

# **Ventura County Grand Jury 2012 - 2013**



## **FINAL REPORT**

### **Thousand Oaks RDA/City: "The Lakes" Project**

**June 27, 2013**

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**Thousand Oaks RDA/City: "The Lakes" Project**

**Summary**

The 2012-2013 Ventura County Grand Jury (Grand Jury), pursuant to its responsibility for government oversight, began an investigation initiated by a public complaint. The Grand Jury reviewed "The Lakes" project in the City of Thousand Oaks (City). "The Lakes" project is the mixed-use commercial development of 7.5 acres just east of the Civic Arts Plaza in downtown. The investigation widened in scope to review the Thousand Oaks Redevelopment Agency's (Agency) involvement with "The Lakes" project. The fiscal year (FY) 2010-11 Agency's assessed valuation, which includes two project areas, was \$2,181,060,989. The Agency had become a major source of public revenue.

"The Lakes" project was conceived to assist in creating a downtown commercial, pedestrian friendly adjunct to the Civic Arts Plaza. The Public-Private Partnership (PPP) with the Agency and T.O. Civic Arts, LLC (Developer) has not realized the envisioned potential for either entity due to economic and political conditions. The California (State) "Dissolution Act," (ABx1 26), dissolved Redevelopment Agencies' (RDAs) as of February 1, 2012. A Redevelopment Successor Agency (RSA) Oversight Board is mandated to dispose of the Agency assets, discharge its obligations and wind down redevelopment activities. A State long-range management plan needs to be developed by the RSA Oversight Board which will include "The Lakes" property and the Agency's recently acquired 2.8 acres in 2010 and 2011 to the west of the Civic Arts Plaza. (Att-04, 05)

The Grand Jury recommends the sale of the east ("The Lakes") and west properties adjacent to the Civic Arts Plaza to pay off long-term former Agency debt. As debt obligations are completed, the property tax for the land will return to school and community college districts, Ventura County (County), City and special districts. This will allow for public development of the short-term, mid-term and long-term recommendations from the "Feasibility and Design Services for The Lakes and Adjacent Properties." (Study).

**Background**

The redevelopment movement was born out of the post-World War II era as an effort to fight urban decay. The State Community Redevelopment Law (CRL) of 1951 created legislation establishing a process whereby a city can declare an area blighted and in need of redevelopment. An RDA establishes a project area by providing the evidence of blight conditions. The CRL allows substantial powers for redevelopment such as eminent domain, tax allocation bonds and tax increment financing. (Att-01, 03)

The process of eminent domain may be used to acquire land and buildings. Tax allocation bonds permit long-term debt without need for voter approval. Tax increment created revenue streams as assessed values grew following redevelopment for the life of the project, possibly up to thirty years. (Att-03) The

“Dissolution Act” dissolved the state-assisted RDAs as of February 1, 2012. RSAs are created to dispose of former RDA assets following a determination by the State on long-term project contracts. The RSA Oversight Board’s responsibility is to decide whether to sell assets, take local ownership by transferring assets to the City, and/or repay debt until all obligations are met. (Att-01)

The City created the Agency in 1971. A redevelopment project area along Thousand Oaks Boulevard consisting of 1,279 acres named the Thousand Oaks Project Area #2 (TOPA#2) was formed. (Att-02) “The Lakes” project is within TOPA#2 just east of the Civic Arts Plaza and is included in the Civic Arts Plaza Specific Plan No. 11. The 7.5 acres was part of the 22 acres acquired by the Agency with use of eminent domain, funded primarily through the Agency. The land is currently an asset of the former Agency. The original concept of “The Lakes” was a mixed-use project with a cinema and a parking structure of up to 190,000 square feet. “The Lakes” project was to enhance the Civic Arts Plaza site and the future home of the proposed Discovery Center. Due to economic and political reasons “The Lakes” project did not realize its full potential. “The Lakes” project presently is 48,000 square feet, mostly restaurant-driven business with additional retail shops.

## **Methodology**

The Grand Jury reviewed the State redevelopment statutes and multiple organizations’ analyses of redevelopment. The County Assessor’s office provided leases and the County Clerk and Recorder provided deeds for review. The Grand Jury interviewed numerous City and County officials, as well as their respective staffs. The City website and archives were researched as well as City documents. The Grand Jury researched other County cities and County redevelopment projects. Local and national newspapers were researched regarding the subject matter.

## **Facts**

- FA-01.** Chapter 710 of the CRL, Statutes of 1951, was enacted by the State Legislature with the objective of redeveloping communities with urban blight. [Ref-01] (Att-01)
- FA-02.** The State Constitution, Article XVI, section 16, and the Health and Safety Code, beginning with section 33000, provide funding from local property taxes to promote the redevelopment of blighted areas. [Ref-01]
- FA-03.** Proposition 18 (1952) established tax increment financing where RDAs keep most of the future increases in property taxes to allow redevelopment to be self-financing. [Ref-02] (Att-03)
- FA-04.** The City was initially a “no” property tax city and then a “low” property tax city which now captures 6% of the property taxes compared to many cities receiving as much as 21%. [Ref-03, 04]

- FA-05.** The City adopted Resolution 70-381 on December 22, 1970 which outlines the City's founding fathers' long-term vision for the City through a general plan to: "strengthen the axis between the commercial core areas by improving and rebuilding unattractive and undeveloped areas along Thousand Oaks Boulevard." [Ref-05]
- FA-06.** The City formed the Agency in 1971 and the Agency formed the redevelopment project area named the TOPA#2 with 1,279 acres in 1979. [Ref-03]
- FA-07.** The City Council and the Agency are separate government entities with identical membership. [Ref-06]
- FA-08.** The Civic Arts Plaza Specific Plan No. 11, adopted in 1989, is the redevelopment plan for the original 22 acres which includes the 7.5 acres of "The Lakes" project just east of the Civic Arts Plaza. Amendment No. 5, May 22, 2012, included an additional 4.8 acres on the west side, totaling 26.8 acres. [Ref-07]
- FA-09.** An owner of these 22 acres attempted to develop the property in the mid-1980s to build a shopping center and offices on the land previously known as "Jungleland." [Ref-08]
- FA-10.** The City imposed a moratorium on development of the former "Jungleland" property in May, 1987. The City condemned the land in October, 1987. With the broad powers of CRL, and by eminent domain, the Agency acquired the property and recorded a deed in February, 1991. It was financed primarily with Agency funds. [Ref-08-10]
- FA-11.** In City documents regarding the Agency, there appears a statement that "No use of eminent domain" was utilized. [Ref-03]
- FA-12.** The Agency entered into "The Lakes" project with a Disposition to Develop Agreement (DDA) with the Developer in July, 2000. [Ref-11]
- FA-13.** "The Lakes" project agreement requires the Developer to construct a multi-tenant commercial retail/restaurant center of no less than 48,000 square feet up to 190,000 square feet. It was to include a cinema and parking structure on the Agency-owned site along with a number of amenities on the City sites known as the "Pond" and the "Plaza." [Ref-11]
- FA-14.** In 2002, the first amendment of the DDA provided a second-phase option for the cinema and parking structure. [Ref-12]
- FA-15.** In 2008, the second amendment of the DDA provided for the flexibility in the mix of uses between restaurants and other retail businesses. [Ref-13]
- FA-16.** In August, 2005, "The Lakes" project opened with the first phase of 48,000 square feet of retail/restaurant use. The second-phase option has not been implemented. [Ref-13]
- FA-17.** In September, 2004, the mixed-use ground lease between Agency and Developer stipulated that the initial term is 55 calendar years with the Developer's option to extend for four 10-year periods. [Ref-14]

- FA-18.** The Developer has the option to purchase the site any time during the lease from the Agency “at a price equal to the greater of the fair market value at the highest and best use, or \$2 million.” The Developer also has the right of first refusal if the Agency desires to sell or otherwise assign its fee interest in the site. [Ref-14]
- FA-19.** The Agency will receive 20% of “The Lakes” Participating Cash Flow, provided “The Lakes” earns a minimum 12% annual return. [Ref-15]
- FA-20.** The Developer has not reported any rent owed the Agency, as the Participating Cash Flow has never exceeded the 12% requirement. [Ref-15]
- FA-21.** The Agency received decreasing Possessory Interest Property Taxes for “The Lakes.” They decreased from \$325,230 in 2006 to \$158,100 in 2012. “The Lakes” generated sales tax for the City in 2006 of about \$267,000. This decreased to \$156,000 in 2012. [Ref-16]
- FA-22.** The Agency commissioned the Study to recommend additional development scenarios for enhancing economic performance of “The Lakes” project. [Ref-17]
- FA-23.** Political considerations were reported to have affected the scope of “The Lakes” project. [Ref-18]
- FA-24.** Keys to “best practice” according to PPP: [Ref-19]
- transparency and communication to prevent misperceptions
  - best value
  - good contract with a clearly defined method of dispute resolution
  - clearly defined revenue stream
  - candidates experienced in the specific area
  - financial capacity of the private partner
- FA-25.** After sixty years, RDAs were dissolved by the “Dissolution Act” in June, 2011. This was upheld by the California Supreme Court effective February 1, 2012. (Att-01)
- FA-26.** The RSA Oversight Board has seven appointed members: [Ref-20]
- two by the Board of Supervisors
  - two by the Mayor of Thousand Oaks
  - one by the County Superintendent of Education
  - one by the Chancellor of the California Community Colleges
  - one from the largest Special District
- FA-27.** For FY 2010-11 the TOPA#2: [Ref-01, 03]
- total indebtedness was \$207,674,694

- tax increment retained was \$10,508,096
- total assessed valuation was \$1,916,051,637
- debt ends 2031

## **Findings**

- FI-01.** The Agency invoked the CRL power of tax increment financing to create a revenue stream from property tax growth, generally thirty years in length, for redevelopment projects. (FA-01-03)
- FI-02.** The City utilized the Agency funds for financing redevelopment projects which enhanced the quantity of projects that could be accomplished in a "low" property tax City. (FA-04)
- FI-03.** The Agency created TOPA#2's 1,279 acres for the stated purpose of eliminating blight and for the revitalization of the downtown core. (FA-05,06) (Att:2)
- FI-04.** City Council and Agency projects were governed by the identical five elected officials. (FA-07)
- FI-05.** The original redevelopment plan for these 22 acres known as "Jungleland" increased to 26.8 acres in May, 2012, with the procurement of "blighted" property west of the Civic Arts Plaza. (FA-08)
- FI-06.** The Agency used CRL eminent domain authority to procure the original 22-acre property where "The Lakes" project and the Civic Arts Plaza/City Hall are located. However, City documents state "No use of eminent domain" was utilized. (FA-08-11)
- FI-07.** The Agency entered an agreement with the Developer to develop a commercial mixed-use enterprise, "The Lakes" project, with two phases. Only the first phase has been completed. (FA-12-16)
- FI-08.** The Developer has the option to lease "The Lakes" property for up to 99 years, an option to purchase the property at any time and if the Agency desires to sell or otherwise assign its fee interest then it shall first offer to sell or otherwise assign its fee interest to the Developer. (FA-17, 18)
- FI-09.** The Developer has not paid rent due to the negotiated high threshold of return which has not been met. The Agency received possessory interest property taxes, which decreased by 68% between 2006 and 2012. The City received sales tax, which decreased 46% between 2006 and 2012. (FA-20-21)
- FI-10.** The Study outlines many scenarios for short-term, intermediate-term, and long-term solutions to improve economic success of "The Lakes" and, in extension, to the downtown core. (FA-22)
- FI-11.** The Agency selected a Developer who had the specific expertise and financial capability to complete the project. The Agency failed to use PPP "best practices" specifications to negotiate the lease. (FA-24)

**FI-12.** The RSA Oversight Board is responsible to determine the disposition of the former Agency assets. (FA-25, 26)

The total indebtedness for the TOPA#2 for FY 2010-11 was \$207,674,694. This remains an obligation of the RSA through the year 2031. (FA-26)

## **Recommendations**

**R-01.** The Grand Jury recommends the sale of the east and west properties adjacent to the Civic Arts Plaza/City Hall to pay off long-term former Agency debt. As debt obligations are reduced, a greater percentage of the property tax for the land will return to school and community college districts, County, City and special districts. (FI-13)

## **Responses**

### Responses Required From:

City Council City of Thousand Oaks (FI-01, FI-02, FI-03, FI-04, FI-05, FI-06, FI-07, FI-08, FI-09, FI-10, FI-11, FI-12, FI-13) (R-01)

### Responses Requested From:

Thousand Oaks Redevelopment Successor Agency Oversight Board (FI-12, FI-13) (R-01)

## **References**

- Ref-01.** Chiang, John. California State Controller’s Office. “Community Redevelopment Agencies Annual Report.” Sacramento, December 10, 2010.
- Ref-02.** Dardia, Michael. “Subsidizing Redevelopment of California.” Public Policy Institute of California. San Francisco, January 1998.
- Ref-03.** Thousand Oaks Redevelopment Successor Agency, Oversight Board Meeting, Agenda packet. April 25, 2012.
- Ref-04.** Thousand Oaks City staff. “Hypothetical Property Tax Increment” and “Typical California City Property Tax Increment Breakdown.” April 10, 2013.
- Ref-05.** Thousand Oaks City Council. “Goals and Policies of the Thousand Oaks General Plan.” Resolution 70-381. Thousand Oaks, California, December 22, 1970.
- Ref-06.** City of Thousand Oaks website. City Council minutes and Thousand Oaks Redevelopment minutes. [www.toaks.org](http://www.toaks.org).
- Ref-07.** City of Thousand Oaks. “Civic Arts Plaza Specific Plan No. 11”. Thousand Oaks California, May 22, 2012.

- Ref-08.** Berger, Leslie. "Jungleland" Project's Cost Still Unclear". Los Angeles Times. November 11, 1989. [www.latimes.com](http://www.latimes.com).
- Ref-09.** Pascual, Psyche. "THOUSAND OAKS: Ruling Favors City on Jungleland Issue". Los Angeles Times, October 11, 1990.
- Ref-10.** Lunn, Mark. County Clerk and Recorder. Final Order of Condemnation, No.98763. Ventura County, California, January 16, 1991.
- Ref-11.** "Disposition and Development Agreement by and between Thousand Oaks Redevelopment Agency and T.O. Civic Arts LLC, A California Limited Liability Company". Contract No. 4704-2000. Thousand Oaks, California, July 25, 2000.
- Ref-12.** "Disposition and Development Agreement by and between Thousand Oaks Redevelopment Agency and T.O. Civic Arts LLC, A California Limited Liability Company." First amendment, Contract No. 4704-2002A. Thousand Oaks, California, July 23, 2002.
- Ref-13.** "Disposition and Development Agreement by and between Thousand Oaks Redevelopment Agency and T.O. Civic Arts LLC, A California Limited Liability Company". Second amendment, Contract No. 4704-2008B. Thousand Oaks, California, May 27, 2008.
- Ref-14.** Assessor of Ventura County. "Mixed Use Ground Lease." Contract No. 6725-2004. Thousand Oaks, California, September 28, 2004.
- Ref-15.** Finance Director, City of Thousand Oaks. "Lakes Audit" Finance Department. Thousand Oaks, California, October 8, 2008.
- Ref-16.** Finance Department, City of Thousand Oaks. "Re: Grand Jury request for financial data." May 20, 2013.
- Ref-17.** The Concord Group, KTGy Group and the Moote Group. "Feasibility and Design Services for The Lakes and Adjacent Properties." City of Thousand Oaks Redevelopment Agency, Final Report. Thousand Oaks, California, November 6, 2009.
- Ref-18.** Knight, Michelle. "Battle over redevelopment agencies hits close to home." Thousand Oaks Acorn. February 3, 2011. [www.toacorn.com](http://www.toacorn.com).
- Ref-19.** "How PPPs Work: 7 Keys to Success." [www.ncppp.org/howpart/index](http://www.ncppp.org/howpart/index).
- Ref-20.** Thousand Oaks Redevelopment Successor Agency Oversight Board appointments. [www.toaks.org](http://www.toaks.org).

## **Attachments**

- Att-01.** Legislative Analyst's Office: History of Redevelopment
- Att-02.** Thousand Oaks Boulevard Project Area #2
- Att-03.** Hypothetical Property Tax Increment Example
- Att-04.** Eastside Property (The Lakes)

**Att-05.** Westside Property

**Glossary**

<b><u>TERM</u></b>	<b><u>DEFINITION</u></b>
Agency	Thousand Oaks Redevelopment Agency
Blight	Creates a deteriorated area causing a serious physical and economic condition that can only be reasonably alleviated by redevelopment
City	City of Thousand Oaks
County	Ventura County
CRL	Community Redevelopment Law
DDA	Disposition and Development Agreement
Developer	T.O.Civic Arts, LLC
FY	Fiscal year
Grand Jury	Ventura County Grand Jury
Plaza	Walkways between “The Lakes” and Civic Arts Plaza buildings.
Pond	Two water features about 1.1 acres in front of “The Lakes”
PPP	Public-Private Partnerships
RDA	Redevelopment Agency
RSA	Redevelopment Successor Agency
State	California
Study	Feasibility and Design Services for the Lakes and Adjacent Properties
TOPA#2	Thousand Oaks Project Area #2

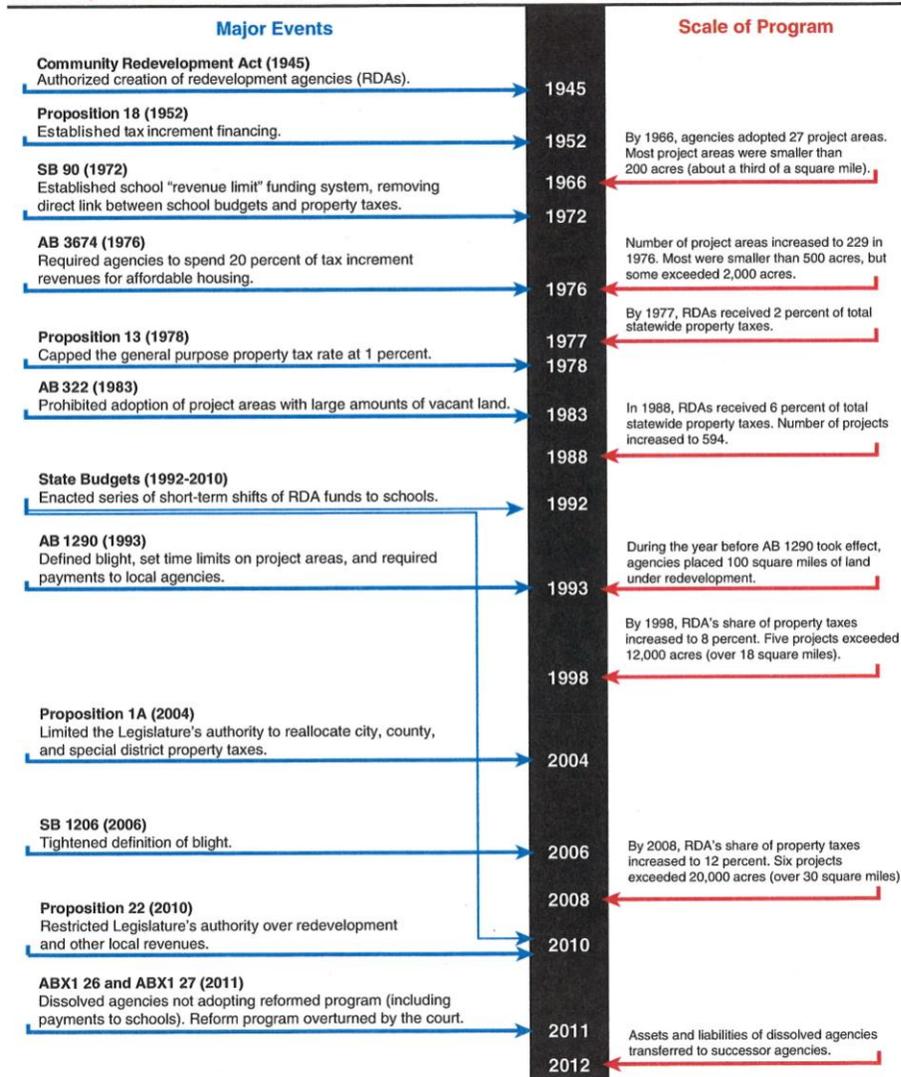
**Attachment 01**  
**Legislative Analyst's Office: History of Redevelopment**

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2012-13 BUDGET

Figure 1

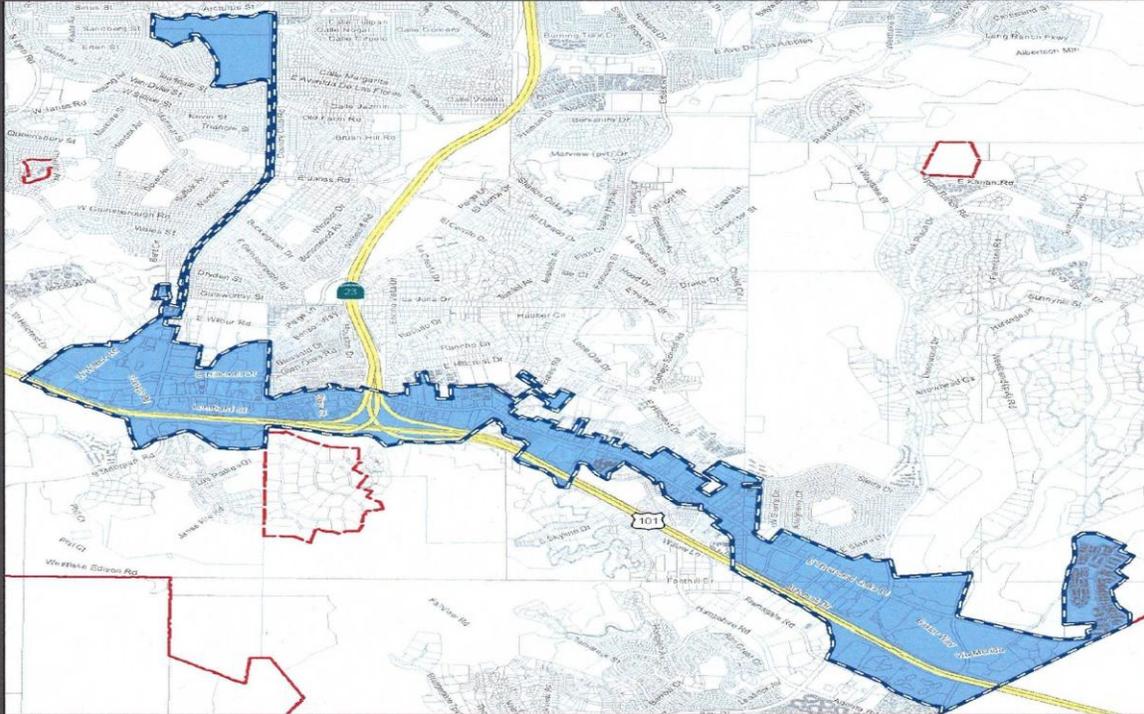
History of Redevelopment



**Attachment 02**

**Thousand Oaks Boulevard Project Area #2**

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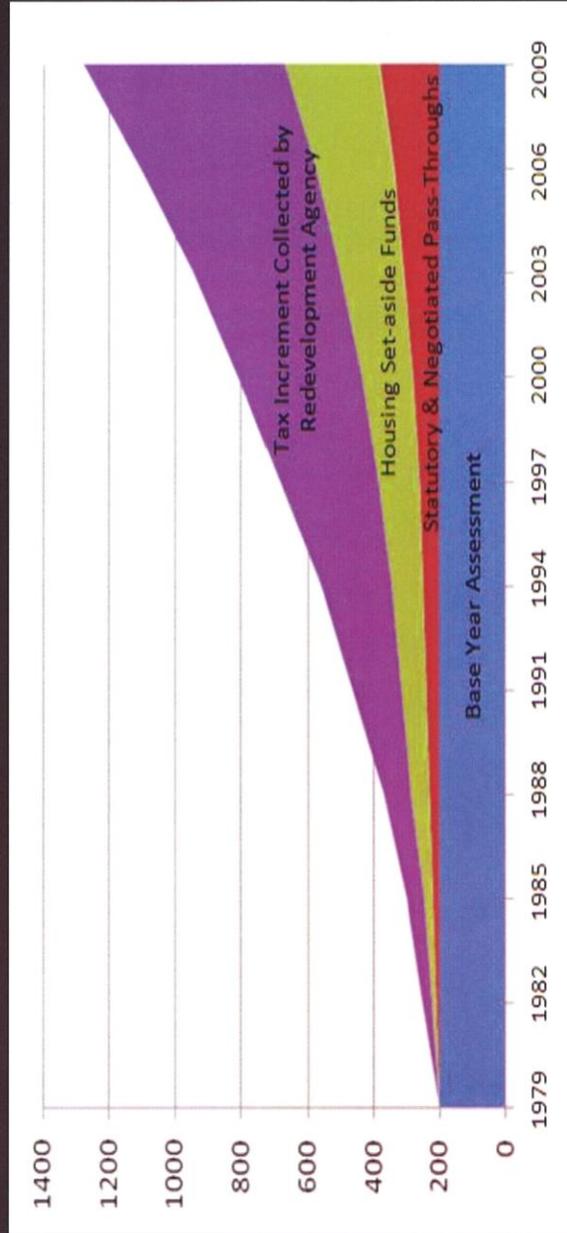
# THOUSAND OAKS BOULEVARD PROJECT AREA

**Attachment 03**

**Hypothetical Property Tax Increment Example**

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# HYPOTHETICAL PROPERTY TAX INCREMENT EXAMPLE



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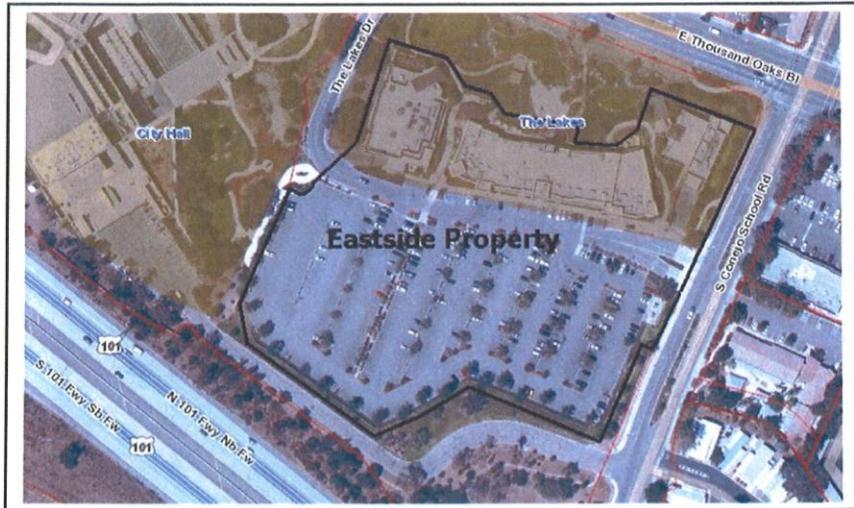


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**Attachment 04**

**Eastside Property “The Lakes”**

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**L-1 Eastside Property (The Lakes)**

A total of 7.58 acres acquired as part of a larger 22 acre parcel. The property was retained by the Agency; the remaining 14.5 acres of the 22 acres was conveyed to the City by the Agency. The site was developed with a commercial development in 2005 by Caruso Affiliated. Development of the site is governed by a Disposition and Development Agreement between the Agency and Caruso Affiliated. The Agency retained ownership of the property and leases the property to Caruso.

Property Addresses	2150 - 2250 E. Thousand Oaks Boulevard
APN's	670-0-240-430
Asset Classification	Land
Dates of Acquisition	1990
Land Use element Designation	Commercial
Zoning	N/A
Specific Plan	Specific Plan No. 11 - Civic Arts Plaza

L-1

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**Attachment 05**

**Westside Property**

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**L-2 Westside Properties**

A total of 2.8 acres acquired in two transactions. The General Plan Land Use designation of "Institutional" and its incorporation into the Civic Arts Plaza Specific Plan with regulations consistent with public and institutional uses of the site reflects its intended future use. The properties are improved with three buildings containing four businesses.

Property Addresses	2100 E. Thousand Oaks Boulevard
APN's	670-0-182-060, 670-0-182-190, 670-0-182-210, 670-0-182-220, 670-0-182-230
Dates of Acquisition	
1900 – 1948 E. Thousand Oaks Boulevard	February 2010
1860 E. Thousand Oaks Boulevard	February 2011
Land Use Element Designation	Institutional
Zoning	N/A
Specific Plan	Specific Plan No. 11 - Civic Arts Plaza

L-2