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Incentives and Impact Fees: How “Development Funding Development” Impacts School Districts

South Carolina Association of School Business Officers

March 3, 2021

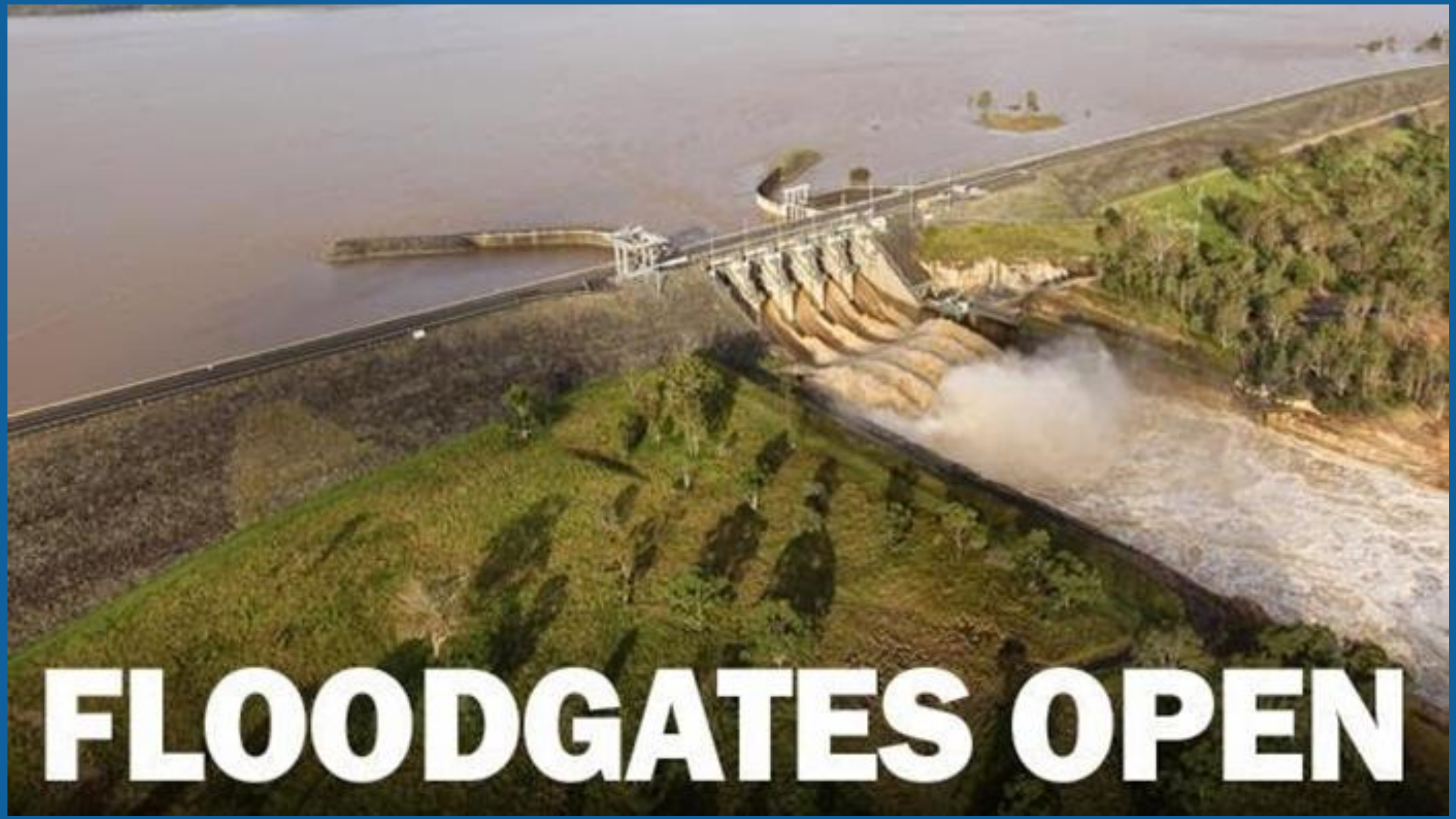
Why School Districts are in the bulls-eye for economic development

- County 1
  - County—131.8 mills
  - School Districts—225.4/241.5 mills
- County 2
  - County—48.5 mills
  - School District—225.2 mills
- County 3
  - County—62.8 mills
  - School District—248.5 mills
- County 4
  - County—115.1
  - School District—220.1

Growth of economic development incentives

- Private industry has unsurprisingly invested large amounts of money in creating economic development incentives

- The South Carolina Supreme Court blessed "Economic Development" as a "public purpose" in the 1980's, opening the floodgates



Other side of the coin: Development should pay for itself

Guest column: Development doesn't pay for itself

- Baltimore Sun Times, Dec. 7, 2016

Guest opinion: Growth should pay for itself

- Idaho Press, Sept. 12, 2020

Why can’t growth pay for itself in Horry County?

- MyHorryNews, Feb. 24, 2021

Development Tools that Impact School Districts

Tax Increment Finance Districts (TIFs)

Multi-County Business Parks

Impact Fees

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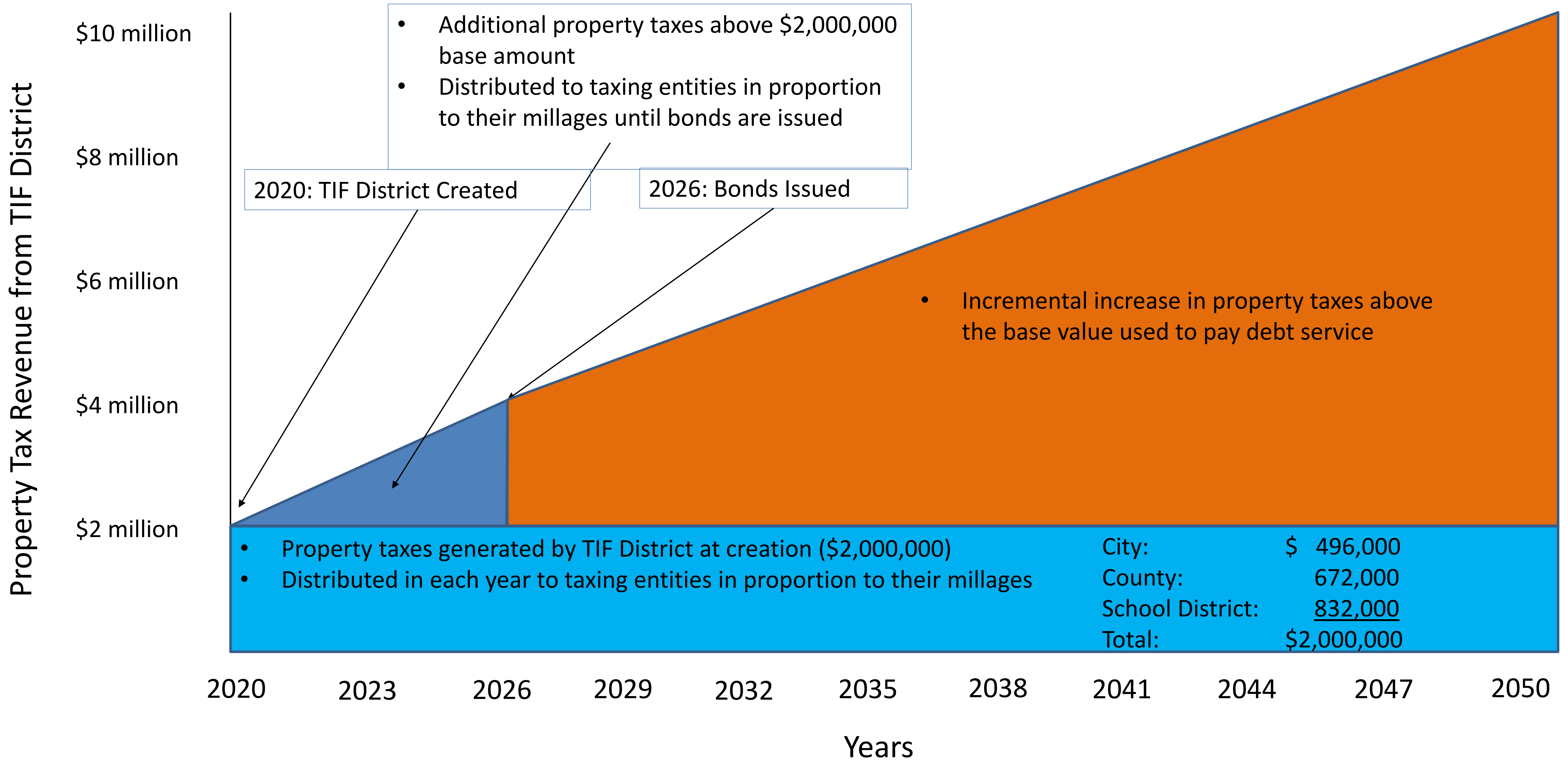
Tax Increment Financing

- Codified in Title 31 Chapter 6 for Cities and Chapter 7 for Counties

- S.C. Constitution authorizes cities to borrow money for redevelopment within its incorporated boundaries, with debt service to be paid from the incremental property tax revenues resulting from the property value added by the redevelopment

- Upheld in *Wolper v. City Council of City of Charleston* (1985).

Graphic Depiction of Distribution of Property Tax Revenue Under a Tax Increment Financing (TIF)*



*All dates and amounts are hypothetical and presented solely to illustrate the distribution of property tax revenue under a TIF

How do TIFs work?

- Redevelopment Project Area identified

- Redevelopment Project Area must be blighted areas, conservation areas, or sprawl areas

- After public hearings and the adoption of a redevelopment plan ordinance, the assessed value and tax distribution proportions of the Redevelopment Project Area are frozen at a base value for the life of the TIF.

- The incremental increase in tax revenues of all taxing entities are diverted for the payment of debt service incurred to benefit the redevelopment area.

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Creation of the TIF

- The local government is only required to give 45 days notice to all taxing districts (i.e. School Districts, Special Purpose districts, etc.)

- Notice must direct taxing district to give comments to the municipality concerning the subject matter of the hearing prior to date of the public hearing.

- If taxing district does not file an objection to the redevelopment plan at or prior to date of public hearing, <u>the taxing district is deemed to consent</u>.

- As of 2012 taxing districts may enter into an intergovernmental agreement regarding the allocation of surplus tax revenues.

The Vista

- Relied on natural growth in property values and development over time
- Increase in tax revenues not closely tied to TIF projects

- Incremental increase in tax revenues results from new development
- New development is entirely reliant upon creation of the TIF

WECO River District

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Multi-County Parks

- Tool that allows counties to control the allocation of tax revenue that is generated by industrial and commercial development

- MCPs are a legal fiction where property taxes are magically converted to “fees” giving the County far greater control over the allocation of the revenue*

- Not always actual industrial parks

- Not located in more than one county

*If revenue generated from taxable property is “tax” revenue the county is constitutionally required to disburse to the taxing entities based upon respective millages

How do Multi-County Industrial Parks work?

- Once real property has been designated an MCP, the real property and any personal property situated on it become exempt from property taxes BUT the property owner has to pay the county a “fee” equal to what the total property taxes would have otherwise been (a “fee-in-liue-of-tax”)

- Since the property generates a fee, rather than a tax, the county can allocate a greater share of the MCP revenue to itself or other taxing entities, use it to give credits against FILOTs due from industry or businesses located in the MCP, or pay debt service on bonds secured by park revenue.

How do Multi-County Parks work?

Model #1: Manufacturing/Business Incentives

- Manufacturing property (often an entire park) is designated as an MCP
- Owners of taxable property located within the MCP are given special source revenue credits — simply credits against the FILOT that would otherwise be due
- Owner of property in the MCP is eligible for other incentives available only when located in an MCP such as jobs tax credits
- Often given in addition to negotiated FILOTs (6% assessment ratio)

PROPERTY TAXES
$1 MILLION

Normal Allocation:

- School – $600k
- County – $400k

MCP Designation

FILOT
$1 MILLION

Re-allocation:

- Partner – $10k (1%)
- SSRC - $100k
- County – $356k (40% of remainder)
- School – $534k (60% of remainder)

How do Multi-County Parks work?

Model #2: Funding County Economic Development Activities

- County routinely gives MCP designation to all eligible manufacturing properties
- County takes a percentage of all park revenue "off the top" to fund infrastructure necessary to support and recruit development
- County then allocates remaining revenue among all taxing entities (county included) based upon their respective millages

PROPERTY TAXES
$1 MILLION

Normal Allocation:

- School – $600k
- County – $400k

MCP Designation →

FILOT
$1 MILLION

Re-allocation:

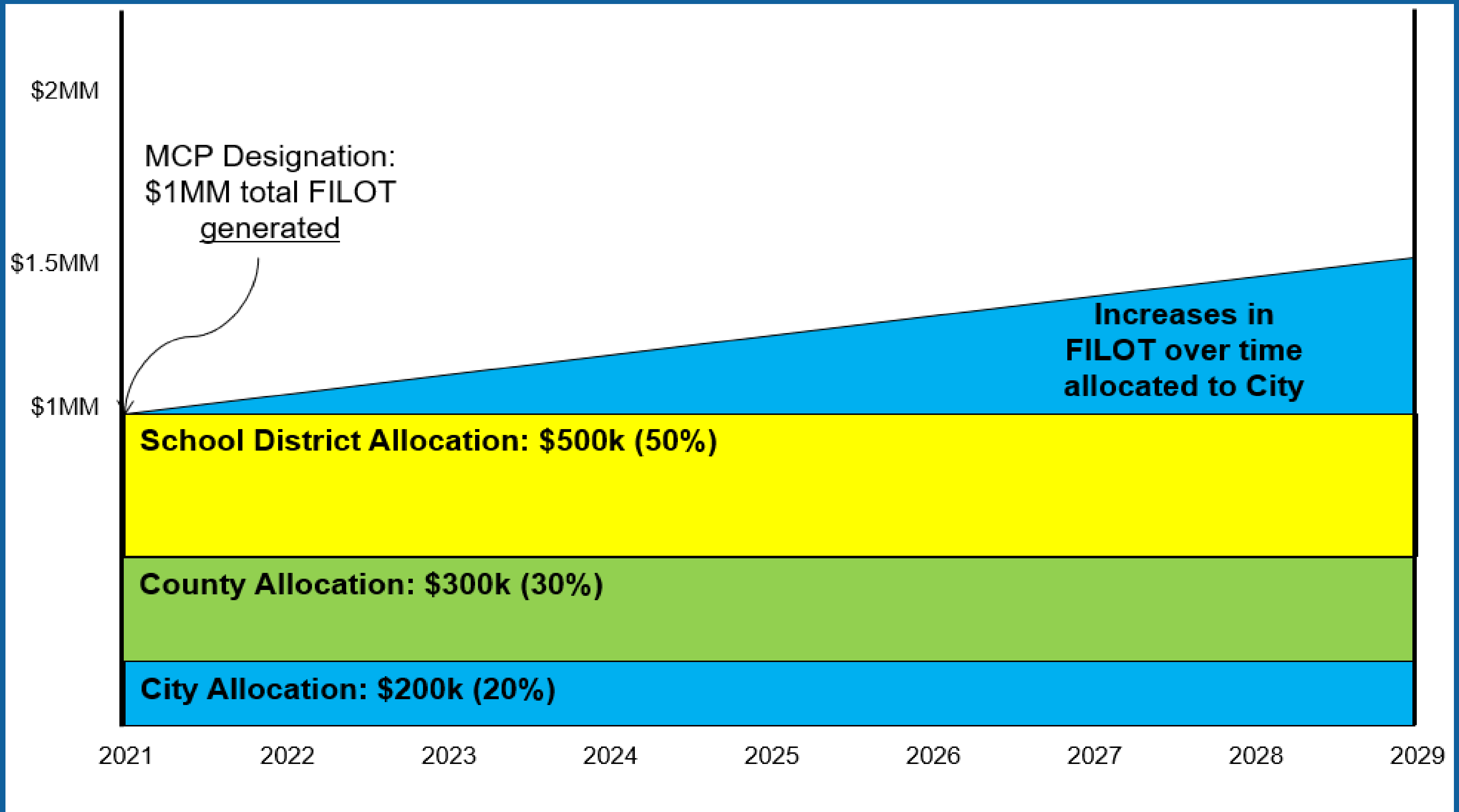
- Water line – $60k (6%)
- County – $376k (40% of remainder)
- School – $564k (60% of remainder)

How do Multi-County Parks work?

Model #3: Municipal MCP

- City asks county to designate a particular property or an entire district (a downtown) as a MCP
- City gives its consent to the MCP subject to an intergovernmental agreement that requires that the park revenue be allocated among taxing entities in a specific way

- The city receives a greater share of the park revenue
- Often structured as a "synthetic TIF" that does not require school district consent



How to mitigate impacts of Multi-County Industrial Parks

- Unfortunately there is little school districts can do to mitigate the impacts of MCP as the school districts have no consent power. This power is held by municipalities only

- MCPs can be imposed on existing development, in these instances school districts can be deprived of a portion of revenue it already realized

Impact Fees

- Title 6, Chapter 1, Article 9 of the S.C. Code
- Charges imposed on new development pay a share of new public facilities to serve this development.
- May be imposed by counties or cities (but not school districts)
- Imposed on a certain types of development that will directly use and benefit from the public facilites rather than property taxes which apply to all property owners regardless of a taxpayer’s use

How do impact fees work?

- Only imposed by counties and municipalities but can be used to fund facilities beyond the control of the imposing government
  - i.e., schools and related improvements
  - Intergovernmental agreement required

- Local planning commission must conduct the studies and recommend an impact fee ordinance

- Imposed by ordinance of the city or county

- The impact fee may not exceed a proportionate share of the costs incurred by the governmental entity in providing the system improvements.

- One time charge

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Capital Improvement Plan and Impact Fee Report

- Capital Improvement Plan/Impact Fee Report:
  - Description of public facilities, deficiencies in facilities, and revenues to fund facilities
  - Analysis of capacity/usage of public facilities (prepared by a "qualified professional")
  - Detailed analysis of the costs for new development to fund necessary public facilities over 20 years
  - Identification of all funding sources
  - Schedule for the commencement and completion of public improvements

- The impact fee may not exceed a proportionate share of the costs incurred by the governmental entity in providing the system improvements.

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How to utilize impact fees

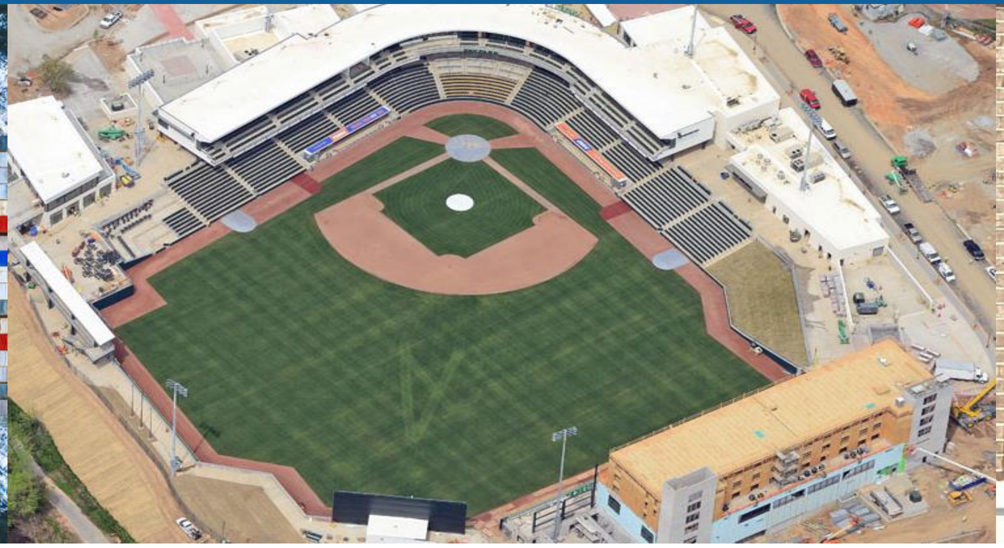
- Used to benefit public education facilities for grades K-12 including, but not limited to, schools, offices, classrooms, parking areas, playgrounds, libraries, cafeterias, gymnasiums, health and music rooms, computer and science laboratories, and other facilities considered necessary for the proper public education of the state's children

- <u>Impact fees cannot be used for operation costs or repair and maintenance expenses</u>

- <u>Impact fees cannot be used to improve or update existing facilities if it does not result in new students being served.</u>

- Impact fees can be used to pay debt service on bonds issued to finance improvements identified in the capital improvement plan

QUESTIONS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C.D. Rhodes
cdrhodes@popeflynn.com
(803) 354-4911