Growing Community Projects Made Possible with Tax Increment Financing ("TIF")

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Unlike our surrounding states, TIF has not been commonly used as a tool to promote development until recently.

In 2000 Kentucky adopted new TIF legislation, primarily to finance large projects in Louisville:
- Downtown Louisville Marriott Hotel
- KFC-YUM Arena
- Churchill Downs expansion

2007 legislation (“the Act”):
- Sunsetted the 2000 legislation
- Eliminated “state-only” TIF projects available under the 2000 legislation
- Provided a method for accessing State revenues for eligible projects throughout the State
- Codified at KRS 65.7041 to 65.7083; and KRS 154.30-010 to 154.30-090 and KRS 139.515 (State participation programs)
The Act allows a city or county to create a TIF district ("local development area" or "development area") and use the increase in taxes from development ("incremental revenues") generated from the area to support development within the area.

Incremental revenues are the net revenues from the taxes pledged to the area or project, determined by subtracting from the "new revenues" (total annual amount of the type of taxes pledged to the area) the "old revenues" (the annual amount of the type of taxes pledged that were generated from the area at the time the TIF district was created.)
• Any property, asset, improvement located in a local development area or development area, and certified as being for:

  – Public purpose; and

  – Being for the development of facilities for residential, commercial, industrial, public, or other uses, or for open space, including the development, rehabilitation, installation, improvement, enlargement, or extension of real estate and buildings; and

  – Contributing to economic development or tourism.
• Local incremental revenues from the local development area or development area may be used to pay for “project” costs and/or “redevelopment assistance” within the local development area or development area.
• Local incremental revenues may be used to pay for private costs related to a development, in addition, to public infrastructure costs needed to support development.
• How local incremental revenues may be used under the Act is much broader than what is allowed in most other states.
• Note: for projects eligible for a pledge of State incremental revenues the use of State revenues is primarily limited to paying for public infrastructure costs.
HOW INCREMENTAL REVENUES MAY BE USED

• Pledged incremental revenues may be used to:

  – Support the payment of “increment bonds” issued by a city, county or public agency, to pay for certain specified projects needed for the overall development, such as parking, infrastructure, water, sewer lines, site development costs, etc. These bonds are typically not backed by the issuer, and in today’s financial climate issuing increment bonds will be difficult.

  – Pay for eligible costs, including reimbursing cost advanced by a developer, as incremental revenues are generated.

  – Incremental revenues may be used to promote specific projects and/or to support overall improvements needed to improve an area.
LOCAL REVENUES ELIGIBLE TO BE PLEDGED

- Up to 100% of a city’s and/or county’s incremental real estate taxes and/or occupational and payroll taxes

- Up to 100% of incremental real estate taxes from special districts, except from school districts and fire districts

- City or county establishing TIF district may impose a 2% wage assessment fee to support the TIF district, but this will act as an offset to applicable general payroll taxes in effect

- City or county may assess property under KRS Chapter 91A and use the income from assessments to support the payment of increment bonds

- The amount and term of the pledge of incremental revenues must be negotiated with each taxing district

- Local incremental revenues may be pledged for up to 30 years
TWO TYPES OF TIF DISTRICTS

• Local development area:
  – Undeveloped land
  – Limit of 1000 acres per county per year
  – Easy to establish – public hearing and ordinance
  – Participating taxing districts execute a “local development area agreement”
  – Not eligible for State participation

• Development area:
  – Redevelopment of previously developed land
    • Note Exceptions – 5000 seat arena, research park at university or major military base
  – Limited to 3 square contiguous miles
  – Area must exhibit certain blight characteristics
    • Note exceptions
  – Development plan must be prepared
  – Participating taxing districts execute a “local participation agreement”
  – Will take 2-4 months to establish
  – Projects within the development area are eligible for State participation if they meet eligibility criteria
• The area must meet two of the following conditions:
  – Substantial loss of residential, commercial, or industrial activity or use;
  – 40% or more of households are low income;
  – 50% or more of structures are deteriorated or deteriorating;
  – Substantial abandonment of residential, commercial, or industrial structures;
  – Substantial presence of environmentally contaminated land;
  – Inadequate public improvements or substantial deterioration of public infrastructure; or
  – Any combination of factors that substantially impairs or arrests the economic development of the city or county; …due to the development area’s present condition and use.
STATE PARTICIPATION PROGRAMS

• Commonwealth participation program for state real property and ad valorem tax revenues (“Real Property Tax Program”)

• Commonwealth participation program for mixed-use redevelopment in blighted urban areas (“Mixed-Use Program”)

• Signature project program
A project must have at least $10M in capital investment
Must represent new economic activity for the State
Not more than 20% of the project for retail
100% of State incremental taxes from property taxes may be pledged for a 20 year period
State incremental revenues may be used to pay for approved public infrastructure costs that are necessary to support private development
State incremental revenues may not be used to pay for financing costs
MIXED-USE PROGRAM

- Area must meet 3 of the 7 conditions of blight
- Project must have minimum capital investment between $20M - $200M
- Must represent new economic activity for the State
- Must be a mixed-use project
- No one retail establishment may exceed 20K square feet
- Include pedestrian amenities and public spaces
- Result in new positive economic impact to the State
- 80% of full gambit of State incremental revenues (sales, income, corporate, property, etc.) may be pledged to pay for:
  - Up to 100% of approved public infrastructure costs; and
  - Up to 100% of expenses for land preparation, demolition, and clearance necessary for the development to occur
  - **May not use State revenues to recover financing costs**
SIGNATURE PROJECT PROGRAM

- A project must have a minimum capital investment of at least $200M
- Must represent new economic activity for the State
- Must represent net positive economic impact for the State
- Not more than 20% of capital investment or finished floor space for retail
- 80% of full gambit of State incremental revenues (sales, income, corporate, property, etc.) may be pledged for up to a 30 year period to pay for:
  - Up to 100% of approved public infrastructure costs;
  - Up to 100% of financing costs for approved public infrastructure costs; and
  - 100% of approved signature project costs:
    - Land acquisition needed for infrastructure;
    - Costs related to acquisition, development and construction of infrastructure, including parking structures that serve as platforms to support development above; and
    - State revenues not available to pay for financing costs on signature project costs.
Applications for any of the 3 State participation programs must be submitted on the required application form to the Department for Financial Incentives with the Economic Development Cabinet. May not submit a State application until all local approvals have been granted. State assistance must be approved by the Kentucky Economic Development Finance Authority – KEDFA. Approval of Mixed-Use and Signature Project applications will require an independent financial study to be conducted. State will not permit recovery of costs with State incremental revenues for costs incurred before preliminary approval. Process for State approval will take 9 – 12 months. For Mixed-Use and Signature Project programs out-of-pocket fees and expenses to the State will likely exceed $100,000.
USE OF TIF AND OTHER INCENTIVES

• TIF incentive may be combined with other incentives
  – New market tax credits and historic tax credits
  – Tourism development act
  – Other grant programs

• Use of TIF may conflict with incentives, such as those available through the Kentucky Business Investment Program ("KBI")

• It is important to understand the other incentive programs and how the use of TIF may impact other incentives and the project
IMPACT OF TIF

- Since 2000 Kentucky has approved a pledge of State revenues for 13 capital projects with combined investment of $6.6B.
- Approval of 4 additional projects are pending with combined capital investment of $1.6B.
- To date, the maximum amount approved for recovery from State revenues for capital costs and financing costs totals $2.46B.
- Examples of projects approved by the State include:
  - Louisville Marriott, KFC-YUM Arena, Haymarket, Museum Plaza in Louisville
  - WKU Gateway Project in Bowling Green
  - Phoenix Park/Courthouse (Centre/Point), Lexington Distillery Project, Showprop Lexington
  - Ovation and Manhattan Harbour in Campbell County
• $122M full service hotel and related parking in downtown Louisville.
• State approved a pledge of 80% of the State incremental revenues from employee withholding taxes and sales taxes, capped at $22M over a 20 year period, to pay for public infrastructure costs associated with the project.
• This is a “state only” TIF project that may no longer be approved under the current Act.
• Louisville agreed to issue $45M in general obligation debt for the project.
KFC-YUM CENTER
• $435M, 22,000 seat arena in downtown Louisville for sports, concerts and other venues.
• Current home to the Louisville Cardinals men’s and women’s basketball program.
• The State approved a pledge of 80% of its incremental revenues from real property taxes, sales taxes and employee withholding taxes, capped at $265M, and recoverable over a 20 year period.
• Louisville pledged a minimum of $206M toward debt service on the project.
WKU GATEWAY TO DOWNTOWN BOWLING GREEN
• $317M mixed-use project in connecting WKU to downtown Bowling Green.
• The project includes a Single A minor league baseball stadium, now home to the Bowling Green Hot Rods, a performing arts center, a hotel, retail, office and residential uses.
• Bowling Green and Warren County pledged 80% of their incremental revenues from real property and occupational taxes for a 30 year period.
• Bowling Green issued $25M in G.O. debt to build ballpark.
• The State approved the project as a signature project and pledged 80% of its incremental revenues from real property, sales, income taxes and corporate taxes for 30 years to pay for public infrastructure and financing costs, capped at $285.5M.
U of L Projects

• UofL through the UofL Foundation and Nucleus: Kentucky’s Life Sciences and Innovation Center, LLC is using TIF to establish research park projects.

• Haymarket TIF project is a $2.3B research park in the downtown hospital district, approved as a signature project, that focuses on medical and related research facilities. The State approved an incentive of $601M.

• UofL Research Park Project is a $1.4B proposed research park adjacent to the Belknap Campus that focuses on engineering and applied sciences. Signature project approval by the State is pending.
• $900M mixed-use project on 30 acres, including former public housing site.
• Total site generated $14K annually in real estate taxes.
• After development site will generate $12.4M annually in real estate taxes and millions annually in sales and income taxes.
• TIF needed to pay for public infrastructure costs – parking, roads, utilities, etc. of $133M.
• City, county, and 3 special districts pledged a percentage of incremental revenues for 30 years.
• State approved the project as a signature project and pledged 80% of its incremental revenues for 30 years from real property, sales and employee withholding taxes to pay for approved public infrastructure and financing costs, capped at $311.4M.
Lexington Distillery District

• $190M adaptive reuse mixed-use project, centered around the KY bourbon industry, and includes a micro-distillery, hotel, retail and residential uses in the Manchester Street area of Lexington.
• First project approved under the State’s Mixed-Use Program.
• Lexington approved a pledge of 80% of its incremental revenues from real property and occupational taxes for 20 years.
• The State approved a pledge of 80% of its incremental revenues from real property, sales and employee withholding taxes for 20 years, capped at $45.8M, to pay for approved public infrastructure costs for the project.
$91.6M mixed-use project featuring a state of the art movie theatre, retail and residential uses in the Angliana Avenue area of Lexington.

Lexington approved a pledge of 80% of its incremental revenues from real property and occupational taxes for 20 years.

The State approved a pledge of 80% of its incremental revenues from real property, sales and employee withholding taxes for 20 years, capped at $17.5M, to pay for approved public infrastructure costs for the project.
MANHATTAN HARBOUR

- $900M mixed-use project on 150 acres most of which can not be
developed since it is in the flood plain.
- Total site generated $20K annually in real estate taxes. After
development site will generate $13.8M annually in real estate taxes
and millions annually in sales and income taxes. Project will triple
the assessment for the City of Dayton.
- TIF incentive to pay for public infrastructure costs – parking, roads,
utilities, etc. in excess of $100M, including the cost to raise the site
out of flood plain.
- City, county, and 3 special districts pledged a percentage of
incremental revenues for 30 years.
- State approved the project as a signature project and pledged 80%
of its incremental revenues for 30 years from real property, sales
and employee withholding taxes to pay for approved public
infrastructure and financing costs, capped at $198.2M.
THE ARK ENCOUNTER

- $173M biblical and historical theme park.
- 150 acre development on undeveloped land in Grant County.
- Project will create 900 direct jobs and thousands of indirect jobs and have millions of dollars in annual economic impact.
- Project does not qualify under one of the state TIF participation programs, but does qualify for a 10 year sales tax credit as a tourist attraction per tourism development act.
- Local TIF incentive from Williamstown and Grant County.
- Good example of combining TIF with other incentive programs.
QUESTIONS?