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GILMORE & BELL, PC

Kansas Economic Development Finance Toolbox

Presented by:

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Tools to be Discussed

- Tax Increment Financing (TIF)/STAR Bonds
- STAR Bonds & Bioscience Development District
- Sales Tax Rebate Agreements
- Community Improvement District (CID)
- Transportation Development District (TDD)
- Industrial Revenue Bonds (IRBs)
- Home Rule GO Bonds
- Neighborhood Revitalization Act (NRA)
- Downtown Redevelopment Act
- Rural Housing Incentive District (RHID)

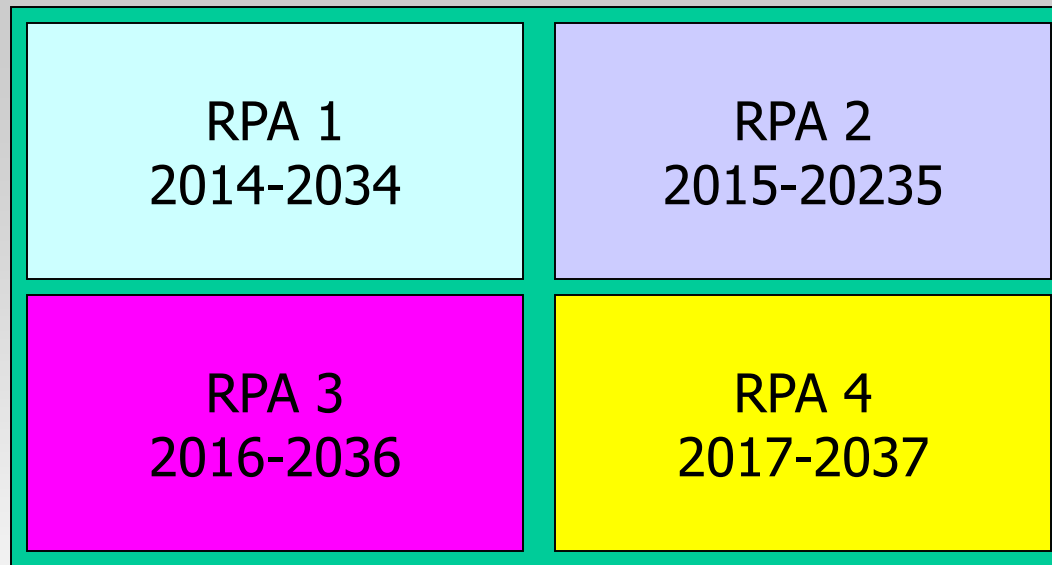
TIF Basics

- Eligible Areas: blighted areas (including environmentally contaminated areas and 100-year floodplains), conservation areas, pre-1992 enterprise zones, major tourism area, major commercial entertainment and tourism area, a bioscience development area or an intermodal transportation area

Redevelopment District

- Redevelopment District
 - Area which is an eligible area
 - Defined by the City
 - Each Redevelopment District can have multiple Redevelopment Project Areas
 - District Plan required
 - County and School District have the right to Veto for 30 days after public hearing on Redevelopment District

Redevelopment Project Areas



Redevelopment District

Redevelopment Plan and Project

- Redevelopment Project Plan
 - Overall blueprint for the assistance of development in a given redevelopment project area
 - Requires approval by 2/3rds of governing body
- Redevelopment Project
 - Specific project described in Redevelopment Plan
 - Each Redevelopment Plan can have multiple projects

How TIF is Initiated

- Developer initiated:
 - Developer has interest to redevelop an area
 - Asks City for certain incentives
 - City may issue an RFP to redevelop the proposed area
 - Conformity with City's TIF Policy, if any
- City initiated:
 - City issues RFP to redevelop an eligible area
 - Offers TIF or other incentives to facilitate interest

Formation and Sample Timeline

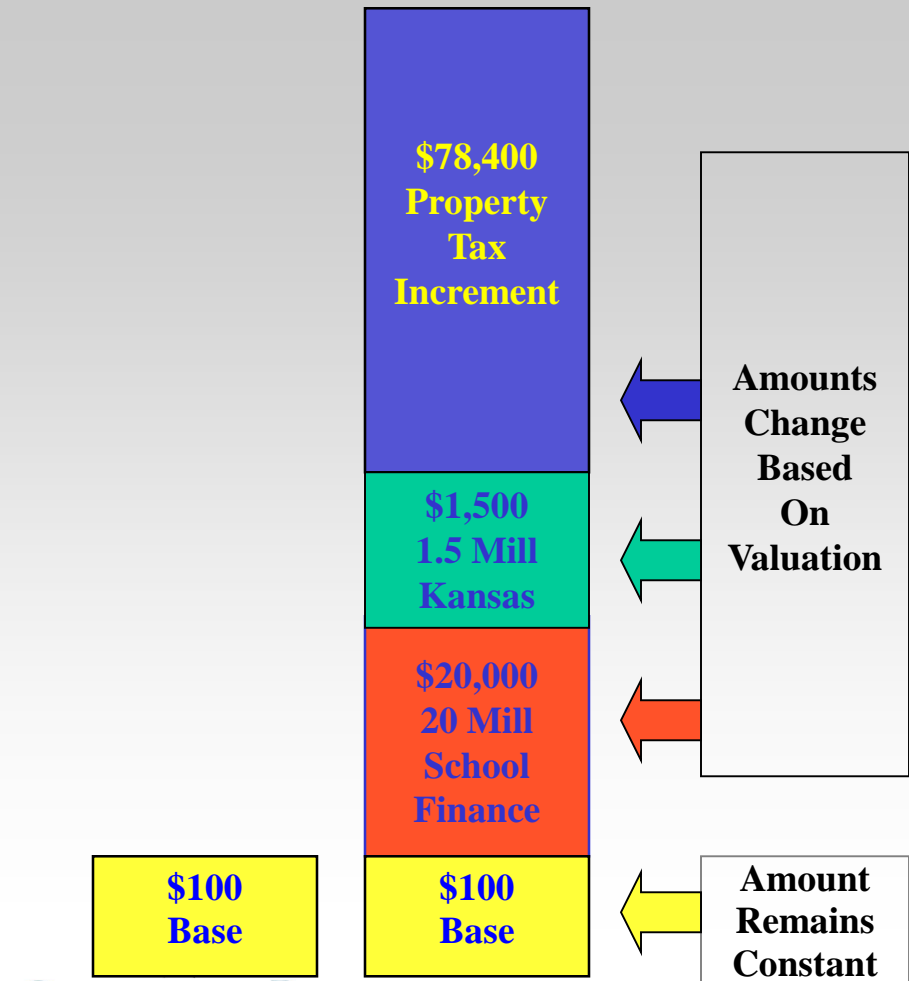
- ✓ **Resolution Calling Public Hearing on Redevelopment District – Day 1**
- ✓ **Mailed Notice to Taxing Districts – Day 5**
- ✓ **Mailed Notices to Property Owners – Day 5**
- ✓ **Published Notices – Day 25**
- ✓ **Public Hearing on Redevelopment Plan – Day 35**
- ✓ **Ordinance Approving Redevelopment District – Day 35**
- ✓ **Redevelopment Plan prepared and submitted to City – Day 60**
- ✓ **Negotiation of Redevelopment Agreement – Days 60 – 90**
- ✓ **City Resolution Calling Public Hearing on Redevelopment Plan – Day 70**
- ✓ **Mailed Notice to Taxing Districts – Day 75**
- ✓ **Mailed Notices to Property Owners – Day 75**
- ✓ **Published Notices – Day 91**
- ✓ **Public Hearing on Redevelopment Plan – Day 101**
- ✓ **Ordinance Approving Redevelopment Plan and Agreement – Day 101**

How TIF Works

- Diverts **all or a portion** of new (incremental) local taxes created by a project
- Real Property Taxes
 - Diverts up to 100% of new property taxes
 - 20 mills/8 mills for school finance NOT diverted
 - 1.5 mills for state NOT diverted
- City Sales Tax
 - Diverts up to 100% of City sales tax, utility franchise fees
- All local taxing districts included
- Up to 20 years per project area

The “Base” and the “Increment”

<u>Base</u>
Property Assessed Value - \$1,000
Total Mill Levy - \$100/\$1000 of Assessed Value
Total Tax Revenue - \$100
<u>Property Tax Increment</u>
Total Assessed Value After Development - \$1,000,000
Total Mill Levy - \$100/\$1000 of Assessed Value
Total Revenue - \$100,000
Less Base (100)
Less 20 Mills (20,000)
Less 1.5 Mills (1,500)
Total Increment - \$78,400



Effect on School Districts

- Held Harmless at Base Property Tax Level
- Receive 20 Mills on Increased Assessed Valuation from Redevelopment Project

What can you finance with TIF Bonds or PAYGO

- Costs in the TIF District necessary to implement the redevelopment project plan, including:
 - Land acquisition and site preparation
 - Multi-sport athletic complex and museum facilities
 - Landscaping and parking facilities
 - Public infrastructure, including outside the TIF district if necessary (effective 7/1/14)

PRIVATE BUILDINGS (except parking garages)

MAY NOT BE FINANCED

Funding Methods

- Developer Reimbursement (“Pay As You Go”)
 - Developer finances approved TIF costs
 - Reimbursed as increment is received
- Bond Financing
 - Special Obligation Revenue Bonds
 - Issued by City
 - Limited obligation of City
 - Sometimes purchased or guaranteed by developer and re-sold once track record established
 - City may provide annual appropriation pledge
 - Full Faith and Credit Bonds
 - Amount that exceeds 3% of the assessed value of the City counts against bonded debt limit

TIF Special Obligation Bond Financing Difficulties

- Construction of Project
 - Is private financing in place?
 - Are tenants committed?
 - Will private project be on-budget?
 - Is a GMP construction contract in place?
- Credit quality of owner/tenant
- Term of tenant leases
- Will property tax or sales tax rates change?
 - Streamlined sales tax
- Developer experience and financial stability

Dealing With Developers

- Interim funding agreements
 - Developer pays or shares in costs for City's out of pocket expenses
- Independent review of projections
- Common points of contention
 - Use of TIF money – public vs. private costs
 - Performance Guarantees
 - Cost caps

STAR Bonds

- Eligible Area for STAR Bond Project
 - Major commercial entertainment and tourism area
 - Major multi-sport athletic complex
- STAR Bond Project
 - If not within an MSA, then a project of regional or statewide importance
 - Within an MSA, project must have \$50M in capital investment and \$50M of projected gross annual sales
- Use State sales tax revenues and local sales tax revenues
- Requires Secretary of Commerce approval

Bioscience Development District

- Kansas Bioscience Authority initiated:
 - Basically same procedure as TIF
 - Same incentives as TIF
 - City may issue bonds payable from TIF revenue
- City acts with Kansas Bioscience Authority (KBA) approval

Sales Tax Rebate Agreements

- Cheap and easy alternative to TIF
- Reimburse costs of public or private improvements
- Repayment limited to certain incremental sales tax revenues or property tax revenues received by the City from the new project
- Document involved is a contract, no plans or other formalities

Community Improvement Districts

- Available to any City or County
- Can finance just about anything – public or private
- Most costs have to within District, but can finance necessary infrastructure
- Easy to form and broad use of funds

CID Formation & Financing

- Created by a petition of (1) owners of 55% of land area AND (2) owners of 55% of assessed value of land, within the proposed CID
- Can impose special assessments
- Can impose up to a 2% CID sales tax
- May do “pay-as-you-go” CID – bond financing not necessary

Public Hearing on CID

- Publish Notice of Public Hearing twice in official newspaper
- Certified mail to all property owners in CID
- After Public Hearing, City may pass Ordinance creating CID
- 30 day statute of limitations to protest after publication of Ordinance creating CID

Collection of CID Sales Tax

- Collection of CID Sales Tax may occur for 22 years from the date the State Director of Taxation begins collecting the sales tax.
- CID Sales Tax is collected in same manner as other sales taxes.

Bond Financing Issues

- Construction of Project
- Guaranteed Maximum Price Contract?
- Payment and Performance Bond?
- Is balance of financing in place?
- Are tenants committed?
- Will private project be on-budget?
- Credit quality of owner/tenant
- Term of tenant leases
- Developer experience and financial stability

Effect on Other Taxing Districts

- No impact to current taxing jurisdictions – no diversion of current taxes
- Only new revenues used
- Can be used in conjunction with TIF or STAR Bond District, but Department of Commerce may request pledge of funds on STAR Bonds.

Transportation Development District (TDD) Basics

- Available to any City or County in Kansas
- Purpose is to finance transportation projects (**INSIDE OR OUTSIDE THE DISTRICT**)
 - Roads
 - Traffic signals
 - Parking lots and Parking Structures
 - Sidewalks
 - Utilities within or without the public right-of-way
 - Facade improvements

How TDD Works

- Uses special assessments or new transportation sales tax within the District to finance transportation projects
- Special Assessments
 - Must follow 12-6a01 assessment procedure
 - No full faith and credit
- Transportation Sales Tax
 - Up to 1% additional local sales tax within the District
 - Up to 22 years

Effect on Other Taxing Districts

- No impact to current taxing jurisdictions – no diversion of current taxes
- Only new revenues used

Funding Methods

- Bond Financing
 - Special Obligation Revenue Bonds
 - Issued by City
 - Limited obligation of City
 - City CAN provide annual appropriation pledge
 - Sometimes purchased or guaranteed by developer and re-sold once track record established
 - No Full Faith and Credit Bonds

TDD Bond Financing Difficulties

- Construction of Transportation Project
 - Guaranteed Maximum Price Contract?
 - Payment and Performance Bond?
- Construction of Private Project
 - Is private financing in place?
 - Are tenants committed?
 - Will private project be on-budget?
- Credit quality of owner/tenant
- Term of tenant leases
- Developer experience and financial stability

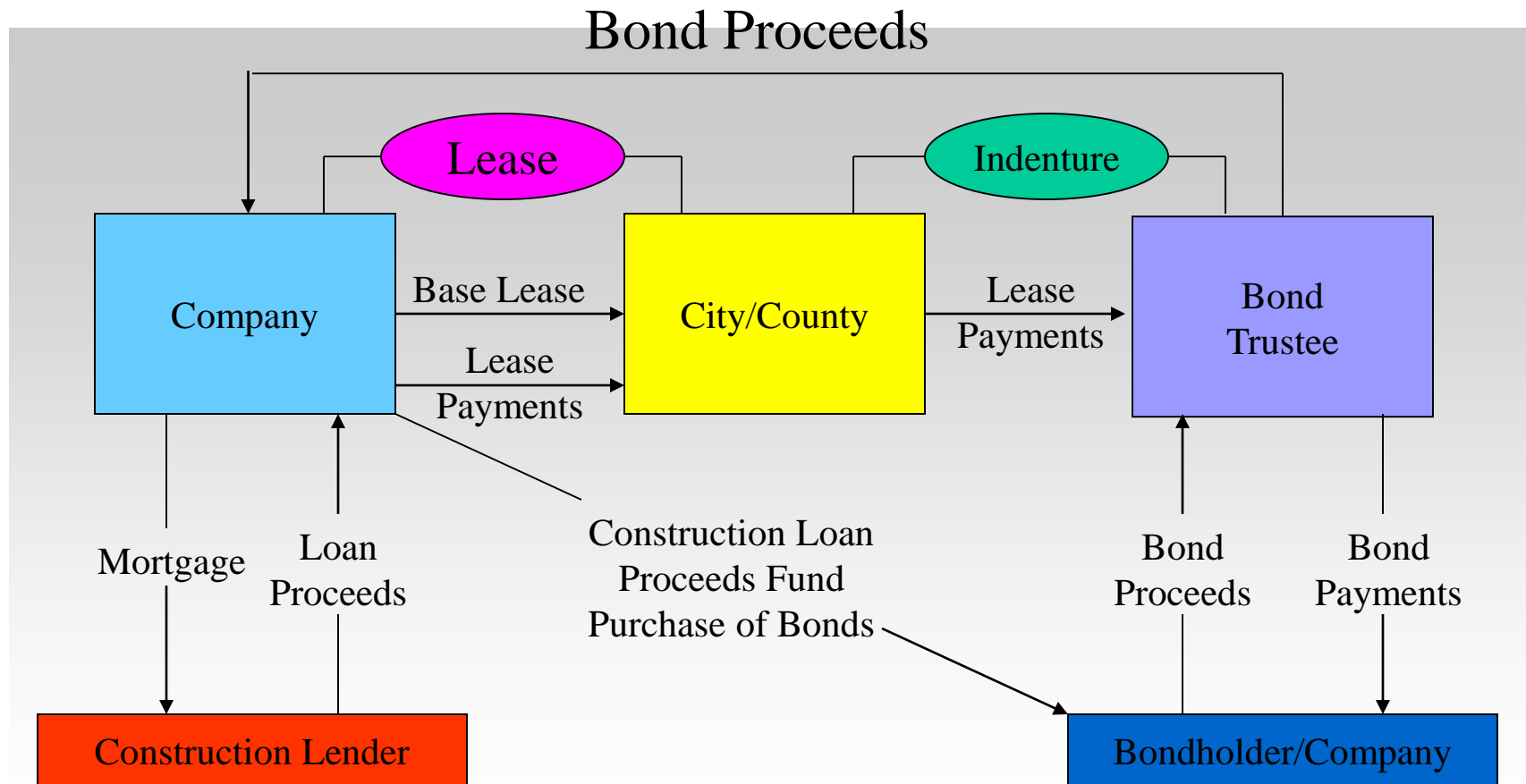
How TDD is Initiated

- Property Owner initiated:
 - Petition of 100% of property owners
 - Petition sets whether special assessments, transportation sales tax or both
 - Notice and Public Hearing Required if Sales Tax, but not if only special assessments

Industrial Revenue Bonds (IRBs)

- Generally used for property tax abatement and/or sales tax exemption on construction material
- Payable from lease payments made by the company to the City
- Cannot be full faith and credit bonds
- Eminent domain prohibited

IRB Diagram



IRB Property Tax Abatement

- Limited to 10 years on property financed 100% with the IRBs, and 8 mill school capital outlay levy may not be abated
- Must give notice to school district
- Cost/benefit analysis required
- Public hearing required
- No property tax abatement for retail
- Sales tax exemption for construction materials

Home Rule GO Bonds

- City uses Home Rule powers to issue GO bonds for economic development grant to private entity
- Bonds are marketable
- City assumes risk of private entity
- Performance Guarantees

Neighborhood Revitalization Act (K.S.A. 12-17, 115 et seq.)

- Neighborhood Revitalization Area is either a blighted area or an area that should be preserved because of its history or architecture
- Designated by City or County
- Must adopt revitalization plan after holding public hearing
- Increased increment can be rebated back to property owner
- Includes school district property taxes (20 mills), except for 8 mill capital outlay levy
- Years determined by revitalization plan

Downtown Redevelopment Act (K.S.A. 12-17, 121 et seq.)

- Established by City or County
- Application made to Secretary of Commerce for designation
- Secretary may approve if:
 - (1) City or unincorporated area has population less than 50,000 or 20% or more of population has income below poverty line;
 - (2) Area is located in “core commercial district” – central business district;
 - (3) Structures in area have a vacancy rate that exceeds 15%; or
 - (4) Average appraised value of property in area has not increased by more than 15% in past 10 years

Downtown Redevelopment Act

- If approved have 12 months to make improvements so that appraised value increases by not less than 25%
- Property Tax Rebate above base value:

Years	1-5	100%
Year	6	80%
Year	7	60%
Year	8	40%
Year	9	20%

Rural Housing Incentive District Act (K.S.A. 12-5241 et seq.)

- Established by any City with a population less than 60,000 in the City and less than 80,000 in the County or any County with a population less than 60,000
- City/County must demonstrate by a housing needs analysis that:
 - (1) Shortage of quality housing within City/County
 - (2) Shortage of housing expected to persist
 - (3) Shortage of housing is a substantial deterrent to future economic growth in City/County
 - (4) Future economic well-being of the City/County depends on governing body providing additional incentives for the construction or renovation of quality housing in City/County

Rural Housing Incentive District Act

- Secretary of Commerce must agree with findings
- Must adopt a redevelopment plan, including:
 - (1) Legal description and map
 - (2) Existing assessed valuation
 - (3) Names and addresses of all owners
 - (4) Description of the housing and public facilities project proposed to be constructed or improved and the location
 - (5) Names and addresses of developer and property owned in the District
 - (6) Contractual assurances of developer
 - (7) Comprehensive feasibility analysis

Rural Housing Incentive District Act

- Public hearing must be held
- School District and County have a veto like TIF
- Special Obligation Bonds may be issued
- Property tax increment diverted for up to 15 years
- Bonds or increment may be used for similar purposes as TIF

In Summary

Type of Incentive	Time Period	Tax Diversion or Rebate	Who Can Utilize	Secretary of Commerce Approval
TIF	20	Tax Diversion	City	No
CID or TDD	22	New Tax	City/County	No
STAR	20	Tax Diversion	City	Yes
NRA	Unlimited	Tax Rebate	City	No
DRA	10	Tax Rebate	City/County	Yes
Rural Housing	15	Tax Diversion	City/County	Yes
IRB	10	Abatement	City/County	No
Home Rule GO	10	Abatement	City	No
Sales Tax Rebate	Unlimited	Rebate	City/County	No

Policy Issues to Consider

- Do you have an adopted Economic Development Policy?
- What does the Community Want?
- What incentives is the Community Willing to Provide?
- Are there other Tools or Changes to Existing Tools that would be helpful?

Questions?