


TIF, TDD and Other Economic Development Tools in Kansas

Presented by:
GILMORE & BELL, P.C.

November 4, 2019



GILMORE BELL
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**Kansas Economic
Development Finance Toolbox**

Presented by:
GILMORE & BELL, P.C.
100 North Main, Suite 800
Wichita, Kansas 67202
Phone: 316-303-3109
Kevin Cowan
kcowan@gilmorebell.com

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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)



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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

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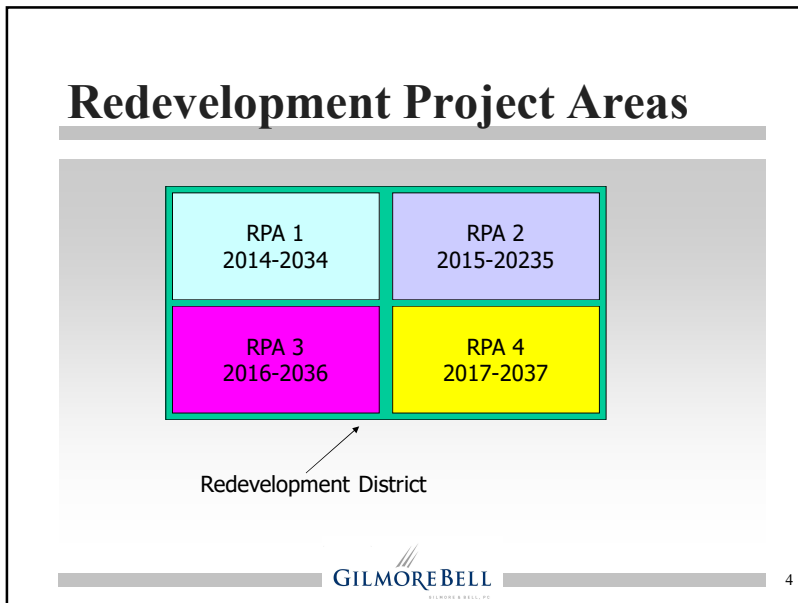
Redevelopment District

- 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

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- ## 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
- The Gilmore & Bell logo is at the bottom.

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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

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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

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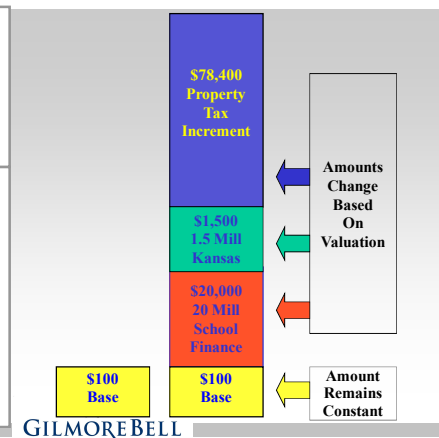
How TIF Works

- 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”

Base	
Property Assessed Value -	\$1,000
Total Mill Levy - \$100/\$1000 of Assessed Value	
Total Tax Revenue -	\$100

Property Tax Increment	
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



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Effect on School Districts

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

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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

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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

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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

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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

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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

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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



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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



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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



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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



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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

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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.

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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

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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.

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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

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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

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Effect on Other Taxing Districts

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

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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

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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

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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

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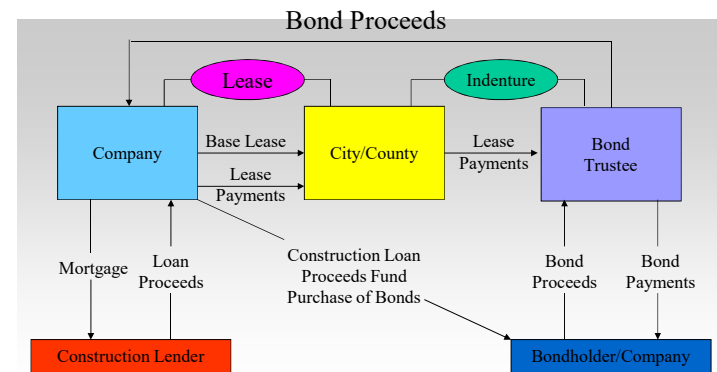
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Industrial Revenue Bonds (IRBs)

- 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

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IRB Diagram



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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



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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



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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



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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



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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%

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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


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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

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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

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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

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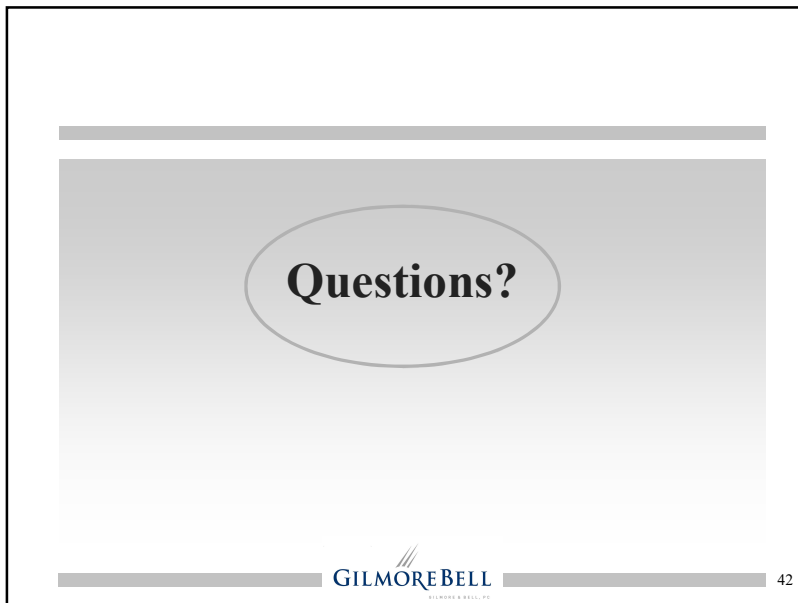
Policy Issues to Consider

- 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?

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