

Questions and Answers December 16, 2015

What is tax increment financing (TIF)?

Tax increment financing (TIF) is a funding mechanism whereby the new sales taxes and property taxes generated by a development are utilized to reimburse the development for certain eligible expenses. In the case of the 12th & Oread TIF, the developer fronted funds for the entire project, including various public infrastructure improvements. The developer is reimbursed over time, from new sales tax and property tax revenues generated, for certain eligible costs, such as those related to the construction of the parking garage, public street improvements and public sanitary sewer improvements.

What is a transportation development district (TDD)?

A transportation development district (TDD) in this case is an additional one percent sales tax added to sales within the district for the purpose of reimbursing certain transportation project related expenses to the developer. In this case, the developer fronted funds for all of the transportation related expenses, such as the parking garage and public street improvements. The developer would be reimbursed for such costs over time, from revenues generated by the TDD sales tax.

What is the total amount of TIF and TDD sales tax that has been remitted to the Oread Project?

Oread TIF and TDD reimbursements by Tax Year								
	Tax Year							
	2009	2010	2011	2012	2013	2014	2015	TOTAL
TIF:								
The Oread TIF Sales Tax	\$3,113	\$152,978	\$200,603	\$264,453	\$211,542	\$175,181	\$70,733	\$1,078,603
The Oread TIF Property Tax	n/a	n/a	\$426,278	\$222,746	\$240,830	\$250,558	\$270,490	\$1,410,902
TDD:								
Oread TDD Sales Tax (Revenue generation started in 2009)	\$1,609	\$79,087	\$103,774	\$136,867	\$109,474	\$94,024	\$44,933	\$569,768

Total All Reimbursements: \$3,059,273

What is the total amount of over-reimbursement?

The report includes calculations of reimbursements made to Oread Inn, L.C. based on the sales tax returns provided by Oread Wholesale L.C. which the City believes were over-reimbursed, plus

applicable interest calculated based on the definition in the development agreement, which is Wall Street Journal prime rate plus 1%. The City is seeking repayment of \$492,914.86, based upon Scenario 1, plus costs for the AGH report.

AGH Report*	Over-reimbursement Total	City's Share	County's Share	TDD Taxpayers	Interest
Scenario 1	\$492,914.86	\$232,604.54	\$49,383.29	\$147,606.92	\$63,320.11
Scenario 2	\$477,688.11	\$225,313.14	\$47,828.29	\$142,981.49	\$61,565.19
Scenario 3	\$439,744.29	\$207,304.52	\$44,023.07	\$131,554.97	\$56,861.73

Scenario 1 assumes that Oread Wholesale made no retail sales inside the special taxing districts. Scenario 2 assumes that Oread Wholesale made retail sales, but that a majority of those sales were improperly sourced to the special taxing districts. Scenario 3 analyzes Oread Wholesale's purchases and excludes those purchases that are clearly outside the special taxing districts.

Why is the City providing a redacted report?

It should first be noted that the only redacted items in the report are specific sales tax numbers associated with Oread Wholesale. The reason for these redactions is that state law prohibits the City from releasing any sales tax information directly associated with a single taxpayer.

How are the reimbursements handled by the City?

As summarized in the report, the redevelopment agreement required Oread Inn and its tenants, subtenants and assignees to provide the City with monthly sales tax returns for their facilities in the special taxing district. The City would receive sales tax information from the Office of the Kansas Treasurer, would calculate the amount of reimbursement due to Oread Inn, and would, from funds deposited in the TIF Fund and the TDD Fund, reimburse Oread Inn for the sales taxes remitted within the special tax district.

What steps has the city taken related to this matter?

After receiving an initial inquiry from the media on February 12, 2015, staff worked to learn more about the potential issue and contacted the Kansas Department of Revenue. City staff then determined that the City should engage an expert on Kansas sales tax law to assist with the review of the reimbursements under the redevelopment agreement.

The City Attorney's Office and the Finance Director identified experts in the field and contacted them. Ultimately, the City selected AGH. A letter of engagement was executed on May 13, 2015.

On June 10, 2015, the City contacted Oread Inn, L.C. regarding the City's concerns. From that point until AGH received access to records on November 23, 2015, City staff, AGH and the developer had a number of discussions regarding a confidentiality agreement and AGH worked on the review with the information to which it had access.

On December 15, 2015, AGH provided its final report to the City of Lawrence. Based upon our expert's analysis of those records we were able to determine what is owed to the City. We are seeking reimbursement of the appropriate amount, plus interest and the cost of the report.

Why are we just looking at Oread Wholesale and not all tenants?

Oread Wholesale sales tax was over one-third of the total TIF/TDD sales tax reimbursements. The City is not aware that any of the other tenants are involved with substantial deliveries or sales to other entities other than Oread Wholesale. The City received a list of tenants at the Oread from the developer in a letter dated October 30, 2015.

What about other TIF/TDD districts? Are we sure there aren't any other problems?

We are reviewing the other TIF and TDD Districts. Thus far we have not noted potential issues.

When did the City first learn about this issue?

We first learned there might be an issue in February 2015. We did not learn the full extent of the issue until after Oread Wholesale provided AGH with copies of its underlying documentation on November 23, 2015. A final report from AGH was provided to the City December 15, 2015.

What is an example of sales outside of the district which were reimbursed to Oread Inn?

A number of invoices show that various materials were delivered/received outside the district. An example in the report is materials and services related to the construction of the Varsity House, located at 1043 Indiana, outside the special taxing districts.

When was the last time that the Oread Inn was reimbursed?

The last check issued to Oread Inn was on June 9, 2015. It was reimbursement of April and May sales tax disbursements and the June 2015 property tax increment.

Why does the City care about sales made within the special taxing districts versus sales outside the special taxing districts?

The difference is that sales made within a special taxing district are subject to reimbursement, while sales made outside the district are not. Graphics demonstrating the net impact of this are linked here: <http://lawrenceks.org/cmo/oreadwholesale> and are labeled Special Sales Tax District Distribution and Sales Tax Comparison. Including the additional one percent TDD sales tax, the total difference is a reimbursement of 2.93% within the district. If a sale were made outside the district, it would not have the additional TDD added to it and would not be subject to reimbursement of the local sales tax portion. The state sales tax rate would remain the same in either case.