

City of St. Joseph

Economic Development Incentives



Guide to Economic Development Financing Tools

December, 2006

INTRODUCTION

The purpose of this report is to identify inventory revenue sources for funding new or existing development in St. Joseph. Communities have found that substantial public investment is required in order to improve existing areas and develop new areas for development. Public investment is necessary to help finance private investment to attract new business and retain existing business. Public incentives can take the form of local, state, or federal options.

In addition, cities in Missouri have the authority to impose a variety of different types of taxes to fund public needs. Examples include property taxes, sales taxes, use taxes, earnings taxes, and excise taxes. Voter approval is required for all taxes imposed in Missouri. Other incentives are approved by Staff, Commissions appointed by the City Council or City Council themselves.

The City of St. Joseph works in cooperation with the Chamber of Commerce, Buchanan County and State of Missouri to provide a wide variety of incentives to encourage and promote residential and commercial development for the betterment of the community.

The following information summarizes various financing and economic development programs which are available in the City of St. Joseph. Potential funding options for these improvements can be divided into several categories and these broad categories are briefly summarized below.

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I. TAX PROGRAMS:

Capital Improvements Sales Tax

Missouri statutes authorize cities and counties to impose a sales tax of up to one-half of one percent on all retail sales in the city or county for the purpose of funding capital improvements, including operation and maintenance. A city or county may issue bonds to be retired from revenues derived from the capital improvements sales tax. Such bonds must be approved by either four-sevenths or two-thirds of those voting at the election, depending upon the election date when the issue is submitted to the voters.

Use Tax

Missouri statutes authorize cities and counties to impose a use tax on the privilege of storing, using or consuming within the state any article of tangible personal property in an amount equivalent to the percentage imposed on the sales price in the state sales tax law. The tax is not applicable until the article finally comes to rest within the state. The funds generated by the tax are considered general revenues.

Excise Tax

An excise tax is a method of raising revenue by levying a tax on a particular activity. An excise tax has been defined as a tax that is measured by the amount of business done, income received, or by the extent to which a privilege may have been enjoyed or exercised by the taxpayer, irrespective of the nature or value of the taxpayer's assets or investments in business. It is different than a property tax, which is a tax on the assessed value of property. An excise tax is not subject to the benefit or nexus requirements of a fee imposed pursuant to a city's policy/regulatory power, such as an impact fee. This means that for the tax to be legal, there need not be a quantifiable relationship between the tax imposed and the demand for public services created by the activity upon which the tax is imposed; such as a new development and the resultant demand for new streets, water, sewer, parks or other public facilities that new development creates.

The purpose of an excise tax is to raise revenue, not to pay for costs created by the activity upon which the tax is imposed. There is no legal limit on the rate of an excise tax that could be imposed, as long as it is not confiscatory. Neither is there a prescribed methodology a city must use to establish the rate of the tax. In establishing the tax rate, a city is constrained only by its duty to exercise its legislative power reasonably. However, to establish a tax rate that will generate revenues sufficient to meet identified costs, a city may use a tax rate calculation methodology that takes into consideration the extent to which the taxpayers generate the need for the revenues. The tax should be valid as long as the requisite authority exists, the tax is adopted in conformity with the procedural and substantive aspect of that authority, and the methodology used to set the rate is reasonable and not confiscatory. The Hancock Amendment to the Missouri Constitution prevents an excise tax from being imposed unless approved first by a majority of those voting at an election on the question.

Unlike an impact fee, the funds collected from an excise tax do not have to be "earmarked" for a particular purpose, such as street improvements. The funds collected from an excise tax may simply be placed in a city's general fund for use for any valid public purpose. While "earmarking" of funds is not legally necessary, from a practical standpoint, a city can state that the purpose of the excise tax is to provide for street improvements (for example). This could be done in a number of different ways, including specific limitations in the ballot language, specific language in the ordinance adopting the tax or less formally through the adoption of a resolution.

II. TAX CREDIT PROGRAMS:

Enhanced Enterprise Zone

The term "Enterprise Zone" describes a distressed area targeted for intensive economic development efforts. Businesses locating or expanding in designated zones may receive various incentives related to the activity. Incentives available in Missouri include real property tax abatement, awards of tax credits and job training credits, favorable state tax treatment for investments and income as well as waivers of business license fees, local zoning restrictions and other "burdensome" local development requirements. The City of St. Joseph has an Enhanced Enterprise Zone approved by the State of Missouri. If eligible, a company may receive a 50% abatement on improvements for a 10-year period.

Historic Preservation Tax Credits

From time to time, Missouri has also provided income tax credits for historic preservation activities. Under current enactments found at §§253.545-559 RSMo., any person or business entity incurring expenses for the rehabilitation of any historic property used for residential or business purposes may obtain tax credits in an amount equal to twenty-five percent of the total amounts expended. Rehabilitation and preservation costs must exceed fifty percent of the property owner's total basis in the property. Preservation rehabilitation must also meet the standards of the Secretary of the Interior for rehabilitation.

Urban Redevelopment Corporations ("Chapter 353")

Any Missouri city may establish an Urban Redevelopment Corporation to redevelop areas that have been designated as blighted due to age, obsolescence or physical deterioration. The designated redevelopment area may be very large or as small as a single lot or building.

The corporation may acquire land through eminent domain. This is a 25 year program that allows 100% of improvements to real property to be exempt from state and local property taxes for the first 10 years and 50% for the remaining 15 years. The grant of tax abatement provided in Chapter 353 involves a cap or limitation on future assessed valuations of affected real property within the redevelopment area. Thus, the effect of the tax abatement is not limited to municipal levies. Indeed, Chapter 353 expressly provides that abatement extends to the real property levies of the state and of all political subdivisions.

III. DEVELOPER AGREEMENTS:

Sales Tax Improvement Agreement

A Sales Tax Improvement Agreement, sometimes called a "Developer Agreement", allows for the possibility of city sales or property tax to be collected from a specific development to be used specifically for public improvements. The developer completes pre-defined infrastructure improvements, then the city uses a portion of the newly generated sales or property tax proceeds from the development as a mechanism to reimburse the developer for eligible expenses.

Impact Fees

An impact fee is a type development exaction requiring the development applicant to pay a fee as a condition of development approval. All fees collected must be spent for improvements that benefit those who pay the fee. An impact fee is a one time charge imposed upon new development to pay for public facilities and services that are necessitated by the new development. An impact fee is designed to require new development to pay for its fair share of public facilities and services that serve the new development. The impact fee must reasonably relate to the demand created by each unit of new development and funds must be spent in the same service area in which they are collected.

Since the courts have determined that the Hancock Amendment does not apply to "user fees", an impact fee does not require a vote of the public like an excise tax.

IV. SPECIAL TAXING DISTRICTS:

Community Improvement District

State statutes authorize the creation of Community Improvement Districts (CIDs). A CID may be initiated by petition signed by 1) property owners collectively owning more than 50% by assessed value of the real property within the boundaries of the proposed district and 2) more than 50% per capita of all owners of real property within the boundaries of the proposed district. The petition must include a five-year plan stating a description of the purposes of the proposed district, the services it will provide, the improvements it will make and a cost estimate of the services and improvements to be incurred. The petition must also include the maximum rates of real property taxes that may be submitted to the qualified voters in the district for approval, the maximum rates of special assessments and the methods of assessment that may be proposed by petition, as well as any other proposed limitations on the powers of the district. The statutes require the City Council to hold a public hearing on a proposed CID within 45 days after the petition is filed. The CID must be established by ordinance approved by the City Council after the public hearing.

A CID may be established as either a political subdivision or as a not-for-profit corporation. If the CID is established as a political subdivision, it is governed by a board of directors that, as specified in the petition, is either elected by the qualified voters in the district or appointed by the City. If the CID is a not-for-profit corporation, the directors are selected in accordance with the provisions of Chapter 355 of the statutes (general not for profit corporations law). The statutes provide a CID with a variety of enumerated powers, including the authority to construct, reconstruct, install, repair, maintain, and equip public improvements including parks and streets. The improvements in a CID organized as a political subdivision or a not-for-profit corporation may be funded by the imposition of special assessments. Special assessments may be imposed only by the board of directors by resolution after receipt of a special assessment petition signed by 1) owners of real property collectively owning more than 50% by assessed value of the real property within the boundaries of the district and 2) more than 50% per capita of all owners of real property within the boundaries of the district. The petition must also specify the projects to be funded by the special assessments, the method of allocation, the amount of the proposed assessments, and the expiration date of the assessments. If the CID is a political subdivision, the improvements may also be funded by a real property tax levied within the district after approval by a majority of the qualified voters within the district.

Neighborhood Improvement Districts

State statutes authorize the creation of Neighborhood Improvement Districts (NIDs). Under the NID statutes, particular areas of land may be designated by the City Council as a "neighborhood" that will benefit from a particular public improvement or improvements, including streets and parks. Landowners within each designated neighborhood must authorize the formation of the NID either by a vote of approval or by submission of a petition to the City Council signed by the owners of record of at least two thirds by area of all real property located within the proposed NID. A NID proposed by election requires the same percentage of affirmative voters of all qualified voters residing within the proposed district as is required for approval of general obligation bonds (see below). Upon receiving the requisite voter approval or a filing of a petition, the City Council may, by resolution or ordinance, determine the advisability of the specified improvements and direct that the district be established. If the NID is approved, the City Council may authorize the issuance of general obligation bonds to finance construction of improvements. To secure the bonds, a portion of the total cost is assessed against each landowner within the NID and the special assessment becomes a tax lien against the property. The method of apportioning assessments among the property owners within the NID is established prior to the creation of the NID. The bonds may be issued without a vote of the public if the city agrees to rely on existing revenues and surpluses as a source of repayment in the event that the special assessments made against property in the NID prove to be insufficient to fund repayment. Bonds issued pursuant to this option do not count against the regular city's debt limit, but cannot exceed 10% of the assessed value of tangible property in the city.

Special Business Districts

State statutes authorize cities to establish special business districts for specified areas of the city upon petition by one or more owners of real property in the proposed district. The purpose of the law is to grant to such districts the power to levy special fees and taxes in each district for the

maintenance and improvement of the special business district. Property owners in the district may be taxed on an ad valorem basis at the rate of \$0.85 per \$100 of assessed valuation. Businesses may be assessed a license tax (subject to a protest by businesses representing a majority of the total license taxes). The taxes and fees may be used for the purpose of maintaining and improving public facilities in the district, including the opening of new streets or the widening of narrow existing streets. Discretion as to the types and amounts of expenditures lies solely with the City Council, which appoints a commission or advisory board to make recommendations as to expenditures and uses. The district may issue general obligation bonds for up to 20 years, if authorized by the City Council and approved by either four-sevenths or two-thirds of the voters in the district voting in an election, depending upon the election date when the issue is submitted to the voters. These general obligation bonds count against the City's debt limit.

Tax Increment Financing

The basic concept behind tax increment financing (TIF) is that the redevelopment of the area approved as a redevelopment district will increase the equalized assessed valuation of the property, thereby generating new revenues for the city that can be used to pay for specified costs of a redevelopment project. These costs may include installation, repair, construction and reconstruction of streets and acquisition and construction of other public facilities within a redevelopment area. Property taxes and other revenues generated by the existing development in a legislatively defined redevelopment district are frozen when the redevelopment is approved by the City Council and the increased property tax and a portion of other revenues generated by the new development are captured and placed in a special fund to pay for the costs of redeveloping the area. Those new property tax revenues are the source of the term "increment," and they are also referred to as "payments in lieu of taxes" (PILOTs). In addition to the PILOTs, the development may capture up to 50% of certain locally imposed taxes (commonly referred to as economic activity taxes or "EATS") such as local sales, franchise taxes, utility taxes and local earnings taxes to fund project costs. Certain new state revenues (one-half of general state sales tax or one-half of state individual income tax withheld from new employees in the redevelopment area) generated by a redevelopment project may be captured under limited circumstances where the area is blighted and is located in either an enterprise zone, federal empowerment zone, a central business district or in an urban core area with at least one 50 year old building wherein the urban core area suffers from a 20 year pattern of declining population or property tax revenue. State statutes also authorize bonds to be issued that are paid from the PILOTs and EATs generated in the redevelopment area. The bonds do not count against the City's debt limit. The TIF statute limits the areas of the city that are eligible for TIF to "blighted," "conservation" (near blighted) or "economic development" areas as defined in the statute.

Transportation Development Districts

Missouri statutes authorize a city to create transportation development districts encompassing all or a portion of the city. The statutorily-stated purpose of a transportation development district is to fund, promote, plan, design, construct, improve, maintain, and operate one or more transportation projects or to assist in such activity. A transportation development district is

created by submission of a petition to the circuit court from either 50 registered voters in each county in the district, by owners of real property in the district, or by the City Council. The petition must identify the district's boundaries, each proposed project, and a proposal for funding the projects. After receipt of a petition and a hearing to determine that the petition complies with the law, the circuit court enters a judgment certifying the questions regarding creation of the district, projects to be developed, and proposed funding for voter approval. If a simple majority of registered voters or property owners included in the district boundaries (depending on the type of petition submitted to request creation of the district) vote in favor, the transportation development district is created. If the issue fails, it cannot be resubmitted to the voters again for two years. If approved, an election is held within 120 days to elect a board of directors for the district.

Once created, a transportation development district is a separate political subdivision of the state with powers such as condemnation, the power to contract with parties, to lease or purchase real or personal property, and to sue and be sued. A city has no control or jurisdiction over transportation development district projects, unless the control is agreed to by contract. However, the board of directors of the district cannot increase or decrease the number of projects in the district without first obtaining authorization of the voters and the approval of the Missouri Highways and Transportation Commission and/or the city, depending on the project.

A transportation development district may fund approved transportation projects (subject to the approval of a city or the Missouri Highway and Transportation Commission, depending upon the project) utilizing one or more financing mechanisms authorized in the election. The financing mechanisms available are special assessments, property taxes, sales taxes and tolls. The amount of a sales tax may not exceed one percent. After enactment, the sales tax is subject to a citizen petition for an election to repeal the tax. There is no statutory limit on the amount of special assessments or tolls that can be imposed. Transportation development districts are also authorized to issue bonds, including revenue bonds, by resolution of the board of directors without a vote of the public. These bonds do not count against a city's debt limit because they are issued by the district (a separate political subdivision of the state) and not by the city.

V. REDEVELOPMENT PROJECTS:

Missouri Downtown and Rural Economic Stimulus Act

MODESA, the Missouri Downtown and Rural Economic Stimulus Act, was recently enacted in Missouri to provide an alternative financing mechanism to state and local tax increment financing. This new form of financing allows cities to use incremental state sales and income taxes generated from new developments to pay for infrastructure improvements. MODESA is similar to state and local tax increment financing (TIF) with some changes and greater flexibility, including but not limited to, changes regarding state appropriation and the state tax increments that may be utilized.

Downtown Revitalization Economic Assistance for Missouri Initiative

The DREAM Initiative is a comprehensive, streamlined approach to downtown revitalization that provides a one-stop shop of technical and financial assistance for select communities to more efficiently engage in the downtown revitalization process. The initiative was created through a partnership of three development agencies: the Missouri Department of Economic Development, the Missouri Development Finance Board and the Missouri Housing Development Commission.

The goal of the DREAM Initiative is to help chosen Missouri communities re-establish the properties in use in the downtown core, increase property tax values and sales tax opportunities, and attract private investment and new jobs.

Brownfields Remediation

The Brownfields Remediation Program provides the opportunity for financial incentives for the redevelopment of commercial or industrial sites that are contaminated with hazardous substances and have been abandoned or underutilized for at least 3 years.

This program provides state tax credits for up to 100% of the cost of remediating eligible properties. Before receiving tax credits, an application must be submitted to the Missouri Department of Natural Resources for acceptance into DNR's "Voluntary Cleanup Program"

Community Development Block Grant (CDBG) Program

The CDBG program is administered by the Department of Housing and Urban Development. Grant funds are allocated between entitlement communities (large cities and urban counties) and non-entitlement communities (small cities) on an individual application basis. CDBG programs are designed to eliminate blight, meet other urgent community needs, and benefit low and moderate income people.

VI. INDUSTRIAL DEVELOPMENT PROGRAMS:

General Obligation Bonds

Subject to certain constitutional and statutory limitations, primary of which is a constitutional limit on the total amount of debt a city can incur based upon a set percentage of its assessed valuation, a city has the ability to raise funds for street and other public improvements by the issuance of general obligation bonds. General obligation bonds are long-term obligations of a city backed by its full faith and credit. General obligation bonds may be used to pay for all or a part of public infrastructure costs. General obligation bonds must be authorized by a vote of the public. The vote requirement for their issuance is four-sevenths at the general municipal election day (April), primary election day (August), or general election day (November) and two-thirds at all other elections.

Revenue Bonds

Revenue bonds are typically issued to finance facilities that have a definable user or revenue base. They are obligations that are secured by the pledge of a specific source of funds from the facility or project which is financed. Citizens using the services pay for the financing costs through the rates or fees that are charged. These types of bonds are typically used to finance water, sewer, and utility improvements. Market acceptance of these types of bonds is dependent upon the necessity and viability of the underlying improvement and the certainty of a regular and sufficient stream of revenue from the project to retire the resultant debt in accordance with an established schedule. The issuing resolution and contract usually require the issuer to charge adequate fees in order to amortize the debt, maintain the financed facility, and fund certain reserve requirements. The interest and principal of these bonds do not constitute an indebtedness or obligation of the city issuing the bonds. The Missouri Constitution provides specific authority for some types of revenue bonds, none of which would allow funding for road improvements. Although an election would not be required for the issuance of revenue bonds issued under home rule authority, an election may be required to authorize the mechanism that generates the revenue source to be pledged to pay off the bonds.

Industrial Development Bonds (Chapter 100)

Missouri offers a variety of methods of issuing low-cost, tax-exempt bonds for private purposes such as industrial development. The proceeds of an industrial development bond issue may be used to finance up to 100% of the cost of fixed assets such as land, buildings, and machinery and equipment.

The primary incentive for a company to use industrial development bond financing is that funds may be obtained at lower interest rates than with conventional financing. Because the interest paid to bondholders is exempt from federal and Missouri income taxes, industrial development bonds offer a lower rate of interest to the borrower.

NEIGHBORHOOD IMPROVEMENT DISTRICTS (NIDs)

- Council designates particular areas of land as a "neighborhood" that will benefit from a particular public improvement.
- Formation of NID begins with property owner petition signed by owners representing 2/3rds of area or by election.
- Council may authorize issuance of GO bonds to finance construction of identified improvements.
- Special assessments are levied against benefiting property owners to pay back the bonds.
- NID bonds are counted against general obligation debt limit.

Advantages:

- City does not need to do an election to issue GO bonds if it pledges current revenue streams to back the bonds.
- Requirements to form district are not as involved as those for a CID and the NID is not a separate public entity.

Disadvantages:

- A fairly large majority of landowners must approve the formation of the district.
- City could end up picking up the tab for landowners who default on their payments.

Potential NID Projects:

- Improved upgraded street lighting.
- Sidewalk repair or replacement.
- Street or curb repair.
- Storm water and sanitary improvements.

COMMUNITY IMPROVEMENT DISTRICTS (CIDs)

- Formation is requested by a petition of property owners within the proposed district (more than 50% by both assessed value and by number of owners)
- City Council has a public hearing.
- The district is approved by ordinance.
- Best used when there could be multiple improvements contemplated to cover a large geographic area.
- CID bonds are payable from District revenues and are not an obligation of the City or County.

Advantages:

- Do not need to go to Circuit Court to form the District. Paperwork is extensive but easier than a TDD.
- The District has several funding sources available.
- CIDs are separate entity with a separate board and therefore are not directly controlled by City or County (in political subdivision form, the City/County can appoint directors).

Disadvantages:

- Creating a separate entity can cause problems unless a Redevelopment Agreement is used to stipulate exactly what projects will be funded as well as to specify the life of the District.
- Deciding the fairest way to determine what revenue sources will be used.

Potential NID Projects:

- Downtowns
 - Maintenance & cleanliness
 - Parking & security
 - Decorative lighting and banners
 - Streets, sewer, sidewalk improvement or replacement