

# Easy as 1,2,3: How to Establish a 501(c)(3) (and why you need one!)

For Economic Development and Recovery  
Thursday, March 13, 2014

JOPLIN AREA  
CHAMBER *of* COMMERCE



UNITED STATES CHAMBER OF COMMERCE

**ACCREDITED**



# Let's first address the why!

- A 501(c)(3) organization may provide:
  - > Exemption from federal income taxes
  - > Exemption from state income tax, sales tax, and federal employment tax
  - > Ability to accept tax-deductible or charitable contributions
  - > Reduced postal rates
  - > Tax-exempt financing options

# What is the ED connection?

- In good times and bad a 501(c)(3) is a great tool in your ED tool box.
- For a public / private partnership a 501(c)(3) provides options for tax deductible contributions for your investors
  - That tax advantage is incentive for increased contributions and ongoing pledges.

# Joplin's First ED 501(c)(3)...

- Joplin Business and Industrial Development Corporation (JBIDC)
  - > Created in 1985 for Charitable Purposes
  - > Created under the Internal Revenue Code of 1954
  - > Limited to “enhancing the economic welfare...” of Joplin residents and the “development of jobs...” in Joplin.
  - > Ability to raise funds to build JBIDC's first Speculative Shell Building. (8 to date now)

# Why you should think big...

- Although created in 1985, JBIDC articles were amended in 1998 to broaden scope
  - We can now work WITHIN and WITHOUT the City of Joplin
  - This has allowed us to go REGIONAL in the past few years.
    - We now cover three counties in Missouri, three counties in Kansas and one county in Oklahoma.

# We make a good partner

- Joplin Industrial Development Authority (JIDA) buys undeveloped land
- The City of Joplin uses UDAG dollars to help build infrastructure
- JBIDC raises funds for the building and marketing of the Spec. Shell Buildings
- The Joplin Area Chamber of Commerce provides Economic Development administration, staff and leadership

# Joplin created a new partner for quality of life...

- In 1990 we created the Joplin Area Chamber of Commerce Foundation
  - > Purpose: receive and administer funds for scientific, educational, civic, athletic, patriotic, cultural, social, and charitable purposes
  - > Primarily for Leadership and Educational programs
  - > Seed funding from former Arts organization
  - > Later important tool for disaster recovery

# When to create? ..... NOW!

- Establish your 501 (c)(3) in good times...

## Don't wait until disaster strikes!

- It can happen to you at any time
- It will happen when least expected.....  
So be prepared NOW!



# What is in your tomorrow?

- It could be an EF5 like Joplin on May 22, 2011



- 14 mile path
- 6 miles at EF4 / 5 level
- Winds up to 300 mph

● Deadliest and most destructive single tornado in more than 60 years.

# Just a few short minutes produced devastating impact

- More than 18,000 people immediately displaced; 9,000 for the long term
- More than 1,000 injured; many critically
- 161 dead
- 8,000 housing units destroyed or substantially damaged; 4,200+ beyond salvage
- Half of the public and private school buildings destroyed or damaged
- 4,000 students without school facilities



# Business Impact was big

- 530 places of employment demolished or substantially damaged
- Additional 400+ impacted by loss of utilities, customers and/or employees



# Range Line before and after



- Same corner before and after recovery



- Chains and large companies were quick to come back



# St. John's Regional Medical Center...

- As seen on 5-22-11



- Big projects will take lots of time

- The new Mercy, under construction



# Workforce is critical to ED... You must have great schools

- Joplin High  
May 22, 2011



- New Joplin  
High School  
Winter 2013



# Immediate response to help businesses promptly...

- Boots on the ground visiting 400 businesses on-site in the first three weeks
- Business Recovery Center opened on the fourth day; SBA, SBTDC, State, Local; met with more the 300 employers in 100 days
- Rebuilt website with resources and status of impacted employers on-line by day 4

More on the long term impact in a few minutes...

Time to turn the presentation  
over to Trevor....



# Easy as 1,2,3: How to Establish a 501 (c) (3) (and why you need one!)

For Economic Development and Recovery  
Thursday, March 13, 2014

**JOPLIN AREA**  
CHAMBER *of* COMMERCE



# What do you need to start a 501(c)(3)?

- Purpose
- Articles of incorporation
- Bylaws
- Conflict of interest policy
- Organizational resolutions
- Employer identification number (EIN)
- IRS Form 1023, application for recognition of tax-exempt status
- IRS approval

# What is your purpose?

- A 501(c)(3) organization must be formed for religious, charitable, scientific, testing for public safety, literary, or educational purposes
- “Charitable”
  - > relief of the poor and distressed
  - > lessening the burdens of government
  - > promotion of social welfare by:
    - lessening neighborhood tensions
    - eliminating prejudice and discrimination
    - combating community deterioration and juvenile delinquency
  - > generally, particular individuals or businesses are not proper charitable objects

# What is your purpose?

- ◉ How are economic development activities charitable?
  - > Ultimate good received by the general public outweighs the private benefit accorded to the for-profit businesses
  - > Assistance to for-profit businesses located in depressed areas
    - May accomplish charitable goals such as the relief of community deterioration and the relief of the poor and distressed (through increased employment opportunities)

# What is your purpose?

## ● Good Example 1 – Rev. Rul. 74-587

- Organization's programs to stimulate economic development in economically depressed, high-density, urban areas, inhabited mainly by low-income minority or other disadvantaged groups
- Organization made loans and purchased equity interests in businesses unable to obtain funds from conventional sources because of financial risks associated with their location and/or because of being owned by members of a minority or other disadvantaged group
- Organization established that its investments were not undertaken for profit, but to advance its charitable goals
- Funds for its program were obtained from foundation grants and public contributions

# What is your purpose?

- Good Example 2 – Rev. Rul. 76-419
  - Organization purchased blighted land in an economically depressed community, converted the land into an industrial park, and induced industrial enterprises to locate new facilities in the park through favorable lease terms that required employment and training opportunities for unemployed and underemployed residents of the area
- What was good about Good Examples 1 and 2?
  - Relieved poverty and lessened neighborhood tensions caused by the lack of jobs in the area
  - Combated community deterioration by establishing new businesses, rehabilitating existing ones, and eliminating conditions of blight
  - Lessened prejudice and discrimination against minorities

# What is your purpose?

- Bad Example 1 – Rev. Rul. 77-111 (Situation 1)
  - > Organization's purpose was to increase business patronage in a deteriorated area mainly inhabited by minority groups
  - > Organization accomplished its purpose by presenting television and radio advertisements describing the advantages of shopping in the area; by creating a speakers bureau composed of local businessmen who discuss the shopping environment with various groups; by operating a telephone service providing information to prospective shoppers on transportation and accommodations in the area; and by informing the news media on the area's problems and potential

# What is your purpose?

- Bad Example 2 – Rev. Rul. 77-111 (Situation 2)
  - Organization's purpose was to revive retail sales in an area suffering from continued economic decline by constructing a center that would complement the area's existing retail features
  - Organization purchased and sold land to the city at cost, and the city acquired additional land for the project through use of eminent domain
  - City rented the land to the organization and to a private developer who constructed and leased out the project
  - The city required that minorities be utilized in both the construction and operation of the project and stores located within the project are required to employ a certain percentage of minority group employees



# What is your purpose?

- What was bad about Bad Examples 1 and 2?
  - > Organizations promoted business as an end in itself
  - > Organization in Bad Example 1 did not limit its activities to assisting disadvantaged business, but also assisted businesses which are not owned by minority groups and which are not experiencing difficulty because of their location in a depressed area
  - > Organization in Bad Example 2 did not limit its aid to businesses that were owned by members of a minority group or to businesses that would only locate within the area because of the existence of the center

# What is your purpose?

- Factors indicating that an organization is primarily accomplishing charitable purposes
  - > activities aid an economically depressed or blighted area
  - > activities benefit a disadvantaged group, such as minorities, the unemployed or underemployed
  - > activities aid businesses that have experienced difficulty in obtaining conventional financing because of the deteriorated nature of the area in which they are located or because of their minority composition
  - > activities aid businesses that would locate to or remain in the economically depressed or blighted area and provide jobs and training to the unemployed or underemployed from such area only if the economic development corporation's assistance was available

# What is your purpose

- Factors indicating that an economic development organization lessens the burdens of government
  - > State statute specifically authorizes state funding of the organization to operate by assisting fledgling businesses to help alleviate severe unemployment
  - > Organization was established to specifically qualify under the statute and was funded under the statute
  - > State statute provides the state with approval authority on an ongoing basis over projects to be financed
  - > Organization operates in connection with a state university
  - > City officials sit on the organizations' board of directors in their official capacity
  - > The organization is required to provide annual reports of its activities and finances to the state

# Formation Documents

## ● Articles of organization

- > Purpose
- > Governance – board of directors and members
  - Members may be comprised of board of directors
- > Dissolution – assets should be transferred to another 501(c)(3)
- > Required information varies by state

## ● Bylaws

- > Purpose – if only a general purpose is set forth in articles
- > Membership qualifications
- > Officers
- > Voting

# Formation Documents

- Conflict of interest policy
  - > Sample is provided in Appendix A to instructions for Form 1023
  - > Not required, but is good practice
- Organizational resolutions
  - > May be adopted at formal meeting of the members / directors or signed as a unanimous consent of the members / directors
  - > Adopt the bylaws and conflict of interest policy
  - > Appoint the board of directors
  - > Appoint officers, if members are same as board of directors
  - > Authorize an officer to complete and sign Form 1023

# Formation Documents

- Employer identification number (EIN)
  - > Can apply online
    - [http://www.irs.gov/Businesses/Small-Businesses-&-Self-Employed/Apply-for-an-Employer-Identification-Number-\(EIN\)-Online](http://www.irs.gov/Businesses/Small-Businesses-&-Self-Employed/Apply-for-an-Employer-Identification-Number-(EIN)-Online)
  - > Can apply by fax or phone
    - Form SS-4
  - > “Responsible person” – should be an officer or director
  - > “Type of entity” – “other nonprofit organization”

# Application for Recognition of Tax-Exempt Status

- Form 1023, Application for Recognition of Tax-Exempt Status
  - > 12 pages of in-depth questions regarding the organization's activities, governance and finances
  - > Helpful information, as well as interactive Form 1023
    - <http://www.stayexempt.irs.gov/StartingOut.aspx>
  - > Last 2 pages contains a checklist that must be submitted
    - Lists the documents that must be submitted with Form 1023
      - Certified copy of articles of incorporation
      - Bylaws
      - Conflict of interest policy, if adopted
      - \$400 or \$850 user fee

# Application for Recognition of Tax-Exempt Status

- Part IV – Narrative Description of Your Activities
  - Should explain the activities that the organization will conduct to fulfill its tax-exempt purpose
- Part VI – Your Members and Other Individuals and Organizations That Receive Benefits From You
  - Should match what was written in the narrative description
- Part VIII – Your Specific Activities
  - Line 6a – Will you engage in economic development
  - Line 6b – Describe in full who benefits from your economic development activities and how the activities promote your exempt purposes
- Part IX – Financial Data



# After You Filed Your Application

- What to expect
  - > IRS will send an acknowledgment of receipt of the application within 3-4 weeks
  - > Within 3-4 months, the IRS will send either
    - Determination letter approving application
    - Letter stating that the application has been selected for technical review
- Determination letter approving application
  - > You are now a recognized charity!

# After You Filed Your Application

- What if your application has been selected for technical review
  - > Must wait for application to be assigned to examiner, which takes 12-15 months from date of filing of application
- What happens once application is assigned
  - > Examiner requests additional information
  - > Examiner approves without additional information
- Quickest way to respond to request for additional information is by fax

# After You Filed Your Application

- If you are fundraising, you should inform potential donors that you are not yet recognized as a charity but your application is pending
- If your application is approved, your charity status will be retroactive to the date the organization was formed provided that you filed your application within 27 months after the organization was formed
- While your application is pending, you must file Form 990 when due
  - Due May 15 if using a calendar year

And back to Tonya for more on  
ED and Disaster applications

# Disaster: Long-Term Impact

- Recovery from disaster is like a race
  - > Starts with quick rescue response - **SPRINT**
  - > Initial Rebuild/Restore Plan - **5K**
  - > Long-term Recovery and Rebuild - **Marathon**
  - > Onward and moving forward - **Decathlon**
  - > Years three through five, be prepared to really dig in and **don't lose the momentum.**

# Where Are We Now?

- 500+ employers back - 95%
- Over 95% of jobs base retained
- More than 150 NEW companies
- Employment in Joplin Metro Area is at pre-recession levels (08)
- Unemployment at 6% in Aug '13, compared to 7.2% state level
- Jasper County becomes first ACT national certified work-ready community

# Long-Term Recovery Tools

- Create Business /Jobs Recovery Fund
  - > Used JACC Foundation (JACCF)
- Create Joplin Tomorrow
  - > New 501(c)(3) for business loans
  - > Includes new or retained jobs component
- Recovery EXPO
  - > Tool for rebuilding and dealing with issues
- Tracking system by JACC staff – ongoing
  - > Business status tracking – online resource

# JACCF for ED & Recovery

## Immediate Response

- Good, Steady and Consistent Communications
  - > Solid marketing materials; clear message
  - > Used social media; reliable during crisis
- Re-vamped website - simplify
  - > Quick donate button - make it simple
- Rush Limbaugh Radio Program
  - > Quick nationwide donations response
- Provide Business Recovery Expo
  - > Tools for those in need - think broad, short-term and long-term; physical needs and emotional needs
- Created Business Tracking System
  - > Business status - total loss, damaged, slight loss, new or temporary location, contacts (used boots on ground)
- Opportunity - some resisted using this term, but this is a new opportunity for shaping your future.



# JACCF for ED & Recovery Within the First Week

- ◎ Solid Leadership and team work
- ◎ Establish who is responsible for what
  - > Don't duplicate efforts- Coordinate
  - > Know your ED partners (chart)
- ◎ Work w/ Federal, State, and Local agencies
  - > Business Recovery Center- in our innovation center
- ◎ Work closely for pooling resources
  - > State ED staff for tax credits
    - Apply quickly
    - Keep scope broad for flexibility
    - Later establish Partnerships\*

# JACCF for ED & Recovery For the Long-Haul

- Business Stabilization Loan Fund
  - > Business experienced boom then bust
  - > Underestimated their own needs early on
  - > To help businesses struggling down the road
  - > Need counseling - partner with SBTDC
  - > Strong loan committee with wise, business savvy people
  - > Designed as “gap” financing and short-term cash flow

# Other Loan Partners

- Henry Burnett Loan Fund (JACCF)
  - > Minority, Women & Veteran Owned
  - > Limit to \$5K per business
- Joplin Tomorrow
  - > To create or save jobs
  - > Small, but strong loan team/board
  - > \$10K available / job added (or saved)
- Joplin Capital Corporation
  - > Geographic Limitations; blighted area

# Other Partners for JACCF

- Children's Haven
- City of Joplin – Parks Department
- Community Support Services
- Habitat for Humanity
- Independent Living Center
- Joplin Tomorrow
- Ozark Center
- Stained Glass Theater

# Big Picture Partnership...

## Master Developer?

- Early in the process we met with Wallace Bajjali Development Partners, LP (WB)
- WB provided advice and guidance for several months
  - On their own dime – free to us
- WB worked well with us, FEMA and other agencies
- City of Joplin took bids for Master Developer
- WB won the bid and is now actively developing projects

# Active Lifestyle Events, Inc.

- Created to produce events that promote active lifestyles
- Great example of small, strategic board
- Joplin Memorial Run - Signature event:
  - > 5K, ½ Marathon, plus kid's fun run
  - > Supports:
    - Rebuild Joplin, United Way and other not-for-profits
    - Honor 161 victims
  - > Other future active lifestyle-type events planned
    - Must limit the organization to activities expressly empowered and restrict activities NOT included
    - Must permanently dedicate assets of the 501(c)(3) to the exempt purpose

# Nuts & Bolts About 501(c)(3) Operations

- Know the rules and follow them
- Knowledgeable staff for finance and record keeping or hire outside party; critical
- File taxes timely and accurately
- Access to tax accountant and **do annual audit**
  - > Well worth the money and piece of mind
- Access to legal advice
  - > Board member, community volunteer or on retainer
- Board
  - > Select carefully – add value to organization
  - > Working vs. figure head
  - > Orientation and training is important
  - > Staff vs. board responsibilities

# Other Responsibilities / Resources

- Detailed Record Keeping
  - Financial and Non-financial
  - Dollars and cents; know sources and uses
  - How/Why it fits your exempt purpose
- IRS audits – be prepared, not afraid
- Again, do an annual audit!
- Publication 4221-PC
  - Compliance Guide for 501(c)(3) Public Charities (good resource)



# Annual Filings

- 990, 990EZ, 990-N (postcard)
- 990T for non-related income
- Revenue based on gross income
- File timely!
  - > 5½ months from fiscal year end
- State Filings (check your state)
- Good Resource: Form 990 Course on **STAY EXEMPT** on the IRS website

# Public Inspection

- ALL 990 forms for 3 years (after due date)
- ALL 990 Schedules, attachments, and supporting documents
- Approved application for exemption and supporting documents (FORM 1023)
- IRS Determination letter (IRS Ruling letter)
- Inspection is required upon request

# Sage Advice

Don't wait for disaster to strike-

Create your 501(c)(3) TODAY!

# Today's Presentation by...

- Tonya Sprenkle, Vice President of the Joplin Area Chamber of Commerce
  - > 320 East 4<sup>th</sup> Street, Joplin, MO 64801
  - > 417-624-4150; [tonya@joplincc.com](mailto:tonya@joplincc.com)
- Trevor Wilson, Partner, Jones Walker Law
  - > [twilson@joneswalker.com](mailto:twilson@joneswalker.com)