



## Board of Alderman Request for Action

**MEETING DATE:** 8/2/2022

**DEPARTMENT:** Administration

**AGENDA ITEM:** Resolution 1093, Adopting the Revised Economic Development Incentive Policy

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**REQUESTED BOARD ACTION:**

Motion to approval of Resolution 1093, Adopting the Revised Economic Development Incentive Policy

**SUMMARY:**

Beginning in September of 2021, the Economic Development Committee received information and education on all available development incentives. Following this review, the EDC identified and approved a draft revised Incentive Policy as a whole to be recommended to the Board of Aldermen.

Throughout the process, Megan Miller from Gilmore and Bell provided education and guidance on the incentives, allowing the Economic Development Committee to make thoroughly informed decisions that are now before the Board. The full incentive policies and associated recommendations are attached in the draft Incentive Policy. A summary of the recommendations is provided below:

**Neighborhood Improvement Districts:** the EDC recommends NIDs are only to be placed on pre-existing developments with individual lots separately owned, excluding new developments without individual ownership.

**Community Improvement Districts:** the EDC recommends limiting the years of a CID to be in place to 20 years and expressed a preference for the CID Board to be Developer controlled with City representation.

**Tax Increment Financing:** The recommendations are as follows:

- 20% maximum on reimbursable Project Costs
- Outside public improvements highly recommended to be included in the project such as additional parking or public parking arrangement
- City to require approval of business types, emphasis on sales generating businesses.
- 15-year cap on overall timeline highly recommended
- Minimum total project Cost at \$1,000,000

These changes were brought to the Board of Aldermen on the July 19, 2022 Work Session and no further changes were requested.

**PREVIOUS ACTION:**

**POLICY OBJECTIVE:**

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**FINANCIAL CONSIDERATIONS:**

Click or tap here to enter text.

**ATTACHMENTS:**

- |  |                                   |
|--|-----------------------------------|
| <input type="checkbox"/> Ordinance   | <input type="checkbox"/> Contract |
| <input checked="" type="checkbox"/> Resolution                                   | <input type="checkbox"/> Plans    |
| <input type="checkbox"/> Staff Report  | <input type="checkbox"/> Minutes  |
| <input checked="" type="checkbox"/> Other: Economic Development Incentive Policy |                                   |

## **RESOLUTION 1093**

### **A RESOLUTION ADOPTING THE REVISED ECONOMIC DEVELOPMENT INCENTIVE POLICY AS THE OFFICIAL POLICY OF THE BOARD OF ALDERMEN**

**WHEREAS**, the Economic Development Committee recently reviewed the city Economic Development Incentive Policy, known as the Economic Development Toolkit; and,

**WHEREAS**, they were able to identify several recommendations regarding Neighborhood Improvement Districts, Community Improvement Districts, and Tax Increment Financing that were brought to the Board of Aldermen; and,

**WHEREAS**, the EDC recommends that the policy in place be amended to include the recommendations to use for economic development; and,

**WHEREAS**, that each of the listed incentives be evaluated on a case by case basis by the City if and when any requests are presented.

**NOW THEREFORE BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF SMITHVILLE, MISSOURI, AS FOLLOWS:**

**THAT THE ATTACHED REVISED ECONOMIC DEVELOPMENT INCENTIVE POLICY BECOME THE OFFICIAL POLICY OF THE BOARD OF ALDERMEN.**

**PASSED AND ADOPTED** by the Board of Aldermen and **APPROVED** by the Mayor of the City of Smithville, Missouri, the 2<sup>nd</sup> day of August, 2022.

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Damien Boley, Mayor

ATTEST:

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Linda Drummond, City Clerk



# Economic Development Programs Incentive Policy





# CITY OF SMITHVILLE, MISSOURI

## ECONOMIC DEVELOPMENT PROGRAMS/ INCENTIVES POLICY

Draft Update: May 24, 2022



**On a journey from a fundamentally familiar small town to becoming a positively progressive small city, Smithville is nearly there. An intentional growth strategy has been identified to create a rural-urban balance for residents and businesses alike. Smithville will remain humble.**

***Uncluttered. Spacious. Peaceful. Sincere. Smithville is Thriving Ahead.***



## **Economic Development Programs/Incentives Policy**

The intent of this Economic Development Programs/Incentives Policy is to express various Economic Development Programs or Incentives that the City of Smithville is willing to consider implementing, or participating in, on eligible prospective projects.

The programs contained in this policy are local level programs and this Policy is not intended to be an all-inclusive program listing. Project eligibility will determine possible participation in any particular program. Not all projects are eligible for each, or any, of the Economic Development Programs listed in this Policy.

The City of Smithville and the Board of Aldermen may consider use of any of these programs, while the City of Smithville is not obligated to participate in, or make application for, any of the programs listed in this Adopted Policy. These programs are discretionary and most require Public Process. Maximum benefit of any program will not be standard practice for consideration.



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## Program Summary

### **Development/Cooperation Agreements (Sales Tax Rebate) (Local Sales Tax Only)**

**Formation** – Transaction structure occurs through an executed agreement between City and property owner or developer

**Public Hearing** – Not Required

**Revenue Sources** – Reimbursed from portion of incremental increased sales taxes generated by project – with interest

**Use of Funds** – Public Improvements (roads, traffic signals, utilities)

**Term** – Typically One Year – to comply with Missouri Statute for revenue pledged for obligations exceeding one year – that would require voter approval- Governing Body may appropriate annually

**Retail** - Eligible

### **Neighborhood Improvement District (NID)**

**Formation** – NID is created by Election or Petition of Voters and/or Property Owners within proposed boundaries

**Public Hearing** – Required

**Revenue Sources** – Special tax assessments to property owners within the district bonds issued (a form of General Obligation Bonds)

**Use of Funds** – Public Improvements (see attachment for examples of eligible public improvements)

**Term** – Bonds Issued – bond maturity cannot exceed 20 years

**Economic Development Committee Recommendations** – NIDs are only to be placed on pre-existing developments with individual lots separately owned, excluding new developments without individual ownership.

### **Community Improvement District (CID)**

**Formation** – May form as either a Political Subdivision or a Not-For Profit Corporation

**Public Hearing** – Required

**Revenue Sources** – Special assessments, rents, fees, charges, grants, gifts, donations – within district boundaries property tax and sales tax – **IF CID organized as a political subdivision**

**Use of Funds** – Facilities or improvements for use by the Public – includes landscapes, streetscapes, sidewalks, parking lots (refer to attachment for more comprehensive list)

**Term** – Not to exceed 20 years

**Retail** – Eligible

**Economic Development Committee Recommendations** - Limit the years of a CID to be in place to 20 years; Set a preference for the CID Board to be Developer controlled with City representation.

### **Special Business District (SBD)**

**Formation** – A political subdivision

**Public Hearing** – Required

**Revenue Sources** – Real property tax – business license tax – special assessments – bonds

**Use of Funds**- Refer to attachment for eligible infrastructure improvements and public services

**Term** – Bonds can be issued for a maximum of 20 years

### **Tax Increment Financing (TIF)**

**Formation** – Governing body or municipality required to form a TIF Commission (composition dictated by Mo. Statute)

**Public Hearing** – Required

**Revenue Sources** – Real property taxes and sales taxes (local)

**Use of Funds** – Professional soft costs, land acquisition, structure demolition, public infrastructure

**Term** – Maximum 23 years

## **Retail – Eligible**

### **Economic Development Committee Recommendations –**

The recommendations are as follows:

- 20% maximum on reimbursable Project Costs
- Outside public improvements highly recommended to be included in the project such as additional parking or public parking arrangement
- City to require approval of business types, emphasis on sales generating businesses.
- 15-year cap on overall timeline highly recommended
- Minimum total project Cost at \$1,000,000

### **Chapter 353 Urban Redevelopment**

A Chapter 353 Redevelopment project acts similarly to that of a TIF, with similar powers. Some of the differences relate to the length (25 years) and how the tax abatements occur.

### **Transportation Development District**

A Transportation Development District (TDD; District) may be created by the Missouri Highways & Transportation Commission (Commission) if the Project involves any of the state's highways or transportation system to fund or operate one or more projects that would assist the promotion, design, construction, improvement or operations of this infrastructure. A separate political subdivision of the state, a TDD 'Project' includes any public bridge, street, highway, intersection, signing, signals, parking lot, bus stop, garage, terminal, aircraft hangar, rest area, dock, wharf, river port, airport, railroad, light rail and any similar or related transportation infrastructure. If the Project is not intended to be merged into the state's highways or transportation system, in addition to the Commission, the District must also submit the proposed project to the local transportation authority that will become owner of the project. Funding TDDs is accomplished through an add-on sales or property tax and/or real property special assessments. Tolls may also be charged to users of certain infrastructure, such as bridges or highways, with the approval of a majority of qualified voters in the District.

## Development/Cooperation Agreements (Sales Tax Rebate)

Another alternative to TIF financing is for a municipality to enter into an agreement (commonly referred to as a “sales tax rebate agreement” or “development agreement”) with a property owner, whereby the owner of a retail establishment agrees to fund the costs of certain public improvements. The municipality agrees to reimburse the owner for the cost of those improvements, with interest at an agreed-upon taxable interest rate, from the incremental taxes, and not from any other funds of the municipality.

### Statutory Authority

Section 70.220 of the Revised Statutes of Missouri (the “Cooperation Law”) authorizes any municipality or other political subdivision to contract with any other political subdivision, private person or firm for the “planning, development, construction, acquisition or operation of any public improvement or facility”. The political subdivision may authorize the contract by ordinance or resolution.

### Typical Structure of Transaction

Many retail developments require the installation of public improvements (such as roads, traffic signals and utilities) to accommodate the development. Under the typical agreement, the developer agrees to advance the costs of the public improvements. The political subdivision agrees to reimburse the developer for such costs, with interest, over a specified period of time. The agreement usually provides that only a portion of the incremental (i.e., new) sales tax revenues generated from the development will be used to reimburse the cost of the public improvements. This results in immediate new revenue to the municipality, while also providing a source of repayment for the public improvements.

The Missouri Constitution generally requires voter approval if a political subdivision pledges tax revenue to the repayment of indebtedness that lasts more than one year. Therefore, sales tax rebate agreements specifically provide that the political subdivision’s obligation is from year-to-year only and is subject to annual appropriation by the governing body.

Because the developer usually assumes responsibility for the initial construction of the public improvements, it’s important that the agreement provide for payment of the prevailing wages, payment and performance bonds, and indemnification of the governing body.

Undertaking a sales tax rebate agreement is a fairly simple process, since the governing body is obligating only its funds – not the funds of any other political subdivision. No public hearing or consultation with other political subdivisions is required.

## Neighborhood Improvement District (NID)

A Neighborhood Improvement District (NID) may be created in an area desiring certain public-use improvements that are paid for by special tax assessments to the property owners in the area which the improvements are made. The kinds of projects that can be financed through an NID must be for facilities used by the public and must confer a benefit on property within the NID.

### Local Government / Voter Initiative

An NID is created by election or petition of voters and/or property owners within the boundaries of the proposed district. Election or petition is authorized by a resolution of the governing body of the municipality in which the proposed NID is located. Language contained in the narrative or ballot question must include certain information including, but not limited to a full disclosure of the scope of the project, its cost, repayment, and assessment parameters to affected property owners within the NID.

### Typical Budget Items

1. Acquisition of property
2. Improvement of street, sidewalks, crosswalks and related components
3. Drainage, storm and sanitary sewer systems and service connections from utility mains, conduits and pipes
4. Improvement of streetlights and street lighting systems
5. Improvement of waterworks
6. Improvement of parks, playgrounds and recreational facilities
7. Improvement of flood control works
8. Improvement of pedestrian and vehicle bridges, overpasses and tunnels
9. Landscaping streets or other public facilities including improvement of retaining walls and area walls on public ways
10. Improvement of property for off-street parking

### Responsibilities and Challenges

Public hearings concerning the specifics of the project, its costs, and other specific information pertinent to the project, must be conducted prior to commencement of work on any project of the NID so that any written or oral objections may be considered.

The ability of Missouri's neighborhoods to establish NIDs for the purpose of improving their public use facilities for the enjoyment, convenience, safety and common good of all citizens is an outstanding example of local economic development excellence. The Missouri Department of Economic Development has additional information available and strongly recommends retaining qualified professional consultation or assistance of counsel in the formation of a special district.

Economic Development Committee Recommendations – NIDs are only to be placed on pre-existing developments with individual lots separately owned, excluding new developments without individual ownership.

## Community Improvement District (CID)

A Community Improvement District (CID) may be either a political subdivision or a not-for-profit corporation. CID's are organized to finance a wide range of public-use facilities, establishing and managing policies and public services relative to the needs of the district.

### Organizing a CID

By request petition, signed by property owners owing at least 50% of the assessed value of the real property, and more than 50% per capita of all owners of real property within the proposed CID, presented for authorizing ordinance to the governing body of the local municipality in which the proposed CID would be located. Language in the petition narrative must include a five-year plan, describing the purpose of the proposed district, the services it will provide, the improvements it will make and an estimate of the costs of those services and improvements, and the maximum rates of property taxes and special assessments that may be imposed within the proposed district. Other information must state how the CID would be organized and governed, and whether the governing board would be elected or appointed. There are rules that provide the required elements of a CID petition, and the procedures for publication, public hearings, etc. Missouri Department of Economic Development will be happy to provide details of these rules upon request.

### Supporting Organizations

Unlike a Neighborhood Improvement District, a CID is a separate legal entity, and is distinct and apart from the municipality that creates the district. A CID is, however, created by ordinance of the governing body of the municipality in which the CID is located, and may have other direct organizational or operational ties to the local government, depending upon the charter of the CID.

### Typical Budget Items and Responsibilities

A CID may finance new facilities or improvements to existing facilities that are for the use of the public. Public-use facilities include:

1. Convention centers, arenas, meeting facilities, pedestrian or shopping malls and plazas
2. Paintings, murals, fountains or kiosks
3. Parks, lawns, gardens, trees, or other landscapes
4. Streetscapes, lighting, benches, marquees, awnings, canopies, trash receptacles, walls
5. Lakes, dams and waterways
6. Sidewalks, streets, alleyways, bridges, ramps, tunnels, traffic signs and signals, utilities, drainage works, water, storm and sewer systems and other site improvements
7. Parking lots, garages
8. Child care facilities and any other useful, necessary or desired improvement

A CID may also provide a variety of public services, some of which may be:

1. Operating or contracting for the operation of parking facilities, shuttle bus services
2. Leasing space for sidewalk café tables and chairs
3. Providing trash collection and disposal services
4. With consent of the municipality, prohibiting, or restricting vehicular and pedestrian traffic and vendors on streets
5. Within a designated “blighted area”, contract with any private property owner to demolish, or rehabilitate any building or structure owned by such property owner
6. Providing or contracting for security personnel, equipment or facilities

#### Financial Resources

Funding of CID projects and services must be set forth in the requesting petition that is presented to the local governing body of the municipality in which the CID is located. Funding may be accomplished by district-wide special assessment, rents, fees, and charges for the use of CID property or services, grants, gifts, or donations. If the CID is organized as a political subdivision, property and sales taxes may also be imposed within the boundaries of the CID.

Economic Development Committee Recommendations – Years that a CID may be in place is limited to 20 years. It is preferred for the CID Board to be Developer controlled with City representation.

## Special Business Districts (SBD)

A Special Business District (SBD) is a political subdivision with the power to impose a real property tax, a business license tax and special assessments, depending upon the size of the City in which the SBD is created. The funding sources can be spent on certain public improvements and services listed in the statute. The SBD is created by a city following submission of a petition by property owners that pay real property taxes within the proposed district.

An SBD is a separate legal entity distinct and apart from the City that creates the district. In cities with 350,000 or more people, the SBD board consists of seven members appointed by the city and serves as the governing body of the SBD. In all other cities the governing body of the city also serves as the governing body of the SBD and the SBD board is only a recommending body. Therefore, in all cities except those with 350,000 or more people, the city governing body needs to operate the SBD as a separate political subdivision of the city and not as another board or commission of the city.

### Authority

Sections 71.790 to 71.808 of the Revised Statutes of Missouri govern Special Business Districts

### Kinds of Infrastructure Improvements

Specific types of public improvements can be financed with a special business district:

1. Widen or narrow existing streets and alleys
2. Construct or install pedestrian or shopping malls, plazas, sidewalks or moving sidewalks, parks, meeting and display facilities, convention centers, arenas, bus stop shelters, lighting, benches or other seating furniture, sculptures, telephone booths, traffic signs, fire hydrants, kiosks, trash receptacles, marquees, awnings, canopies, walls and barriers, paintings, murals, alleys, shelters, display cases, fountains, restrooms, information booths, aquariums, aviaries, tunnels and ramps, pedestrian and vehicular overpasses and underpasses, and each and every other useful or necessary or desired improvement.
3. Landscape and plant trees, bushes and shrubbery, flowers and each and every other kind of decorative planting
4. Install and operate or lease public music and news facilities
5. Construct and operate child-care facilities
6. Construct lakes, dams and waterways of whatever size.
7. Construct, reconstruct, extend, maintain or repair parking lots or parking garages, both above and below ground, or other facilities for the parking of vehicles, including the power to install such facilities in public areas, whether such areas are owned in fee or by easement

### Public Services

A special business district may provide a variety of public services, including:



1. Purchase and operate buses, minibuses, mobile benches, and other modes of transportation
2. Lease space within the district for sidewalk café tables and chairs
3. Provide special police or cleaning facilities and personnel for the protection and enjoyment of the property owners and the general public using the facilities of such business district
4. Maintain all city-owned streets, alleys, malls, bridges, ramps, tunnels, lawns, trees and decorative plantings of each and every nature, and every structure or object of any nature whatsoever constructed or operated by the city
5. Grant permits for newsstands, sidewalk cafés, and each and every other useful or necessary or desired private usage of public or private property
6. Prohibit or restrict vehicular traffic on such streets within the business district as the governing body may deem necessary and to provide the means for access by emergency vehicles to or in such areas
7. Promote business activity in the district by, but not limited to, advertising, decoration of any public place in the area, promotion of public events which are to take place on or in public places, furnishing of music in any public place, and the general promotion of trade activities in the district
8. With the city's consent, prohibiting or restricting vehicular and pedestrian traffic and vendors on the streets

#### Petition Requesting Formation and Resolution of Intent

The process to form a special business district starts with a petition. The petition must be signed by one or more owners of real property on which is paid the ad valorem real property taxes within the proposed district. The status does not specify what the petition must contain. Once a petition is filed, the governing body may adopt a "resolution of intent" to form the SBD, which must contain the following:

1. Description of the boundaries of the proposed area;
2. The time and place of a hearing to be held by the governing body considering establishment of the district;
3. The proposed uses to which the additional revenue shall be put and the initial tax rate to be levied

#### Survey and Investigation

Prior to adopting an ordinance which approves an SBD, the city must conduct a survey and investigation for the purposes of determining:

1. The nature of and suitable location for business district improvements
2. The approximate cost of acquiring and improving the land therefore
3. The area to be included in the business district or districts
4. The need for and cost of special services, and cooperative promotion activities, and
5. The percentage of the cost of acquisition, special services, and improvements in the business district which are to be assessed against the property within the business district and that part of the cost, if any, to be paid by public funds

The cost of the survey and investigation must be included as part of the cost of establishing the business district. A written report of this survey and investigation must be filed in the office of the City Clerk and must be available for public inspection

### Public Hearing

The governing body of the city must hold a public hearing prior to approval of the SBD by ordinance. The hearing must be preceded by two publication notices between 10 and 15 days before the hearing and mailed notice to all property owners and licensed businesses within the proposed district.

### Ordinance to Approve District

If the city adopts an ordinance to approve the SBD, the ordinance must contain:

1. The number, date and time of the resolution of intention pursuant to which it was adopted;
2. The time and place the hearing was held concerning the formation of the area;
3. The description of the boundaries of the district;
4. A statement that the property in the area established by the ordinance shall be subject to the provisions of additional tax as provided in the petition;
5. The initial rate of levy to be imposed upon the property lying within the boundaries of the district;
6. A statement that a special business district has been established;
7. The uses to which the additional revenue shall be put;
8. In any city with a population of less than 350,000, the creation of an advisory board or commission and enumeration of its duties and responsibilities.

### Governance

The district is a separate political subdivision of the state. In the cities with less than 350,000 population, the governing body of the city serves as the governing body of the SBD. Care should be taken to hold separate meetings of the SBD board rather than incorporating SBD legislative actions into legislative actions of the governing body of the city. In cities with less than 350,000 population, the SBD board serves as an advisory capacity to the SBD governing body.

### Real Property Taxes

An SBD may impose a real property tax that does not exceed 85¢ per \$100 of assessed valuation. In St. Louis only, the real estate tax imposed by an SBD may be imposed and collected even though the property is subject to tax abatement pursuant to a redevelopment plan adopted under Chapter 353 of the Revised Statutes of Missouri.

### Business License Tax

An SBD may impose a tax on businesses and individuals doing business within the SBD. The rate

of the SBD business license tax cannot exceed 50% of the other business license taxes imposed within the district.

### Bonds

The statute authorizes an SBD to issue general obligation bonds or notes for a maximum of 20 years and in a maximum amount of 10% of the total assessed value of all land within the district.

It also authorizes the SBD to issue revenue bonds and refunding revenue bond to pay the cost of acquiring, constructing, improving, or extending any revenue-producing facilities, and such bonds are payable solely from the operation of such revenue-producing facility.

There are some concerns that the real estate tax imposed by an SBD is unconstitutional because it is not subject to voter approval. While the Attorney General has issued an opinion that the SBD tax is valid, no court has ever given a definitive ruling. Accordingly, if bonds are being considered as a funding mechanism, a Community Improvement District is a better economic development tool because it can achieve many of the same goals as an SBD but does not have constitutional concerns that might impact the marketability of any bonds.

## Local Tax Increment Financing (TIF)

Local Tax Increment Financing (Local TIF) permits the use of a portion of local property and sales taxes to assist funding and redevelopment of certain designated areas within your community. Areas eligible for Local TIF must contain property classified as a “blighted”, “conservation”, or a “Economic Development” area, or any combination thereof, as defined by Missouri Statutes.

### Typical Budget Items

TIF may be used to pay certain costs incurred with a redevelopment project. Such costs may include, but are not limited to:

- Professional services such as studies, surveys, plans, financial management, legal counsel
- Land acquisition and demolition of structures
- Rehabilitating, repairing existing buildings on site
- Building new infrastructure in the project area such as streets, sewers, parking, lighting
- Relocation of resident and business occupants located in the project area

### Supported by Local Tax Incremental Revenues

The idea behind Local TIF is the assumption that property and/or local sales taxes (depending upon the type of redevelopment project) will increase in the designated area after redevelopment, and a portion of the increase of these taxes collected in the future (up to 23 years) may be allocated by your municipality to help pay certain project costs, partially listed above.

### Responsibilities of the Governing Body of the Municipality and the Local TIF Commission

Missouri’s TIF Act defines a “Municipality” as an incorporated city, town, village or county. The governing body of your municipality is required to establish a TIF Commission, composed of certain members including representatives of other local taxing authorities within the redevelopment project area as defined by state statute. The municipality is also responsible for the approval of ordinances (or resolutions if a county) that establish a comprehensive Redevelopment Plan, and for approval of the specific TIF Redevelopment Project. Responsibilities of the TIF Commission are many, and may include working with the local government in creating Redevelopment Plan and TIF Redevelopment Project parameters, holding public hearings, preparing economic impact reports and revenue projections, blight studies and other documents to justify the need for TIF and as required by state statutes governing Local TIF projects.

The use of TIF is helping dozens of Missouri communities thrive by creating new and better jobs while increasing tax revenue streams from formerly non-productive, unattractive and substandard areas. TIF benefits redevelopment in the urban core areas of our largest metropolitan cities, as well as in smaller Missouri communities, wherever the need exists.

## Economic Development Committee Recommendations

The recommendations are as follows:

- 20% maximum on reimbursable Project Costs
- Outside public improvements are highly recommended to be included in the project such as additional parking or a public parking arrangement
- City requests the approval of business types and holds emphasis on sales generating businesses.
- 15-year cap on overall timeline highly recommended
- Minimum total project cost at \$1,000,000

## Chapter 100 Bonds

Missouri Law (Sections 100.010 to 100.200 Missouri Revised Statutes) authorizes municipalities to issue Industrial Development Bonds (IDBs) to finance industrial development projects for private corporations, partnerships or individuals (the "Company"). IDBs issued by a municipality do not require voter approval and may be issued as tax-exempt or non-tax-exempt (taxable). It is upon the issuance of taxable Chapter 100 IDBs that local ad valorem taxes on bond-financed property may be abated, resulting in a significant financial incentive package your community may offer to new industrial prospect companies.

### Supporting Organizations

The government of the local municipality (city, town, county etc.) issues the IDBs, and must maintain legal ownership of the property while the bonds are outstanding in order for the property to be eligible for tax abatement.

### Typical Budget Items

IDB's are issued to finance various industrial projects, including:

1. Costs of industrial plants, warehouses, distribution facilities
2. Research and development facilities, office industries providing interstate commerce
3. Agricultural processing industries
4. Land, buildings, fixtures and machinery in connection with the IDB-financed development project

### Financial Resources

Full or partial abatement of real property or personal property tax on the industrial development project for up to the total period the IDB's are outstanding. The municipality and the company may determine partial tax abatement is desirable, and the company may agree to make "payments in lieu of taxes" to the municipality under a negotiable grant agreement. In a typical IDB transaction, the company will convey to the municipality fee simple title to the site on which the industrial development project will be located. At the same time, the municipality will lease the project site, together with all improvements thereon back to the company pursuant to a lease agreement. Included in the lease agreement will be the requirement that the company, acting on behalf of the municipality, to use the proceeds of the IDB's to purchase and construct the project. The company will be unconditionally obligated to make payments in amounts that will be sufficient to pay principal and interest on the IDB's as they become due.

## Chapter 353 Urban Development Tax Abatement

Chapter 353 Tax Abatement is an incentive that can be utilized by cities to encourage the redevelopment of blighted areas by providing real property tax abatement.

### Authorization

Chapter 353 of the Revised Statutes of Missouri (the "Urban Redevelopment Corporation Law").

### Eligible areas

"Blighted areas" in Missouri.

### Eligible applicants

Tax abatement is only available to for-profit "Urban Redevelopment Corporations" organized pursuant to the Urban Redevelopment Corporations Law. The articles of association of Urban Redevelopment Corporations must be prepared in accordance with the general corporations laws of Missouri and must contain certain items set forth in Section 353.030, RSMo. of the Urban Redevelopment Corporations Law. There are also special requirements for life insurance companies operating as Urban Redevelopment Corporations.

### Eligibility criteria

Tax abatement under the Urban Redevelopment Corporations Law is only extended to real property that has been found to be a "blighted area" by the city. For purpose of 353 tax abatement the term "blighted area" is defined as:

That portion of the city within which the legislative authority of such city determines that by reason of age, obsolescence, inadequate or outmoded design or physical deterioration, have become economic and social liabilities, and such conditions are conducive to ill health, transmission of disease, crime or inability to pay reasonable taxes.

Real property may be property found to be blighted even though it contains improvements, which by themselves do not constitute blight. Tax abatement may also be extended to a tract of real property, which by itself does not meet the definition of a blighted area if such tract is necessary to the redevelopment project and the area on the whole constitutes a blighted area.

### Program benefits/eligible uses

Tax abatement is available for a period of 25 years, which begins to run when the Urban Redevelopment Corporation takes title to the property. During the first 10 years, the property is not subject to real property taxes except in the amount of real property taxes assessed on the land, exclusive of improvements, during the calendar year preceding the calendar year during which the Urban Redevelopment Corporation acquired title to the

real property. If the property was tax exempt during such preceding calendar year, then the county assessor is required to assess the land, exclusive of improvements, immediately after the Urban Redevelopment Corporation takes title. During the next 15 years, the real property may be assessed up to 50% of its true value. This means that the city may approve a development plan, which provides full tax abatement for 25 years.

Payments in lieu of taxes (PILOTS) may be imposed on the Urban Redevelopment Corporation by contract with the city. PILOTS are paid on an annual basis to replace all or part of the real estate taxes, which are abated. The PILOTS must be allocated to each taxing district according to their proportionate share of ad valorem property taxes.

#### Application/Approval Procedure

Urban Redevelopment Corporations have the power to operate one or more redevelopment projects; however, such projects must be pursuant to a development plan which has been authorized by the city after holding a public hearing on the development plan. It may acquire property in its own name or in the name of nominees by gift, grant, lease, purchase, or otherwise. It may borrow funds and secure the repayment by mortgage.

Urban Redevelopment Corporations are required to maintain reserves for depreciation, obsolescence and the payment of taxes. The purpose of this requirement is to ensure that the redevelopment does not become blighted again.

#### Special Program Requirements

The Urban Redevelopment Corporation must carefully plan the point in time at which it takes title to real property to ensure that it maximizes the benefits of 353 tax abatement. The 25 years starts to run as soon as the Urban Redevelopment Corporation takes title. Unless the current improvements on the real property have a significant assessed value, the Urban Redevelopment Corporation should not take title to the real property until the improvements to be made under the redevelopment project are completed. Until that time, title to the real property may be held by a related entity.



## Transportation Development Districts (TDD)

A transportation development district ("TDD") may be created pursuant to Sections 238.200 to

238.275 of the Revised Statutes of Missouri, as amended (the "TDD Act") to fund, promote, plan, design, construct, improve, maintain and operate one or more projects or to assist in such activity. A TDD is a separate political subdivision of the state. "Project" includes any bridge, street, road, highway, access road, interchange, intersection, signing, signalization, parking lot, bus stop, station, garage, terminal, hangar, shelter, rest area, dock, wharf, lake or river port, airport, railroad, light rail, or public mass transportation system and any similar or related improvement or infrastructure.

### Projects, Submission of Plans

Before construction or funding of any project (except for public mass transportation systems), the TDD must submit the proposed project to the Missouri Highways and Transportation Commission (the "Commission") for its prior approval. If the Commission finds that the project will improve or is a necessary or desirable extension of the state highways and transportation system, the Commission may preliminarily approve the project subject to the TDD providing plans and specifications for the project and making any revisions in the plans and specifications required by the Commission and the TDD and Commission entering into a mutually satisfactory agreement regarding development and future maintenance of the project. After such preliminary approval, the TDD may impose and collect such taxes and assessments as may be included in the Commission's preliminary approval. After the Commission approves the final construction plans and specifications, the TDD must obtain prior commission approval of any modification of such plans or specifications.

The proposed project is not intended to be merged into the state highways and transportation system, the TDD shall also submit the proposed project and proposed plans and specifications to the local transportation authority that will become the owner of the project for its prior approval. "Local transportation authority" is a county, city, town, village, county highway commission, special road district, interstate compact agency, or any local public authority or political subdivision having jurisdiction over any bridge, street, highway, dock, wharf, ferry, lake or river port, airport, railroad, light rail or other transit improvement or service.

In those instances where a local transportation authority is required to approve a project and the Commission determines that it has no direct interest in that project, the Commission may decline to consider the project. Approval of the project then vests exclusively with the local transportation authority subject to the TDD making any revisions in the plans and specifications required by the local transportation authority and the TDD and the local transportation authority entering into a mutually satisfactory agreement regarding development and future maintenance of the project. After the local transportation authority approves the final construction plans and specifications, the TDD

must obtain prior approval of the local transportation authority before modifying such plans or specifications.

## FUNDING METHODS

### Sales Tax

Any TDD may impose a sales tax in increments of one-eighth of one percent up to a maximum of one percent on all retail sales made in the TDD that are subject to taxation under Missouri law, with certain exceptions. The sales tax must be approved by approval of a majority of the "qualified voters" within the TDD. The "qualified voters" are the registered voters within the TDD, and/or the property owners within the TDD (who shall receive one vote per acre). Any registered voter who also owns property must elect whether to vote as a registered voter or a property owner. Notwithstanding the foregoing, the owners of all of the property in the TDD may implement the sales tax by unanimous petition in lieu of holding an election. The sales tax rate must be uniform throughout the TDD.

### Special Assessments

The TDD may also, with majority voter approval, make one or more special assessments for project improvements that specially benefit the properties within the TDD. A TDD may establish different classes or subclasses of real property within the TDD for the purpose of levying different rates of assessments.

### Property Tax

The TDD may also, with approval by at least four-sevenths of the voters, impose a property tax in an amount not to exceed the annual rate of ten cents on the hundred dollars assessed valuation. The property tax must be uniform throughout the TDD.

### Tolls

If approved by a majority of the qualified voters voting on the question in the TDD, the TDD may charge and collect tolls or fees for the use of a project.

### Bonds

The TDD may issue bonds, notes and other obligations for not more than 40 years, and may secure any of such obligations by mortgage, pledge, assignment or deed of trust of any or all of the property and income of the TDD. The TDD cannot mortgage, pledge or give a deed of trust on any real property or interests that it obtained by eminent domain.

### Creation of TDD

To create a TDD, the owner must file a petition in the circuit court of the county in which a majority of the TDD is located. The law requires a specific set of facts be presented to the court. The court hears the case without a jury. If the court determines the petition is not legally defective and the proposed TDD and method of funding are neither illegal nor unconstitutional, the court shall enter its judgment to that effect. If the petition was filed by registered voters or by a governing body, the court shall then certify the questions

regarding TDD creation, project development and proposed funding for voter approval. If the petition was filed by the owners of record of all the real property located within the proposed TDD, the court shall declare the TDD organized and certify the funding methods stated in the petition for qualified voter approval. If a petition is filed pursuant to the resolutions of two or more local transportation authorities calling for the joint establishment of a TDD, the court shall then certify the single question regarding TDD creation, project development and proposed funding for voter approval. If the petition for the establishment of the TDD is filed by the owners of all real property in the proposed TDD, at least one public hearing must be held regarding the establishment of the TDD. If the court certifies the petition for voter approval, a majority vote is required to approve the formation of the TDD in accordance with the law.

Since the TDD is a separate political subdivision, it has its own board of directors that serves as the governing body of the TDD. Unless the TDD is formed at the request of two or more local transportation authorities, directors are elected by the qualified voters within the TDD (i.e., registered voters or property owners, as the case may be).

The TDD may condemn land for a project in the name of the state of Missouri, upon prior approval by the Commission, or the local transportation authority as appropriate, as to the necessity for the taking of the description of the parcel and the interest taken in that parcel.

If the board proposes to discontinue a project, it must first obtain approval from the Commission if the proposed project is intended to be merged into the state highways and transportation system or approval from the local transportation authority if the proposed project is intended to be merged into a local transportation system under the local authority's jurisdiction.

The board may modify the project previously approved by the TDD voters, if the modification is approved by the Commission and, where appropriate, a local transportation authority.

#### Audit Required

The state auditor is required to audit each TDD at least once every three years and may audit more frequently if the state auditor deems appropriate or if a petition for audit is submitted by the requisite percentage (most likely 25%, but potentially as low as 5% in TDDs with large populations of registered voters) of voters within the TDD under Section 29.230 of the Revised Statutes of Missouri. Most TDDs that have issued bonds are required by the bond underwriter to obtain an annual independent audit.

#### Projects, Transfer to Commission or Authority

Within six months after development and initial maintenance costs of its completed project have been paid, the TDD shall pursuant to contract transfer ownership and control of the project to the commission or a local transportation authority which shall be responsible for all future maintenance costs pursuant to contract. Such transfer may occur sooner with the consent of the recipient.