

**SOUTHFORK DEVELOPMENT  
SUMMARY AND ANALYSIS OF PROPOSED TIF DISTRICT**

**Prepared by Finance Division**

**December 29, 2011**



The Sedgwick County Commission adopted resolution 90-08, in June of 2008, establishing a policy and a set of guidelines to facilitate the analysis of proposed tax increment financing districts.

Tax Increment Financing (TIF) is a financing tool that allows cities to fund infrastructure improvements, land acquisition and some other public investments. The creation of TIF districts is governed by KSA 12-1770 et seq. The use of tax increment financing is presumed to be necessary to the development project.

When employing tax increment financing, a city government outlines a contiguous geographic area within which the public funds will be spent. This is the TIF district. The public funds are generated by “freezing” the tax base within the area in a given year. This is known as the base year and all taxes that are generated on the base year assessed values continue to be distributed to the tax districts within which the TIF district sits. Once the district experiences development, and subsequent growth in assessed value, the property taxes generated from this incremental value are distributed into a fund to cover the public investment.

The policy adopted to direct the analysis of proposed TIF districts provides the Board of County Commissioners with the following guidelines for determining the appropriateness of the county’s participation in a proposed TIF district. According to Sedgwick County’s policy statement: *It is the policy of Sedgwick County to support city efforts to eliminate blight and promote redevelopment of substandard areas by allowing the diversion of county tax revenues to TIF districts when such actions are shown to create no adverse impacts.*

If it is determined that a TIF district would cause adverse effect to the county, that shall be cause for disapproval of a TIF district. Adverse effect is evaluated by the following criteria:

1. Potential loss of tax revenue would hinder effective future delivery of public services.
2. Proposed project is economically feasible without county funding support
3. Proposed private equity funding is insufficient to effect default risk.
4. Costs to county government are greater than benefits to county government.
5. Sufficient data of notification was not provided for county staff to adequately review the proposal for a TIF district.

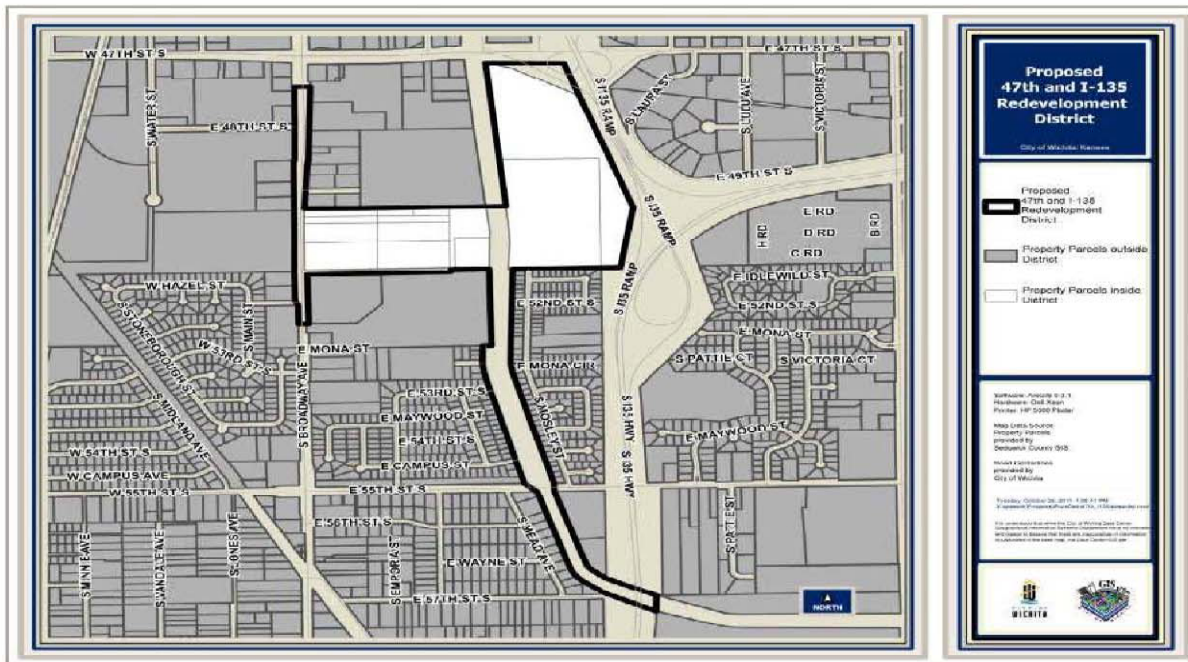
## **SUMMARY**

On December 6, 2011 the Wichita City Council voted 6 - 1 to establish the boundaries of a proposed Tax Increment Financing (TIF) district in the vicinity of 47<sup>th</sup> Street South and the I-135 interchange in south Wichita. This action by city council initiated a 30 day period during which

Sedgwick County and / or USD 259 may consider whether the district will have an adverse effect. If either government concludes that the district will have an adverse effect, it may veto the creation of the TIF District. The purpose of this document is to provide analysis of the proposed TIF district pursuant to county policy adopted by BOCC Resolution 90-08 which provides a framework for BOCC consideration of proposed TIF Districts. The January 4, 2012 BOCC meeting will be the 29<sup>th</sup> day of the 30 day period in which the county and school district have the right to veto the project.

The proposed development for which tax increment financing is being pursued is known as the Southfork Development. It is a mixed use commercial development covering approximately 72 acres. Of this area, 50.4 acres is bounded by 47<sup>th</sup> street on the north, I-135 on the east, residential housing on the south and the Riverside Drainage Ditch or “big slough” on the west. An additional 21.6 acres lies generally south of 50<sup>th</sup> Street south, east of Broadway, north of Custy Street and west of the drainage ditch. The area east of the drainage ditch is comprised of two parcels that are currently undeveloped. Almost all of this land is in the 100 year flood plain. The area west of the ditch is comprised of 11 parcels. Five of these parcels have improvements ranging in market value from \$35,700 to \$223,000.

The city determined that the area is eligible for inclusion in a TIF district because it is a “blighted area” due to over 50% of the area being in the 100 year flood plain as certified by FEMA. This is consistent with KSA 12-1770a wherein the types of eligible properties are defined. However,



the city has defined the “blighted area” as an area in which a majority of the land falls within the 100 year floodplain to floodplain remediation only. In this case that would limit the TIF revenues to expenditures of \$3,500,000, the costs of drainage improvements set forth by the developer.

**12-1771e. Flood-plain condition redevelopment district; financing of investigation and remediation of flooding; tax increments, procedures and requirements.** (a) The governing body of a city may establish an increment in ad valorem taxes using the procedure set forth in subsection (b) for projects that are initiated upon a finding that the area is a blighted area as defined under K.S.A. 12-1770a, and amendments thereto, when the following conditions exist:

A majority of the property in the proposed district has been (1) identified by a Kansas licensed professional engineer and the United States federal emergency management agency as existing in the 100-year flood-plain; and the city intends to establish a redevelopment district (2) pursuant to K.S.A. 12-1771, and amendments thereto, to wholly finance or partially finance the investigation and remediation of a flood-plain within such a district.

A flood-plain increment, established after a city has found (b) that the conditions described in subsection (c) of K.S.A. 12-1770a, and amendments thereto, exist, shall be set on a yearly basis. For purposes of this section, a yearly basis shall be a calendar year. Each year's increment shall be an amount sufficient to pay the direct cost of investigation and remediation of the flood-plain condition anticipated to be incurred that year including principal and interest due on any special obligation bonds or full faith and credit tax increment bonds issued to finance in whole or in part the remediation and investigation, costs relating to remediation investigation and feasibility studies, operation and maintenance expenses and other expenses relating directly to the investigation of flooding. Each year's flood-plain increment shall not exceed 20% of the amount of taxes that are produced by all taxing subdivisions within any currently existing or subsequently created redevelopment district area in the year the redevelopment district is first established, notwithstanding that such subdivision was not required to receive notice of the establishment of the district.

The budget that established the yearly flood-plain increment (c) shall be certified by the city to the county clerk and county treasurer no later than August 15th, preceding the calendar year for which the budget is being set. **Funds derived from a flood-plain increment established by this section and interest on all funds derived from a flood-plain increment established by this section may be used only for projects involving the investigation and remediation of the flood-plain in the district.**

The real property taxes produced by the flood-plain increment (d) established under subsection (b) from a redevelopment district established under the provisions of K.S.A. 12-1771, and amendments thereto, and this section shall be allocated and paid by the county treasurer to the treasurer of the city and deposited in a special separate fund of the city to pay the direct cost of investigation and remediation of flooding in the redevelopment district.

The statute continues to say that the city may establish a redevelopment district for other purposes pursuant to KSA 12-1770 et seq. However, the city has limited the definition of “blighted area” to the flood plain condition which seems to limit the use and amount of tax increment financing available for this project.

The proposed development is planned in three phases. The Metropolitan Area Planning Commission (MAPC) will be involved in the approval of each phase. A 2/3<sup>rd</sup> majority of the City Council is also required for approval of each phase and the subsequent use of TIF revenue as determined. The three anticipated phases are:

- Mixed use retail, hotel and entertainment on the north portion of the 50 acre parcel

- A big box retail development on the south portion of the 50 acre parcel
- A medical office facility on the 21 acre parcel

In addition to tax increment financing, the developer is proposing to create a community improvement district or (CID) with the authority to levy an additional 1% sales tax on retail transactions in the development. Reference to the CID is included in this analysis, but isn't legally a part of BOCC action in consideration of the TIF district creation. All financial forecasts provided to the county assume that CID will be approved. State law does not give county governing bodies a voice in the creation of community improvement districts; they may be created solely by cities.

### **What is the public purpose of the financial assistance to the project?**

The public purpose of the proposed TIF district is to provide infrastructure improvements to “influence and guide the redevelopment of the area that is expected as a result of the infrastructure improvements to the I-135/47<sup>th</sup> street interchange.” The proposed redevelopment area meets the statutory criteria as a blighted area due to fact that the majority of the property lies within a 100 year floodplain designated by the Federal Emergency Management Agency.

### **Why is there a financial need for public investment and/or subsidy?**

A case can be made that the development is economically feasible without a TIF district. Financial projections provided by the city, which have been approved by the developer, assume sales tax support will be provided by the creation of a community improvement district. They show that the project will be profitable without the infusion of property taxes from a TIF district, and that it will be more profitable if the tax increment funding is provided. However, if the assumed creation of a community improvement district does not occur, the projections show that the development will suffer a loss unless it receives the TIF funding.

The developer indicates that the presence of a 100 year flood plain covering a majority of the development area adds additional complexity and challenge for project completion. This may explain why land all around the subject area (but outside the flood plain) has experienced development and this site is primarily undeveloped.

The improvements to the drainage ditch have been coordinated with the Kansas Turnpike Authority and are being completed by Wichita using a mix of general revenues and special assessments. Even if the project does not go forward, these drainage improvements will be completed.

### What is the total cost of the project?

The entire project is projected to cost \$152.9-million.

#### Sources of Funds

<u>Private Funding</u>	<u>Amount</u>	<u>Percentage</u>
Owner's Equity	\$17,389,400	11.37%
Mortgage Debt & Construction Financing	\$114,976,548	75.18%
<b>Total Private Funding</b>	<b>\$132,365,948</b>	<b>86.55%</b>
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<u>Public Funding</u>		
CID (Sales tax)	\$11,619,737	7.60%
TIF (Property tax)	\$8,954,000	5.85%
<b>Total Public Funding</b>	<b>\$20,573,737</b>	<b>13.45%</b>
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<b>Total Funding</b>	<b>\$152,939,685</b>	<b>100.00%</b>

#### Uses of Funds

Land Acquisition	\$2,250,000	1.47%
Holding Expenses	\$500,000	0.33%
Private Improvements - Building Construction	\$140,295,685	91.73%
Public Improvements - Infrastructure / Special Assessments	\$9,894,000	6.47%
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<b>Total Expenses</b>	<b>\$152,939,685</b>	<b>100.00%</b>

### What are the risks associated with the project?

The area currently generates \$12,970 in property tax. Of this \$3,193 is the county's portion. Downside financial risk to the county is minimal if project fails and properties are delinquent.

An additional risk may be created if the development occurs as planned because the drainage improvements will not remove very much land from the flood plain. According to the developer, the 50 acres of the proposed district lying in the flood plain is about 5 feet below the elevation that is outside the flood plain and the planned stormwater improvements are designed to lower the flood plain elevation approximately 3 feet. The developer estimates that

about 3 – 5 acres of the 50 will be removed from the flood plain; the remaining 45 – 47 acres will remain in the flood plain but be only about 2 feet below its elevation.

This means that in a 100 year flood event most of the proposed TIF district would be under water. The developer proposes to address this condition by raising the surface elevation of the buildings to be constructed and leave the roads, parking lots and other common areas below the flood plain elevation.

In a flood event, then, the buildings in the development would not be flooded but they would be isolated from customers and employees by the flood waters surrounding the buildings. The public sector risk this creates is the likelihood that businesses and customers may expect local government to fund projects designed to eliminate the flooding problem that disrupts normal activity – activity that will occur elsewhere if the flood plain remains undeveloped.

### **How does the proposed project finance plan compare with previously approved comparable projects?**

In the sense that this proposed district consists largely of undeveloped property, there are no previously approved comparable projects. The county previously has declined to participate in tax increment financing for development of Greenfield projects.

The proposed TIF district financing plan differs from previous TIFs in that it provides for less financial risk on the part of the city and provides for potential distribution of surplus TIF revenues back to the contributing tax districts.

The city's risk in any TIF-supported project – and it's only a risk to the city, not to the county -- is that the actual property tax increment may be less than expected, requiring the city to divert budgeted operating revenues to pay for the TIF projects. For the Southfork project, the city has taken steps to mitigate this risk by requiring the developer to assent to the imposition of special assessment levies sufficient to pay the planned public improvements, and further requiring the developer to post a letter of credit to guarantee payment of the special assessments. The developer proposes to have the city reimburse him for the special assessment payments from the property tax increment the TIF district would capture.

The proposal also differs from previously approved projects in that it is expected to produce a much larger tax increment than is included in the project finance plan. At current tax rates and using the property values estimated by the city and developer, the proposed project would produce nearly \$65-million of property tax revenue over the 20-year statutory life of the TIF district, but only \$9-million of TIF funding is included in the finance plan. The city elected not to limit the proportion or amount of tax increment going to the district (as, for example, was done in the Center City South – Arena TIF district). Thus, 100% of the tax increment will be provided to the TIF district. Surplus TIF money – presumably, the difference between \$65-million and \$9-million -- could be shared by the city with participating governments as the surpluses are

generated. Any decision in this regard would need to be made each year after the amount of surplus can be determined, and each yearly decision would be the exclusive purview of the city council.

In two previous TIF districts, surplus money has been used to pay off bonds or other methods of financing infrastructure earlier than programmed, and those TIF districts have been dissolved prior to the maximum twenty years allowed under law. It is possible that the Southfork District could be dissolved earlier as well, but again that decision would rest solely with city council.

### **What is the project's impact on other publicly financed projects?**

Special assessment financing is proposed for the infrastructure improvements necessary for the development. The special assessments are guaranteed by the developer, and backed with a letter of credit. To the extent the project is developed, the TIF revenues would be used to reimburse the developer for the special assessment payments. No adverse impact is anticipated for other projects.

### **ANALYSIS**

There are four significant components to this proposed TIF District that distinguish it from others established by the City of Wichita.

First, the TIF revenues will not be used to pay for public improvements, but instead will be used to reimburse the developer for special assessment payments that fund the infrastructure improvements. In essence, the tax increment funding is layered over the special assessments. Levying special assessments serves to create a lien against the property which provides the city a foreclosure option in the event the special assessments are unpaid. Use of tax increment financing does not place a lien on real estate. The city and developer have also agreed that the developer will personally guarantee the payment of the special assessments and will post a letter of credit in favor of the city pursuant to city policy.

Second, in the event the incremental tax revenues generated by the increased valuation from development exceed the amount needed to support the special assessment payments, the city staff proposes that additional revenue will be returned for distribution to the contributing tax districts. However, any such return of unused tax increment would be subject to yearly decisions of City Council. As structured, such an arrangement would add a layer of complexity to the administration of the TIF. Because the amount of any surplus is subject to change annually, re-directing incremental tax revenues back to the contributing tax districts will require manual intervention in the tax distribution process. A similar arrangement currently is in place in the Center City South- Arena TIF district, but a key difference is that the return of a portion of

the yearly tax increment is mandated in the city resolution creating the district rather than left to yearly actions by City Council. The incremental tax generated in the Center City South - Arena TIF district is distributed 70% to the TIF fund and 30% is distributed to the participating tax districts. This process, since it is based on a fixed percentage is handled automatically in the tax distribution process.

Previous TIF district arrangements have used the incremental tax revenues generated in the district to repay bonds that were issued to finance the infrastructure improvements and, if decided by City Council, to pay for additional projects not originally contemplated. Surplus monies have been returned for distribution to the participating governments only upon the dissolution of the TIF.

Third, most of the land in the proposed district is undeveloped and in a flood plain. All previous Wichita TIF districts have been for the purpose of redeveloping substandard developments, and none have included land in a flood plain.

Finally, unlike previously approved TIF districts this one is not expected to eliminate the condition that makes it eligible for TIF funding. In previously approved districts, TIF funding has been used to replace aging infrastructure, acquire and demolish blighted structures, and alleviate parking problems, all of which created an environment that constituted blight, the prerequisite for TIF funding. The Southfork area qualifies for TIF funding because most of the land is in a flood plain, and while action is being taken to reduce the magnitude of this problem most of the land will remain in a flood plan after those actions are completed.

As mentioned before, in analyzing proposed TIF districts, the county has established five criteria to determine if the creation of the TIF district will create adverse impacts on Sedgwick County. These criteria and analysis of each are provided below:

**1) Potential loss of tax revenue would hinder effective future delivery of public services.**

Sedgwick County's 2011 tax levy for the parcels in the proposed development area is \$3,193.28. If the TIF district is approved, this revenue will continue. There are four residential properties within the boundaries of the district. If these are razed and nothing is rebuilt, there is a potential loss of approximately \$1,853 in county revenue.

If the development will occur regardless of tax increment financing, the county, as well as other participating tax governments, City of Wichita and Wichita School District, will forego future property tax revenue. The following spreadsheet shows the potential foregone revenue in this scenario. The assumptions with the following spreadsheet are:

- i. The project builds out as rapidly as projected by the developer.
- ii. The TIF district operates for the full twenty year legal life span.
- iii. The mill levies are held constant at the 2011 rate.
- iv. Property assessments are based on appraised values provided by the city and developer, and they increase 2% annually after improvements are made.

	Foregone Property Taxes			
	County		All Participating Govts	
	Annual	Cumulative	Annual	Cumulative
Year 1	\$71,436	\$71,436	\$239,788	\$239,788
Year 2	\$432,186	\$503,532	\$1,451,076	\$1,690,864
Year 3	\$460,073	\$963,605	\$1,544,707	\$3,235,571
Year 4	\$886,697	\$1,850,301	\$2,977,109	\$6,212,679
Year 5	\$904,431	\$2,754,732	\$3,036,651	\$9,249,330
Year 6	\$922,519	\$3,677,252	\$3,097,384	\$12,346,714
Year 7	\$940,970	\$4,618,221	\$3,159,332	\$15,506,046
Year 8	\$959,789	\$5,578,011	\$3,222,518	\$18,728,564
Year 9	\$978,985	\$6,556,995	\$3,286,969	\$22,015,533
Year 10	\$998,565	\$7,555,560	\$3,352,708	\$25,368,241
Year 11	\$1,018,536	\$8,574,096	\$3,454,373	\$28,822,614
Year 12	\$1,038,907	\$9,613,003	\$3,558,764	\$32,381,379
Year 13	\$1,059,685	\$10,672,688	\$3,665,949	\$36,047,328
Year 14	\$1,080,878	\$11,753,566	\$3,775,998	\$39,823,326
Year 15	\$1,102,496	\$12,856,062	\$3,888,982	\$43,712,308
Year 16	\$1,124,546	\$13,980,608	\$4,004,975	\$47,717,283
Year 17	\$1,147,037	\$15,127,645	\$4,124,053	\$51,841,336
Year 18	\$1,169,978	\$16,297,623	\$4,246,291	\$56,087,627
Year 19	\$1,193,377	\$17,491,000	\$4,371,770	\$60,459,396
Year 20	\$1,217,245	\$18,708,244	\$4,500,569	\$64,959,965

In the scenario above, the TIF district is presumed to last twenty years, the term specified by state law.

The developer is requesting tax increment financing to repay special assessments of approximately nine million dollars on a pay as you go basis. As mentioned earlier, defining the blighted area as an area in the 100 year floodplain may limit the eligible use of tax increment financing to drainage remediation issues only, but the developer’s request and city plans assume this restriction will not apply.

**2) Proposed project is economically feasible without county funding support.**

The city has provided 15-year proforma financial statements that compare the earnings before interest, tax, depreciation & amortization (EBITDA) under three scenarios: one with tax increment financing, one without tax increment financing, and one without either tax increment financing or sales tax from a Community Improvement District. These statements are modifications of those originally provided to the city by the developer, and the developer has agreed with the modifications. The project produces positive EBITDA under both scenarios that include CID sales tax. However, there are annual and/or accumulated deficits in years 3 and 4 without TIF revenues.

Without TIF funding support the pro forma shows total earnings of \$10.7-million over 15 years. If TIF funding is provided, the 15-year total earnings are projected to increase to \$22.4-million. If neither TIF funding nor CID funding is provided, the pro forma shows a loss of \$1.1-million over a 15-year period, with yearly losses in years 2 through 10 and profits in the other years.

<b>Southfork Earnings Projections</b>						
<b>Earnings Before Interest, Taxes, Depreciation &amp; Amortization</b>						
	With CID				Without CID	
	With TIF		Without TIF		Without TIF	
	Yearly	Accumulated EBITDA	Yearly	Accumulated EBITDA	Yearly	Accumulated EBITDA
Year 1	\$96,455	\$96,455	\$96,455	\$96,455	\$47,844	\$47,844
Year 2	\$467,972	\$564,427	\$11,944	\$108,399	(\$134,354)	(\$86,510)
Year 3	\$611,125	\$1,175,552	(\$100,508)	\$7,891	(\$316,194)	(\$402,704)
Year 4	\$567,835	\$1,743,387	(\$60,022)	(\$52,131)	(\$442,821)	(\$845,525)
Year 5	\$839,068	\$2,582,455	\$211,211	\$159,080	(\$346,564)	(\$1,192,089)
Year 6	\$1,079,292	\$3,661,747	\$262,020	\$421,100	(\$470,850)	(\$1,662,939)
Year 7	\$1,285,251	\$4,946,998	\$467,979	\$889,079	(\$526,253)	(\$2,189,192)
Year 8	\$1,484,969	\$6,431,967	\$667,697	\$1,556,776	(\$346,420)	(\$2,535,612)
Year 9	\$1,564,875	\$7,996,842	\$590,872	\$2,147,648	(\$443,528)	(\$2,979,140)
Year 10	\$1,766,583	\$9,763,425	\$792,580	\$2,940,228	(\$262,507)	(\$3,241,647)
Year 11	\$2,090,108	\$11,853,533	\$1,116,105	\$4,056,333	\$39,916	(\$3,201,731)
Year 12	\$2,293,862	\$14,147,395	\$1,319,859	\$5,376,192	\$222,147	(\$2,979,584)
Year 13	\$2,619,462	\$16,766,857	\$1,645,459	\$7,021,651	\$525,792	(\$2,453,792)
Year 14	\$2,758,716	\$19,525,573	\$1,784,713	\$8,806,364	\$642,652	(\$1,811,140)
Year 15	\$2,899,585	\$22,425,158	\$1,925,582	\$10,731,946	\$760,681	(\$1,050,459)

**3) Proposed private equity funding is insufficient to effect default risk.**

The developer plans to invest approximately \$17.4-million million in equity toward the \$152 million project. The documentation provided does not provide the sources of the developer’s equity or the ability of the developer to secure the debt financing as outlined.

The proposed sources of private and public funding are shown below:

<u>Private Funding</u>	<u>Amount</u>	<u>Percentage</u>
Owner's Equity	\$17,389,400	11.4%
Mortgage Debt & Construction Financing	\$114,976,548	75.2%
<u>Total Private Funding</u>	<u>\$132,365,948</u>	<u>86.5%</u>
<u>Public Funding</u>		
CID	\$11,619,737	7.6%
TIF	\$8,954,000	5.9%
<u>Total Public Funding</u>	<u>\$20,573,737</u>	<u>13.5%</u>
<u>Total Project</u>	<u>\$152,939,685</u>	<u>100.0%</u>

**4) Costs to county government are greater than benefits to county government.**

If, as appears possible based on the financial projections provided for county review, the project is financially feasible without TIF funding, then a substantial cost to county government is the property tax revenue diverted unnecessarily to the project. The total projected property tax levied by the county on these improvements over the 20 year statutory life of the district is estimated to be \$18.7-million. However, the amount of tax increment programmed in the funding plan is much less: \$8.9-million. Of this amount, about 29%, or \$2.6-million, would be funded with county property taxes. Because (1) the city resolution creating the district does not cap the portion of tax increment to be diverted to the district, and (2) the city can alter TIF funding plans at any time after a district is created without the consent of the other participating governments, we must assume the entire \$18.7-million would be removed from the county budget.

A second potential cost to county government is the drainage improvement that might be demanded by constituents after development is completed, when structures will be

inaccessible during flood events because the land surrounding the structures will remain in a flood plain. The property is located within the boundaries of the Riverside Drainage District, the City of Wichita, and Sedgwick County. Aggrieved citizens and business owners might be expected to approach any of these governments, or all of them, seeking redress. The magnitude of this cost cannot be estimated.

The county government would benefit from increased local option sales tax revenue collected at the retail businesses locating in the district. The county receives about 29% of the proceeds of this tax; the balance is distributed among 20 cities pursuant to a statutorily-defined formula. If one assumes that 100% of the taxable retail sales occurring in this district are new – that is, none of the retail activity taking place in the district is diverted from other retailers located elsewhere in Sedgwick County – then, based on the estimate of CID sales tax provided by the city and developer, the county might be expected to receive \$1.7-million of sales tax revenue from the district over the 20-year life of the district. To whatever degree one assumes that retail activity occurring in the district would not be new, but rather merely relocated from other establishments located elsewhere in the county, the amount of sales tax benefit to the county would be diminished.

Even if the full tax increment is removed from the county budget and provided to the district, after the district is dissolved the county would receive property tax revenue from the development. While the district could be dissolved earlier, its statutory life is 20 years and so the county might not receive added property tax revenue until year 21. In that year, the amount of property tax estimated to be collected by Sedgwick County from the Southfork proposal is \$1.2-million.

Finally, if the Southfork development causes the market value of surrounding residential or commercial properties to increase, the county would benefit from increased property taxes levied on the owners of those parcels. No reliable estimate of the amount of this revenue can be made.

**5) Sufficient data or notification was not provided for county staff to adequately review the proposal for a TIF district.**

The city and developer have provided sufficient information.

One issue that isn't addressed in the documentation provided by the city concerns the legal requirements of the drainage improvements and construction of the bridge over the drainage ditch. The drainage ditch that runs through the project area from north to south is governed by the Riverside Drainage District. The drainage district is governed by a three member board that

has legal responsibility for maintenance of the drainage ditch. Drainage district powers are set forth in KSA 24-407 et seq. and provide them the exclusive control of natural watercourses within their district. This includes the ability to prescribe the height of any structures that span the watercourse. They are also provided the ability to cooperate with a municipality to effect improvements to the water ways under their jurisdiction. While it is assumed that proper agreements between the city and the drainage district are in place concerning the planned bridge over the drainage ditch, it isn't addressed in the documentation.