homes, low-rise and loft housing, flats and, residential towers, or main-street type of commercial, urban flex and campus space, institutional facilities, and taller office buildings – all within mixed-use environments that are walkable. TOD is an important to the San Diego region’s future and is expected to contribute significantly to meeting the projected demand for new housing and employment growth that SANDAG estimates will occur in the future.

The Working Papers are focused on how to implement TODs. They describe the challenges, some of which are not unique to San Diego. They mention examples of how other metropolitan areas around the country are trying to address these challenges and conclude by suggesting some ideas for consideration. The ideas for consideration are meant to stimulate thought, questions, and possible solutions.

The Working Papers are being published prior to a TOD Implementation Forum (January 27 and 28, 2015) that SANDAG is holding to get input that inform the development of SANDAG’s Regional TOD Strategy. As such, the Working Papers are drafts that will be augmented by the input received during the TOD Implementation Forum, and will be used to support the preparation of the Regional TOD Strategy and an agenda for success.
FINANCING INFRASTRUCTURE AND COMMUNITY FACILITIES

The success of transit-oriented districts (TODs), as with all communities, depends on adequate infrastructure and public facilities. Successful TODs are not just a collection of developments. They are neighborhoods and communities that are accessible to and served by transit. Financing these improvements and services, however, is an ongoing challenge that requires commitment involving multiple parties – land owners, developers, voters, legislative bodies, and/or the broader public. Community concerns about the potential burden infill development may have on existing facilities and their capacity to accommodate growth has been an issue for garnering public support.

One of the major challenges for TOD projects is the ability to fund public infrastructure, facilities, and amenities needed to support new development. Most potential TOD projects within the San Diego region are located in existing communities. TOD projects may occur on surplus transit and public agency land, parcels that are already assembled for commercial or light industrial uses that are now obsolete and suitable for re-use, parcels that must be assembled, adaptive re-use of existing buildings, and through incremental development projects occurring on small parcels.

Infill locations may use existing infrastructure and community facilities more efficiently, particularly if they have excess capacity. TODs may also have lower long-term maintenance and operating costs per capita, a savings for local government, because of their more compact development patterns. Infill locations, however, also present challenges for financing infrastructure and community facilities because many of the available infrastructure financing tools for communities near transit are challenging to adopt due to the numerous property owners and interests involved.

The Need for Infrastructure Improvements and Community Facilities

TODs may require significant investments in infrastructure and community facilities to support new development. These investments might include:

- Increasing the capacity of utilities (e.g., sewer, water, storm drain) and the multi-modal transportation system to support more development; or, replacing aging infrastructure systems in older neighborhoods to support not just new, but existing development.
- Mobility and place-making improvements that can facilitate walking and bicycling to and from transit stations by adding or improving sidewalks, crosswalks, bicycle lanes, bicycle and storage, bike and car sharing facilities, and streetscape enhancements such as lighting, street trees, and street furniture to enhance the experience.
- Developing or improving public spaces, including parks, plazas, and other open space amenities that add value to surrounding development and provide relief from urban densities.
- Other community facilities and services required by local standards to support new development. These may include libraries and community centers, schools, and police, fire and emergency response services.
The infrastructure needs of TOD projects depend on the specific development context and its capacity. In some places, capacity exists and infill development can be accommodated with just limited investment in new facilities. Even when a development increases density on a site, it does not necessarily trigger the need to expand capacity of some facilities. For example, roads that service an obsolete shopping center site were probably designed originally to accommodate peak traffic demand for shoppers on weekends and evenings. If the site is no longer competitive as a shopping center, and housing is added while commercial is reduced, the site will be more efficiently used and its physical density increased. But, since housing generates different peak hour trips (morning and evening weekday commute hours), and if transit service is used by a portion of the residents, the existing roadway capacity could be largely sufficient. The Uptown District project in Hillcrest that was built on the site of a former Sears retail store is an example of how infrastructure can be repurposed to serve new uses.1

Research shows that residential TODs produce half as many daily automobile trips as conventional development. The research’s key conclusion is that Institute of Transportation Engineers (ITE) Trip Generation Manual overestimates trip generation and parking generation rates for TOD housing by approximately 50 percent.2

If new infrastructure is needed, however, it can be more difficult to provide in an infill location than in greenfield areas because of the challenges with land assembly and retrofitting an already developed area, and the need to work with many property owners. In addition, current code standards must be met, and current public facility standards are evaluated as part of the environmental clearance process. These standards likely have changed since an infill location was originally built; an example of standards changed most recently would be stormwater standards. In many jurisdictions, their standards are the same for urban infill as they are for suburban communities even though it is practically impossible to meet the same physical standard, such as park land per 1,000 people.

As a result of the challenges of providing infrastructure in infill locations and the limited ability for local governments to finance infrastructure improvements there is often a reliance on improvements financed through impact fees paid by individual projects. Yet, laws restrict impact fees to cover a development’s fair share, not to cover existing facility deficits.3 New development can only cover a portion of costs if there are existing deficits in a community. For example, if growth occurred in a community of 10,000 people at 1 percent per year at a compounded rate, by 20 years a community will have grown by 22 percent, reaching 12,200 people, but 82 percent of the community (10,000/12,200) would still have predated the growth that started 20 years earlier.

Standards that are tailored to the location and context of each TOD are a possible solution. This can be most effective for community facilities, such as streets and parks. For example, Pasadena no longer uses Levels-of-Service (LOS) to assess its street capacity; instead the city uses an evaluation system based on characterization. Miami uses a 0.25 mile to open space access standard rather than a population-based standard (i.e., number of people per acre of open space). Philadelphia has a 10-minute walk goal for 75 percent of the population by 2025. Portland, Oregon has a standard of 100 percent of the population within 3 miles of a community center and 0.5 mile from a park. Vancouver, British Columbia has a standard of 100 percent of its population within a 5-minute walk to green

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3 Local agencies may charge development impact fees pursuant to the Mitigation Fee Act (California Government Code §66000 et seq.) to finance the cost of public facilities or services needed to serve the development. A development impact fee is a monetary exaction, not a property-related tax or special assessment within the meaning of Proposition 218 (California Constitution, Article XIII).
space. San Francisco maintains service standards for streetscape, pedestrian, bicycle, and transit infrastructure, and allows in-kind improvements for parks at TODs. Still, some standards, such as water and sewer capacity, have less flexibility to adjust.

Compact development associated with TODs uses infrastructure and community facilities more efficiently than low-density suburban development (i.e. 1,000 feet of pipe can service more properties and people in an urban setting, and compact development consumes less water per capita). However, if infrastructure has to be redeveloped or expanded, development costs per unit may be greater than greenfield development because the process of rebuilding is more complicated and often more expensive than building new.

**Stormwater Mitigation Requirements**

Water quality and stormwater management have become a more important component of overall land use and infrastructure planning in recent years, particularly with adoption of the 2013 Municipal Separate Storm Sewer System (MS4) National Pollutant Discharge Elimination System Permit for the San Diego Region. The new MS4 permit, which includes all of the county and city governments in San Diego County, southern Orange County, and Riverside County as “co-permittees,” requires stormwater management measures to be implemented to manage the ongoing impacts of older development built before modern stormwater control standards (“retrofits”), and to manage new development and redevelopment impacts. As documented in a recent report for the City of Chula Vista, under Provision E.3 Development Planning, the permit requires significant on-site treatment measures to be implemented that may, in some situations, pose significant constraints on new development and redevelopment.

To meet the new standards, applicants are required to implement Best Management Practices (BMPs) that capture and retain on site the amount of stormwater that equals the difference between the pre-development and post-project condition; this is intended to restore the hydrologic condition of the site and reduce the impact of increased peak flow that may result in downstream hydromodification (i.e. increased erosion of stream banks, greater sediment load to streams and creeks and loss of aquatic habitat). Additional measures are required to address pollutant loading to prevent potential impacts on the beneficial use of receiving waters. These measures include the use of low impact development (LID) techniques that retain and then infiltrate, evapotranspire, and/or re-use stormwater on site.

Depending on the site size and configuration, geotechnical site conditions, and other mitigation requirements, building these required measures within the boundaries of a single TOD property may not be economically feasible. These water quality and hydromodification requirements could therefore preclude TOD development that otherwise conforms to approved land use designations, unless alternative measures are made available. In such cases, the MS4 Permit allows “Alternative Compliance,” which involves the use of off-site or cooperative regional treatment measures that, considered as a whole, meet or exceed the required stormwater capture and treatment
for the development or redevelopment site. This approach offers opportunities for municipalities to plan water quality projects that provide capacity for future development and redevelopment projects and to work with the regulatory and resource agencies as well as developers to find potential off-site and regional locations suitable for implementing watershed restoration projects and other stormwater management facilities or BMPs. These types of facilities and other measures also offer the potential for water quality and hydromodification “mitigation banking” where developers and municipalities could establish and purchase stormwater management “credits” to meet the Municipal Permit provisions.

With regard to financing Alternative Compliance projects, the new MS4 Permit includes provisions that allow a municipality to establish an in-lieu fee program. An example of such an in-lieu fee program is one that has been implemented by the City of Santa Monica since 2005. The city charges a fee to any development that does not meet the full standards of the applicable LID stormwater management ordinance on site, and uses those funds to support construction, operation, and maintenance of supplemental stormwater treatment facilities on public land, elsewhere in the city.

In urban in-fill areas, including those in which TOD is being promoted, the use of Alternative Compliance projects could be particularly helpful not only in meeting stormwater requirements but also meeting other green infrastructure needs within an existing community. For example, urban parks and plazas, community gardens, green street retrofits, and creek restoration projects may all be designed to reduce polluted stormwater runoff, while also providing other community benefits. In addition, in TOD projects that may include construction or upgrading of transit stations, SANDAG and the transit operators may benefit from the use of Alternative Compliance provisions in meeting stormwater requirements.

The Case for TOD Infrastructure Financing Tools

New and improved infrastructure and community facilities can be financed through a variety of tools. However, specific tools must be identified and should be in place to meet the needs of a particular TOD project in a particular context. Most individual projects do not have the capacity or time to create or adopt new financing instruments to accommodate their projects.

Some types of infrastructure generate revenue directly by charging users a fee or access charges, or both, such as parking, transit, water and sewer, and utilities. User fees are primarily used for operations and maintenance, but can also be used for capital improvements. Access charges help fund capital costs. The Interstate 15 Managed Lanes provides a new example of how user fees are being used to administer the operations and maintenance costs of transit and highway infrastructure.8

TODs, however, require other types of infrastructure, such as sidewalks, bikeways, local roads, and parks, which are typically free to use by the public. (Other examples of privatized public space for urban open space and neighborhood parks in urban settings exist in many cities, such as New York, Boston, and London.) Private parks and other public space owned by homeowners associations are common in planned suburban communities and are somewhat common in the United States. These publically accessible facilities rarely generate revenue. To pay

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for infrastructure that does not generate revenue, local governments typically rely on revenue from taxes, exactions and fees, private investment, and other revenue sources.

Infrastructure can be paid for in one of two ways: pay-as-you-go or debt financing. With a pay-as-you-go approach, infrastructure improvements are only made once enough money has been accumulated to cover the costs of the infrastructure improvements. This can delay improvements until after sufficient development has occurred, creating an interim period of underperformance. With a debt financing approach, improvements are financed once there is sufficient revenue to service the debt, typically by borrowing against future revenue streams and issuing bonds that are paid back over time with interest. Debt financing is one way to fund improvements concurrent with or before demand; however, interest must be paid resulting in greater overall costs.

A hybrid used in large land holdings in greenfield areas is for a private developer to front the costs of infrastructure and public facilities that benefit multiple properties, but is necessary to have in place before the developer’s project can proceed. In this situation, the developer or a public agency can finance the construction of the necessary facility with conventional financing and get reimbursed, with interest, by impact fees, access charges, and assessments as the other developments occur over time. This common practice for land development is more difficult and less common for infill development, including TODs, since most individual infill projects do not have sufficient scale, capacity, and resources to front costs for other properties. A public entity, such as a redevelopment agency or public development corporation, is often necessary play this role.

**Potential Sources of Funding TOD Infrastructure & Facilities**

**User Fees**

User fees charge users of infrastructure or community facilities. Those who benefit from the service provided by the facility pay; those who do not benefit do not pay. The rate of a fee depends on the local market conditions and the type of infrastructure that is being provided. Fees are not collected for infrastructure where access is not controlled and is free to the public. User fees are often charged to users of transit, parking facilities, water or waste water systems, and toll roads or bridges. Revenue generated by these fees can be used to issue bonds to pay for the new or improved infrastructure, but are mostly used for operating expenses.

In California, Proposition 218, a constitutional amendment approved by voters in November 1996, strictly limits the use of these user fee funds to the public purpose for which the fee was paid; otherwise, they may be considered an assessment or tax and subject to voter approval. For example, parking meter fees may only be used to fund parking improvements.

However, some cities around the country, such as Portland, have established different funding models that often combine fee revenue from multiple mobility-related facilities, such as parking fees, transit fees, parking in-lieu payments, and mobility impact fees, which integrate the interests of different forms of mobility and allowing the fees collected to be used more broadly for mobility improvements.

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10 [City of Portland, Portland Bureau of Transportation. Frequently Asked Questions, No Date.](https://www.portlandoregon.gov/transportation/article/82682)
Developer Impact Fees and Exactions

Impact fees are charges assessed against new development to cover the cost of providing new and improved infrastructure and community facilities that are needed to serve the development. Since they are fair-share payments to finance facilities that benefit the occupants of a development, subject to a nexus test, they are considered fees and not taxes.

Fees and exactions are typically collected on a project-by-project basis and are used to provide infrastructure needed to serve new development on a pay-as-you-go basis. However, under the Statewide Community Infrastructure Program (SCIP), upfront funding from anticipated impact fee revenue may be generated through a statewide bonding mechanism. Impact fees and exactions are one-time fees that do not cover maintenance and operating costs.11

Impact fees generally cover transportation infrastructure, parks, libraries, public safety facilities, water and sewer infrastructure, stormwater infrastructure, and public streetscape and landscaping. School districts charge their own impact fees for schools. Since impact fees are typically calculated at a community or sub-city level, they are often variable within a jurisdiction. Impact fees for greenfield developments are typically greater since in many cities with growth management policies (such as San Diego, Carlsbad, Chula Vista, and others in San Diego County), they must cover most or all of their infrastructure needs. Since infill development uses existing infrastructure, the fair share payments are often much less. This differential can provide an incentive for infill development, including TOD-related development, but the impact fee cost advantage must be weighed against land costs – infill development land is typically more expensive per acre or square foot than undeveloped greenfield land.

In greenfield developments, transportation costs (mostly roads) often comprise the largest share of the fee. In infill communities that already have road infrastructure in place, parks are often the largest share since land is more expensive to acquire and assemble for parks in urban locations. Some cities have a more expansive menu. San Francisco, for example charges fees for transit, bike and pedestrian infrastructure, streetscape improvements, and day-care services.

Impact fees are absorbed in the residual land values prior to development. Therefore, land in areas with high impact fees tend to have lower land values per acre or square foot than areas with lower impact fees. However, if fees rise after the land has already been purchased for development, developers may have little choice but to try to charge more for their developments to the consumer, or take a reduction in their return and sometimes a loss. An increase in prices may slow absorption, may not be accepted by the market, and can put a project at risk.

The impact fees typically flow to support the municipalities broader infrastructure needs. In some TODs such as the Civic Neighborhood in Gresham, Oregon, developers have been able to negotiate that 100 percent of the impact fees will be reinvested for infrastructure directly serving the TOD.

Affordable housing, in particular, has less capacity to absorb impact fees. Given the cost of land and development in the San Diego region, affordable housing for low-income households earning materially less than the countywide median often cannot support new construction without subsidy. The supportable residual land value is

11 CSCDA, Statewide Community Infrastructure Program (SCIP), No Date. http://www.cacommunities.org/public-agency-programs/statewide-community-infrastructure-program-scip/
already very low or, more likely, negative, so additional fees just increase the subsidy required. Still, occupants of affordable housing generate demand for and need access to transportation, parks, libraries, public safety, schools, etc. Applying a lower standard to them could mean inequitable access to public services; the cost of providing infrastructure and public facilities to fund their needs has to come from other sources if impact fees are to be reduced.

**Assessments**

Benefit Assessments in California are authorized by California Government Code, Division 2, Chapter 6.4, Section 54703 et. seq. and are enacted by the Benefit Assessment Act of 1982. A benefit assessment is not considered tax since the assessments are only placed on properties for which their value benefits from the improvement or service. Unlike user fees which are paid by the consumer, assessments are paid by the owners of properties that benefit, whether or not the owner directly chooses to use the improvement. Assessments are commonly used for lighting, landscaping, and streetscape improvements which benefit multiple properties. Assessments are collected for capital improvements, operations and maintenance, and sometimes to subsidize services. A potential use for TODs is to help finance portions of complete streets, streetscape improvements, first and last-mile connections, and shuttles to transit stations.

A variation of benefit assessment districts is Business Improvement Districts (BIDs), which are put in place by a vote of the businesses and/or property owners within the district. There are two types, general BIDs and property-based BIDs (PBIDs). General BIDs assess businesses within the district, with funds primarily funding services such as promotion and special events, streetscape and landscape maintenance, security, special lighting and street furniture, and minor public fixtures. PBIDs include assessments on properties and typically generate more significant revenue which can fund more substantial capital improvements and services.

Seattle’s South Lake Union District is an emerging mixed-use technology, institution, and residential district outside of Downtown Seattle and home to University of Washington’s Medical Campus and the Fred Hutchinson Cancer Research Center, other biotechnology and life sciences companies, and the new home of Amazon. It is also emerging as a major new residential district of Seattle. The Bill and Melinda Gates Foundation is also near the district. The South Lake Union District is linked to Downtown Seattle by a 2.6-mile street car route with eleven stops that was considered a catalytic public investment to this new economic development engine for the region. The street car, including its operations, is financed and subsidized by a BID put in place by businesses and property owners because of the economic value it brought to the district.

The redevelopment of Tysons Corner, Virginia is now underway using TOD principals to focus development around four new Metro stations. Tysons’ 1,700 acres are evolving from 46 million square feet of development and 40 million square feet of parking into 160 million square feet of mixed-use development allowed under the plan and new zoning. Two assessment districts have been established to help fund Tysons implementation. The first provided a $400 million contribution toward the capital cost of the new Metro stations and the second provided $250 million toward a grid of new streets and other improvements essential for rebuilding Tysons into an urban place. The first district was established in 2004 and the second in 2014.

[http://www.slideshare.net/fairfaxcounty/tysons-board-presentation-all?related=1](http://www.slideshare.net/fairfaxcounty/tysons-board-presentation-all?related=1)
Taxes

The most common sources of general tax revenue for local jurisdictions in California are property taxes, sales taxes, transient occupancy taxes, and various types of excise taxes. Some of these can be increased by a simple majority vote of the jurisdiction where the tax is applied for general government purposes, but voters are often reluctant to approve taxes for undefined general government purposes. If voters are asked to raise general or other special taxes for particular purposes, a super-majority vote is required for passage; generally two-thirds of voters must approve, except for school bonds which require approval of 55 percent of voters to pass. TransNet, a half-cent countywide sales tax that helps fund regional transportation projects, including transit, is an example of a special tax. In November 2004, 67 percent of voters approved a 40-year extension of TransNet, which is projected to generate an additional $14 billion for public transit, highway, and local street and road improvements. SANDAG uses these funds for its local match that leverages state and federal resources to improve the region’s transportation infrastructure.

A common type of special tax to fund public facilities for development is the Community Facilities District (CFD), enabled by the California legislature by the passage of the Mello-Roos Community Facilities Act of 1982 (California Government Code Section 53311 et. seq.), which allowed local governments to establish a CFD as a special tax district in a developing area to finance specific public facilities and services needed by that particular area. A CFD is initiated by either: (1) a written request signed by two members of the legislative body (local government or school district); (2) a petition signed by 10 percent of the eligible voters in the area; or (3) a petition signed by the landowners of 10 percent of the area in the proposed district. They are formed by a vote of the either property owners voting by acre if fewer than twelve, or two-thirds majority vote of registered voters within a district. They can be non-contiguous and, once established, amended to add additional properties. For example, in Mission Valley where most site regeneration is occurring amongst large commercial property owners, a dis-contiguous district could be formed to finance improved mobility improvements to address cumulative impacts.

CFDs are frequently used throughout California, although mostly to finance infrastructure and facilities for new greenfield subdivision development on large landholdings. However, there is increased interest in using this mechanism for infill situations. The Contra Costa Centre Transit Village in Contra Costa County is an example of a TOD that has used CFDs to fund infrastructure improvements. The Contra Costa Centre Transit Village includes 2.4 million square feet of office and commercial space with 6,000 employees, 2,700 residential units, all located at the Pleasant Hill/Contra Costa Centre BART station. CFDs have been used to provide financing needed to construct a parking garage at the BART station, provide facilities for child care, and to construct a pedestrian and bicycle bridge at the Contra Costa Centre Transit Village.\(^\text{12}\)

Tax Increment Financing

Tax increment financing is a common method of financing TOD improvements around the country, particularly near the transit station. Tax increment financing laws vary by state. Some limit the tax increment to a narrow menu of uses, while others are broader. Some only collect tax increment from the particular project, others collect tax increment from the particular project plus a defined area around the project that includes adjacent properties that benefit, and others collect tax increment from adopted Redevelopment Project Areas as use to be the case in

REGIONAL TOD STRATEGY

California. Two states, Arizona and Washington, prohibit the use of tax increment financing in their state constitutions. Some include tax increment from school districts, while others prohibit the use of their tax increment.

Tax increment was widely used in California for TOD-related infrastructure and affordable housing. However, with the dissolution of redevelopment agencies in California, those tools are no longer available. Infrastructure Financing Districts (IFDs) and the Border Zone IFD mechanisms still exist, but technical issues with their adoption and use have discouraged the creation of new IFDs. Also, since IFDs can only draw tax increment from willing taxing jurisdictions they are not as attractive and their use has been very limited, unlike under California Redevelopment Law, which based tax increment on a formula that included other taxing jurisdictions including school districts.

Assembly Square is a new infill station on the Massachusetts Bay Transportation Authority’s (MBTA) heavy rail Orange Line. Opened in 2014, it was built in conjunction with a 66-acre TOD known as Assembly Row, developed by Federal Realty Investment Trust. The station and mixed-use development together constitute one of the largest TOD initiatives in the northeastern United States. The $56 million station was funded in part by a $15 million developer contribution, which covered all pre-construction costs as well as a share of construction. The $125 million in district infrastructure (streets, sidewalks utilities, stormwater, lighting, open space) was financed through traditional municipal tax increment financing (TIF) and a new "state TIF" program capturing future sales and income tax revenues.

Enhanced Infrastructure Financing Districts (SB 628)

A recent bill, SB 628 (Beall), was signed by Governor Brown on September 29, 2014, and became effective January 1st, 2015. SB 628 authorized the creation and use of Enhanced Infrastructure Financing Districts (EIFD).13 EIFDs can be adopted by legislative action of a city council or county board. They can fund low- and moderate-income housing, transit priority projects, infrastructure that implement a region’s Sustainable Communities Strategy, environmental remediation (under a renewed Polanco Act for environmental cleanup, including with eminent domain powers to acquire properties for remediation and to consolidate properties for redevelopment), and other improvements associated with TODs, in accordance with an infrastructure financing plan. The improvements need not be within the district so long as they significantly benefit the district. While a city council or board of supervisors can form an EIFD without voter approval, they need voter approval to issue bonds. They can issue bonds based on tax increment with the approval of 55 percent of the voters within the district. Like CFDs, if fewer than twelve voters are registered in the district, the vote for issuing bonds is by landowners based on one vote per acre or portion of acre owned. The bonding period is up to 45 years of the authorization vote, 15 years longer than IFDs. This allows more time to generate sufficient tax increment to support a bond.

An EIFD can be combined with a CFD and Benefit Assessment District to cover operating and maintenance costs. This helps address one of the concerns of tax increment, taking funds away from operations and maintenance to finance capital costs. An EIFD is also governed by representatives of the participating taxing jurisdictions. School districts are not included and other taxing have to consent to participate.

13 California Legislative Information, SB-628 Enhanced Infrastructure Financing Districts, No date.  
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml;jsessionid=651694fa45e5c3efb597efd185ad?bill_id=20132014058628
Equity and Public-Private Partnerships

Equity tools allow private entities the ability to invest in infrastructure while seeking a return on the investment. Private developer-investor equity, combined with debt, is the conventional form of financing a development project, including its fair share of infrastructure requirements that may occur within a TOD. To the extent that off-site infrastructure is a requirement to service the development or mitigate impacts, equity investments can be used to fund new infrastructure and public facilities, either through direct investment, payment of impact fees, or upfront payment of the capitalized value of a special tax or assessment obligation.

In addition to this traditional form of financing of a development project, there is increasing interest in equity tools that include Public-Private Partnerships (P3s) and infrastructure investment funds from pooled investors that are established to finance public facilities specifically, perhaps serving multiple properties and developments. P3s are a contractual agreement between a private entity and a public agency whereby the private entity provides buildings, infrastructure facilities, or services for use by the general public in exchange for a stream of dedicated revenue that amortizes the investment. These mechanisms tap private capital for public facilities. The private partners may design-finance-build and sometimes operate the public facilities or infrastructure. This can reduce costs due to the integration of services, economies-of-scale, and cost management throughout the process. Public-private partnerships share the profits and the risks between public and private parties. Some public-private partnerships guarantee payment to the private-sector at a given rate-of-return; while some place the revenue generation and performance risk on the private investment fund, in which case the rate-of-return requirements are higher to account for the extra risk.

A more common form of public-private partnerships is when the public entity helps subsidize development costs to induce development by using publicly-held land, or assembling land and then conveying it, often with entitlements, to a private developer-investor to build a project for a public purpose, such as affordable housing, economic development, or a model TOD project. In the context of TOD, this is often referred to as joint development, and typically includes a land owned by a transit agency. However, joint development for TOD may include land owned by other public agencies.

Land assembly and project entitlement was one of the major functions of California Redevelopment Law and is a common practice among TODs nationally, especially to establish model projects in an untested market that later become comparable projects for establishing precedence to facilitate market-rate private financing underwriting criteria in the future, such as acceptance of reduced parking ratios and parking maximums near transit, as was done in the Pearl District in Portland, Oregon.

In 2008, 58 percent of Pearl District residents reported using modes other than driving to get to work. By developing space on the premise of access for people instead of for cars, other desirable outcomes and innovations can be present that create long term value. Higher densities, active ground floor uses, 22 percent affordable housing, more comfortable pedestrian-appropriate sidewalks, new parks/open space, and reasonable parking restrictions have made the Pearl District a desirable place to live.\(^{14}\)

Finally, another form of public-private partnership is when a private entity voluntarily takes on development and/or programming and management responsibilities of a public facility that serves more than just the development

\(^{14}\) Portland Oregon, Pearl District Access and Circulation Plan, Existing Conditions Report, No Date. https://www.portlandoregon.gov/transportation/article/306707
itself. Executed through a development agreement or contract, examples include urban parks, plazas and open space, transit station sites, or other enhancements, such as the adoption of parks by adjacent private property owners in Dallas or Grand Park in Downtown Los Angeles. The private entity is willing to take on this extraordinary responsibility, which is beyond that required to service the project or meet standard mitigation requirements, in order to obtain enhanced entitlements (see the Value Capture discussion below), in order to have some control on the design and operating quality of the public improvement next to its development (such as a transit plaza or urban park), to establish an amenity for a district in advance of the public’s ability to do so with conventional public financing, or gain greater entitlements.

Klyde Warren Park in downtown Dallas, Texas is a 5.2-acre urban park built over the Woodall Rodgers Freeway in Dallas, Texas. The park was built by a public-private partnership that included the Texas Department of Transportation, the City of Dallas, and The Woodall Rodgers Park Foundation. The Foundation was essential to enabling the creation of Klyde Warren Park and was responsible for developing the park. The Foundation raised nearly $55 million dollars from private sources, nearly half the cost of the project, and now it operates and maintains the park. The park can be accessed on foot and bike by people coming from surrounding neighborhoods. The McKinney Avenue Transit Authority (MATA) is currently adding a trolley extension down an existing lane of Olive Street from McKinney Avenue to Bryan Street. This will include a trolley stop at Klyde Warren Park.

Post Office Square in Boston’s Financial District, at the intersection of Congress Street and Milk Street. This 1.7-acre park sits atop an underground parking garage. A public-private partnership financed the design and construction of the park and garage, while fees from the garage are targeted to repay capital costs and ongoing maintenance. The $80 million construction cost was financed through a $50 million loan from Bank of New England (now Fleet Bank). To raise capital funds for the garage, Friends of Post Office Square offered stock in the parking structure. Local businesses could buy individual shares for $65,000. After the debt has been paid, the partnership has arranged for the City of Boston to receive all profits from the garage. These funds are slated to be allocated to other neighborhood parks as well as to the city’s general fund.

Federal and State Grants

Federal and State sources provide various grants for infrastructure and public facilities, such as Community Development Financial Institution (CDFI) programs, including New Markets Tax Credits (NMTC), and tax credits for affordable housing. Some grants can help fund new and improved infrastructure and community facilities that support development near transit stations and are allocated to registered community-based organizations and other non-governmental organizations, as well as local government. The use of some grants, such as several US Department of Housing and Urban Development (HUD) grants, are limited to areas that meet certain criteria, such as higher poverty rates or percentages of low and moderate income households, or that are blighted. Federal programs such as Congestion Mitigation and Air Quality Improvement (CMAQ) Program and Transportation Alternatives Program can provide grant funding for infrastructure improvements. Community and economic development grants targeted for low-income households and other economic development purposes can also help fund local infrastructure and public facilities that help address the public purposes required of the grants, including HUD’s Community Development Block Grants (CDBG) and Economic Development Administration (EDA) grants. HUD has recently issued a Notice of Funding Availability for resiliency planning efforts to be followed by funding for improvements.
Caltrans and the Strategic Growth Council issue several planning grants and a few capital grants for community improvements related to mobility or implementation of a region’s Sustainable Communities Program. SANDAG recently received a Caltrans grant to study the potential for Mobility Hubs in the San Diego region.

The California Strategic Growth Council’s Affordable Housing and Sustainable Communities (AHSC) Program is a new program supported by auction proceeds derived from the California Air Resources Board’s Cap and Trade Program, and appropriated in the annual State Budget to the Greenhouse Gas Reduction Fund (GGRF). SB 862 allocates 20 percent of the GGRF’s proceeds on an annual basis to the AHSC program starting in Fiscal Year 2015-16. In Fiscal Year 2014-15, the AHSC program received a budget of $130 million dollars, of which the Strategic Growth Council has allocated no less than 40 percent specifically for TOD projects. Another 30 percent is committed to infrastructure programs. Awards for TOD Project Areas may include corridor, districts, or neighborhoods within 0.5 mile of a Major Transit Stop. Eligible projects must include an affordable housing component and an “infrastructure-related capital use.” Minimum awards for TOD Project Areas are $1 million, with a maximum of $15 million.

SANDAG also issues grants through its Smart Growth Incentive Program (SGIP) for planning and some capital improvements, such as related to streetscape improvements, complete streets, and transit district enhancements.

**General Fund TOD Grants**

The regional governments in Portland and Minneapolis/St. Paul both have long-established programs where they provide grants to further the implementation of TOD projects. The Met Council’s Livable Communities Act (LCA) TOD Grant Program has played an important role in supporting TOD in the region. Station areas within 0.5 mile of light rail transit (LRT), bus rapid transit (BRT), commuter rail, or high-frequency express bus stations that are currently operational or will be operational by 2020 are eligible for LCA funds.

In 2014, $6.5 million in LCA funds were awarded to support transit-oriented development projects. The funds may be used for site assembly, placemaking activities, energy efficiency installations, and publicly accessible infrastructure. Pre-development funding is also available in a separate funding opportunity.

Portland Metro’s TOD “core program activity is providing development project funding to stimulate construction of higher-density and mixed-use projects near transit. Related program activities include opportunity site acquisition, investment in urban living infrastructure, and technical assistance. In general, applicants for funding must be a willing and capable developer with site control.” Metro reports the thirty-one TOD Projects completed to date have leveraged $9,711,000 of direct investment in support of over $528 million of development activity. Over the sixteen years since the TOD program’s inception in 1998, program financing has totaled $40 million.
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Philanthropy and Non-Profits

Private foundations and public charities often make grants and investments that can support development near transit when it is consistent with their organization’s mission. Often times, this includes affordable housing, economic development, or other community services in districts that are serviced by and coordinated with transit.

Other organizations make triple-bottom line equity investments that are related to their mission utilizing their corpus (endowment equity). These investments are usually expected to be repaid, although the terms of repayment may reflect lower rates of return or are more patient than conventional market-rate financing. Even when a market rate of return is expected, the investment fund seeks a public benefit return as well as a financial return. The Jacobs Center for Neighborhood Innovation in Southeastern San Diego is an example of how investments by a non-governmental organization can help stimulate TOD and provide new and improved infrastructure and community facilities.

Enterprise Community Partners, Inc. and Enterprise Community Loan Fund, Inc. have recently formed the $24 million Denver Transit-Oriented Development Fund. The fund will be used to acquire property and provide pre-development loans for affordable housing on key transit corridors in the Denver metro area. The fund is capitalized largely through contributions from the Colorado Division of Housing and Colorado Housing and Finance Authority. In addition, the fund has partnered with major foundations such as the Ford Foundation, Gates Foundation, John D. and Catherine T. MacArthur Foundation, Urban Land Conservancy, US Bank, and Wells Fargo Bank among many others. Federally chartered banks take interest in these types of funds to help meet their Community Reinvestment Act obligations.

Debt Financing for TODs

As mentioned previously, some infrastructure is required in advance or concurrent with need, and debt financing amortized by future revenue streams can generate the funds upfront to make those improvements. Many of the funding sources described above can be used to support debt financing for new and improved infrastructure or community facilities including general obligation bonds, revenue bonds, private activity bonds, participation and lease revenue bonds, certificates-of-participation, tax anticipation bonds, and others mechanisms. Private development typically finances a portion of its development costs with commercial debt, some of which may be applied to project-related infrastructure.

Special debt mechanisms for infrastructure, such as government revolving loan funds and infrastructure banks, are also sometimes used for TOD-related investments. The California Infrastructure and Economic Development Bank (IBank) was created to finance public infrastructure and private development. The IBank has authority to issue tax-exempt and taxable revenue bonds, provide financing to public agencies, provide credit enhancements, acquire or lease facilities, and leverage State and Federal funds.

Debt mechanisms can be accessed through local, state, and federal sources. Some cities use some of their CDBG allocations to create revolving low-interest or no-interest loan funds that recycle the federal grant dollars, multiplying their effectiveness. Local governments can access debt through private financial institutions or the

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19 Examples of revolving loan funds can be found in Denver and the Bay Area. Examples of Infrastructure banks can be found in Seattle and Chicago.
public bond market. Other specialized debt mechanisms have been established by the State of California and different federal agencies to finance particular types of infrastructure or to meet special needs.

Most public infrastructure and community facilities do not generate sufficient revenue directly for users to finance capital improvements. Local jurisdictions rely on debt mechanisms, such as general obligation bonds, special tax districts, assessment districts, forms of tax-increment financing, etc. Facilities that do generate user fee revenue, such as for public parking facilities may support revenue bonds, certificates-of-participation, and other related mechanisms. Debt, however, must be secured by some type of revenue to service repayment obligations, and different forms have various levels of risk and associated interest costs.

Revenue bonds, such as bonds supported by parking fee income, are often more risky since they are dependent on market conditions and the revenue may vary year-by-year, increasing risk. While usually formed by legislative action rather than a public vote, they are a more costly form of financing due to the risk and may require annual actions by the legislative body for approving debt service, such as with certificates-of-participation. Credit enhancements and a high debt-coverage ratio help reduce the risk and cost.

General Obligation (GO) Bonds, which provide general revenue for government purposes that may be, but are not required to be, used for TOD-related facilities, are secured by the full faith and credit of the government and taxpayers and are the least risky because they are supported by a large and diversified tax base. A GO Bond requires a simple majority vote for a general purpose, but a two-thirds majority for a specific purpose in California. Voters in California, however, have generally been reluctant to support local GO Bonds for general government purposes, especially in San Diego County.

Special taxes that are for a specific purpose, such as TOD-related or infill-related infrastructure, are also relatively low cost if adopted; however, in California, a two-thirds voter approval threshold is required except for bonds for school facilities and EIFDs, which are subject to a lower 55 percent voter-approval threshold. While a higher threshold makes it more difficult to pass, special tax or benefit assessment districts may be formed for a subarea of a local jurisdiction, which may be designed in such a way that voter approval at a higher threshold is more likely.

**Value Capture for TODs**

The premise behind value capture is that as extra entitlements that increase a property’s value are conveyed through a discretionary decision-making process, some of this increased value should be “captured” for public purposes. Value capture comes in various forms – some financial, some regulatory. Value capture tools are typically established by a local government in accordance with state law. The loss of redevelopment in California eliminated successful and powerful value capture tools – Tax Increment Financing and Development & Disposition Agreements - that were commonly used to fund new and improved infrastructure and community facilities and that conveyed certain development rights in exchange for public benefits, some of which were used to stimulate development near transit stations.

Still, other value capture mechanisms exist and are used in California and other cities. One mechanism is various types of performance, incentive, or bonus zoning, which allows greater development capacity in exchange for extraordinary public benefits through the discretionary regulatory process, entitlement formulas and point systems, or negotiated development agreements. Vancouver, BC, San Francisco, Santa Monica, and Boulder use this type of system in certain districts. Another type is the charge of a fee that represents an imputed land value increase.
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associated with increased density. Arlington, Virginia has used this mechanism to help finance public improvements associated with its Metro Station areas. California State Law allows density bonus for the provision of affordable housing, and assigns tax credit scoring priority for affordable housing projects near high frequency transit.

A version of density bonus for broader public benefits is Transfer-of-Development Rights (TDR) programs. The Draft Encanto Community Plan includes an element of TDR that is intended to facilitate TOD development in Southeastern San Diego. Los Angeles allows developers to transfer entitlements from historic buildings and potential park sites to receiving sites within Downtown. The program initially was not effective until receiving sites were downzoned to a Floor-Area Ratio (FAR) that was below market, creating the incentive to acquire the enhanced entitlements.

Washington State has a unique program that allows entitlements to be transferred from back-country open space, agriculture, and resource lands to urban receiving areas within the same county, some of which are serviced by transit, such as Downtown Bellevue or Seattle. The program then permits incremental property tax revenue from the receiving city’s and county’s share to be used to fund infrastructure. Washington State has a constitutional prohibition of tax increment financing. However, since this transfer occurs within one county, it is technically a contracted tax-sharing agreement, which is allowed. School Districts’ share of property taxes is not included. This program helps link the cause of regional open space preservation with support for infill development.

State law defines how and where these value capture mechanisms can be used, and they are typically structured as an option for increased entitlement above a base by-right entitlement. The public benefits provided are extraordinary for general public benefit, not ordinary obligations to service the development and its impacts. Consequently, they only work if there is market demand for the increased entitlement, and if market rents or prices are sufficient to cover the increased development costs associated with higher density – such as more expensive construction types and parking provision. Many of the successful programs near transit have low or even no parking requirements (such as Portland and Arlington). If the market does not exist or the marginal development costs exceed revenue, at given rate of return, there is little incentive for a developer to ask for increased entitlements.

Finally, another form of value capture is to require participation in a special tax district, assessment district, a BID, or similar district financing mechanism as a condition for receiving additional entitlements. San Francisco is using this approach for properties adjacent to the Transbay Terminal, where the future High Speed Rail Station is planned. A major urban park is planned above the Terminal. The proximity to High Speed Rail and the major public park will increase the value of adjacent properties, well beyond existing entitlements. In order to take advantage of these full entitlements and value, developers and owners of adjacent properties will be required to participate in a CFD special tax district to fund and maintain the park and other related improvements.

Other Tools

- **Land banks**: Land banks acquire, hold, and manage land to facilitate development. Land banks are not a funding or financing tool, and must identify a funding source to pay for acquisitions, maintain property, and prepare sites for development. Land banks may undertake actions to clear encumbrances, forgive

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20 The City of San Diego, Community Plan Update, Encanto, No Date. http://www.sandiego.gov/planning/community/cpu/encanto/
property taxes (and removing tax liens), remediate contaminated sites, and assemble parcels. Land banks typically transfer land to private entities at below-market value with conditions on how the property can be developed.

- **National infrastructure bank**: Although a national infrastructure bank does not currently exist, proposals have been made to finance infrastructure by providing credit assistance in the form of loans or loan guarantees to local governments.

- **Capital Improvement Plan (CIP) Prioritization**: Most local jurisdictions employ an evaluation system for establishing their CIP priorities, adopted by their legislative bodies. The prioritization criterion and metrics can influence where monies are spent first. While the sources of funds for capital improvements often dictate how and where capital improvements are made, some is discretionary, especially if a city chooses to use a portion of its general funds for capital improvements. Local jurisdictions can choose to give capital improvements that support TODs a priority factor in their evaluation processes.

### Ideas for Consideration

The “Ideas for Consideration” are provided as a starting point for developing recommendations as part of SANDAG’s Regional TOD Strategy. The “Ideas for Consideration” will continue to be refined, added to, and further evaluated.

1) Consider forming a regional TOD CFD, either as a dis-contiguous district or as a contiguous district connected by transit, with a nexus established by the transit connections, with revenues used for TOD supportive public facilities and their maintenance. The cross-jurisdictional district (perhaps supported by a Memorandum of Understanding for land use and local financing coordination among participating jurisdictions) could start with just willing communities and owners, but could be structured to allow future property owners to join voluntarily or as a requirement for enhanced entitlements. Future TODs and communities can join through an amendment process as they are ready.

2) As a companion to the TOD CFD, evaluate the feasibility of establishing EIFD or Districts for tax increment generation for TOD-supportive public facilities, employment-related development, and housing, including affordable housing, perhaps tied to a regional TDR program similar to Washington State’s program.

3) Explore ways of establishing a private-public TOD investment fund as currently being evaluated by Civic San Diego and the San Diego Housing Commission.

4) Position TODs for the Strategic Growth Council’s forthcoming AHSC Program grants.

5) Consider giving priority for SANDAG’s Active Transportation expenditures to walking and biking infrastructure that support access to transit.

6) Encourage local jurisdictions to give priority weight to TOD-related projects for their CIPs, CDBG allocations, and other public facility funding programs.

7) Encourage local jurisdictions to evaluate their General Plan standards for public facilities that service TODs, such as the use of equivalencies, urban standards, definitions of service areas and metrics, and strategic...
joint-use of facilities for multiple service purposes (for example, stormwater facilities designed as a linear park with bike and walking trails that are part of the circulation system, stimulating economic regeneration in the process), with the objective of finding more efficient ways to provide public facilities that provide quality service but at lower cost, resulting in lower impact fees.

8) Identify TODs with excess street capacity to accommodate additional infill development without incurring significant transportation impact fees.

9) Prepare supportive, defensible studies that lead to more efficient standards, such as parking demand and trip generation rates in TOD mixed-use locations, commute patterns of workers living or working at TODs, parking demand for affordable housing within TODs, water consumption per capita in TODs versus countywide averages, and the fiscal impact to local government and special district operating budgets of TOD-related development patterns etc., that local jurisdictions can use for planning and CEQA analysis.

10) Evaluate opportunities for use of Alternative Compliance projects to meet stormwater mitigation needs for TOD projects and for transit station improvements and other transportation projects.

11) Identify ways of transitioning parking districts into multi-modal mobility districts, and create new mobility districts at certain TOD locations. Prepare a model program to be a resource for jurisdictions in the region.

12) Evaluate the feasibility of an Urban Transit Service Special Tax or Assessment District to fund higher frequency service in select urban transit corridors.

13) Evaluate the feasibility of committing Regional Transportation Plan (RTP) funds for rubber-tire vehicle and street car circulator connections for selected TODs that are major employment centers within the region, on condition that local properties and/or businesses pass a benefit assessment district, special tax district, or BID to subsidize operating costs to maintain frequent service during peak commute hours. Consider sponsorship and Transportation Demand Management support from local employers to help contribute to funding.

14) In exchange for public investment in transit service, reduced trip generation rates and parking requirements, and enhanced entitlements, local jurisdictions could condition developers and employers within TODs to participate in Transportation Demand Management (TDM) programs, including the provision of bike and pedestrian supportive facilities, bicycle and car sharing facilities, transit pass incentives for workers and residents.

15) Prepare a model incentive or bonus zoning policy and ordinance for jurisdictions that could be used for select Transit Priority Areas within their jurisdictions.

16) Under the Smart Growth Incentive Program, consider allowing funding to evaluate and prepare financing plans, zoning strategies (bonus, incentive, form-context, form-based, or other), and shared use of public facilities (triple-bottom line strategies for infrastructure) and share results with each jurisdiction in the region.