TIF Fundamentals

LAUBER MUNICIPAL LAW, LLC

Presented September 8, 2015 by Joe Lauber

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TIF and Other Development Tools

- Tax Increment Financing (TIF)
- Community Improvement Districts (CID)
- Transportation Development Districts (TDD)

Tax Increment Financing (TIF) Topics

- What is tax increment financing?
- What is a TIF plan?
- What is the Redevelopment Area?
- What is a Redevelopment Project Area?
- What are Redevelopment Project Costs?
- How is a TIF plan approved?
- Who sits on the TIF Commission?
- What is the role of the TIF Commission?
- What is the role of each individual TIF Commissioner?
- What is the role of the City Council?
- What happens after a TIF Plan is approved?
- What is included in the TIF contract?

What is Tax Increment Financing?

- **Payments in Lieu of Taxes** (PILOTs)
  - Related to real property taxes
  - 100% of PILOTs captured
- **Economic Activity Taxes** (EATs)
  - Sales taxes, utility taxes
  - 50% of EATs captured
- **Special Allocation Fund**

Payments in Lieu of Taxes (PILOTs)

Increment

- Total Assessed Value After Development = $100,000
- Total Levy = $5.00/$100 of Assessed Value`
- Total Revenue = $5,000
- Total Increment = $4,950 (PILOTs)

Base

- Property Assessed Value = $1,000
- Total Levy = $5.00/$100 of Assessed Value
- Total Tax Revenue = $50

Without TIF	With TIF
	$4,950 Increment (PILOTs)
$50 Base (received by taxing districts)	$50 Base (received by taxing districts)

Amount Changes Based on Valuation

Amount Remains Constant

Economic Activity Taxes (EATs)

Economic Activity Tax Revenue after development

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Economic Activity Tax Revenue during year prior to adoption of the TIF project ordinance

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EATs created by development

50% of EATs

Special Allocation Fund

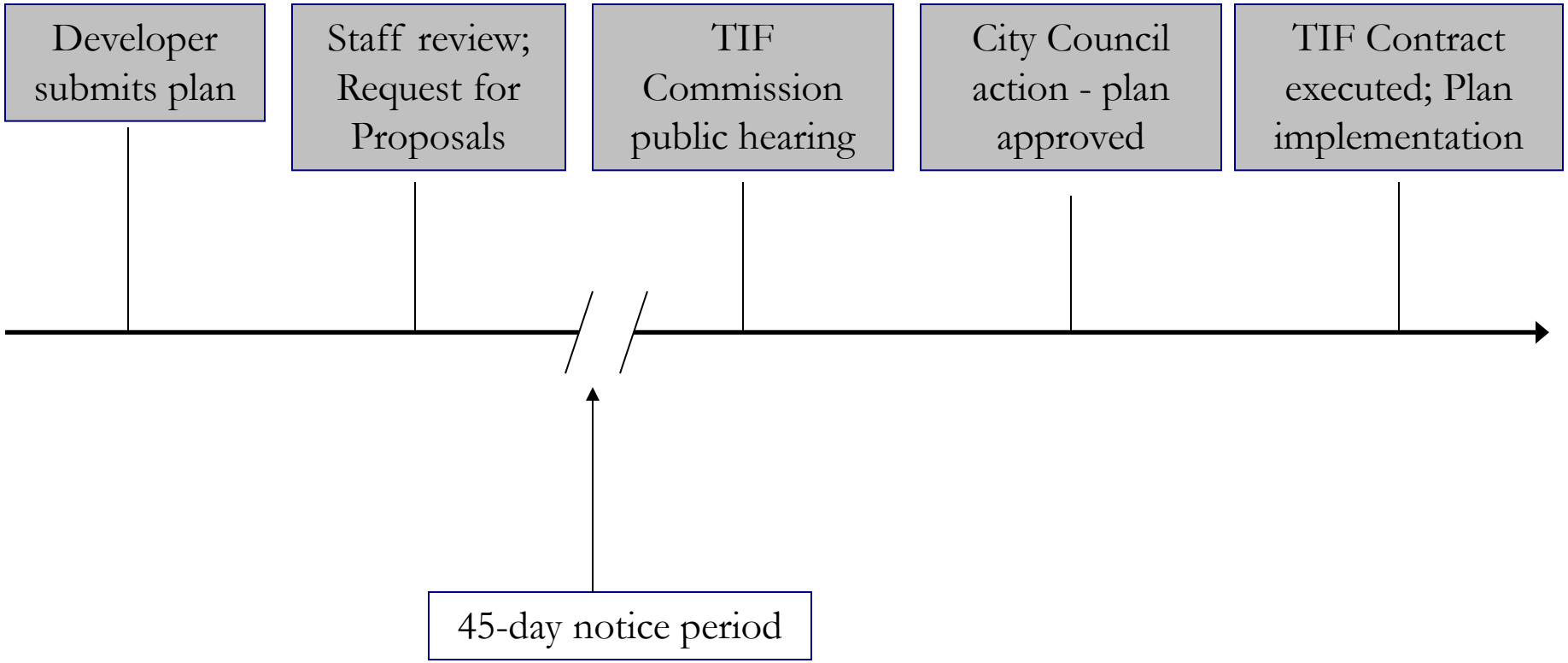
50% of EATs

Taxing District

What is a TIF Plan?

- General description of project
- Estimated Redevelopment Project Costs
- Anticipated source of funds to pay the costs
- Evidence of commitments to finance project costs
- Anticipated type and term of debt obligations
- Most recent equalized assessed valuation
- Estimated assessed valuation after redevelopment
- General land uses in the Redevelopment Area

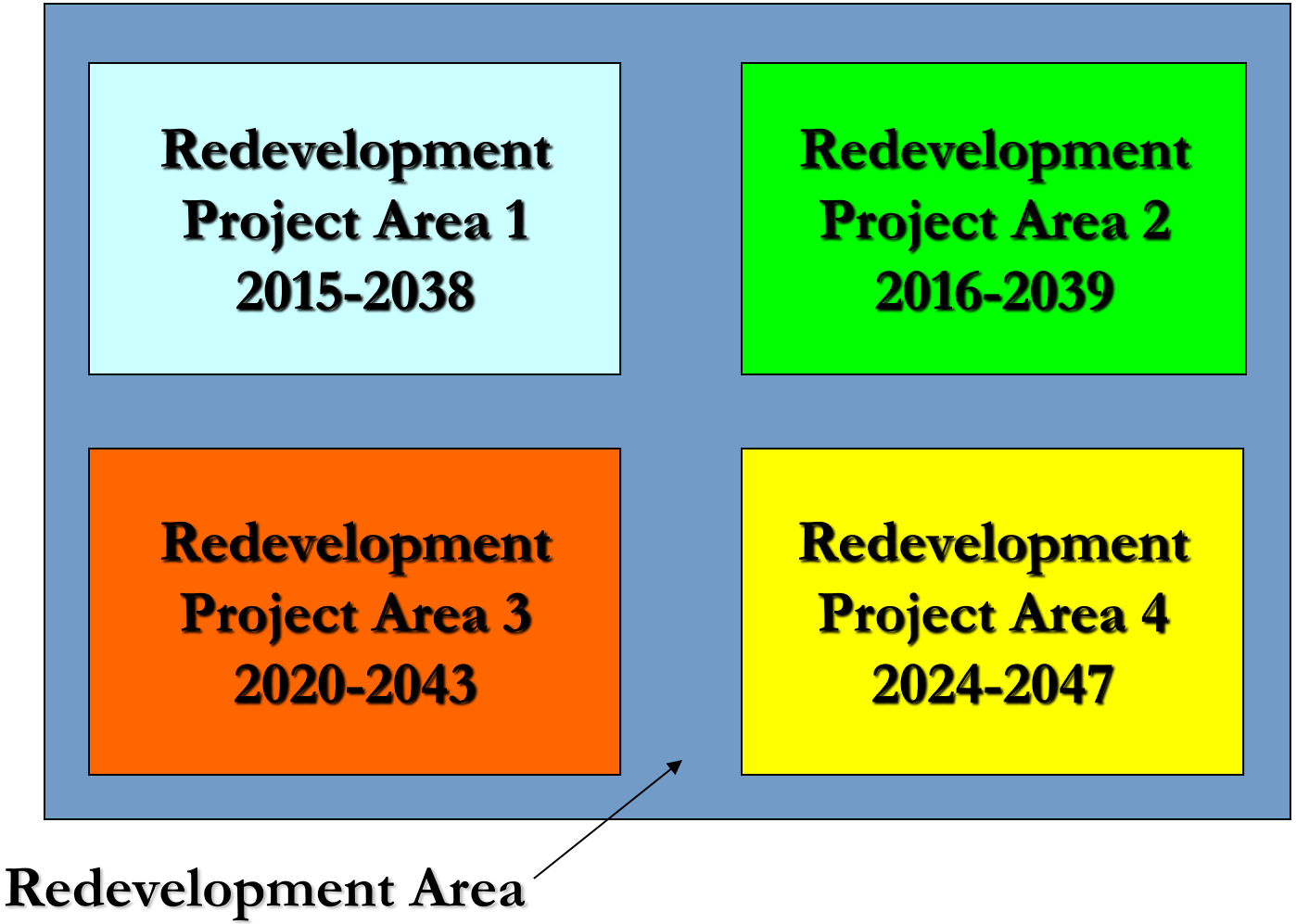
What is the Typical TIF Plan Process and Timeline?



TIF Timeframes

- Redevelopment project must be completed and the bonds (if any) issued to pay for these costs within 23 years after the TIF project ordinance is adopted
- All redevelopment project ordinances must be adopted within 10 years after the TIF Plan has been adopted
- Eminent domain power is available, but must be exercised with in 5 yrs after the TIF project ordinance is adopted

What is the Redevelopment Area?
What are Redevelopment Project Areas?



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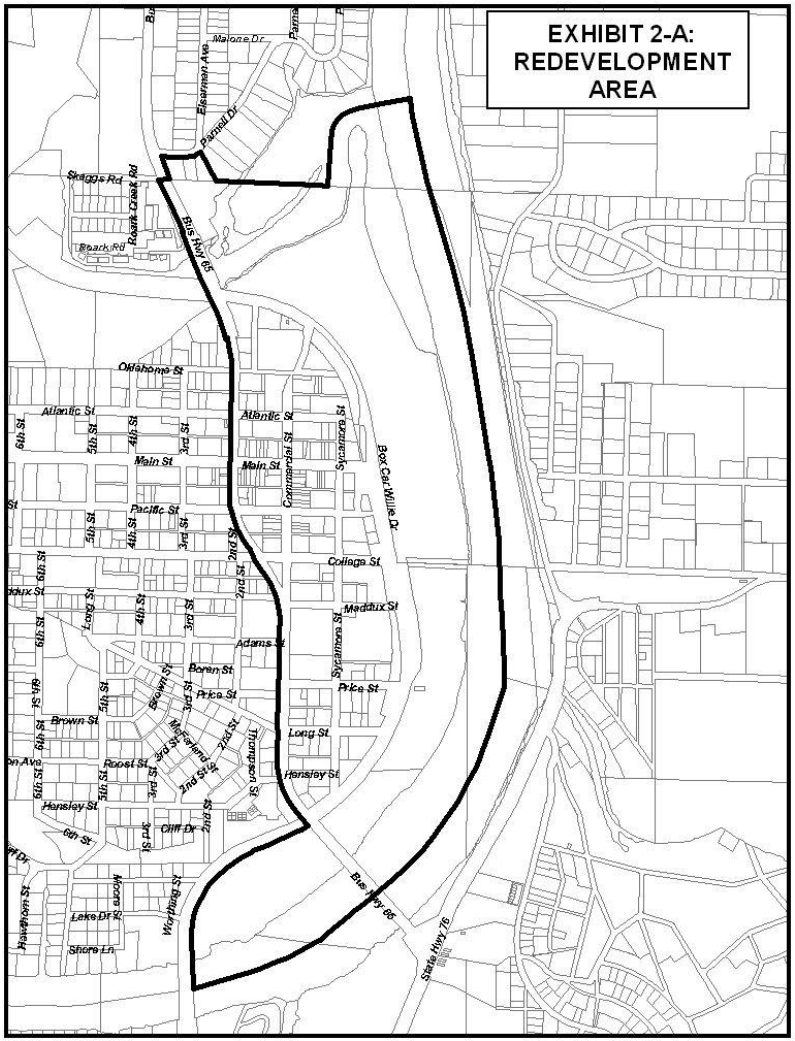
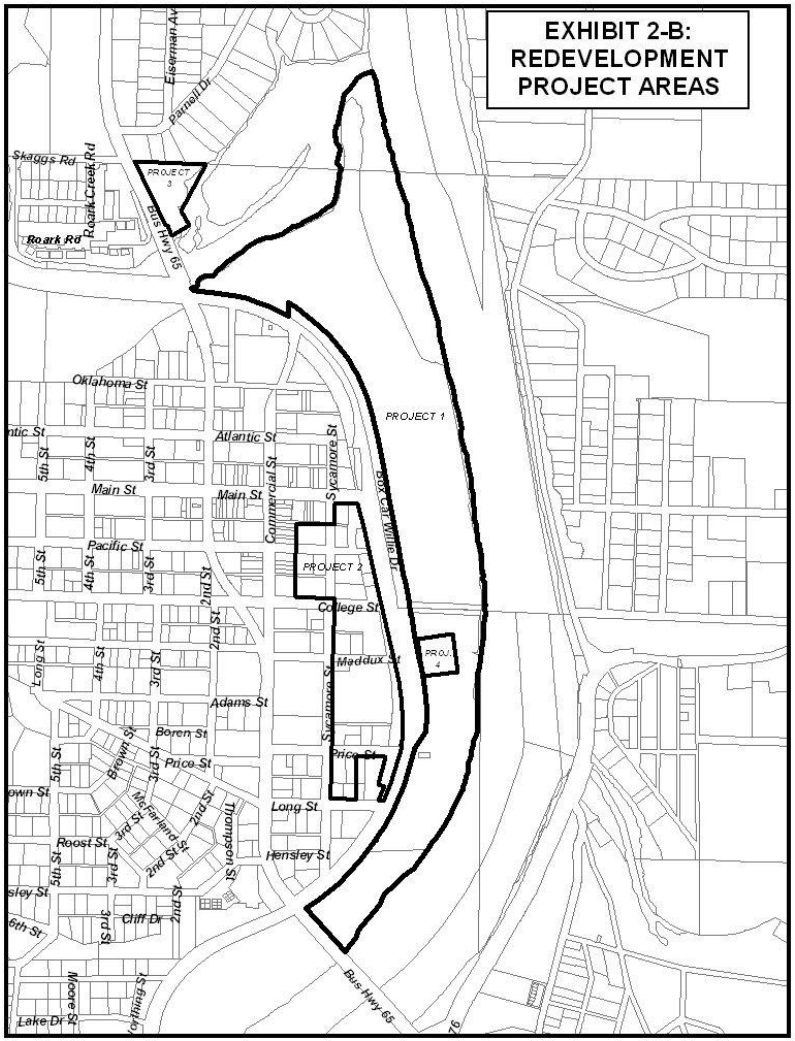




What are Redevelopment Project Costs?

- Land acquisition costs
- Demolition, clearing and grading land
- Costs to renovate or rehabilitate existing buildings or to construct new buildings or structures
- Costs to acquire and construct public improvements
- Costs of studies, surveys, plans and specifications
- Professional service costs
- Financing costs
- Taxing district capital costs
- Relocation costs for displaced persons and businesses

How is a TIF Plan Approved?

- Plan prepared by City or filed by Developer
- Request for bids and proposals
- Mailed notice to taxing jurisdictions
- Publication notice (twice)
- TIF Commission public hearing
- Recommendation to Governing Body
- Governing Body ordinance approving plan and designating area(s)
- Governing Body approves Redevelopment Project(s) by ordinance(s) to start TIF "clock"

Who are TIF Commission members?

6	commissioners appointed by City
+ 2	commissioners appointed by School District
+ 2	commissioners appointed by County
+ 1	commissioner appointed by other taxing districts
11	commissioners

NOTE: Composition may change for each TIF plan

What is the role of the TIF Commission (as a body)?

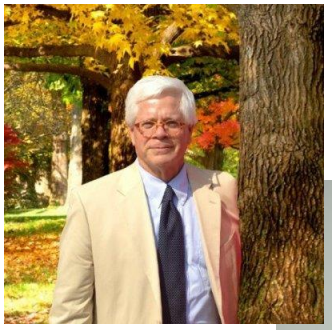
- Provide notices (City staff)
- Review TIF plan and supporting documents
- Conduct public hearing, take evidence
- Make recommendation to Governing Body on TIF Plan and required findings
- Adopt bylaws, bidding and proposal procedures

What is the role of individual TIF Commissioners?

- Participate in all TIF Commission meetings and public hearings
- Review TIF plans and all supporting materials
- Ask questions and provide input
- Help to create a complete record at public hearings
- Vote on all matters before TIF Commission, including recommendations to Governing Body

What is the role of City staff and consultants?

- Review and evaluate plans and submissions by developer
- Prepare analysis and recommendations for TIF Commission and Governing Body
- Prepare ordinances, resolutions, contracts
- Satisfy statutory requirements (notices, hearing)
- Negotiate TIF contract
- Implement TIF plan after approval
- Manage special allocation fund
- Coordinate construction of improvements



What is the role of the City Council?

- Consider TIF plan and redevelopment area for approval
- Consider redevelopment project areas for approval
- Select developer for TIF projects
- Enter into TIF contract
- Authorize other powers
  - Acquire land, demolish and clear land
  - Rehabilitate or construct any structure/building
  - Construct, repair, relocate streets, utilities, site improvements
  - Construct public improvements

Required Findings to adopt a TIF Plan

1. A. Redevelopment area is blighted or a conservation area

1. B. "But for" test: Redevelopment Area has not and "would not reasonably be anticipated to be developed without adoption of tax increment financing"

2. Redevelopment Plan conforms to City comprehensive plan

3. Estimated redevelopment project completion dates (23 year limit)

Required Findings to adopt a TIF Plan

4. Relocation plan has been developed

5. Cost-benefit analysis prepared for plan

   Economic impact on each taxing district

   Impact on the economy if project not built, and built under TIF plan

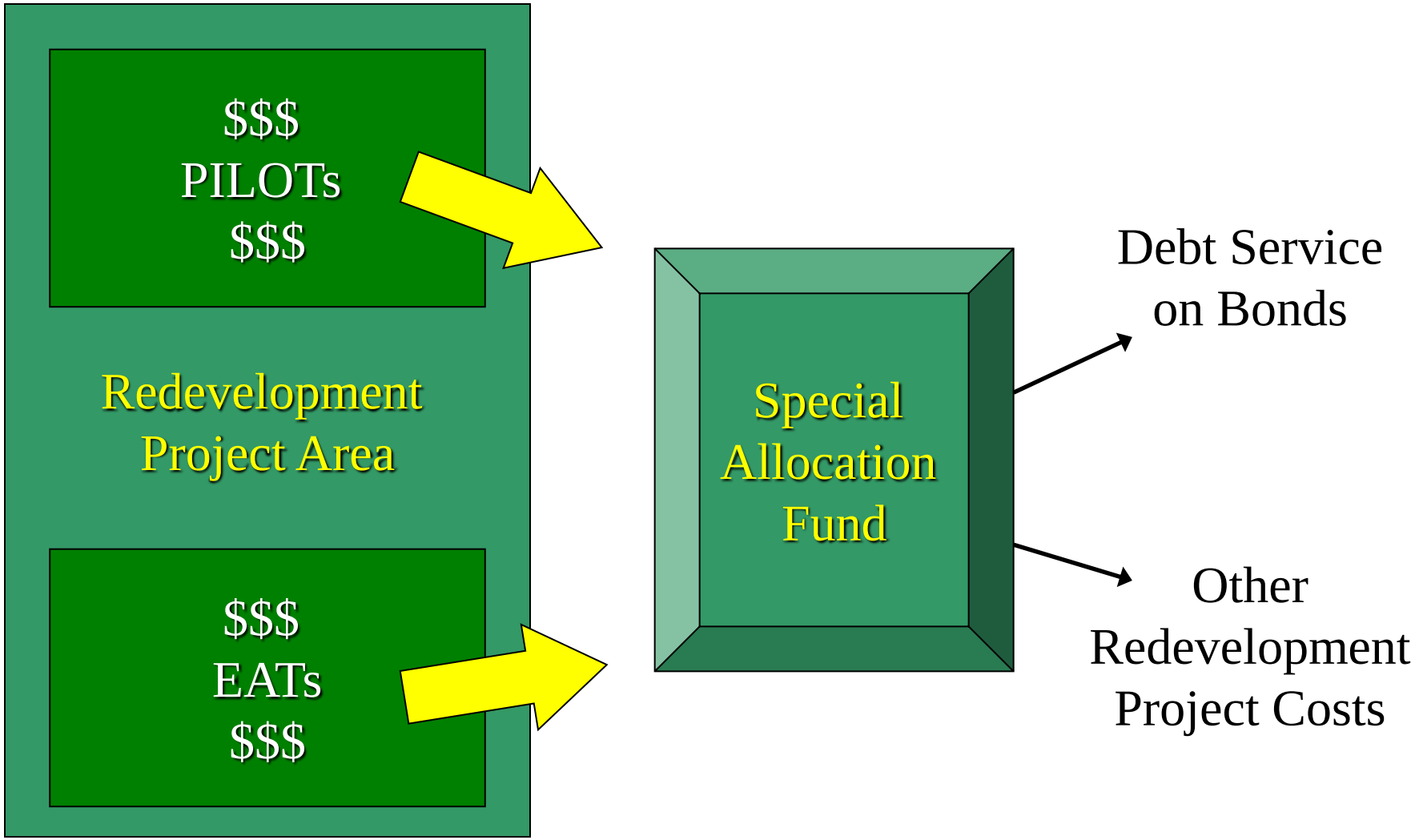
   Fiscal impact study for each taxing district

6. No development or redevelopment of any gambling establishment

What happens after a TIF plan is approved?

- Assessor determines base for PILOTs calculation
- Developer and City execute TIF Contract
- Special Allocation Fund (SAF) created by City
- City authorizes TIF bonds/debt obligations
- Developer commences Project
- City imposes tax increment financing by ordinance for each Redevelopment Project Area
- City collects PILOTs and EATs within Project Area
- City (through trustee) disburses funds from SAF to repay TIF bonds and other Redevelopment Project Costs

What happens after a TIF plan is approved?



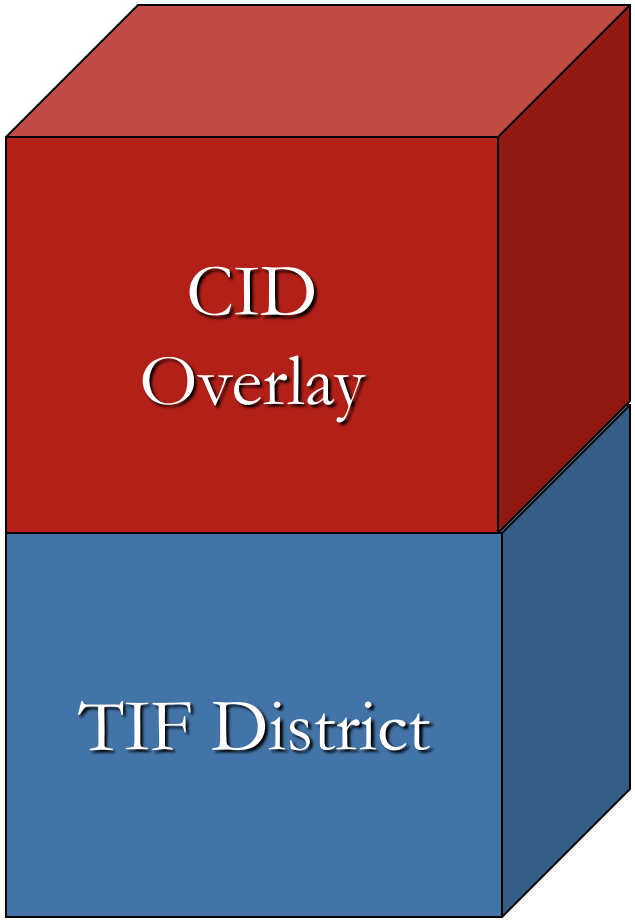
What is included in the TIF contract?

- Terms of land acquisition, condemnation (if needed)
- Developer obligation to build and maintain Project
- Project schedule and budget
- Financing obligations for City and Developer
- Procedures for imposing and administering tax increment financing
- Other restrictions (land use, business relocation)
- Other obligations (insurance, restoration of project, indemnification)
- Coordination of other financing tools (TDD, CID, NID)

Are there other City contracts or agreements?

- Funding agreement – developer funds initial City costs to evaluate development proposals
- Cooperative agreement with separate financing district (CID or TDD)
- Bond-related agreements: trustee, tax compliance
- Transferee agreements for sale of land in Redevelopment Project Areas
- Land purchase or sale agreements
- Leases, management agreements, other agreements based on nature of project

TIF/CID Combination



Advantages

- Additional Revenue Source
- Revenues Captured are not from Existing Taxing Districts
- TIF-Captured Portion Not Limited to CID Purposes

Community Improvement Districts "CID"

- Sections 67.1401 to 67.1571, RSMo
- CID concepts
  - "On-paper" CID, designed as a funding mechanism in connection with other economic development tools such as TIF
  - Enhanced homeowners association
  - Specific purpose entity designed to meet a specific need identified by the district property owners

Community Improvement Districts (CIDs)

- Formation begins with property owner petition
- CID bonds are payable from district revenues
- Easy to form
- CID's are separate entity with separate board and consequently are not directly controlled by City or County
  - In political subdivision form City/County can appoint directors
- CID bonds are not an obligation of the City or County

CID-Eligible Improvements and Services

Improvements

- Pedestrian or shopping malls and plazas.
- Parks, lawns, trees and any other landscape.
- Convention centers, arenas, aquariums, aviaries and meeting facilities.
- Sidewalks, streets, alleys, bridges, ramps tunnels, overpasses and underpasses, traffic signs and signals, utilities, drainage, water, storm and sewer systems and other site improvement

CID-Eligible Improvements and Services

Improvements

- Parking lots, garages or other facilities.
- Music, news and child-care facilities.
- Any other useful, necessary or desired improvement.
- In addition, within a "blighted area", the district may pay costs of demolishing, renovating and rehabilitating structures.

CID-Eligible Improvements and Services

Services

- With the municipality's consent, prohibiting or restricting vehicular and pedestrian traffic and vendors on streets.
- Operating or contracting for the provision of music, news, child-care or parking facilities, and buses, mini-buses or other modes of transportation.
- Leasing space for sidewalk café tables and chairs.
- Providing or contracting for the provision of security personnel, equipment or facilities for the protection of property and persons.

CID-Eligible Improvements and Services

Services

- Providing or contracting for cleaning, maintenance and other services to public and private property.
- Promoting tourism, recreational or cultural activities or special events.
- Promoting business activity, development and retention.
- Providing refuse collection and disposal services.
- Contracting for or conducting economic, planning, marketing or other studies.

CID Funding Mechanisms

- Sales Tax
  - 1/8% increments up to 1% on all retail sales made within the boundaries of the district
  - Available only to political subdivision CIDs
- Property Tax
  - Available only to political subdivision CIDs
- Special Assessments
  - Available to all CIDs
  - May not assess exempt property, unless the owner voluntarily consents
- User Fees
  - May charge for use of the CID's real or personal property (other than public right of way)
- Business license taxes
  - Only in Springfield

Transportation Development Districts (TDDs)

- Widely used throughout the State
- Formed as a separate political subdivision with a board of directors
- Circuit Court order needed for formation
  - Formation process may take many months; also factor in time for sales tax election
- Revenues can include TDD imposed property tax, sales tax up to 1 cent, special assessments
- Projects must be transportation improvements

Use of TDDs

- Advantages:
  - Specific ability to use in a multi-jurisdictional format
  - Broad powers to complete transportation-related improvements
  - Revenues can be used outside of the district
- Disadvantages:
  - Lengthy formation process by court, not city
  - Separate governing body
  - Required political subdivision formalities

LAUBER MUNICIPAL LAW, LLC

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Contact Information:

Joe Lauber

Lauber Municipal Law, LLC

520 SE 2nd Street, Suite D

Lee's Summit, Missouri 64063

(816) 525-7881

jlauber@laubermunicipal.com

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