

PERFORMANCE AUDIT REPORT

**Wyandotte County: Reviewing the Use of
STAR Bond Moneys Associated With the Kansas
Speedway and the Village West Tourism District**

**A Report to the Legislative Post Audit Committee
By the Legislative Division of Post Audit
State of Kansas
February 2005**

Legislative Post Audit Committee

Legislative Division of Post Audit

THE LEGISLATIVE POST Audit Committee and its audit agency, the Legislative Division of Post Audit, are the audit arm of Kansas government. The programs and activities of State government now cost about \$10 billion a year. As legislators and administrators try increasingly to allocate tax dollars effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by Legislative Post Audit helps provide that information.

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February 10, 2005

To: Members, Legislative Post Audit Committee

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This report contains the findings, conclusions, and recommendations from our completed performance audit, Wyandotte County: Reviewing the Use of STAR Bond Moneys Associated With the Kansas Speedway and the Village West Tourism District.

This report includes several recommendations for the Legislature and the Unified Government of Wyandotte County and Kansas City, Kansas. We would be happy to discuss these recommendations or any other items in the report with any legislative committees, individual legislators, or other State officials.

Barbara J. Hinton
Legislative Post Auditor

Get the Big Picture

Read these Sections and Features:

1. **Executive Summary** - an overview of the questions we asked and the answers we found.
2. **Conclusion and Recommendations** - are referenced in the Executive Summary and appear in a box after each question in the report.
3. **Agency Response** - also referenced in the Executive Summary and is the last Appendix.

Helpful Tools for Getting to the Detail

- In most cases, an “**At a Glance**” description of the agency or department appears within the first few pages of the main report.
- **Side Headings** point out key issues and findings.
- **Charts/Tables** may be found throughout the report, and help provide a picture of what we found.
- **Narrative text boxes** can highlight interesting information, or provide detailed examples of problems we found.
- **Appendices** may include additional supporting documentation, along with the audit **Scope Statement** and **Agency Response(s)**.

EXECUTIVE SUMMARY

LEGISLATIVE DIVISION OF POST AUDIT

Overview of STAR Bonds and the Wyandotte County Redevelopment Projects

Sales Tax and Revenue (STAR) bonds let local governments use future sales tax revenues to pay current redevelopment costs. page 3
STAR bonds are repaid with sales, use and transient guest taxes generated within a redevelopment district. Approximately two-thirds of the taxes used to repay STAR bonds are State taxes. The bonds can be used to pay for certain redevelopment project costs including property acquisition, site preparation, and bond issuance and financing costs. To use STAR bonds, a local government must establish a redevelopment district with one or more redevelopment projects, and submit a redevelopment plan to the Secretary of Commerce for approval.

The Wyandotte County redevelopment includes the Kansas Speedway and Village West retail and tourism area. As of December 2004, the Unified Government had authorized \$305 million in STAR bonds for the redevelopment area. page 6
The Speedway and Village West have generated more than \$40 million in sales tax revenue in the redevelopment area. Within Village West, under a provision called "waterfall financing", excess sales tax revenues from one project can be used to repay bonds for other projects. The redevelopment has successfully promoted economic development in Wyandotte County and the State, increasing property taxes, sales tax revenues, and creating new jobs.

Question 1: Were the Issuance Costs Reasonable for the Bonds That Financed the Development of the Kansas Speedway and the Village West Tourism District?

Local governments enlist the services of bond counsel, bond underwriters, financial advisors, and trustees or escrow agents when issuing bonds. Fees paid to these professionals are referred to as the "cost of issuance."

Overall, the cost of issuing the bonds for the Kansas Speedway and Village West was in-line with other bonds we looked at. page 13
Compared to similarly-sized economic development bonds from other states, the issuance costs for most of the STAR bonds were among the lowest of the bonds we reviewed. Because the bonds lacked an established revenue history, there was uncertainty about their marketability. As a result, almost 80% of the Speedway and Village West STAR bonds were sold privately to businesses within the redevelopment district. Issuing agents were competitively selected when required by law.

The Unified Government paid itself \$450,000 in bond origination fees. *Under State law, local governments are allowed to charge bond origination fees when they issue bonds on someone else's behalf, in order to raise moneys to support local economic development. Because about two-thirds of the revenues that will pay back the fees will be State sales tax revenues, and because STAR bonds already raise funds for local economic development, charging bond origination fees appears to us to be unnecessary and redundant.* page 16

Question 1 Conclusion. page 16

Question 1 Recommendations. page 16

Question 2: Were the Bond Proceeds Spent for Allowable Purposes, and Were the Costs Associated With the Items Purchased Reasonable?

State law allows STAR bond moneys to be used primarily for acquiring property and making infrastructure-related improvements. *The law cites 15 allowable uses of STAR bond moneys. Most of those allowed uses are "infrastructure-related" items, such as streets, street lights, sewers, and utility connections. However, STAR bonds can be used for other things such as paying relocation costs for home and business owners who are displaced because of the development, or costs associated with financing the redevelopment project. The law specifically prohibits using STAR bonds to pay for a building that will be owned by or leased to a developer or to acquire personal property.* page 17

As of December 2004, \$176 million in STAR bond moneys had been spent on the Kansas Speedway and Village West. *Almost \$150 million (85%) of this amount had been spent for Village West. Construction costs accounted for the largest share of the STAR bond moneys spent (\$129 million), followed by fees and commissions (\$24 million).* page 18

We identified about \$1.5 million in uses of STAR bond moneys that aren't allowable. *Almost \$1.1 million of this total were funds withdrawn by the Unified Government but never spent. Most of the remaining expenditures were for costs associated with building the Nebraska Furniture Mart store that were charged in error to the STAR bond accounts. Unified Government officials have acknowledged that these payments were made in error and all amounts have been, or will be, transferred back to the bond trustee.* page 20

Another \$28 million in expenditures appear to go beyond what legislators envisioned when they passed the law. *The law primarily addresses using STAR bonds to buy property and make infrastructure-related improvements, but also includes more ambiguous phrases like "including, but not limited to" and "all related expenses" that have been* page 21

interpreted to allow many types of expenditures that legislators may not have envisioned. These expenditures include \$15 million to build and furnish various wildlife exhibits within Cabela's, plans to spend \$8.5 million for robotic dinosaurs for a prehistoric themed restaurant, and using STAR bond moneys to pay consultants hired by the businesses locating within the redevelopment.

We also identified a number of questionable agreements associated with the Village West redevelopment. page 21
The Unified Government has entered into a complicated land lease agreement that will pay Cabela's \$14 million (plus interest) over the next 24 years. The Unified Government also gave two developers—RED Development and Cabela's—excess land, which they've sold for almost \$10 million. As a result of various agreements, Cabela's essentially will have its store paid for directly or indirectly by the Unified Government.

The Unified Government's oversight of RED Development's expenditures has been inadequate. page 27
Three of the Unified Government's venture partners (Cabela's, Nebraska Furniture Mart, and Beaumont) submit their STAR bond payment requests to the Unified Government's master developer for review prior to payment. However, the Unified Government allowed one venture partner, RED Development, to submit more than \$7 million in requests directly to the bond trustee for payment without any review.

The State's oversight of both the Kansas Speedway and Village West redevelopments has been inadequate. page 27
Although the Secretary of Commerce formally approved the Speedway and Village West projects, the State has no other formal involvement with those projects. We perceive several problems with the lack of State oversight including: no formal limit on the amount of STAR bonds that can be issued, an ambiguous definition of what STAR bonds can pay for, no formal role for the State in major agreements, no requirement for an independent audit, and no specific consequences for misusing STAR bond proceeds.

Question 2 Conclusion. page 28

Question 2 Recommendations. page 29

Question 3: What Types of Discounts or Other Benefits Have the Kansas Speedway or Other Businesses in the Tourism District Made Available to Unified Government or Board of Public Utilities Employees?

The most frequently identified benefits were discounts on food, merchandise, and hotel rooms. page 31
To determine what benefits had been made available, we contacted management officials from the

businesses in Village West, interviewed Unified Government and Board of Public Utilities officials, and surveyed their employees. The most common benefits were discounts on food, merchandise, and hotel stays. According to officials from the Kansas Governmental Ethics Commission, since none of these benefits were offered to specific officials or employees, it's unlikely they were offered to influence a particular person.

Unified Government officials have access to suites and other facilities at the Speedway and T-Bones ballpark at no cost. page 32
Speedway officials told us they provide a 32- seat luxury suite under an agreement with the Kansas City Chamber of Commerce and a group called Wyandotte Development, Inc. They told us the suite is provided at no cost, and is a pass-through benefit to the Unified Government because of economic development efforts the Unified Government undertakes with the Chamber and Wyandotte Development, Inc.

The Speedway also granted the Chamber of Commerce and a group called New Century Partnership the use of a hospitality tent for two race weekends each year. That arrangement includes 100 free grandstand tickets. Unified Government officials told us the Chamber allows them to use the tent, and also provides the Mayor and each Commissioner with two free grandstand tickets to each of those events.

In addition, the Kansas City T-Bones Community America Ballpark has provided a 25-seat suite at the Ballpark directly to the Unified Government at no cost.

The Board of Public Utilities paid for its use of facilities at the Speedway and the ballpark. page 33
In 2001, 2002, and 2003 the Board paid to sponsor a race called the "BPU 200." That sponsorship included access to a 32-person suite at the Speedway, 200 general admission tickets to the race event, and 200 tickets to the qualifying event. The Board also acquired access to a 20-seat Ballpark suite as part of an agreement in which they paid \$35,000 to become an advertising sponsor for a scoreboard.

The Unified Government's and Board of Public Utilities' ethics policies address the acceptance of gifts. page 34
Both entities have adopted similar ethics policies governing their officials and employees. Under these policies, an official or employee can accept free meals and tickets to sporting events. Both entities have a contract with a part-time ethics administrator to develop policies, handle complaints, offer advisory opinions, and provide ethics training.

The ethics administrator advised the Unified Government officials that the suites, tickets, and hotel discounts were allowable. page 35
Unified Government officials consulted their ethics administrator for advice on accepting suite and grandstand tickets at the Speedway and Ballpark, as well as free hotel rooms at the Great Wolf Lodge and Chateau Avalon. The ethics administrator wasn't consulted regarding the on-going hotel and restaurant discounts.

Question 4: Do the Costs Associated With a Movie Theater Project Being Built In the Tourism District Exceed Industry Standards?

The Unified Government is building a theater in Village West and will have a management company operate it. *Unified Government officials told us that because Kansas City is the only city of its size without a movie theater, they wanted to incorporate one in the Village West redevelopment district. Because attempts to attract a private theater were unsuccessful, the Unified Government decided to build its own theater and have a private company manage it. The total budgeted cost to build the theater is \$20 million.* page 36

The costs of constructing the movie theater are higher than industry experts suggest are typical. *Rough estimates provided by theater experts suggested a theater of this size should typically cost about \$13 million to \$15 million to construct and equip. Unified Government officials told us the theater is expensive because it will include a number of special amenities, including more spacious seating and a special balcony level.* page 36

The preliminary financial projections for the theater don't include the full cost of the building. *The financial projections show the theater's building costs as \$1 million a year—equal to the theater lease payment to Cabela's, but only about one-third the true cost of building the theater. Understating the building costs leaves the impression the theater will be making a "profit" when, in fact, it might never be profitable from a normal business point of view.* page 37

The theater management agreement offers the management company substantial benefit without financial risks. *The 20-year management agreement specifies that Phoenix Theatres will receive a \$225,000 consulting fee, a management fee equal to 5% of the gross revenues, and a 50% share of any net income. Two theater consultants told us sharing profits with Phoenix Theatres was unusual since Phoenix has only a minimal financial commitment.* page 38

Question 4 Conclusion. page 38

APPENDIX A: Scope Statement page 39

APPENDIX B: Bonds Issued, Sales Tax Revenues, and Debt Service Payments page 41

APPENDIX C: Agency Response page 42

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Wyandotte County: Reviewing the Use of STAR Bond Moneys Associated With the Kansas Speedway and the Village West Tourism District

The Legislature passed legislation allowing cities to create redevelopment districts and sell special revenue bonds (commonly referred to as STAR bonds) to raise money for acquiring property and paying for the redevelopment projects. The bonds then are paid off over a period of time with the revenues generated from sales taxes, transient guest taxes, and other taxes collected from the businesses located within those districts.

Special provisions were made by the 1997 and 1998 Legislatures that allowed Wyandotte County to use STAR bonds to develop the Kansas Speedway and the Village West tourism district which houses businesses such as Nebraska Furniture Mart, Cabela's, and the Great Wolf Lodge.

Recently legislators expressed concerns about the use of bond moneys related to these projects. In particular, they are concerned about the reasonableness of prices, fees, and commissions paid in conjunction with land acquisition, property appraisal, property development, marketing, engineering, architectural services, and bond counsel and issuance costs. A second area of concern relates to perks, such as merchandise discounts or free and reduced-price admission to events, that have been provided to employees of the Unified Government of Wyandotte County and Kansas City, Kansas and the Kansas City Board of Public Utilities by the businesses located in these development districts. Finally, concerns have been expressed that costs for a movie theater project to be built and owned by the Unified Government may exceed industry standards.

This performance audit answers the following questions:

- 1. Were the issuance costs reasonable for the bonds that financed the development of the Kansas Speedway and the Village West tourism district?**
- 2. Were the bond proceeds spent for allowable purposes, and were the costs associated with the items purchased reasonable?**
- 3. What types of discounts or other perks have the Kansas Speedway or other businesses in the tourism district made available to Unified Government and Board of Public Utilities employees?**

4. Do the costs associated with a movie theater project being built in the tourism district exceed industry standards?

To answer these questions, we became familiar with the acceptable uses of STAR bond moneys as spelled out in the law. We reviewed various bond documents, expenditure records, contracts, requests for proposals, and other documents to determine what the money was spent on and to assess whether those expenditures were reasonable and complied with the law. We also interviewed and obtained records from a number of people during the audit, including officials from the Unified Government and Board of Public Utilities, the Bond Trustee, the Unified Government's financial advisor, and representatives for the master developer and the venture partners. We contacted experts in the movie theater business to determine what the typical costs of building a theater of the size proposed by the Unified Government would be. In addition, we surveyed employees of the Unified Government and the Board of Public Utilities to gather information about benefits made available by the Speedway or businesses connected with the Village West development.

Because the project budget for the movie theater wasn't finalized in time for us to do the type of review contemplated by Question 4 of the scope statement, we did a more limited review of the theater's cost.

In conducting this audit, we followed the applicable government auditing standards set forth by the U.S. Government Accountability Office.

Our findings begin on page 13, following the overview.

Overview of STAR Bonds and the Wyandotte County Redevelopment Projects

Sales Tax and Revenue (STAR) bonds were first authorized by the 1993 Legislature to help finance the proposed Wizard of Oz theme park in the Kansas City area. Although the theme park never materialized, the 1997 Legislature revised the statutes to allow the use of STAR bonds to help finance the creation of a “major tourism area.” In 1998, the Legislature specifically authorized STAR bonds for a racetrack in Wyandotte County and to develop an additional 400 acres as part of the major tourism area.

USING STAR BONDS IN KANSAS

STAR Bonds Let Local Governments Use Future Sales Tax Revenues To Pay Current Redevelopment Costs

In Kansas, STAR bonds are a way for local governments to finance a redevelopment that will create a major entertainment and tourism area or restore a historic theater. This Overview only addresses using STAR bonds for entertainment and tourism. Two important points about STAR bonds:

- **STAR bonds are repaid solely with sales, use, and transient guest taxes generated within the redevelopment.** By contrast, general obligation bonds are backed by the overall taxing authority of a local government.
- **Approximately two-thirds of the money used to pay back STAR bonds comes from State sales taxes.** That’s because the State’s sales tax rate is about twice the local tax rates. The Legislature authorized using State sales taxes to pay back STAR bonds for major tourism areas to create jobs and generate additional income tax in the near term, and create new sales tax revenues once the bonds were repaid.

STAR bonds can be used to pay for certain costs of the redevelopment project, including property acquisition, site preparation, and bond issuance and financing costs. State law specifically authorizes the use of STAR bonds for a number of costs related to infrastructure, such as streets, sidewalks, sewers, and street lighting.

In addition to infrastructure construction costs, this likely would include some “soft costs” such as architectural and engineering design, as well as some legal work. STAR bonds also can be used to pay the costs of financing the redevelopment.

State law specifically prohibits using STAR bonds to pay for a building that will be owned by or leased to a developer. However, the bonds can be used for a building that will be owned by the local government. A specific provision in State law authorized the use of STAR bonds to construct the Kansas Speedway. The box on the next page provides information about the use of STAR bonds in other states.

**Other States Tended To Be More Restrictive
In Allowing State Sales Taxes To Be Used For STAR Bonds**

In Kansas, STAR bonds that are used for redevelopment are paid back with State and local sales taxes. For the Wyandotte County redevelopment, there is no formal limit on the amount of STAR bonds that can be issued. For subsequent projects, the Secretary of Commerce plans to set a limit on the amount of bonds that can be issued, thus limiting the amount of State sales taxes that will be used.

We contacted economic development officials from 11 other states to find out how STAR bonds work in those states. Only four states (Arkansas, Colorado, Oklahoma, Tennessee) allow the use of STAR bonds.

- Arkansas and Colorado don't allow state sales taxes to be used to pay back STAR bonds. In these states, the bonds are exclusively paid back using local sales taxes.
- Oklahoma and Tennessee allow state sales taxes to be used to pay back STAR bonds, but are more restrictive than Kansas on how much state revenue can be used. In Tennessee, state sales taxes can be used to pay no more than 50% of the total debt service on the bonds. In Oklahoma, the maximum amount of state sales taxes that can be used statewide is \$200,000.

***Since 2003, STAR Bond
Projects Must Be
Approved By the
Secretary of Commerce***

As noted earlier, STAR bonds allow local governments to finance projects that create major entertainment and tourism areas. Such projects must include at least \$50 million of capital investment and be projected to generate at least \$50 million in annual revenues.

Projects are developed at the local level, then submitted to the Secretary of Commerce. For a redevelopment area to be approved, the Secretary must determine that it is eligible for STAR bonds and that the proposed projects are viable.

The local government first must establish a redevelopment district that is eligible for STAR bond funding. A redevelopment district is an area identified by the local government that will include one or more redevelopment projects. To establish a redevelopment district, the local government must do the following:

- Adopt a resolution that specifies the district's boundaries and describes the overall redevelopment plan
- Hold a public hearing on the district and the plan
- Pass an ordinance that establishes the district

The Secretary then decides if the district is eligible for STAR bonds. According to guidelines issued by the Department of Commerce, this means the proposed district and redevelopment plan must:

- Include a Statewide and regional tourist attraction
- Generate economic benefits that will be sustained over time
- Result in public benefits that exceed the public costs
- Use STAR bonds for less than 50% of the total costs

There may be one or more proposed redevelopment projects within a redevelopment district, each of which must be approved by the Secretary. As with the redevelopment district, the local government must adopt a resolution, hold a hearing, and pass an ordinance that establishes each redevelopment project. Each project also must have a project plan that includes:

- A description and map of the project area
- A plan for relocating current residents and property owners
- A detailed description of the proposed buildings and facilities
- A feasibility study showing that the project will have a significant economic impact, generate enough sales tax revenues to pay off the bonds, and not adversely affect existing businesses or other STAR bonds that have already been issued

If the Secretary decides the redevelopment project is viable, he issues a formal letter authorizing the use of STAR bonds to finance the project. Although it isn't required by law, the Secretary's project approval letter now includes a limit on the amount of STAR bonds that may be issued for the project. It's important to note that this limit was not in place when the Kansas Speedway and Village West projects were authorized for Wyandotte County.

As of January 2005, local governments had submitted seven additional STAR bond projects to the Secretary for approval. Here's a summary of where those projects are in the approval process:

- **Approval Granted for the Redevelopment District and the Project**
 - ▶ Olathe (Arena and Retail District) – Contingent approval for \$50 million in STAR bond funds was granted in September 2004. Olathe has until March 15, 2005, to meet the Secretary's conditions for final approval.
 - ▶ Overland Park (Entertainment District and Events Center) – Contingent approval for \$49.4 million in STAR bond funds was granted in December 2004. Overland Park has until April 28, 2005, to meet the Secretary's conditions for final approval.
- **Approval Granted for the Redevelopment District Only; Specific Project Not Yet Approved by the Secretary**
 - ▶ Abilene (Redevelopment of Old Town Abilene)
 - ▶ Edwardsville (Athletic Theme Tourist Attraction)
 - ▶ Wichita (Water Walk Redevelopment)
- **Redevelopment District Not Yet Approved by the Secretary**
 - ▶ Edwardsville (Tornado Tower Landmark)
 - ▶ Manhattan (Prairie Discovery Center and Downtown Redevelopment)

For new projects, construction must be completed within 20 years of the Secretary's approval, although the Speedway and Village West have 30 years. The law authorizing STAR bond projects sunsets in July 2007.

List of Key Players in the Kansas Speedway and Village West Redevelopment Projects

- ★ Unified Government of Wyandotte County and Kansas City, Kansas – Local government that obtained STAR bond funding for the redevelopments
- ★ Kansas International Speedway Corporation – Built, owns, and operates the Kansas Speedway
- ★ Zimmer Management Company – The Unified Government’s master developer for Village West
- ★ Nebraska Furniture Mart – Venture partner with the Unified Government for Village West. Built, owns, and operates a 720,000-square-foot retail furniture and appliance store
- ★ Cabela’s – Venture partner with the Unified Government for Village West. Built, owns, and operates a 190,000-square-foot retail outdoor sporting goods store
- ★ RED Development – Venture partner with the Unified Government for Village West. Developer of the Legends Shopping Center
- ★ Beaumont Enterprises – Venture partner with the Unified Government for Village West. Built, owns, and operates the Chateau Avalon, a 62-room theme hotel

WYANDOTTE COUNTY’S STAR BOND PROJECTS

The Wyandotte County Redevelopment Includes The Kansas Speedway And Village West Retail And Tourism Area

The redevelopment consists of 1,500 acres in western Wyandotte County and includes the Kansas Speedway (an 83,000 seat auto race facility) and Village West (a retail and tourism district). The Speedway and its adjacent parking are located on approximately 1,100 acres of the redevelopment.

Because Wyandotte County lacked the hotels and restaurants to take advantage of the crowds that at the Speedway during race weekends, the Legislature authorized the development of an additional 400 acres—Village West. Village West includes a variety of retail and entertainment businesses, such as Nebraska Furniture Mart, Cabela’s, the Great Wolf Lodge hotel and water park, the Legends Shopping Center, and Community America Ballpark. *Figure OV-1* shows a map of the entire redevelopment area.

Current Plans Call for About \$300 Million in STAR Bonds To Be Issued To Pay for the Wyandotte County Redevelopment

As of December 2004, the Unified Government had authorized \$305 million in STAR bonds. Not all of these bonds have been issued. The sale of one set of bonds hasn’t been finalized, another set of bonds won’t be issued because there isn’t enough sales tax revenue to support them, and the sale of many of the bonds isn’t finalized until actual costs are incurred (i.e., when a construction contract actually

**Figure OV-1
 KANSAS SPEEDWAY
 and VILLAGE WEST Projects**

KANSAS SPEEDWAY AND VILLAGE WEST TOTAL INVESTMENT	
FINANCING	
STAR Bonds	\$ 268.0 mil
Other Public Funds	\$ 140.9 mil
Private Investment	\$ 434.2 mil
TOTAL	\$ 843.1 mil

RED Development (Legends Shopping Center, Baseball Park)	
FINANCING	
STAR Bonds	\$ 79.8 mil
Other Public Funds	\$ 0.3 mil
Private Investment	\$ 138.8 mil
TOTAL	\$ 218.9 mil

Movie Theater	
FINANCING	
STAR Bonds	\$ 25.0 mil
TOTAL	\$ 25.0 mil

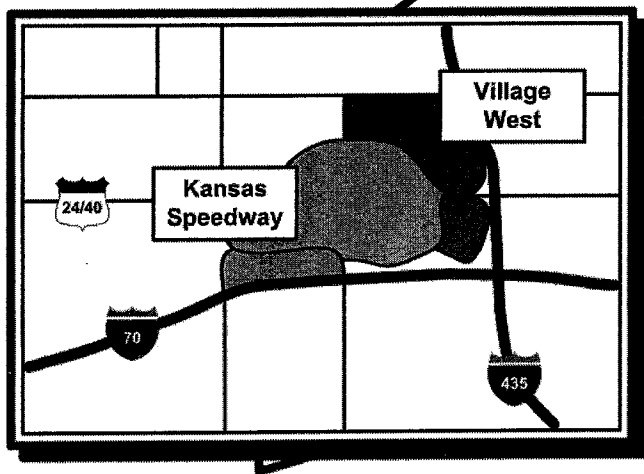
General Village West Improvements	
FINANCING	
STAR Bonds	\$ 55.1 mil
Other Public Funds	\$ 13.9 mil
Private Investment	\$ 40.0 mil
TOTAL	\$ 109.9 mil

Nebraska Furniture Mart	
FINANCING	
STAR Bonds	\$ 44.7 mil
Private Investment	\$ 70.4 mil
TOTAL	\$ 115.1 mil

Cabela's (includes Great Wolf Lodge)	
FINANCING	
STAR Bonds	\$ 35.4 mil
Private Investment	\$ 57.7 mil
TOTAL	\$ 93.1 mil

Kansas Speedway	
FINANCING	
STAR Bonds	\$ 26.9 mil
Other Public Funds	\$ 126.8 mil
Private Investment	\$ 116.0 mil
TOTAL	\$ 269.7 mil

Beaumont (Chateau Avalon)	
FINANCING	
STAR Bonds	\$ 1.1 mil
Private Investment	\$ 4.2 mil
TOTAL	\$ 5.3 mil



**Figure OV-2
Summary of STAR Bonds Authorized
for the Kansas Speedway and Village West
As of December 2004**

Bond Issuance	Year	Amount Authorized (\$)	Amount Drawn Down (\$)	Interest Rate (%)	Tax Status	Use of Bonds
Kansas Speedway						
Speedway 1	1999	\$24,300,413	\$24,300,413	4.2%-5.25%	Tax Exempt Interest	Speedway construction
Speedway 2	2002	\$6,320,000	\$6,320,000	5.0%-8.0%	Taxable Interest	Speedway expansion
Possible Speedway (a)	unknown	\$11,880,000	\$0	n/a	n/a	Speedway expansion (unlikely to be used)
Total Speedway		\$42,500,413	\$30,620,413			
Village West						
General Bonds	2001	\$28,665,000	\$28,665,000	4.0%-5.1%	Tax Exempt Interest	Village West improvements
Nebraska Furniture Mart	2001	\$64,305,000	\$64,305,000	7.266%	Taxable Interest	Nebraska Furniture Mart site Movie Theater (b) Village West improvements
Cabela's	2001	\$65,000,000	\$63,474,869	Variable	Taxable Interest	Cabela's site Museum within Cabela's Movie Theater Village West improvements
RED 1	2003	\$54,045,000	\$38,861,515	Variable	Taxable Interest	RED site (Legends Shopping Center, Baseball Park) Movie Theater Village West improvements
Beaumont	2003	\$3,000,000	\$1,786,134	Variable	Taxable Interest	Beaumont site (Chateau Avalon) Village West improvements
RED 2 (c)	2005	\$47,200,000	\$0	n/a	n/a	RED site (Legends Shopping Center) Village West improvements
Total Village West		\$262,215,000	\$197,092,518			
GRAND TOTAL		\$304,715,413	\$227,712,931			
Refinancing						
General Bond Refunding	2004	\$5,460,000	\$5,460,000	3.2%-5.54%	Taxable Interest	Used to convert \$5.46 million of the General Bonds (2001) to taxable interest bonds.
<p>(a) The bond agreement for the Speedway includes provisions for an additional \$11.9 million in STAR bonds for future expansion. Unified Government officials told us these are contingent on certain revenue requirements <u>that are unlikely to be met.</u></p> <p>(b) There was \$5.9 million in STAR bond moneys that wasn't used for the Nebraska Furniture Mart site. The Unified Government has decided to use these funds to help pay for the movie theater.</p> <p>(c) The second set of RED bonds will be issued in February 2005.</p>						
Source: Bond Transcripts						

gets paid). As a result, only \$228 million in bonds had been drawn down at the time of this report. Until the bonds are actually drawn down, there is no interest charged nor are there any debt service payments to make.

Figure OV-2 shows all of the bonds authorized and drawn down to date. As the figure shows, the Speedway bonds represent a fairly small portion of the total bonds issued.

The figure also shows that \$5.4 million in bonds for Village West were refinanced in 2004, and Unified Government officials told us they planned to refinance all the Village West bonds in 2005. Some reasons why bonds are refinanced: to obtain a better interest rate, to consolidate several groups of bonds, to change the taxable nature of the bonds, or to shorten the life of the bonds.

Because the Speedway and Village West projects were approved before the Secretary of Commerce began setting limits on STAR bond funding, there are no legal or regulatory limits on the amount of STAR bonds that can be issued to finance the redevelopment.

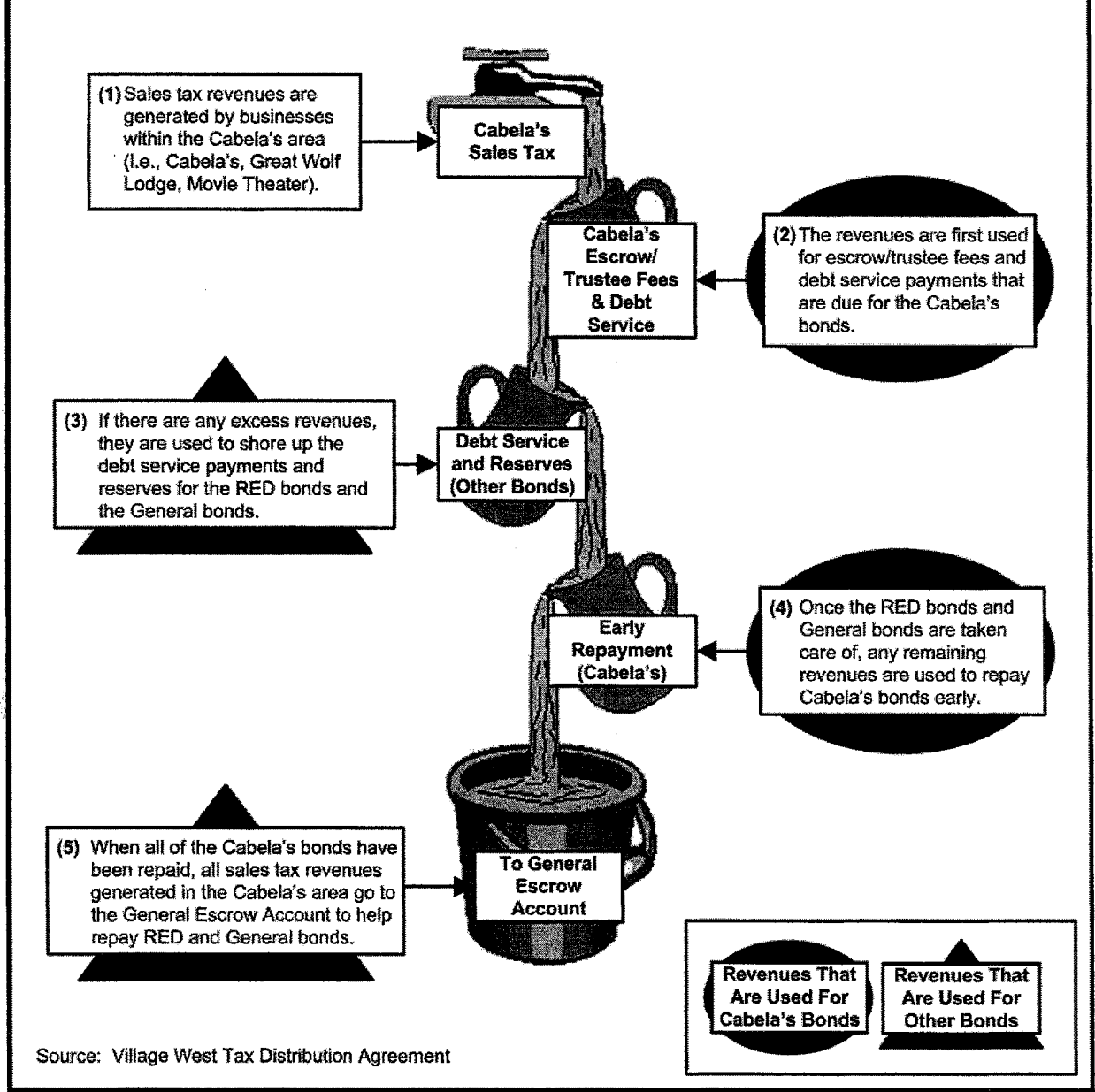
***Provisions for
Repaying the
Wyandotte County
STAR Bonds
Vary by Project***

STAR bonds are repaid with sales taxes collected by the Department of Revenue from businesses in the redevelopment district. The Department sends the local share of these taxes to the Unified Government, and sends the State's share to the State Treasurer for deposit into the City Bond Fund. Sales tax revenues generated at the Speedway are used to repay the Speedway bonds, while taxes generated within Village West are used to repay Village West bonds.

Within Village West, sales tax revenues from more profitable projects can be used to subsidize bond repayments for less profitable projects. Village West is divided into four sales tax areas that correspond to the four major redevelopment areas (Cabela's, Nebraska Furniture Mart, the Legends Shopping Center/RED development, and the Chateau Avalon/Beaumont development).

In general, the sales taxes generated within an area will be used to pay principal and interest on that area's bonds. However, under a provision called "waterfall financing," if more sales taxes are generated in an area than are needed to repay that area's bonds, the "excess" can be used to pay other Village West bonds. *Figure OV-3* on the next page illustrates how this works, using Cabela's as an example.

**Figure OV-3
Example of "Waterfall Financing"
Cabela's Bonds and Sales Tax Revenues**



As of December 2004, More Than \$40 Million in Sales Taxes Had Been Generated by the Speedway and Village West

The sales taxes collected and debt service payments made for the Speedway and Village West as of December 2004 are shown in Figure OV-4. As the figure shows, more than \$40 million in sales taxes had been collected to make debt service payments by the end of the year. That included more than \$7 million in principal payments on the bonds and \$33 million in interest. More detailed information about sales tax revenues and bond payments is shown in Appendix B.

**Figure OV-4
Bonds Issued, Sales Tax Revenues, and Debt Service Payments
Kansas Speedway and Village West Bonds
As of December 2004**

	<u>Kansas Speedway</u>	<u>Village West</u>	<u>Total</u>
Bonds Authorized	\$42,500,413	\$262,215,000	\$304,715,413
Bonds Drawn Down	<u>\$30,620,413</u>	<u>\$197,092,518</u>	<u>\$227,712,931</u>
Unissued Bonds	\$11,880,000	\$65,122,482	\$77,002,482
 Total Sales Tax Revenues Generated	 \$9,221,743	 \$31,562,767	 \$40,784,510
 Debt Service Payments			
Principal	\$1,245,000	\$5,929,739	\$7,174,739
Interest	<u>\$5,103,097</u>	<u>\$27,607,736</u>	<u>\$32,710,833</u>
Total	\$6,348,097	\$33,537,475	\$39,885,572
 Principal Remaining	 \$29,375,413	 \$191,162,779	 \$220,538,192

Source: Bond account summaries; Kansas Department of Revenue

***The Redevelopment Has
Successfully Promoted
Economic Development
In Wyandotte County
And the State***

Unified Government officials told us that, before the redevelopment, Kansas City had been a dying community for about 20 years. The City had few restaurants, limited shopping, and no movie theaters. It also had a reputation as a poor place to live, with high property taxes and low real estate values.

Since the redevelopment, Cabela's has become one of the top tourist attractions in the State, and an estimated 600,000 people attended races at the Speedway in 2004. Recent newspaper articles also indicate that the Speedway and Village West are attracting new residents. Real estate brokers and developers directly attribute recent growth in the number of housing permits issued in Wyandotte County to the redevelopment. All this development has the following impact:

- **Property tax collections have increased by more than \$5 million. Unified Government officials estimate that the entire redevelopment area generated only about \$191,000 in property taxes in 1999—the year before the redevelopment started.** For 2004, they estimate that property taxes in Village West alone will be about \$5.6 million. (By statute, the Speedway isn't required to pay property taxes for 30 years, but is making "payments in lieu of taxes" to pay off certain bonds.)
- **Sales tax revenues, which currently are used to pay back the STAR bonds, have increased to more than \$24 million in 2004.** According to the Department of Revenue, minimal sales tax revenues were generated in this area of Kansas City before the redevelopment. Sales tax revenues for 2004 were more than \$24 million. Since

the redevelopment began, the sales tax revenues generated at the Speedway and in Village West have exceeded initial projections by an average of \$5 million per year.

- **As the redevelopment creates new jobs, new State income taxes are likely to be generated.** Unified Government officials predict the Speedway and Village West will create approximately 4,000 new jobs in Wyandotte County. According to rough estimates by officials from the Department of Revenue, this would bring in approximately \$2.8 million in new income taxes to the State each year.

Question 1: Were the Issuance Costs Reasonable for the Bonds That Financed the Development of the Kansas Speedway and the Village West Tourism District?

ANSWER IN BRIEF *Issuance costs are fees paid to professionals who draft bond documents and are involved in the sale of the bonds. Overall, the Unified Government's cost of issuing the STAR bonds was in-line with other bond issues we looked at, and it followed statutory requirements for competitively selecting certain bond professionals. However, we question the necessity of \$450,000 in bond origination fees the Unified Government charged for issuing these bonds. These findings are discussed in more detail in the sections that follow.*

Issuance Costs Were Incurred by the Unified Government To Bring The Bonds to Market

Local governments enlist the services of a number of professionals to help them issue bonds. Among those are bond counsel, bond underwriters, financial advisors, and trustees or escrow agents. The fees paid to these professionals are known as the “cost of issuance.”

The services performed by the professionals who helped issue the Kansas Speedway and Village West STAR bonds—and the fees they received—are described and summarized in *Figure I-1* on the next page.

Overall, the Cost of Issuing the Bonds for The Kansas Speedway And Village West Was In-Line With Other Bonds We Looked At

To determine whether issuance costs were reasonable, we compared the costs of each of the Speedway and Village West STAR bond issues to economic development bonds from other states that were about the same amount and issued around the same time. Because detailed information about issuance costs wasn't available for the comparison bonds, our analysis only looks at overall issuance costs. The results are summarized in the bar charts in *Figure I-2* on page 15.

As *Figure I-2* shows, the costs for most of the STAR bonds were among the lowest of the bonds we looked at.

Almost 80% of the Speedway and Village West STAR bonds were privately sold to businesses within the redevelopment district.

Bonds generally are sold in one of three ways:

- **Competitive Sale (Public)** – The issuer sells the bonds itself on the open market. For less complex bonds, this type of sale is likely to yield the lowest interest rates.
- **Negotiated Sale (Public)** – The issuer hires an underwriter to market the bonds for it. The terms of the purchase, such as the sale date, the price of the bonds, and the underwriter's fee, are negotiated between the issuer and underwriter.
- **Private Sale (Private)** – The issuer sells the bonds directly to a buyer in a closed transaction.

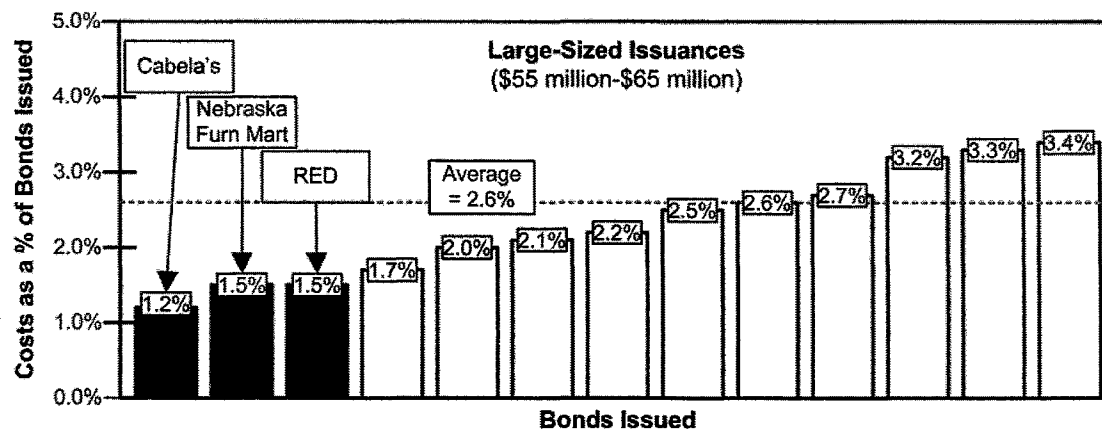
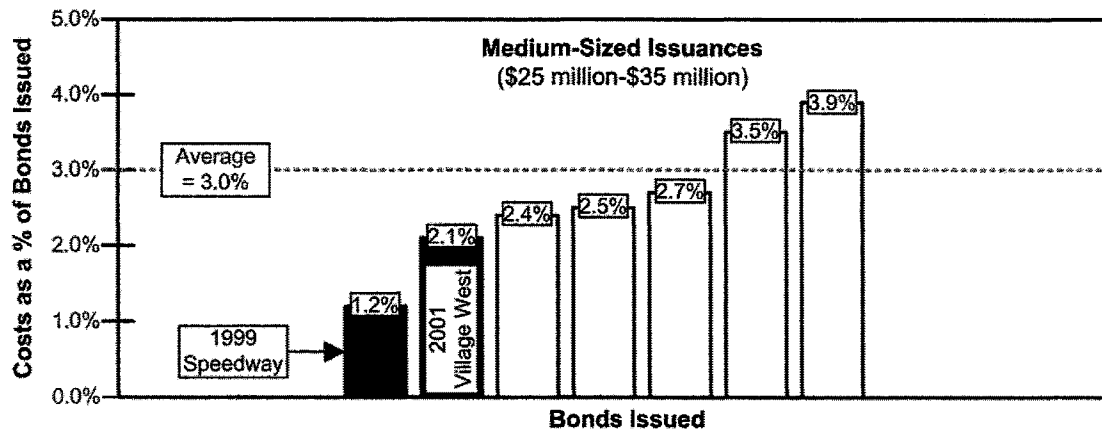
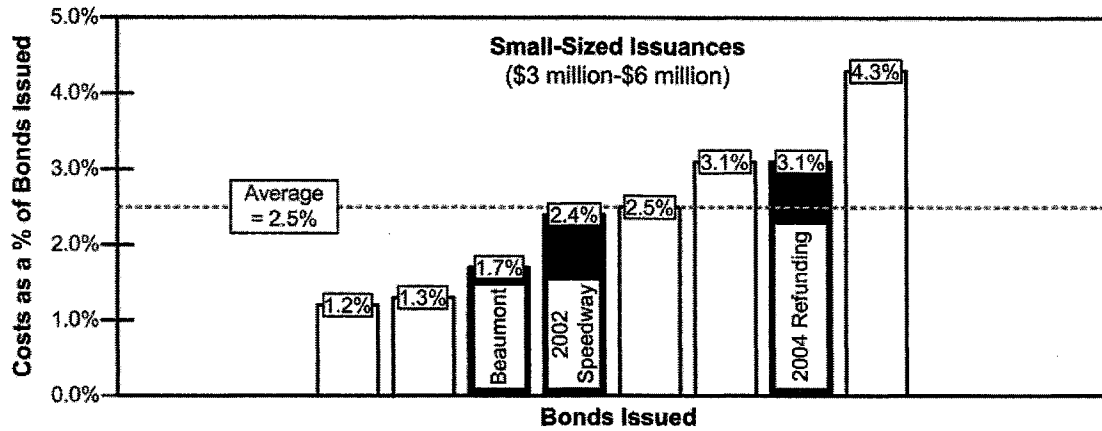
Figure I-1
Cost of Issuance
Kansas Speedway and Village West STAR Bonds
As of December 2004

	Kansas Speedway		Village West					Refinancing
	Speedway #1 (1999)	Speedway #2 (2002)	General Bonds (2001)	Nebraska Furn Mart (2001)	Cabela's (2001)	RED (2003)	Beaumont (2003)	Gen Bond Refunding (2004)
Bonds Issued	\$24,300,413	\$6,320,000	\$28,665,000	\$64,305,000	\$65,000,000	\$54,045,000	\$3,000,000	\$5,460,000
Type of Sale	Negotiated	Private	Negotiated	Private	Private	Private	Private	Negotiated
ISSUANCING AGENTS								
Underwriter (Salomon Smith Barney) - Finds potential buyers for the bonds in a negotiated public sale.	\$142,902	\$0	\$429,975	\$0	\$0	\$0	\$0	\$100,000
Structuring Agent (Salomon Smith Barney) - Facilitates the sale of bonds in a private sale.	\$0	\$37,920	\$0	\$483,169	\$397,879	\$324,270	\$0	\$0
Bond Counsel (Gilmore & Bell) - Certifies that the bonds comply with all laws and regulations.	\$70,745	\$30,000	\$65,000	\$175,500	\$146,250	\$300,000	\$20,000	\$25,000
Bond Issuer (Unified Government) - The Unified Government paid itself the bond origination fees that are usually paid to the issuer of a bond.	\$0	\$25,280	\$0	\$145,269	\$159,375	\$113,806	\$12,000	\$0
Financial Advisor (Springsted) - Advised the Unified Government on such things as when and how the bonds should be sold.	\$12,883	\$8,057	\$55,482	\$78,000	\$54,500	\$45,000	\$0	\$29,500
Bond Trustee/Escrow Agent (Security Bank) - Trustee ensures the Unified Government complies with the bond agreement. Escrow Agent makes the principal and interest payments.	\$0	\$2,000	\$4,000	\$22,146	\$24,750	\$19,125	\$10,500	\$6,000
Other - Includes expenses such as various legal fees, bond printing costs, and payments to bond rating agencies.	\$68,023	\$46,000	\$39,144	\$45,160	\$456	\$268	\$8,001	\$7,310
TOTAL	\$294,553	\$149,257	\$593,601	\$949,244	\$783,210	\$802,469	\$50,501	\$167,810
As a % of Bonds Issued	1.2%	2.4%	2.1%	1.5%	1.2%	1.5%	1.7%	3.1%
Source: Bond Transcripts								

As Figure I-1 shows, five of the eight sets of STAR bonds were privately sold, accounting for \$192 million of the \$250 million total. Because these bonds aren't sold in the marketplace, there's no need for an underwriter to market them. Instead, a structuring agent helps establish the terms of the deal between the two parties. For the STAR bonds issued by the Unified Government, Salomon Smith Barney served as either the underwriter or structuring agent on all bond issues.

A Unified Government official told us the bonds were sold privately because of uncertainty about how marketable the bonds would be without an established revenue history. In addition, Unified Government officials told us that having Village West businesses buy their own bonds would increase their investment in the projects and give them a greater incentive for making their site profitable.

Figure I-2
Comparing the Issuance Costs for Kansas Speedway and
Village West Bonds to Similar-Sized Bond Issuances



STAR Bonds **Benchmark Bonds**

Source: Official Bond Statements

Issuing agents were competitively selected when required by law. Salomon Smith Barney was selected as the underwriter for the Speedway and Village West STAR bonds through competitive processes in 1998 and 2000. Although State law requires a competitive selection only for the underwriter, the Unified Government's bond counsel (Gilmore and Bell) also was selected this way.

***The Unified Government
Paid Itself \$450,000 in
Bond Origination Fees***

In some cases, local governments will issue bonds on a private business' behalf because the government may be able to get a lower interest rate in the bond market than the business can. For example, a local government might issue industrial revenue bonds to help a business build or expand its facilities. In such cases, Kansas law allows the local government to charge the business a bond origination fee for issuing the bond. That fee must be used on economic development.

When it issued the STAR bonds for the Speedway and Village West, the Unified Government paid itself \$450,000 in bond origination fees. Those fees were paid out of the STAR bond proceeds—about two-thirds of which are paid back with State sales tax revenues. The Unified Government in essence charged itself about \$150,000 and the State about \$300,000 for issuing the bonds.

Because the whole concept behind STAR bonds is to use sales tax revenues to spur local economic development, charging these origination fees appeared to be unnecessary and redundant.

CONCLUSION As we've described, the Unified Government charged \$450,000 in bond origination fees when it issued the STAR bonds for the Kansas Speedway and Village West projects. The State authorized such fees in order to support economic development at the local level. However, with the STAR bonds, the State already agreed to forgo future sales tax revenues to encourage economic development in Wyandotte County. In this case, rather than being for economic development, the bond origination fees represent an unnecessary transfer of money from the State to the Unified Government.

RECOMMENDATIONS To ensure that the State doesn't incur unnecessary costs for STAR bond projects, the Joint Committee on Economic Development should introduce legislation to amend State law to eliminate local governments' authority to charge bond origination fees when they issue STAR bonds for their own redevelopment projects.

Question 2: Were the Bond Proceeds Spent for Allowable Purposes, and Were The Costs Associated With the Items Purchased Reasonable?

ANSWER IN BRIEF *The law allows STAR bond moneys to be used for property acquisition and infrastructure-related improvements such as utilities, streets, and sewers. As of December 2004, \$176 million from STAR bonds had been spent on the Kansas Speedway and Village West projects, including more than \$24 million on various fees and commissions. We found about \$1.5 million in expenditures that aren't eligible for STAR bond funding, and another \$28 million that appears to go beyond what legislators envisioned, including various wildlife exhibits within Cabela's, robotic dinosaurs in a restaurant, and consultants hired by businesses locating in the development.*

We also found that the Unified Government had entered into a number of questionable agreements, including a complicated land lease that will provide \$14 million to Cabela's, and providing developers with "excess" land that they have sold for almost \$10 million in profits. Through various agreements, Cabela's essentially will have its store paid for by the Unified Government. Finally, oversight of the use of STAR bond moneys by both the Unified Government and the State has been inadequate. These and other findings are discussed in more detail in the sections that follow.

The Law Allows STAR Bond Moneys To Be Used Primarily for Acquiring Property and Making Infrastructure-Related Improvements

Under section (q) of K.S.A. 12-1770a, moneys generated from the sale of STAR bonds can be used to pay for redevelopment project costs necessary to implement a redevelopment plan. This includes, but is not limited to the following:

1. acquiring property within the redevelopment project area
2. paying relocation assistance
3. preparing the site, including relocating utilities
4. sanitary and storm sewers and lift stations
5. drainage conduits, channels, levies and river walk canal facilities
6. street grading, paving, graveling, macadamizing, curbing, guttering and surfacing
7. street light fixtures, connection and facilities
8. underground gas, water, heating and electrical services and connections located within the public right-of-way
9. sidewalks and pedestrian underpasses or overpasses
10. drives and driveway approaches located within the public right-of-way
11. water mains and extensions
12. plazas and arcades
13. parking facilities
14. landscaping and plantings, fountains, shelters, benches, sculptures, lighting, decorations and similar amenities
15. all related expenses to redevelop and finance the redevelopment project

These allowed purposes generally focus on acquiring property and making “infrastructure-related” improvements. State law also specifically prohibits the use of STAR bond moneys for the following costs:

- the costs of constructing a building that will be owned by or leased to a developer (any person, firm, corporation, partnership or limited liability company other than a city)
- personal property as defined in K.S.A. 79-102

***As of December 2004,
\$176 Million in STAR
Bond Moneys Had Been
Spent on The Kansas
Speedway and
Village West***

To determine how STAR bond proceeds have been spent, we reviewed account statements, payment applications, and invoices for all payments made through December 1, 2004.

We grouped expenditures into four broad categories:

- **Land Acquisition** – Costs associated with acquiring land, including the purchase price, property appraisals, and negotiation services
- **Construction** – “Hard” costs for construction including streets, utilities, lighting, signs, and buildings
- **Fees and Commissions** – “Soft” costs for professional services, including architects, engineers, real estate brokers, lawyers, and consultants
- **Miscellaneous** – A variety of other items such as taxes, permits, travel, food, office supplies, shipping, and insurance

Figure II-1 summarizes the amounts spent in each of the four categories. As the figure shows, almost \$27 million in STAR bonds (15% of the total) had been spent on the Speedway, and almost \$150 million (85%) had been spent on Village West. Construction costs accounted for the largest share of the STAR bond moneys spent, followed by fees and commissions.

**Figure II-1
Summary of STAR Bond Expenditures
Kansas Speedway and Village West To-Date
As of December 1, 2004**

Type of Expenditure	Kansas Speedway		Village West		Total To-Date	
	Amount	% of Total	Amount	% of Total	Amount	% of Total
Land Acquisition	\$ - (a)	0%	\$ 19,802,499	13%	\$ 19,802,499	11%
Construction	\$ 26,094,149	98%	\$ 103,545,692	69%	\$ 129,639,841	74%
Fees and Commissions	\$ 49,755	<0%	\$ 24,139,040	16%	\$ 24,188,795	14%
Miscellaneous	\$ 504,000	2%	\$ 2,195,374	1%	\$ 2,699,374	2%
TOTAL	\$ 26,647,903	100%	\$ 149,682,606	100%	\$ 176,330,509 (b)	100%

(a) Land for the Kansas Speedway was acquired with property tax increment financing (TIF) bonds. These are separate from STAR bonds and don't involve State funds.
(b) This total doesn't match the total amount of bonds drawn down (\$227.8 million on page 8) because it doesn't include issuance costs, proceeds used to make interest payments, or unspent balances.

Source: LPA Review of bond payment applications

About \$10 million of the \$24 million spent on fees and commissions was for developers and real estate brokers. Architects, engineers, and legal counsel were the other largest recipients. Companies that had earned more than \$400,000 each in fees and commissions as of December 2004—and the roles they played in the redevelopment—are summarized in *Figure II-2*.

Finally, it's important for the reader to remember two things in reviewing this cost information:

- As noted earlier, the total amount of STAR bonds issued will increase in the future because the development is not yet complete.

Figure II-2 Largest Recipients of Fees and Commissions Kansas Speedway and Village West As of December 2004		
Company	Role in the Redevelopment	Total Paid To Date
DEVELOPERS AND UNIFIED GOVERNMENT REAL ESTATE BROKERS		\$10,219,776
Zimmer Management Company	Master Developer for Village West. Provides services in three basic areas: (1) Advisor to the Unified Government (2) Project Manager for Village West (3) Real Estate Broker	\$4,265,747
Integra Realty Resources (a)	Real estate broker for Village West	\$2,234,054
Nebraska Furniture Mart	Venture partner for Village West	\$1,196,538
Cabela's	Venture partner for Village West	\$1,155,000
RED Development	Venture partner for Village West	\$1,368,436
ARCHITECTS		\$3,177,358
Design Forum	Design architects for the Nebraska Furniture Mart store	\$1,327,262
The Hillier Group	Design architects for the Village West area	\$1,214,878
Gould, Evans, Goodman	Design architects for the Village West movie theater (also did some work on the general Village West area)	\$635,218
ENGINEERS		\$2,807,020
Continental Consulting	Design engineers for the Village West area	\$2,341,171
Olsson & Assoc.	Design engineers for the Legends Shopping Center	\$465,849
FINANCIAL ADVISORS		\$2,414,501
KPMG	Team of consultants hired by Nebraska Furniture Mart to help select the Village West site and maximize its use of STAR bond funding	\$833,200
Fahnestock (Oppenheimer)		\$656,145
Rossitto & Assoc.		\$465,156
Key Bank	Financial advisor and lender for RED Development	\$460,000
PURCHASERS' REAL ESTATE BROKERS		\$434,885
J.P. Weigand & Sons	Real estate broker for Cabela's	\$434,885
LEGAL COUNSEL		\$2,053,340
Stinson, Morrison, Hecker	Legal counsel for the Unified Government	\$1,506,392
Katz Law Firm	Legal counsel for RED Development	\$546,948
ALL OTHER SOFT COSTS (82 firms paid less than \$400,000 each)		\$3,081,915
TOTAL		\$24,188,795
(a) Also does business as Nunnink & Associates and First Realty.		
Source: LPA Review of Vendor Contracts and Bond Payment Applications		

- About two-thirds of the money used to repay these bonds (including both principal and interest) will come from future State sales taxes generated by the redevelopment.

The remainder of this question describes our findings and conclusions regarding the use of STAR bonds in three broad areas:

- expenditures that aren't eligible for STAR bond funding
- questionable expenditures that go beyond what it appears legislators envisioned when they authorized STAR bonds
- questionable agreements related to the Village West development

We Identified About \$1.5 Million in Uses of STAR Bond Moneys That Aren't Allowable

During our review of how STAR bond moneys had been spent, we identified about \$1.5 million in uses that aren't allowed under State law. These expenditures are shown in *Figure II-3*. Unified Government officials have acknowledged that these payments were made in error, and all amounts either have been, or will be, transferred back to the bond trustee.

Figure II-3 Summary of Expenditures That Aren't Eligible for STAR Bond Funding		
Ineligible Use of STAR Bond Funding	Amount	Basis for concluding the expenditure is not eligible for STAR bond funding
1. Withdrawing STAR bond moneys before they are to be spent.		
In 2001, the Unified Government withdrew almost \$21 million from the first Village West STAR bonds for planning and land acquisition costs. As of January 2005, \$1.1 million of these funds had not been spent. <i>The Unified Government has transferred this money with interest with interest back to the bond trustee.</i>	\$1.1 million	STAR bond moneys are for redevelopment project costs and should remain in the bond accounts until they are needed.
2. Using STAR bond moneys to pay for building construction costs.		
In allocating its costs, Nebraska Furniture Mart incorrectly charged the following costs for constructing its building to STAR bonds: ➤ \$322,000-\$480,000 in contractor fees for building the store (we could only verify \$322,000) ➤ \$38,000 in construction security costs related to the store <i>Nebraska Furniture Mart representatives indicated this was a clerical error and have repaid \$360,000.</i>	At least \$360,000	State law specifically prohibits the use of STAR bond moneys for any costs connected with constructing a building that will be <u>owned</u> by a developer.
3. Using STAR bond moneys for other unallowable purposes.		
➤ \$6,000 for lobbying fees ➤ \$15 to deliver copies of financial statements to Legislative Post Audit for an unrelated audit <i>Unified Government officials indicated they will recoup these payments.</i>	\$6,000	These aren't costs that are necessary to implement the redevelopment plan.
GRAND TOTAL	\$1.5 million	
Source: LPA review of Venture Partner Agreements, Vendor Contracts, and Bond Payment Applications		

Another \$28 Million in Expenditures Appear To Go Beyond What Legislators Envisioned When They Passed the Law

As noted earlier, the language in the STAR bonds legislation primarily addresses using STAR bonds to buy property and make infrastructure-related improvements (such as site preparation, streets, sewers, utilities, parking lots, and landscaping) in the redevelopment area. However, the law also includes these provisions:

- K.S.A. 12-1770a(q), which specifies that allowable uses include “but are not limited to” the items outlined in the statute
- K.S.A. 12-1770a(q)(15), the last allowable use on the list, which refers to “all related expenses necessary to redevelop and finance the redevelopment project.”

Such statutory language often is used to make it clear that related expenditures not specifically mentioned in the law are allowable. However, these provisions also could be read as allowing many types of expenditures legislators may not have envisioned. For example, after learning that STAR bond moneys had been used to buy furnishings for some businesses in Village West, the 2004 Legislature amended the law to make it more restrictive—specifically prohibiting the use of STAR bond moneys to buy personal property.

Figure II-4 on pages 22-24 summarizes the STAR bond expenditures we identified that go beyond what we think legislators contemplated when they passed the STAR bonds laws. Most of those expenditures were for personal property, and were made before the Legislature amended the law to prohibit them.

We Also Identified a Number of Questionable Agreements Associated With the Village West Redevelopment

In addition to the direct expenditures of STAR bond moneys that aren’t allowed or are questionable, we also identified several agreements entered into by the Unified Government that indirectly use STAR bonds for purposes we don’t think the Legislature envisioned.

The Unified Government has entered into a lease agreement that will pay Cabela’s \$14 million (plus interest) over the next 24 years. The Unified Government plans to spend \$20 million in STAR bond moneys to build an upscale movie theater in Village West (this theater is discussed in greater detail in Question 4). It has signed a contract to lease the land upon which the theater will be built to Cabela’s for \$1. It also signed a second contract to lease the land back from Cabela’s for \$14 million over 24 years.

Of the \$14 million in lease payments, \$7.5 million (plus interest) will come from future theater revenues, and \$6.5 million (plus interest) will come from the Board of Public Utilities as part of its incentive package to get businesses in the Village West district to go all-electric.

**Figure II-4
Summary of Questionable Expenditures of STAR Bond Moneys**

Questionable Expenditure	Amount	Basis for questioning the expenditure
1. Using STAR bonds for space or furnishings owned by the Unified Government but located inside a private business		
<p>a. The Unified Government used STAR bonds to build and furnish an aquarium, mountain display, and other wildlife exhibits within Cabela's. Although these exhibits are inside Cabela's, they are owned by the Unified Government. Once the Cabela's bonds are paid off, Cabela's will be able to purchase the exhibits for fair market value, less any amounts Cabela's has charged to maintain the exhibits.</p>	\$15.0 million	<p>While they are legally owned by the Unified Government, these displays are essentially a part of Cabela's store—something it appears that legislators never intended to have STAR bonds pay for.</p> <p>An amendment by the 2004 Legislature, after these expenditures were made, would prohibit using STAR bond funds for the furnishings in the future.</p>
<p>b. The Unified Government <u>plans</u> to purchase robotic dinosaurs for T-Rex, a new restaurant-retail business with a prehistoric theme.</p>	\$8.5 million (planned)	<p>After the 2004 amendment was passed, but just before the law went into effect, the Unified Government issued the bonds to pay for the dinosaurs.</p>
2. Using STAR bonds to pay for certain professional fees		
<p>a. Almost \$2 million from STAR bonds were used to pay consultants that helped Nebraska Furniture Mart select the Village West site and maximize its use of STAR bond funding.</p> <ul style="list-style-type: none"> ➤ \$833,000 to KPMG ➤ \$656,000 to Fahnestock (Oppenheimer) ➤ \$465,000 to Rositto and Associates 	\$2.0 million	<p>We think legislators intended to have STAR bonds used to help <u>local governments</u> acquire and develop property. We don't think they envisioned using STAR bonds to help <u>developers</u> select a site and figure out how to maximize their use of public funding.</p> <p>In addition, Fahnestock was paid even though its contract said it would only be paid if STAR bonds were issued to pay for substantially all of Nebraska Furniture Mart's construction and pre-opening costs—a condition that was never met. Nebraska Furniture Mart representatives told us regardless of the contract wording, they always intended to pay Fahnestock as long as a deal involving STAR bond financing was finalized.</p>
<p>b. \$1.2 million in commissions were paid to developers' real estate agents when the developers were given property in Village West. The Unified Government has two of its own real estate brokers to market the Village West property. However, it also agreed to pay additional fees to the venture partners' real estate agents when it gave them the Village West property. These include:</p> <ul style="list-style-type: none"> ➤ \$726,000 to a sister company of RED Development when it was given the property for the Legends Shopping Center ➤ \$434,000 to a real estate agent for Cabela's ➤ \$32,000 to a real estate agent for Applebee's 	\$1.2 million	<p>First, we question whether legislators envisioned having STAR bond moneys used to pay for the <u>developers'</u> real estate agents.</p> <p>Second, experts told us that when several agents are involved, they generally split the total commissions in commercial real estate transactions. That didn't happen in this case. The commissions paid to the developers' agents were <u>added to</u> what the Unified Government already was paying its own agents. As a result, the total commissions exceeded normal rates.</p>

**Figure II-4
Summary of Questionable Expenditures of STAR Bond Moneys**

Questionable Expenditure	Amount	Basis for questioning the expenditure
<p>c. \$460,000 in financial advisory and administrative fees were paid to RED Development's lender. As a venture partner, RED Development was responsible for purchasing its own STAR bonds. Because it didn't have enough of its own funds, it needed funding from a lender. The lender charged RED Development a number of fees, including:</p> <ul style="list-style-type: none"> ➤ A one-time \$315,000 bank advisory fee ➤ \$105,000 in financial advisory fees for research on STAR bonds ➤ \$40,000 for an annual administration fee 	\$460,000	<p>STAR bonds were intended to pay for the Unified Government's borrowing costs, including bond issuance costs, trustee fees, and bond interest. Using STAR bond moneys to pay for RED Development's borrowing costs because it didn't have enough money to buy the STAR bonds appears to go beyond what was envisioned.</p>
3. Using STAR bonds to pay local government salaries		
<p>a. The Unified Government used STAR bond proceeds to reimburse itself for time staff spent on the Speedway and Village West projects.</p> <p>According to Unified Government officials, two positions were created to work on the Village West project full-time. Because these positions were created in the middle of a management downsizing, there was no net increase in the number of positions or total salaries.</p>	\$440,000	<p>We question whether legislators envisioned using STAR bond moneys to reimburse the Unified Government for its employees' salaries when it incurred no additional out-of-pocket costs.</p>
4. Using STAR bond moneys to pay property taxes		
<p>a. STAR bonds were used to pay Nebraska Furniture Mart's property taxes while its store was under construction.</p>	\$161,000	<p>For accounting purposes, property taxes paid while a building is being constructed are considered a cost of acquiring the property. They were paid with STAR bond moneys because of provisions in the law that allow property acquisition costs to be paid.</p> <p>We think legislators intended to have STAR bonds used to help <u>local governments</u> acquire property, not developers. In addition, paying property taxes with STAR bonds runs counter to a primary objective of the redevelopment—preserving and enhancing the Unified Government's tax base</p>

**Figure II-4
Summary of Questionable Expenditures of STAR Bond Moneys**

Questionable Expenditure	Amount	Basis for questioning the expenditure
5. Using STAR bond moneys to pay employees' moving expenses		
a. In 2002 and 2003, moving expenses for 19 Nebraska Furniture Mart employees were paid using STAR bond moneys.	\$143,000	State law allows STAR bonds to be used for relocation assistance, but doesn't say who that assistance is to be provided to. Because the cost of relocating employees is an operational expense, and doesn't constitute a cost of redevelopment, we question whether the Legislature intended for STAR bond moneys to be used for this purpose. We think the law is referring to relocation assistance <i>for property owners whose property was purchased for the redevelopment area.</i>
6. Using STAR bond moneys for other purposes that weren't envisioned		
a. \$18,000 in STAR bond moneys were used for various food expenditures, including \$5,000 for a single barbecue order by one of the construction contractors for a safety meeting.	\$18,000	While it would make sense to pay for food in some cases, such as entertaining potential tenants in the redevelopment, there's no reason to use STAR bonds to pay for barbecue at a safety meeting.
GRAND TOTAL	\$27.9 million	
Source: LPA Review of Venture Partner Agreements, Vendor Contracts, and Bond Payment Applications		

Unified Government officials told us this lease-back arrangement was part of an economic incentive package designed to help Cabela's recoup much of the cost of constructing its own store. This lease agreement is structured like a loan, so the Unified Government will pay Cabela's an estimated \$31 million in principal and interest over the 24 years of the lease.

The lease-back arrangement appears to circumvent the law that prohibits using STAR bonds to construct Cabela's building. Although no STAR bond moneys are directly used to make the lease payments to Cabela's, more than half the \$14 million in lease payments to Cabela's will come from future theater revenues—revenues that wouldn't exist if STAR bonds hadn't been used to build the theater.

Figure II-5
Summary of Property Re-Sold
By Developers at Village West
As of December 2004

Business	Acres	Purchase Price
Property Re-Sold by Cabela's		
Lone Star Steakhouse	2.2	\$1,400,000
Hampton Inn	3.7	\$725,000
Famous Dave's Bar-B-Que	1.8	\$591,336
W.J. McBride's Irish Pub Restaurant	2.2	\$565,089
Russell Stover Candies	1.5	\$431,781
Cracker Barrel	2.7	\$407,721
Great Wolf Lodge	16.5	--- (a)
Total (Cabela's)	30.5	\$4,120,927
Property Re-Sold by RED Development		
Holiday Inn Express	2.6	\$1,129,110
Longhorn Steakhouse	1.9	\$1,062,500
Sonic	1.3	\$937,500
Ted's Montana Grill	0.5	\$925,000
Bob Evans Restaurant	2.3	\$850,000
Amini's Galleria	1.4	\$522,720
Arthur Bryant's	1.4	\$250,000
International House of Pancakes	1.0	--- (b)
Total (RED Development)	12.4	\$5,676,830
GRAND TOTAL	42.9	\$9,797,757

(a) This property was traded to the Great Wolf Lodge in exchange for an ownership interest in the business.
 (b) The purchase price wasn't independently verified by the county appraiser's office and is therefore confidential under K.S.A. 79-1437(f).

Source: Wyandotte County Appraiser's Office

RED Development and Cabela's were given excess land, which they've sold for almost \$10 million. The Unified Government used STAR bond moneys to buy the property for Village West and gave it to the venture partners to develop. Both Cabela's and RED Development negotiated to receive more land than they needed for their developments. Cabela's received approximately 80 acres, only 50 of which it needed for the Cabela's store. RED Development received about 75 acres, only 50 of which were for the Legends Shopping Center. Both have sold much of the excess land to other businesses or developers for more than \$300,000 per acre. *Figure II-5* summarizes the parcels that have been resold and the purchase prices.

Through various agreements, Cabela's essentially will have its store costs paid for by the Unified Government. So far in this report, we have talked about three agreements that will subsidize Cabela's:

- **Museum exhibits** (\$15 million) – STAR bond moneys were used to pay for part of Cabela's store (as discussed in *Figure II-4*).

- **Movie theater lease** (\$14 million) – STAR bond moneys will be used to build the movie theater and proceeds from that theater will be paid to Cabela's. In addition, Cabela's will receive payments from the Board of Public Utilities (as discussed earlier).
- **Land re-sales** (\$4 million) – Land that was acquired with STAR bond moneys was given to Cabela's for resale (as discussed earlier).

**Figure II-6
Sources of Funding for Cabela's Store**

	<u>Budgeted Funding</u>	<u>Effective Funding</u>
Public Funds		
Aquarium, Mountain Display	\$14,960,620	\$14,960,620
Theater Lease	\$0	\$14,000,000
Land Resales	\$0	\$4,120,927 (a)
Total Public Funds	<u>\$14,960,620</u>	<u>\$33,081,547</u>
Cabela's Private Investment (estimated)	\$19,212,681	\$1,091,754
TOTAL FUNDING	<u>\$34,173,301</u>	<u>\$34,173,301</u>

(a) In addition, Cabela's traded 16.5 acres of land to the Great Wolf Lodge, in exchange for an ownership interest in the business. The value of this exchange wasn't available and isn't included in the table.

Source: Cabela's Bond Transcripts; LPA Review of bond payment applications; Wyandotte County Appraiser's Office

The net effect of all these transactions is that instead of Cabela's contributing more than \$19 million in private funds as was outlined in project budget documents, it actually will be getting its \$34 million store for a little over \$1 million, as shown in *Figure II-6*.

In addition, Cabela's traded 16.5 acres of land to the Great Wolf Lodge, in exchange for an ownership interest in the resort hotel. Because this was a private transaction and we weren't able to find out the value of the ownership interest, this exchange isn't included in the figure.

There were a number of areas of concern we were unable to fully review. Because of time constraints or difficulties finding documentation, we weren't able to do the following:

- **Determine if amounts paid for property appraisals were reasonable.** The property for the Speedway and Village West was purchased more than five years ago. Neither the Unified Government, nor the appraiser who appraised the property, could provide invoices or other records documenting the actual appraisals. As a result, we were only able to review budgeted appraisal costs. We sent a schedule of the budgeted appraisal fees to two independent appraisers. Both indicated the proposed fees were generally reasonable, although they did note that the proposed fees for land-only appraisals were higher than what is typical, costing the Unified Government an additional \$6,500.
- **Conduct a detailed review of construction invoices** – Because of the volume of documents involved, we were only able to do a limited review of the supporting documentation behind construction invoices. Even with the limitations, our review did find some questionable expenditures, such as the \$18,000 for food noted in *Figure II-4* on page 24.
- **Assess the reasonability of land purchase prices** – The land for Village West was acquired for about \$15,000 per acre. According to records provided by the Unified Government, the land had been appraised at about \$2,500 per acre before the redevelopment projects were started. Unified Government officials told us land prices in what became Village West escalated tremendously after the Speedway project became a reality, making the prior appraised values obsolete. Because of time constraints, we were unable to fully assess the land acquisition costs and determine if the prices were reasonable.

***The Unified
Government's Oversight
Of RED Development's
Expenditures
Has Been Inadequate***

The Unified Government and Zimmer (the master developer) directly manage some Village West projects, such as the general Village West improvements and the movie theater. The venture partners (RED Development, Cabela's, Nebraska Furniture Mart, and Beaumont) manage other projects. We found no problems with the Unified Government's oversight of the projects it manages directly.

Most of the venture partners send their payment requests to Zimmer, which determines whether they fit within the project budget and are eligible for reimbursement with STAR bonds. Zimmer sends payment requests it approves to the bond trustee (Security Bank), which makes the payments. During our reviews, we noted several instances in which Zimmer adjusted payment amounts or requested additional information before authorizing a payment.

RED Development has submitted more than \$7 million in requests for payment directly to the bond trustee, without any review. RED Development is the venture partner that's developing the Legends Shopping Center. It has spent more than \$7 million in STAR bond moneys on that project to-date.

The Unified Government hasn't required RED Development to send its payment requests to Zimmer. So, unlike the other venture partners whose requests were reviewed by Zimmer, RED Development has sent its requests directly to the bond trustee for payment. As a result, none of the 25 payment requests RED Development had submitted as of December 2004 (totaling more than \$7 million) had been reviewed by anyone at the Unified Government or Zimmer before the bond trustee paid them.

An official from Zimmer told us it has now reviewed all the past payment requests, and plans to review all new requests in the future. In addition, Unified Government officials told us it will conduct an audit of the expenditure of all bond proceeds when the Speedway and Village West redevelopments are completed.

***The State's Oversight of
The Kansas Speedway
and Village West
Redevelopments
Has Been Inadequate
As Well***

The majority of the funds that will be used to pay back the Speedway and Village West STAR bonds will come from State sales taxes generated in the redevelopment district. With principal and interest, those payments will total several hundred million dollars over the next 20 years.

Although the Secretary of Commerce formally approved Speedway and Village West redevelopment projects, the State has no other formal involvement in—or oversight of—those projects. As a

result, the Unified Government and its agents and representatives are able to make decisions that commit significant amounts of State resources without the State having a formal role to protect its interests.

The following sections summarize some of the problems we perceive with the lack of State oversight of the Speedway and Village West redevelopments:

- **There's no formal limit on the amount of STAR bonds that can be issued.** The Unified Government can issue STAR bonds to pay for the redevelopment as long as there are enough sales tax revenues to pay back the bonds. That means there's no formal limit on the State's financial obligation. (Although it isn't authorized in statute, the Secretary of Commerce has since adopted a policy where, as part of his approval of STAR bond projects, he sets a limit on the amount of bonds that can be issued.)
- **The definition of what STAR bonds can pay for is ambiguous.** As described earlier, the open-ended provision in the law that states STAR bonds can be used for "all related expenses necessary to redevelop and finance the redevelopment project" can, and has been interpreted to allow any number of other costs besides land acquisition, site preparation, and bond issuance and financing costs to be paid for.
- **The State isn't a formal party to the major agreements.** The State approved the overall redevelopment plan, but doesn't sign off on the bond agreements or the major venture partner agreements. These are the documents that contain such arrangements as the lease-back provision to Cabela's for the movie theater project.
- **The law doesn't require any independent audits to ensure that STAR bonds are being used only for allowable purposes.** This audit was the result of an ad hoc request by legislators.
- **The law doesn't include specific consequences for misusing STAR bond proceeds.** Such a provision would give the State the authority to disallow the use of future State sales tax revenues for unallowable payments.

CONCLUSION No one can argue that the Kansas Speedway and Village West redevelopment projects haven't been enormously successful at bringing significant development to western Wyandotte County. When the STAR bonds used to help finance them are paid off, these projects are likely to provide significant amounts of sales tax revenues for the County and the State.

This success doesn't mean that good judgment, decision making, and oversight shouldn't be exercised to ensure that STAR bond moneys—and the State and local tax dollars that ultimately will be used to pay them off—are spent wisely, reasonably, and only for the purposes allowed and intended. As this audit has shown, that hasn't always happened.

Further, although some have portrayed STAR bonds as an economic development tool with no cost to the State—because the sales taxes that will be generated are all new revenues that otherwise wouldn't have existed—that's not always true. To the extent that purchases are made in a redevelopment district that would have been made anyway at other local retailers, the State is giving up sales tax revenues it otherwise would have received.

As more and more Kansas communities look to use STAR bonds as a way to spur local economic development, the risk that STAR bond moneys will be used in ways that weren't envisioned or intended will increase unless changes are made to clarify the law and improve the oversight process.

- RECOMMENDATIONS**
1. To help ensure that STAR bond moneys are used only for the purposes intended by the Legislature, the appropriate committees of the 2005 Legislature should amend K.S.A. 12-1770(a) to do the following:
 - a. clarify the Legislature's intent regarding the use of STAR bond moneys for expenses that aren't direct land acquisition or site-improvement costs. Among other things, that clarification should address K.S.A. 12-1770(a)(15) regarding which types of "related expenses to redevelop and finance the redevelopment project" the Legislature intends to fund with STAR bonds. The types of expenses to be considered include, but may not be limited to the following:
 - i. fees and commissions paid to real estate agents, financial advisors, and consultants who are employed by and represent the businesses considering locating in a development
 - ii. salaries for local government employees who work on redevelopment projects if the local government doesn't incur any out-of-pocket costs
 - iii. moving expenses for employees of the businesses locating in the redevelopment district
 - iv. property taxes for businesses that locate in the redevelopment district
 - v. lobbying costs
 - b. require the Secretary of Commerce to set limits on the total amount of STAR bonds that can be issued for a particular redevelopment.

- c. establish a formal mechanism that makes a State official responsible for reviewing and approving the terms of major agreements—such as leases, bond agreements, and land deals connected with a STAR bond project—that exceed a certain dollar amount. In doing so, the Legislature should consult with bond professionals to insure that any actions taken don't have a detrimental effect on the State's bond rating.
 - d. require periodic audits for all STAR bond projects to determine whether STAR bond moneys are being used only for authorized purposes, and aren't being used for purposes that are ineligible or questionable.
 - e. include statutory provisions for recouping moneys that aren't spent in accordance with the law.
 - f. consider placing limits on the total amount of additional STAR bonds that can be issued for the Village West redevelopment project, based on an amount the Unified Government thinks will be needed to complete the project. This action would eliminate the "open checkbook" that currently exists for this project.
2. To help ensure that STAR bond expenditures for the Village West project are being made in accordance with the law and are being reviewed in accordance with its contract with the master developer, the Unified Government of Wyandotte County and Kansas City, Kansas, should require RED Development to submit all payment requests to Zimmer Real Estate Services (the master developer) for review and approval before they are sent to the bond trustee for payment.
3. To ensure that STAR bond moneys are spent only for things that are allowable under the law, officials from the Unified Government should review the items pointed out in this report as being unallowable, and report back to the Legislative Post Audit Committee by May 1, 2005, regarding the actions it has taken to address each item or recoup moneys that may have been misspent.
4. To help ensure that STAR bond moneys for future projects aren't spent for unallowed or questionable purposes, the Legislature should consider directing the Secretary of Commerce not to issue final approval of any additional STAR bond projects until it has had an opportunity to clarify the STAR bond law.

Question 3: What Types of Discounts Or Other Benefits Have The Kansas Speedway or Other Businesses in the Tourism District Made Available to Unified Government or Board of Public Utilities Employees?

ANSWER IN BRIEF *The most frequent benefits made available to Unified Government and Board of Public Utilities employees and officials were discounts on food, merchandise, and hotel rooms. Also, both the Unified Government and the Board of Public Utilities have the use of suites and hospitality tents at the Kansas Speedway and of suites at the T-Bones' Community America Ballpark. The Unified Government hasn't paid for its use of these facilities, but the Board of Public Utilities has.*

Unified Government and the Board of Public Utilities employees aren't governed by State ethics laws, but both have adopted a code of ethics to govern their employees' behavior and have contracted with an ethics administrator to provide advice and training. These findings are discussed in more detail in the sections that follow.

The Most Frequently Identified Benefits Were Discounts on Food, Merchandise, and Hotel Rooms

To determine what benefits had been made available, we contacted management officials for the businesses in the Village West district, interviewed Unified Government and Board of Public Utilities officials and surveyed their employees. Of the 1,550 Unified Government staff surveyed, 368 or 24% responded. Of the 357 Board of Public Utilities staff surveyed, 128 or 36% responded. Survey responses reported a few things that we were unable to confirm or dispel. The following sections discuss only those items that we were able to corroborate.

The most common benefits were discounts on food, merchandise, and hotel stays. No information was available on how often management officials and employees took advantage of these benefits.

Here's a summary of the food, merchandise and hotel stay discounts offered:

Benefits businesses made available to Unified Government and to Board of Public Utilities employees:

- Great Wolf Lodge—discounted family rate for stay: \$119 per night Sunday - Thursday (regular cost is \$209); \$169 per night Friday - Saturday (regular cost is \$259).

Benefits businesses made available to Unified Government employees:

- Applebees—30% discount on food for police and firefighters; A \$10 gift certificate for one employee selected by the Unified Government for its employee appreciation program.
- Arthur Bryants—10% discount on food for police and firefighters.
- Great Wolf Lodge—Free one-night stay during pre-opening; Free one-night stay to one employee selected by the Unified Government for its employee appreciation program.
- Chateau Avalon—Free one-night stay during pre-opening; Free one-night stay to one employee for appreciation program before public opening.
- Nebraska Furniture Mart—Special employee-level discount pricing on merchandise sold during the store’s “soft,” non-public opening. Store officials told us the discount amount varies depending on the merchandise bought.

Officials from the Kansas Governmental Ethics Commission told us the real question regarding these types of discounts and benefits is whether they were given to influence a particular person. In the case of employees accepting food or hotel room discounts, businesses don’t necessarily know which employees will take advantage of the offer, so it’s likely those discounts were given to drum up business rather than to try to influence someone in a decision-making capacity.

Unified Government officials pointed out that some of the discounts made available—discounted rooms at Great Wolf Lodge and discounts on merchandise at Nebraska Furniture Mart also were offered to other groups—such as employees of other businesses located in the Kansas City area. Nebraska Furniture Mart officials confirmed that their Kansas City store had a “soft,” non-public opening during August 2003 and that they invited employees of several companies with whom they had business relationships. Great Wolf Lodge officials also confirmed that during their soft opening week, they invited various people from the Kansas City community.

Unified Government Officials Have Access To Suites And Other Facilities At the Speedway and T-Bones Ballpark At No Cost

Unified Government officials have access to a suite and hospitality tent at the Speedway and a suite at the Kansas City T-Bones Community America Ball Park. A 32-seat luxury suite at the Speedway rents for about \$37,000 per year. A 100-person hospitality tent rents for about \$15,000 per year. Suites at the Ballpark stadium seat about 20-25 people each and rent for about \$17,000 per year. None of these rental rates include catering costs.

The Unified Government has had free use of facilities at the Speedway through its association with other economic development groups. The following sections describe how the Unified Government acquired access to facilities at the Speedway.

- Speedway luxury suite – Speedway officials told us they have a contract to provide this suite to the Kansas City, Kansas, Chamber of Commerce and an entity called Wyandotte Development, Inc.

In addition, Speedway officials told us that although the contract calls for the Chamber to pay a total fee of \$165,500 for use of the suite for five years, the suite is provided at no cost and is a "pass-through" benefit to the Unified Government because of the economic development efforts made by the Unified Government, Wyandotte Development, Inc., and the Chamber of Commerce.

Unified Government officials told us they use the suite for economic development purposes and they invite guests who may have an interest in locating a business in Wyandotte County. In addition, they contend that any Unified Government employees using the suite are doing so as part of their job duties. Our review of the guests lists for this suite for two Speedway event weekends in 2004 showed that in some cases, the spouses of Unified Government employees attended the events as well.

Officials with the Kansas Governmental Ethics Commission told us that if a State employee or elected official had to attend such an event as part of his or her job duties, the cost of that ticket wouldn't be considered a gift. However, they also said the spouse's ticket would be considered a "gift" and, if valued at more than \$40 (Speedway officials said it's difficult to assign a value to a suite ticket) State ethics guidelines would prohibit a State employee or State elected official from accepting it.

- **Hospitality Tent at the Speedway** - Chamber of Commerce officials told us the Speedway gave the Chamber and the New Century Partnership a \$180,000 contribution and the use of a 100-person hospitality tent for two motorsports event weekends each year for a four-year period. Along with the tent, the Chamber was given 100 grandstand tickets. Unified Government officials told us that the Chamber provides two free grandstand tickets to the Mayor and each commissioner, as well as free access to the hospitality tent, for these motorsports event weekends. If these same tickets (valued at \$100 each) had been given to a State elected official, he or she couldn't accept them because they would be considered a gift under the State ethics guidelines.

The Kansas City T-Bones Community America Ballpark has provided a 25-seat suite at the Ballpark directly to the Unified Government at no cost. Unified Government officials told us the suite primarily is used to reward their employees for effectiveness. Each suite ticket is worth about \$18. The use of the suite does not include catering costs.

The Board of Public Utilities Paid for Its Use of Facilities At the Speedway and The Ballpark

During the audit, people pointed out to us that the Board also had access to suites and hospitality tents. Our review showed that in 2001, 2002, and 2003, the Board paid between \$150,000 and \$185,000 to sponsor a race called the "BPU 200." That sponsorship included access to a 32-person suite at the Speedway, 200 general

admission tickets to the race event, and 200 tickets to the qualifying event the night before.

The Board also has purchased access to a 100-person hospitality tent at the Speedway for \$15,000 during each of the past 4 years, and 400 race tickets (100 tickets each for 4 separate races) for slightly more than \$20,000.

According to Board officials, they also acquired access to a 20-seat Ballpark suite for every other home game as part of an agreement in which they paid \$35,000 to become an advertising sponsor for a scoreboard at the Ballpark. The Board provided us with proof of payment for these facilities.

***The Unified
Government's and
Board of Public Utilities'
Ethics Policies Address
The Acceptance of Gifts***

Both entities have adopted similar ethics policies governing their officials and employees. The provisions related to the acceptance of gifts are summarized below:

- An official or employee shall not solicit any gift or knowingly accept any gift, directly or indirectly, from any person that he or she knows or has reason to know:
 - ▶ *Is doing business with the Unified Government or Board of Public Utilities.*
 - ▶ *Has a financial interest that may be substantially and materially affected by the performance or nonperformance of the official's or employee's duty.*
- However, an official or employee can accept meals and free tickets to sporting events, unless:
 - ▶ *it would compromise the impartiality and the independence of judgment of the official or employee receiving it, or,*
 - ▶ *if of significant value, would give the appearance of doing so, or,*
 - ▶ *if of significant value, the recipient official or employee believes, or has reason to believe, that it is designed to do so.*

These policies define a "gift" as "the transfer of anything of economic value regardless of the form without adequate and lawful consideration." However, those definitions specifically exclude "complimentary admissions to special events, including dinners, athletic, charitable, cultural or political events, or any other occasion or entertainment, when furnished or available to be furnished to all similarly situated elected officials, officials and employees."

Both entities also contract with a part-time ethics administrator. The ethics administrator, who is a University of Kansas professor in Public Administration, is appointed for the Unified Government

by its Legislative Auditor. The Board of Public Utilities has also contracted with the same professor. The ethics administrator helps develop policies, receives complaints and suggestions, offers advisory opinions, and provides ethics training for all employees. At the direction of the Unified Government's Ethics Commission, the ethics administrator conducts investigations of alleged violations of the ethics code.

***The Ethics
Administrator
Advised Unified
Government Officials
That the Suites, Tickets,
And Hotel Discounts
Were Allowable***

According to the information we were provided, Unified Government officials asked their ethics administrator for advice on accepting the following specific benefits:

- the suite and grandstand tickets/hospitality tent access at the Speedway and suite at the Ballpark.
- free hotel rooms at the Great Wolf Lodge and Chateau Avalon before each hotel's grand opening. The rooms were given to specific Unified Government officials and employees.

The ethics administrator indicated the ticket benefits were allowable under the Government's code of ethics because the code excludes complementary admissions from its definition of gifts. He also concluded the free hotel rooms given during grand openings were allowable because accepting them would be "in the spirit of cooperation and is in no way intended to influence Commissioners or staff members in their policymaking roles."

The ethics administrator apparently wasn't asked for advice about the on-going hotel and restaurant discounts that survey respondents mentioned. In addition, Board of Public Utilities officials told us they just recently contracted with the ethics administrator, and thus far there haven't been any instances where they've needed to consult the ethics administrator for advice.

Question 4: Do the Costs Associated With a Movie Theater Project Being Built In the Tourism District Exceed Industry Standards?

ANSWER IN BRIEF *The costs of constructing the proposed theater in Village West are greater than what industry experts told us were typical. We also noted that profitability projections for the theater don't include the full cost of the theater building in the projected expenses. That has the effect of understating losses in the early years, and showing the theater will be profitable much earlier than would be the case if all costs were considered. In reviewing the operating agreement with Phoenix Theatres we noted that the Unified Government appears to be bearing the financial risk, but the management company could reap significant financial rewards if the theater is successful. These and related findings are discussed in more detail in the sections that follow.*

The Unified Government Is Building a Theater in Village West and Will Have a Management Company Operate It

Unified Government officials told us that Kansas City was the only city of its size without a movie theater. Because its citizens had expressed a desire for a theater, officials told us they wanted to incorporate one within the Village West development adjacent to the Kansas Speedway. Attempts to induce private theater operators to build a theater in this area were unsuccessful, so the Unified Government decided to build its own theater and have a private company manage the day-to-day operations.

The theater, which will be located within the Legends Shopping Center, will have 14 screens and have a total seating capacity of slightly more than 3,000 seats. The largest of the theaters will seat 635 moviegoers; the smallest will seat 126.

The daily operations of the theater will be managed by Phoenix Theaters of Knoxville, Tennessee, under an agreement with the Unified Government. That agreement is discussed in more detail later in this section of the report. The total budgeted cost to build the theater is \$20 million--this doesn't include land or site preparation costs. Construction began in August 2004 and plans call for the theater to open in July 2005.

The Costs of Constructing The Movie Theater Are Higher Than Industry Experts Suggest Are Typical

We originally intended to have the plans, specifications, and costs for the theater reviewed by consulting engineers, so they could give us a professional opinion about those costs. However, at the time the audit was being conducted, the Unified Government and the contractor for the theater hadn't finalized the costs. Consequently, we conducted a more limited review of the theater project.

To assess how the costs of this theater compared with typical construction costs in the theater industry, we contacted five consultants from companies that build or operate movie theaters.

Rough estimates provided by theater experts suggested a theater of this size typically costs about \$13 million to \$15 million to construct and equip. The consensus of the consultants we contacted was that, in the Midwest, construction costs for a theater generally should be between \$110 and \$120 per square foot. They indicated that it would cost an additional \$120,000 to \$180,000 per screen for furniture, fixtures, and equipment.

Applying those rates to the square footage information contained in the plans for the theater (105,000 square feet) results in estimated building costs between \$11.6 million and \$12.6 million, with an additional \$1.7 million to \$2.5 million for furniture, fixtures, and equipment. This brings the total to about \$13 million to \$15 million.

Unified Government officials told us this won't be a typical theater. In order to make the theater a destination attraction, it will include special amenities, such as more spacious seating and a special balcony level where alcoholic beverages will be served.

***The Preliminary
Financial Projections
For the Theater Don't
Include the Full Cost of
the Building***

The Unified Government's financial projections for the theater show it will lose money in the first three years, and then turn small profits in the fourth and fifth year. The financial projections show building expenses of \$1 million a year—the annual payment due under a lease-back arrangement with Cabela's (this lease is described more fully on page 21).

This \$7.5 million lease-back arrangement will result in the Unified Government paying Cabela's an estimated \$18 million in principal and interest over 24 years (because the lease is structured as a loan). However, the building actually was paid for with \$20 million worth of STAR bonds—almost three times the lease amount. As a result, the cost of the building is understated in the financial projections.

Excluding the true building costs from the financial projections leaves the impression the theater will be making a "profit" when, in fact, it might never be profitable from a normal business point of view (where the theater's revenues have to cover all of its costs).

In addition, the theater won't have to generate enough in sales taxes to pay off the STAR bonds used to pay for the building. Under the "waterfall" financing arrangement for Village West that we described in the Overview, "excess" sales taxes from higher-volume businesses in Village West (like Cabela's and Nebraska Furniture Mart) can be used to subsidize lower-volume businesses, like the theater.

The Theater Management Agreement Offers the Management Company Substantial Benefit Without Financial Risks

Phoenix Theatres of Knoxville, Tennessee, has agreed to manage the daily operations of the movie theater. The 20-year agreement specifies that Phoenix Theatres will receive the following:

- A \$225,000 consulting fee during construction
- A management fee equal to 5% of the gross theater revenues
- A 50% share of any net income from the Theater

According to the contract, its only financial commitment is to advance up to \$275,000 for some pre-opening costs. All the theater's expenses (salaries, film rental, concessions, maintenance, etc.) are paid out of the theater's revenues.

Two of the theater consultants we talked with told us the management fee the Unified Government agreed to pay Phoenix Theatres was not out of line, but they questioned having a management company share in the profits without being financially at risk.

Unified Government officials told us they couldn't require an investment by the management company, because that would make it part owner of the theater—and violate the law that prevents using STAR bonds to construct a building that will be owned by a developer. In addition, they told us the agreement had to be potentially lucrative to attract a management company. Finally, they said they believed having the management company share in the profits would serve as an effective incentive to ensure the theater was well-run.

CONCLUSION

Because the Unified Government wasn't able to attract a private company to locate and operate a theater in the Village West development district, it has committed to spend \$20 million in STAR bond moneys to build an upscale movie theater itself. That decision has raised questions about the appropriateness of competing with private theaters in the region, the cost and profitability of the theater, the lease-back arrangement that will help Cabela's recoup the cost of building its store, and the management agreement that gives Phoenix Theatres a significant share of the profits without assuming any significant financial risk. These questions again highlight the need for improved State oversight to ensure that the deals being made with STAR bond moneys are allowable and reasonable, and that the State's interests are adequately represented.

APPENDIX A

Scope Statement

This appendix contains the scope statement approved by the Legislative Post Audit Committee for this audit on August 23, 2004. The audit was requested by Senator Chris Steineger.

Wyandotte County: Reviewing The Use of STAR Bond Moneys Associated With the Kansas Speedway and the Village West Tourism District

The Legislature has passed legislation allowing cities to create redevelopment districts, sell bonds (commonly referred to as STAR bonds) to generate money to be used for acquiring land and paying for redevelopment project costs, and then pay off the bonds over a period of time with the revenues generated from sales taxes, transient guest taxes, and other taxes generated by businesses that located within those districts.

Special provisions were made by the 1997 Legislature allowing Wyandotte County to use this financing method to develop the Kansas Speedway and the Village West tourism district which houses businesses such as Nebraska Furniture Mart, Cabelas, and the Great Wolf Lodge.

Recently legislators have heard a number of concerns expressed about the use of bond moneys related to these projects. In particular, they are concerned about the reasonableness of prices, fees, and commissions paid in conjunction with land acquisition, property appraisal, property development, marketing, engineering, architectural services, and bond counsel and issuance costs. A second area of concern relates to perks, such as merchandise discounts or free and reduced-price admission to events, provided to Wyandotte County Unified Government and Board of Public Utilities employees by the businesses located in these development districts. Finally, concerns have been expressed that costs for a movie theater project to be built and owned by the Unified Government exceed industry standards.

A performance audit of this topic would answer the following questions:

- 1. Were costs associated with issuing the bonds used to finance the development of the Kansas Speedway and the Village West tourism district reasonable?** To answer this question, we would review the process that was used to award contracts to the bond counsel and the bond underwriters, to determine whether it was competitive and should have resulted in the lowest overall cost. If these bond issuances were negotiated rather than competitively bid, we would review the fees, expenses, and any other costs for bond counsel, and bond underwriters for the bonds issued to finance these 2 projects and compare them to costs for other projects of a similar type and magnitude. We would look at any other costs or conduct additional work as needed.
- 2. Were the bond proceeds spent for allowable purposes, and were the costs associated with the items purchased reasonable?** To answer this question, we would determine what the law allows bond proceeds to be spent for. We would review the purchases made

with bond proceeds to determine whether they were allowable. Also, we would review the reasonableness of fees commissions and other payments related to property acquisition and development zone marketing, such as appraisal fees, architectural and engineering fees, consultants, and developer retainer fees. In addition, we would compare per acre or per square foot prices for acquiring the land to subsequent sale prices for the same land by the Unified Government or the Developer. We would review other types of purchases as needed.

3. **What types of discounts or other perks have the Kansas Speedway or other businesses in the tourism district made available to Unified Government and Board of Public Utilities employees?** To answer this question, we would interview officials from the Unified Government and Board of Public Utilities and review memos or other correspondence to determine what types of perks have been made available to their employees by the Kansas Speedway or businesses located in the Village West tourism district. We also would contact officials from the Speedway and those businesses to confirm the types of perks being offered, and gather any information that may be available about the use of those perks by employees of the Unified Government or the Board of Public Utilities.

4. **Do the costs associated with a movie theater project being built in the tourism district exceed industry standards?** To answer this question we would review the details of a movie theater project to be built and owned by the Unified Government. We would determine individual costs of the complex such as engineering, architectural, and construction costs or on a per-square foot or other appropriate basis, and compare them to industry averages for this part of the country. If the costs exceed industry standards we would report by how much.

Estimated time to complete: 12-14 weeks

APPENDIX B
Bonds Issued, Sales Tax Revenues, and Debt Service Payments
Kansas Speedway and Village West Bonds
As of December 2004

Bond Issuance	Year	Total Amount			Sales Taxes Generated (a)	Debt Service Payments			Principal Remaining
		Authorized	Drawn Down	Unissued		Principal	Interest	Total	
Kansas Speedway									
Speedway 1	1999	\$24,300,413	\$24,300,413	\$0	---	\$0	\$4,299,255	\$4,299,255	\$24,300,413
Speedway 2	2002	\$6,320,000	\$6,320,000	\$0	---	\$1,245,000	\$803,842	\$2,048,842	\$5,075,000
Possible Speedway (b)	unknown	\$11,880,000	\$0	\$11,880,000	---	\$0	\$0	\$0	\$0
Total Speedway		\$42,500,413	\$30,620,413	\$11,880,000	\$9,221,743	\$1,245,000	\$5,103,097	\$6,348,097	\$29,375,413
Village West									
General Bonds	2001	\$28,665,000	\$28,665,000	\$0	---	\$0	\$5,335,319	\$5,335,319	\$28,665,000
Nebraska Furniture Mart	2001	\$64,305,000	\$64,305,000	\$0	---	\$610,000	\$10,744,632	\$11,354,632	\$63,695,000
Cabela's	2001	\$65,000,000	\$63,474,869	\$1,525,131	---	\$4,169,739	\$9,102,127	\$13,271,866	\$59,305,130
RED 1	2003	\$54,045,000	\$38,861,515	\$15,183,485	---	\$1,150,000	\$2,285,600	\$3,435,600	\$37,711,515
Beaumont	2003	\$3,000,000	\$1,786,134	\$1,213,866	---	\$0	\$140,058	\$140,058	\$1,786,134
RED 2 (c)	2005	\$47,200,000	\$0	\$47,200,000	---	\$0	\$0	\$0	\$0
Total Village West		\$262,215,000	\$197,092,518	\$65,122,482	\$31,562,767	\$5,929,739	\$27,607,736	\$33,537,475	\$191,162,779
GRAND TOTAL		\$304,715,413	\$227,712,931	\$77,002,482	\$40,784,510	\$7,174,739	\$32,710,833	\$39,885,572	\$220,538,192

(a) Reporting sales taxes generated for individual bonds would disclose confidential taxpayer information.

(b) The bond agreement for the Speedway includes provisions for an additional \$11.9 million in STAR bonds for future expansion. Unified Government officials told us these are contingent on certain revenue requirements that are unlikely to be met.

(c) The second set of RED bonds will be issued in February 2005.

Source: Bond Account Summaries; Kansas Department of Revenue

APPENDIX C

Agency Response

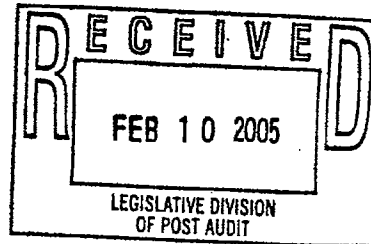
On February 1, 2005 we provided a draft copy of the audit report to the Unified Government of Wyandotte County and Kansas City, Kansas, and the Department of Commerce. Their responses are included in this Appendix. We also provided the Kansas City Board of Public Utilities with a draft of Question 3. The Board chose not to respond.

The Department of Commerce questioned the appropriateness of our recommendation to make a State official responsible for reviewing and approving the terms of major agreements in STAR bond projects, and our recommendation not to issue final approval of additional STAR bond projects until the Legislature has had an opportunity to clarify the STAR bond law. In response to these concerns, we made minor modifications to those recommendations.



County Administrator's Office
Dennis M. Hays, County Administrator

701 North 7th St., Suite 945
Kansas City, Kansas 66101-3064



Phone: (913) 573-5030
Fax: (913) 573-5540

February 14, 2005

To: Barbara Hinton, Director, Division of Legislative Post Audit

From: Dennis Hays, County Administrator, Unified Government of Wyandotte County/Kansas City, KS

RE: Use of STAR Bond Moneys Associated with Kansas Speedway and Village West Tourism District

The Unified Government appreciates this opportunity to respond to the Legislative Post Audit regarding STAR Bond Use in Wyandotte County. We believe this audit validates that the Kansas Speedway and Village West developments are, in fact, an enormous success and have done exactly what the Kansas Legislature intended: promote economic development and make Kansas a major tourism area.

We thank the Legislative Post Audit team for its professionalism and diligent efforts to learn about one of the most complex and sophisticated private/public partnerships anywhere in the nation.

Finally, we extend our appreciation to the Kansas Legislature for granting communities the opportunity to utilize such a powerful tool as STAR Bonds. We stand willing and ready to assist the State of Kansas as it continues the evolution of STAR Bonds and other economic development tools.

Cost of Issuance

STAR Bond Cost of Issuance Found to be Below Average

We are pleased the Legislative Post Auditors acknowledge that the cost of issuance of the STAR bonds is well below the average of bonds similar in size. In fact, the auditors find that even the large Village West bonds were nearly half the cost of issuance compared to other bonds of the same size.

As the audit points out, local governments are allowed by law to charge a bond origination fee for the issuance of bonds the government issues on behalf of a business. In this case, the Unified Government has charged a \$450,000 bond origination fee to Village West. The Unified Government has charged similar bond origination fees on all bond issues where a private developer benefits from local government access to low interest rates in the bond market, such as General Motors and KC Southern Railway,

Fees and Commissions

Less Than 3% Attributable to Necessary Fees and Commissions

The audit report demonstrates the sheer size of the overall development at \$843 million in private/public investments. The audit also illustrates with Figure II-2 that less than 3% of that investment was spent on necessary fees and commissions for the Kansas Speedway and Village West.

Specific STAR Bond Expenditures

99.8% Accuracy Rate in Expending STAR Bonds

Of the \$176 million in STAR Bonds expended, the audit states that only 0.2% (two-tenths of one-percent) was charged inaccurately. As noted in the report, some Nebraska Furniture Mart expenditures were clerical errors. Those moneys have been repaid. In addition, \$1.1 million in funds were being held by the Unified Government for specific future expenditures related exclusively to Village West. Based upon the recommendation of Legislative Post Audit, we have transferred the funds back to the Unified Government bond trustee where it is still planned to be used for future Village West expenditures.

The audit goes on to point out that the only unallowable cost attributable directly to the Unified Government is a charge of \$15 for delivery of financial reports to Legislative Post Audit.

Museum and Other Personal Property

Cabela's and Unified Government Owned Museum Listed as the Number 1 Tourist Attraction in Kansas

The audit report states that in the auditor's opinion, legislators never envisioned having STAR bonds pay for the Museum owned by the Unified Government contained within the Cabela's store. The Unified Government, with full cooperation of the Kansas Department of Commerce, Governor's office and the Kansas Legislature, has undertaken a comprehensive project in Village West which does *precisely what the Legislature specified* in the 1998 Amendments – *"to enhance the major tourism area,"* by using STAR Bond financing to develop the 400 acre Village West development.

Since its opening, Cabela's retail store and the Unified Government owned museum at Cabela's, has been *the number one tourist destination in Kansas*, thus *enhancing the major tourism area*, by drawing tourists and customers from hundreds of miles and many states. More than half of these tourists come from over 100 miles away.

Furthermore, since the start of the project in 2000, the Unified Government has continually disclosed public investment and ownership to the news media and public. The Unified Government understood that disclosing the details of the project was essential to winning and keeping community support for the development.

Theater Project

Destination Theater Will Enhance the Major Tourism Area

The Unified Government agrees that we are not building a *typical* theater in Village West. Therefore, Legislative Post Audit comparisons to the cost of constructing a typical theater are inappropriate. The Legends Theater is being designed and built *to enhance the major tourism area*, as was envisioned by the original legislation. The largest auditorium will feature a four-story tall, 80 foot wide screen, the largest in the metro area. It will house more than 600 patrons and will feature premium VIP seating on a balcony level. All auditoriums will have wide screen formats, extra wide seats, and extra spacing between rows. Some theaters will include a stage and be equipped for non-film functions and/or presentation purposes.

Use of Theater Revenues

Theater Revenues Used as an Incentive to Attract Cabela's

Legislative Post Auditors state the lease-back arrangement with Cabela's appears to circumvent the law that prohibits using STAR bonds to construct buildings owned or leased by a private developer. This statement, per the opinion of Gilmore & Bell, bond counsel for the project, "***misapplies the law and misstates the undisputed facts,***" because "***no STAR bond proceeds were used or will be used to construct the retail portions of Cabela's building.***" The STAR bond proceeds, which are being used to construct the Unified Government-owned movie theater, will be used to do just that – construct the Unified Government-owned movie theater.

In addition, the STAR bond law does not restrict in any manner the use of operating revenues from a publicly-owned building financed with STAR bonds. The Unified Government-owned theater, like the proposed STAR-bond financed arenas, is an entertainment venue which will realize ticket revenue from attendees.

Management of the Project

Post Audit Found No Problems with the Unified Government's Oversight of Projects it Manages

We are pleased the Legislative Post Auditors found no problems with the Unified Government's oversight of the projects it manages directly. The Unified Government, through Zimmer Management, has reviewed every invoice related to Village West.

The report does recommend increased oversight by both the State and Local government. We agree.

Land Resale

Unified Government Takes Control of Land to Ensure Development

The Unified Government took immediate control of the Village West properties in 1999 and 2000. This control ensured the immediate and successful development of the Tourism District.

The Unified Government acquired the property at a time when land values were skyrocketing, from \$2,000 an acre farm fields, to commercial land with retail values of more than \$5 a square foot.

In owning this land, the Unified Government was able to partner with very strong destination based retailers in ***enhancing the major tourism district***. Due to the ***intensely competitive*** nature of development, many States and Municipalities provide ever increasing incentives to attract development and enhance state and local revenues. The Unified Government used the land we purchased as one such incentive.

Ethics Program

Award Winning Ethics Program Adhered To

The Unified Government has maintained the highest levels of ethical behavior from the inception of the Kansas Speedway and Village West.

We are pleased the Legislative Post Audit report acknowledges the ethics programs of the Unified Government and Board of Public Utilities. However, the report does not mention that in 2004, the Unified Government's ethics program won the ***American Society for Public Administration's Public Integrity Award***. The Unified Government's ethics program is one of only a few in the nation for local governments. It is required of every employee and elected official to not only be trained in basic ethics, but to attend continuing ethics courses taught by the Unified Government's Ethics Administrator.

Additionally, suites at the Kansas Speedway and Community America Ballpark were specifically negotiated into the arrangements for use as economic development tools ***at no cost*** to local taxpayers.

Conclusion

The Kansas Speedway and Village West development in Wyandotte County is one of the most successful economic development stories the State of Kansas has ever seen. It is also one of the most sophisticated, complex, public/private partnerships undertaken anywhere in the nation.

We agree with the Legislative Post Audit Report which states, ***"No one can argue that the Kansas Speedway and Village West redevelopment projects haven't been enormously successful at bringing significant development to western Wyandotte County. When the STAR Bonds used to help finance them are paid off, these projects are likely to provide significant amounts of sales tax revenues for the County and the State."***

Property taxes paid on the land occupied by the Kansas Speedway and Village West previously generated only \$208,409 in property taxes annually. In 2004, that same property generated \$5,422,883 in property taxes for the State, School Districts and Wyandotte County. In addition, the Kansas Speedway and Village West businesses have created an estimated 3,281 new jobs with an estimated annual payroll of \$51.3 million to date. The Kansas Department of Revenue estimates the 4,000 new jobs which will ultimately be created will generate \$2.8 million in new State income taxes annually.

In any new and bold venture, there are always lessons to be learned about how to make the process better. In this regard, the Legislative Post Audit Report has offered some suggestions the Legislature will no doubt want to discuss and perhaps even adopt as it evaluates the future use of STAR Bonds.

The Unified Government looks forward to working with the Legislature as it reviews and modifies legislation ensuring the successful evolution of this powerful economic development tool in Kansas.



K A N S A S

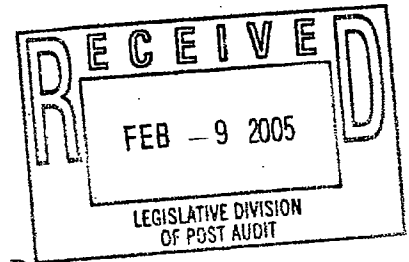
HOWARD R. FRICKE, SECRETARY

DEPARTMENT OF COMMERCE

February 9, 2005

KATHLEEN SEBELIUS, GOVERNOR

Barbara J. Hinton
Legislative Division of Post Audit
800 Southwest Jackson Street, Suite 1200
Topeka, Kansas 66612-2212



Re: Review of Draft Performance Audit – Wyandotte county STAR Bonds

Dear Ms. Hinton:

Thank you for the opportunity to review and comment on a draft copy of your audit, *Wyandotte County: Reviewing the Use of STAR Bond Moneys Associated With the Kansas Speedway and Village West Tourism District*. I compliment you and your staff for a detailed and informative report.

I generally support the recommendations contained in the report to clarify the law and empower the Department of Commerce to improve the oversight process, especially the audit and recoupment provisions. For projects submitted to the Department of Commerce since the Legislature's approval of the Speedway/Village West development, additional requirements, limits and safeguards have been implemented to address a variety of the other issues addressed in the report.

I am concerned regarding the effect your recommendation that a State official review and approve project agreements may have on both the potential liability of the State with regards to these projects, and on the marketing and issuance of STAR bonds. It is the credit rating of the municipality that issues the bonds that is ultimately at risk, and we have sought to avoid any perception that STAR bonds are a debt of the State of Kansas, or a debt for which the faith and credit or taxing powers of the State of Kansas are pledged. In the event the law is amended to make a State official responsible for reviewing and approving the terms of major agreements connected with a STAR bond project, I would propose that the Office of Attorney General be designated to perform that function. Likewise, I contend that the Attorney General would be the appropriate authority to be charged with recouping moneys that are not spent in accordance with the law.

I am also concerned about the recommendation that the Secretary not issue final approval of any STAR bond projects until the Legislature clarifies the STAR bond law. One of the key points that have been made as we have worked with the legislature and communities in developing and

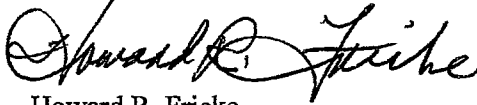
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refining the STAR bond process is the need for continuity and consistency so that communities with projects in process or under development understand the rules. As you know, projects in Olathe and Overland Park have already received contingent approval to issue bonds to finance their respective projects. The recommended moratorium could have negative effects on pending projects and preclude Commerce from fulfilling commitments previously made to communities that have significant investments in their projects. I urge the Legislature to provide guidance and direction, and continue to allow me to exercise judgment and authority to operate accordingly.

Sincerely,

A handwritten signature in cursive script, appearing to read "Howard R. Fricke".

Howard R. Fricke
Secretary of Commerce