

ECONOMIC DEVELOPMENT INCENTIVES POLICY
FOR THE
CITY OF O'FALLON, MISSOURI



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INTRODUCTION

The City of O'Fallon, Missouri, is dedicated to achieving the highest quality of development, infrastructure, and quality of life for its citizens. These goals are met, in part, through the enhancement and expansion of the local economy. Because of the inherent competition between cities, counties and states for new businesses and jobs, the City of O'Fallon recognizes that incentives are sometimes necessary to allow a community to reach its full economic potential.

In general, the City of O'Fallon has utilized incentives when it could be shown that such action would promote and grow the local economy through job creation, wage and compensation growth, or tax base expansion. The purpose of this document is to further define the City's approach to the use of incentives to proactively support selected economic development initiatives.

Development of a formal Economic Development Incentives Policy is an identified objective in the City's Economic Development Strategic Plan. This policy establishes standards and guidelines that will govern the granting of financial incentives to facilitate economic growth. These guidelines are predicated on the belief that the City has an interest in taking positive action to maximize its long-term financial capacity while responding to the service demands of both new and existing development without placing a disproportionate tax burden on homeowners.

The decision to grant incentives will be based on a "case by case" review of each incentive application and offered only upon a clear demonstration of substantial and significant public benefit. Accordingly, the O'Fallon City Council is under no obligation to approve any requested incentive and reserves the right to deviate from the policies and criteria contained herein under its sole discretion when deemed to be in the best interest of the City.

The incentives listed herein are not exclusive and the O'Fallon City Council will consider additional types of requests on an individual basis. The City Council may alter this policy at any time. Interested parties are encouraged to contact the Economic Development Department for more information and a copy of the current policy at the time of application.

To reach the goals identified within this policy and ensure local government accountability, the City of O'Fallon will measure the benefits of projects receiving economic development incentives against the cost of the public expenditure, plus additional revenues or other benefits to the community. The return and other benefits must be clearly identified. While there is no single best method for conducting analysis and it is impossible to predict all impacts a project will have on a community, providing a thorough and rigorous analysis of each project is critical for the purposes of government accountability and long-term revenue impacts. Responsible use of public funding requires that projects funded provide a suitable return for the City of O'Fallon, are consistent with overall community goals and priorities, and require that investments are made in a transparent manner with full understanding of all short- and long-term costs and benefits.

PROGRAM INVENTORY

The City of O’Fallon currently utilizes several existing programs and incentive tools, including:

- Chapter 100 Tax Abatement
- Community Improvement Districts
- Transportation Development Districts

In addition, O’Fallon has in the past utilized several other programs, including:

- Cooperation Agreements
- Neighborhood Improvement Districts
- Tax Increment Financing

City staff, per the directive of the Economic Development Strategic Plan, has generated the following inventory of the most common existing programs with a comparison to other nearby communities. The “X” illustrates a city’s current use of that incentive, while “(X)” shows past use. This will assist City officials in understanding what tools other communities currently provide as well as any “gaps” that might exist.

CITIES	INCENTIVES						
	Chapter 100 Tax Abatement	Chapter 353 Tax Abatement	Community Improvement Districts (CID)	Cooperation Agreements	Neighborhood Districts (NID)	Tax Increment Financing (TIF)	Transportation Development Districts (TDD)
Dardenne Prairie		X	X		X		X
Lake St. Louis							X
O’Fallon	X		X	(X)	(X)	(X)	X
St. Charles	X	X	X		X	X	X
St. Peters	X	X	X		X	X	X
Wentzville	X	X	X		X	X	X

As stated previously, the incentives listed are not all that are available, however they are the more commonly used tools by a majority of the cities in the area. Additional options for cities include a number of state programs, such as tax credits, or an expedited permit process and/or waiving of permit review fees.

CHAPTER 100 INDUSTRIAL REVENUE BONDS

Overview

Missouri law authorizes municipalities, counties, towns and villages to issue Industrial Revenue Bonds to finance industrial development projects for private corporations, partnerships or individual companies. Under Chapter 100, the city issues bonds to finance real and/or personal property for eligible development projects. Eligible projects include warehouses, distribution facilities, research and development facilities, office industries, agricultural processing facilities, service facilities (which provide interstate commerce), and manufacturing plants.

Upon the issuance of Chapter 100 bonds, the municipality may provide tax abatement on the bond-financed property over the term of the bonds. Under this arrangement, the city retains ownership of the real and/or personal property and leases it back to the company under a lease-purchase agreement. Through the lease agreement, the company is responsible for making payments that are sufficient to pay the principal and interest on the bonds as they come due. Most commonly, the bonds are purchased by the company.

Because title to the property is held in the name of the city during the lease term, the property acquired with the bond proceeds is tax exempt. The company then assumes ownership at the end of the term of the bonds. In addition to property tax abatement, the company may also benefit from a sales tax exemption for construction materials and/or equipment for the project, if applicable.

Statutory Requirements

According to Missouri law, the city must approve a “plan for industrial development” pursuant to Section 100.050 of the Revised Statutes for the State of Missouri (RSMo). The plan must include a cost-benefit analysis which shows the impact of the project/abatement on affected taxing districts.

Policy Guidelines

In addition to complying with the statutory requirements referenced above, the City has established several criteria that will be used to review and evaluate applications for Chapter 100 financing and tax abatement. To qualify for Chapter 100 tax abatement, each of the following should be satisfied:

1. Demonstrate a clear public purpose and economic benefit through the advancement of the City’s economic development goals, which include expanding the tax base, creating quality jobs, and spurring development in targeted City locations.
2. The incentive should make a difference in determining the decision of the business to locate, expand or remain in the City and may not otherwise occur without the availability of the abatement.
3. Include evidence provided by the business that demonstrates the company’s financial stability and capacity to complete the project.
4. Not result in the City, County, School District or any other taxing jurisdiction affected by the incentive receiving less total real and personal property tax revenue from the property than was received prior to the granting of tax abatement.
5. Include a capital investment valued at \$6 million or more for a new business or \$3 million or more for expansion of an existing business to qualify for up to 50% abatement for a period of time not to exceed ten years.

6. Comply with the City's Comprehensive Plan.
7. Be environmentally compatible with the specific location and the surrounding area.
8. Comply with the statutory requirements set forth in Sections 100.010 to 100.200 RSMo.

Chapter 100 applications that do not meet all of these criteria may be approved if the application clearly demonstrates that the project, as a whole, is of vital economic interest to the City.

City Review/Approval Process

Whenever possible, the applicant should first meet with staff in a pre-qualification conference to determine project eligibility. The applicant may be required to enter into a funding agreement with the City to cover the City's expenses associated with the Chapter 100 consideration and approval process.

If the project meets the policy guidelines outlined above, the company will be invited to submit a "plan for industrial development" as outlined under Section 100.050 RSMo. The "plan for industrial development" will then be considered for formal approval by the O'Fallon City Council.

Following approval of the "plan for industrial development", the City and the applicant shall enter into a Chapter 100 lease-purchase agreement which will govern the terms of the abatement. The agreement shall require that an annual report be submitted to the City by March 1 of each year which provides a detailed accounting of the project for the time period of January 1 through December 31 of the previous year. The agreement may include a claw-back provision requiring specified performance on issues such as new jobs created as a condition for granting and maintaining the abatement.

CHAPTER 353 TAX ABATEMENT

Overview

Chapter 353 tax abatement is an incentive allowed by Missouri law to encourage the redevelopment of blighted areas through the abatement of real property taxes and, where appropriate, the use of eminent domain. To be eligible for tax abatement, either the City or a private entity must form an Urban Redevelopment Corporation (URC) pursuant to the Urban Redevelopment Corporations Law. In order to establish an URC, articles of association must be prepared in accordance with the general corporations law of Missouri.

Under Chapter 353, tax abatement on real property taxes is available for a period up to 25 years. For the first 10 years, the statute provides for 100% abatement on the increased assessed value of the improvements on the property (excluding land). For the next 15 years, Chapter 353 allows for 50% abatement on the actual assessed value of the property (land and improvements). Payments in lieu of taxes may be required by the City to reduce the amount of the abatement authorized by statute and to ensure no loss of existing property tax revenues by taxing jurisdictions such as the City and school district. Tax abatement is not available for personal property taxes on equipment or machinery.

Statutory Requirements

By law, the City must determine that certain requirements have been met before approving a development plan filed by the Urban Redevelopment Corporation (URC). These requirements are set forth under 353.020 to 353.190 of the Revised Statutes for the State of Missouri (RSMo).

Policy Guidelines

In accordance with Missouri law, the City of O'Fallon will consider the granting of Chapter 353 where the property has been found to be a "blighted area". In addition to this statutory requirement, each of the following criteria should be satisfied:

1. Demonstrate a clear public purpose and economic benefit through the advancement of the City's economic development goals which include expanding the tax base, creating quality jobs, and spurring development in targeted City locations.
2. The incentive should make a difference in determining the decision of the business to locate, expand or remain in the City and may not otherwise occur without the availability of the abatement.
3. Include evidence provided by the business that demonstrates the company's financial stability and capacity to complete the project.
4. Not result in the City, County, School District or any other taxing jurisdiction affected by the incentive receiving less total real and personal property tax revenue from the property than was received prior to the granting of tax abatement.
5. Include a capital investment valued at \$6 million or more for a new business or \$3 million or more for expansion of an existing business.
6. Comply with the statutory requirements set forth in Sections 353.020 - 353.190 RSMo.

Chapter 353 applications which do not meet some of these criteria may be approved if the application clearly demonstrates that the project, as a whole, is of vital economic interest to the City.

City Review/Approval Process

Whenever possible, the applicant should first meet with staff in a pre-qualification conference to determine project eligibility. The applicant may be required to enter into a funding agreement with the City to cover the City's expenses associated with the Chapter 353 consideration and approval process.

If the project meets the policy guidelines outlined above, the URC will be invited to submit a redevelopment plan covering the area proposed for redevelopment. The redevelopment plan, which shall include a blight study, will then be considered for formal approval by the O'Fallon City Council after a required public hearing.

Following approval of the redevelopment plan, the City and the URC shall enter into a performance agreement which will govern the terms of the abatement. The agreement shall require that an annual report be submitted to the City by March 1 of each year which provides a detailed accounting of the project for the time period of January 1 through December 31 of the previous year. The agreement may include a claw-back provision requiring specified performance on issues such as new jobs created as a condition for granting and maintaining the abatement.

COMMUNITY IMPROVEMENT DISTRICTS

Overview

A Community Improvement District (CID) is a special purpose district in which property owners voluntarily tax themselves to fund a broad range of public improvements and/or services to support business activity and economic development within specified boundaries. Created by an ordinance of the City Council, establishment of the CID would be considered upon receipt of a petition, signed by owners of real property, representing more than 50 percent of the assessed valuation within the proposed CID boundary and over 50 percent per capita of all owners of real property within the proposed CID boundary.

A CID may be established either as a separate political subdivision that is distinct from the municipality or as a not-for-profit corporation. If the CID is organized as a political subdivision, the District can impose a sales tax up to 1% on most retail sales, special assessments and/or a real property tax. If the CID is organized as a non-profit corporation, it may only impose special assessments to finance the cost of improvements and services. The District may issue tax-exempt revenue bonds to finance capital improvement projects for up to 20 years. Responsibility for repayment of the bonds lies solely with the District. As such, the City does not pledge its full faith and credit behind the repayment of the bonds. In terms of governance, a board of directors consisting of business owners, property owners, and voters either elected or appointed by the Mayor with the consent of the City Council would oversee District activities. Although the CID is established by ordinance of City Council, once formed the District operates independently in accordance with the provisions set forth in the petition and Missouri State Law.

Statutory Requirements

By law, the City must determine that certain requirements have been met before approving the establishment of a Community Improvement District. These requirements are set forth under Sections 67.1401 - 67.1571 RSMo.

Policy Guidelines

The City of O'Fallon is prepared to approve petitions for Community Improvement Districts (CID) to facilitate business activity and economic development within O'Fallon provided the petition meets the statutory requirements referenced above. Once legally established, the City and the CID board shall enter into an agreement for the purpose of forming the terms of the relationship between the City and the board.

City Review/Approval Process

The applicant is required to first meet with staff in a pre-qualification conference to determine project eligibility. Once deemed eligible, the property owner(s) may file a petition pursuant to Sections 67.1401 - 67.1571 RSMo to the office of the City Clerk. Upon receipt of the petition, the City Clerk shall determine whether the petition substantially complies with statutory requirements. Following confirmation that the petition complies with these requirements, a public hearing will be held by the City Council. The City Council would then consider whether to approve an ordinance to establish the CID.

Once established, the applicant will seek to impose within the district either a sales tax and/or a property tax or assign a special assessment in accordance with the procedures and provisions set forth in the RSMo. An annual report will be submitted to the City by March 1 of each year which provides a detailed accounting of the project for the time period of January 1 through December 31 of the previous year.

COOPERATION AGREEMENTS

Overview

Cooperation Agreements (also known as ‘Sales Tax Rebates’) are a funding mechanism allowed by Missouri law that may be used to achieve a public benefit through funding public infrastructure. Under such an agreement, municipalities have the ability to annually appropriate the increase in sales taxes created by new private capital investment to offset a portion of their project investment costs. The sales tax increment must be used for a public purpose, primarily through the funding of public improvements. Under such an agreement, a portion of City sales taxes captured from the increased sales generated by the project would be used to reimburse the company for eligible expenses.

Statutory Requirements

Under Section 70.220 of the Revised Statutes of the State of Missouri (RSMo), municipalities are authorized to contract and cooperate with private firms or corporations for the planning, development, construction, acquisition or operation of public improvements.

Policy Guidelines

The City of O’Fallon is prepared to approve cooperation agreements that would result in the stabilization of a strategically important under-utilized retail centers, help fund significant public infrastructure improvements, address extraordinary site conditions, or facilitate the adaptive re-use of historic properties. In addition, the following criteria should be satisfied:

1. Demonstrate that the project would prevent a significant loss in existing sales tax revenue or make a significant contribution to the overall health and well-being of the local economy.
2. Show a clear demonstration of public purpose and economic benefit through the advancement of the City’s economic development goals, which include the retention and expansion of the tax base and job retention and creation.
3. The incentive should make a difference in determining the decision of the business to locate, expand or remain in the City and may not otherwise occur without the availability of the sales tax reimbursement.
4. Include evidence provided by the company that demonstrates the firm’s financial stability and capacity to complete the project.
5. Not result in the City or any other taxing jurisdiction affected by the incentive receiving less total sales tax revenue from the property than was received prior to the granting of the sales tax reimbursement.
6. The term of the reimbursement should not extend beyond 10 years from approval, with five years being the preferred maximum.

City Review/Approval Process

The applicant is required to first meet with staff in a pre-qualification conference to determine project eligibility. Upon consent from the City Council, the City and the applicant would enter into a performance agreement. The agreement shall require that an annual report be submitted to the City by March 1 of each year which provides a detailed accounting of the project for the time period of January 1 through December 31 of the previous year. The agreement may include a claw-back provision requiring specified performance on issues such as minimum sales tax increment or new jobs created as a condition for granting and maintaining the abatement.

NEIGHBORHOOD IMPROVEMENT DISTRICTS

Overview

A Neighborhood Improvement District (NID) is formed to finance public improvements, including acquisition, construction, engineering, legal and related costs.

In most cases, general obligation bonds are issued by the municipality and retired through special assessments against property owners in the area in which the improvements are made. The cost of the public improvements assessed against property owners in the district are apportioned in a manner commensurate to the amount of benefit received from such improvements.

The creation of a NID may be established by one of two methods. The first is by a favorable vote of qualified voters living within the boundaries of the proposed district. The second is through a proper petition signed by at least two-thirds of the owners of record of all real property within the proposed district. In both instances, approval by the City Council is required in order to establish the NID.

Unlike community improvement districts and transportation development districts, a NID is not a separate legal entity; rather, it is an area of the city within which improvements are constructed and assessments are levied to pay for those improvements.

Statutory Requirements

By law, the City must determine that certain requirements have been met before approving the establishment of a Neighborhood Improvement District (NID). These requirements are set forth under Sections 67.453 to 67.475 RSMo.

Policy Guidelines

The City of O'Fallon is prepared to approve petitions for Neighborhood Improvement Districts (NID) to facilitate business activity and economic development within O'Fallon. Because the municipality issues general obligation bonds backed by the full faith and credit of the City, decisions to approve the establishment of a NID will be determined on a case-by-case basis and approved only where there is a clear demonstration of substantial and significant public benefit. At a minimum, all statutory requirements must be met.

City Review/Approval Process

The applicant is required to first meet with staff in a pre-qualification conference to determine project eligibility. Once deemed eligible, the property owner(s) may file a petition or submit a written request for an election to be held pursuant to Sections 67.453 - 67.475 RSMo. The petition or request for an election should be submitted to the City Clerk. Petitions that comply with the statutory requirements will be forwarded to the City Council for consideration.

TAX INCREMENT FINANCING

Overview

Tax Increment Financing (TIF) is a public funding mechanism to assist private development of an area within the City. TIF may only be used: 1) when there is evidence the development would not occur without public assistance; and 2) when the project area qualifies as a blighted, conservation, or economic development area.

TIF is a financial tool used to capture a portion of the increase in property taxes and sales taxes created from new construction. Up to 100% of the increase in property taxes and 50% of the increase in local sales taxes (the “increment”) can be captured within the TIF project area. The property tax and sales tax increment may then be used to reimburse a private developer for eligible expenses or to repay principal and interest on bonds used to finance the eligible expenses for up to 23 years.

Statutory Requirements

By law, the City must determine that certain requirements have been met before approving a Tax Increment Financing Plan filed by the applicant. These requirements are set forth under Sections 99.805 to 99.865 RSMo.

Policy Guidelines

In addition to meeting the statutory requirements referenced above, the City has established the following criteria that will be applied in the review and evaluation of applications for TIF financing. In general, applications that meet each of the evaluation criteria will be viewed most favorably. However, TIF applications that do not meet some of these criteria may be approved if the application clearly demonstrates that the project, as a whole, is of vital economic interest to the City.

1. The application demonstrates a substantial and significant public benefit by constructing public improvements that strengthen the economic and employment base of the City, and serves as a catalyst for further high quality development or redevelopment.
2. TIF assistance will be provided for improvements that create significant public benefit(s).
3. Expenses eligible for reimbursement under TIF include but are not limited to the following:
 - a. Studies, surveys, plans and specifications.
 - b. Professional services such as architectural, engineering, legal, marketing, financial, and planning.
 - c. Site preparation, including demolition of structures, clearing and grading of land.
 - d. Constructing public infrastructure such as streets, sewers, utilities, parking, and lighting.
 - e. Financing costs including bond issuance.
 - f. Relocation costs if persons or businesses within the redevelopment area are displaced.
4. Applications which include TIF assistance for land acquisition and residential development will be discouraged unless creatively integrated into a large scale mixed-use project.
5. TIF applications requesting the issuance of bonds or notes shall be required to demonstrate that the payments-in-lieu of taxes and/or economic activity taxes expected to be generated will be sufficient to provide debt service coverage of at least 1.25 times the projected debt service on any tax increment financing bonds or notes.

6. TIF assistance to the project should generally not exceed 35 percent of total project costs. However, project assistance above 35% may be considered in circumstances where the developer:
 - 1) has a proven track record in completing successful projects comparable in scope and scale;
 - 2) documents the developer's financial capacity to complete the proposed project; and
 - 3) demonstrates that tenant commitments are already in place for a significant portion of the proposed project.
7. Applications that include the utilization of a Community Improvement District (CID), Transportation Development District (TDD) or other private or public financing mechanisms that result in reducing the term of the TIF project will be viewed more favorably.
8. Evidence that the applicant has thoroughly explored alternative financing methods and has a track record which demonstrates the financial and technical ability to complete the project.
9. Generally, TIF applications which encompass a project area of less than 10 acres will be discouraged.

City Review/Approval Process

The applicant should first meet with staff in a pre-qualification conference to determine project eligibility. The applicant may be required to enter into a funding agreement with the City to cover the City's expenses associated with the TIF consideration and approval process.

Following a public hearing before the City's TIF Commission and approval of the TIF Plan by the City Council, the City and the applicant shall enter into a redevelopment agreement for the purpose of governing the implementation of the TIF Plan. The agreement shall require that an annual report be submitted to the City by March 1 of each year which provides a detailed accounting of the project for the time period of January 1 through December 31 of the previous year.

TRANSPORTATION DEVELOPMENT DISTRICTS

Overview

Transportation Development Districts (TDD) are independent political subdivisions organized to levy taxes or assessments to pay for the construction of roads, bridges, interchanges, intersections, parking facilities or other transportation related improvements. TDDs are approved and organized by order of the circuit court. Property owners may petition for the creation of a district as large as several counties or as small as a single parcel of property. As long as the TDD is proposed to construct transportation related improvements, any property is eligible to be included in a TDD.

TDDs may generate revenues through sales taxes (up to 1%); ad valorem taxes on real and personal property (up to ten cents per \$100 assessed valuation); special assessments; or tolls. The TDD is authorized to issue bonds on its own behalf, utilizing these captured taxes and assessments to pay debt service on bonds issued to construct transportation projects. Either MoDOT or the City is required to sponsor the project(s) and must agree to accept a completed project for maintenance. When the bonds are paid off, the TDD is terminated.

Statutory Requirements

By law, the City must determine that certain requirements have been met before approving the establishment of a TDD. These requirements are set forth under Sections 238.200 – 238.275 RSMo.

Policy Guidelines

The City may pass a resolution endorsing (or opposing) a project prior to the time of the circuit court review of the petition filed to establish the TDD. Once legally established, the City and the TDD board shall enter into an agreement for the purpose of forming the terms of the relationship between the City and the board. The City may request the developer pay a one-time payment for future maintenance costs upon the acceptance of a completed project. Although the City may also provide support through guarantees of debt or design/contracting assistance, the City will only assume this responsibility in circumstances where a project creates a substantial public benefit by advancing the City's goals.

City Review/Approval Process

The applicant is required to first meet with staff in a pre-qualification conference to determine project eligibility. Once deemed eligible, the property owner(s) may file a petition to the circuit court and the office of the City Clerk. Upon receipt of the petition, the City shall determine whether the request substantially complies with statutory requirements and City policy and will then forward the matter to the City Council. The City Council will then consider a resolution of support in favor of the TDD. An annual report will be submitted to the City by March 1 of each year which provides a detailed accounting of the project for the time period of January 1 through December 31 of the previous year.