

CITY OF FARIBAULT
AMENDED BUSINESS SUBSIDY POLICY,
JOBZ BUSINESS SUBSIDY POLICY AND
TAX ABATEMENT BUSINESS SUBSIDY POLICY

August 23, 2005

I. INTRODUCTION AND DEFINITIONS

This Business Subsidy Policy (the "Policy") is adopted for purposes of Minnesota Statutes, Sections 116J.993 through 116J.995 and as may be amended, (the "Business Subsidy Act") and Minnesota Statutes, Sections 469.310 through 469.320 and as may be amended (the "Job Opportunities Building Zone Act" or "JOBZ Act," and with the Business Subsidy Act, the "Acts"). Terms used in this Policy are intended to have the same meanings as if used in the Acts, and any amendments or modifications to the Acts shall amend or modify the definitions and terms of this Policy without any further action of the City. This Policy shall apply only with respect to subsidies granted under the Acts if and to the extent required thereby.

Every potential business subsidy project within the City of Faribault (the "City") will be evaluated according to this Policy and the criteria set forth herein.

A. **Business Subsidy Generally.** A Business Subsidy, as further defined herein and in the Business Subsidy Act shall include, but not be limited to one of the following types of subsidies provided by the City:

1. Loan,
2. Grant,
3. Tax abatement, (refer to policy criteria starting on page 8)
4. TIF or other tax reduction or deferral,
5. Guarantee of payment,
6. Contribution of property or infrastructure,
7. Preferential use of governmental facilities,
8. Land contribution, or
9. Other specified subsidy.

A Business Subsidy does not include assistance of less than \$25,000, business loans or loan guarantees of less than \$75,000, assistance generally available to all businesses, housing assistance, or any other type of assistance specifically excluded in the Business Subsidy Act.

B. **Job Opportunities Building Zone (JOBZ) Business Subsidy.** Under the JOBZ Act, a Business Subsidy includes the subsidy provided through the following set of tax benefits to certain qualified businesses:

1. Exemption from individual income taxes,
2. Exemption from corporate franchise taxes,
3. Exemption from state sales and use tax and any local sales and use taxes on qualifying purchases,
4. Exemption from state sales tax on motor vehicles and any local sales tax on motor vehicles,
5. Exemption from property tax,
6. Exemption from wind energy production tax, and
7. Jobs credit.

C. **Further Definitions.** The following defined terms apply equally to business subsidies generally and to JOBZ business subsidies. Any terms not defined herein shall have the meanings set forth in the Acts. If the Acts are amended to affect any of these defined terms, then the definition or definitions set forth in the Acts shall replace the definition or definitions set forth within this Section and be incorporated herein without amendment to this Policy or any type of action of the City.

“Benefit Date” the later of either the date on which the Business Subsidy Agreement is executed or the date on which any amount of Business Subsidy is first provided to the Business Subsidy Recipient.

“Business Subsidy” means a state or local government agency grant, contribution of personal property, real property, infrastructure, the principal amount of a loan at rates below those commercially available to the recipient, any reduction or deferral of any tax or any fee, any guarantee of any payment under any loan, lease, or other obligation, or any preferential use of government facilities given to a business, and as defined by the Business Subsidy Act.

“Business Subsidy Agreement” means the agreement between the Recipient as defined herein and the City entered into pursuant to the Business Subsidy Act.

“Business Subsidy Recipient” mean any business entity, including a Qualified Business receiving a JOBZ Business Subsidy as defined herein, that receives a business subsidy as defined by the Business Subsidy Act and that has signed a Business Subsidy Agreement with the City.

“Business Subsidy Report” means the annual reports submitted by the City each year for each business receiving a Business Subsidy in the City in order to comply with the Business Subsidy Act.

“DEED” means the Minnesota Department of Employment and Economic Development or a successor entity.

“JOBZ Business Subsidy” means tax exemptions or tax credits available to a Qualified Business located in a Zone, as defined by the Business Subsidy Act, and as modified by amendments to these Acts.

“Qualified Business” means a person that carries on a trade or business at a place of business located within a Zone and which complies with the reporting requirements specified therein and the criteria set forth herein, except in the case of a Relocating Business, as defined herein, in which case such person must also meet the requirements described in the JOBZ Act, which as of March, 2004 were to increase employment or to make a capital investment.

“Relocating Business” A person that relocates a trade or business from outside a Zone into that Zone according to the criteria set forth in the JOBZ Act, which as of March 2004 meant ceasing one or more operations or functions at the non-Zone location and beginning performing substantially the same functions inside the Subzone or by reducing employment at the non-Zone location starting one year before and ending one year after beginning operations in the Zone, where the relocated employees in the Zone are engaged in the same line of business as the employees at the location where employment was reduced.

“Relocation Agreement” means a binding written agreement between a Relocating Business and the Commissioner of DEED pledging that the qualified business shall meet the requirements of the JOBZ Act, which as of March 2004 meant either: (a) increase full-time or full-time equivalent employment in the first full year of operation within the job opportunity building zone by at least 20 percent, *or* (b) make a capital investment on the property equivalent to 10% of the gross revenues of operation that was relocated in the immediately preceding taxable year. As of March 2004, a Relocation Agreement also had to provide for repayment of all tax benefits if the requirements of (a) or (b) are not met.

“Subzone” means the parcel or parcels of land within the Region V Zone in the City which the Commissioner of DEED has now, or at any time in the future shall, designate to receive certain tax credits and exemptions specified under the JOBZ Act.

“Zone” means a Job Opportunity Building Zone or an Agricultural Processing Facility Zone designated by the Commissioner of DEED under the JOBZ Act.

II. BUSINESS SUBSIDY REQUIREMENTS

The requirements for a Business Subsidy herein described apply to any Business Subsidy, including any JOBZ Business Subsidy. If the Acts are amended to modify any of these requirements, then the requirement or requirements set forth in the Acts shall replace the

requirement or requirements set forth in this Section and be incorporated herein without amendment to this Policy or any type of action of the City.

A. **Business Subsidy Implementation.** A Business Subsidy Recipient, including a Qualified Businesses receiving a JOBZ Business Subsidy, must:

1. Comply with the City's comprehensive plan and any other plans or guides created by the City to guide development,
2. Enter into a Business Subsidy Agreement with the City that complies with the Business Subsidy Act and the requirements set forth herein,
3. Agree to comply with annual reporting as required by the Business Subsidy Act and the JOBZ Act,
4. Meet a public purpose as described in Section II B. below and either achieve job and wage goals as described in Section II. C below or meet the goals described in Section II D. below,
5. Meet all of the additional policies set forth in Section II. D below, including holding a public hearing if required and complying with payback provisions.

B. **Public Purpose.** Every Business Subsidy, including a Qualified Business receiving a JOBZ Business Subsidy, must meet a public purpose as follows, which may include but must not be limited to increasing the tax base:

1. Enhance economic growth and increase the tax base in the City;
2. Create high quality jobs in the City with minimum job creation goals as set forth in the policy;
3. Create living wage goals and minimum benefit package goals as set forth in the policy, including the following benefits: health, dental, retirement, life or short term/long term disability; all of which shall be reviewed on an annual basis;
4. Locate industrial development within established industrial parks;
5. Retain high quality jobs in the City;
6. Prevent or eliminate blight;
7. Revitalize neighborhoods and the community;
8. Foster economic and commercial diversity;
9. Stabilize the community;

10. Provide basic goods and services;
11. Remediate pollution;
12. Promote the retention or reuse of historically significant property;
13. Fully utilize existing or planned infrastructure improvements;
14. Assist in the development of public improvements of facilities;
15. Provide tax incentives to qualified businesses pursuant to Minnesota Statutes Sections 469.310 through 469.320 (the "Job Opportunities Building Zone Act");
16. Provide business subsidy incentives to qualified businesses pursuant to Minnesota Statutes Sections 116J.993 through 116J.995 (the "Business Subsidy Act"); and

C. **Job and Wage Goals.** Except as provided in Section II D. herein, every Business Subsidy Recipient, including a Qualified Business receiving a JOBZ Business Subsidy, must meet at least the job and wage goals described herein within two (2) years of the Benefit Date, unless an extension is granted pursuant to the Acts or an amendment to the Acts extends this time. Every Business Subsidy Recipient must meet at least the General Job Goal and General Wage Goal set forth in 1 and 2 below and every Qualified Business receiving a JOBZ Business Subsidy must meet at least the JOBZ Job Goal and JOBZ Wage Goal set forth in 3 and 4 below. In addition, every Business Subsidy Recipient must create the number of full-time specified in the Business Subsidy Agreement and must meet the wage goals for those jobs specified in the Business Subsidy Agreement. The Business Subsidy Agreement may contain separate job and wage goals for part-time jobs and full-time jobs. The City may set goals in terms of full-time equivalent at their discretion. In cases where the public purpose of the Business Subsidy is the retention of existing jobs, the Business Subsidy Recipient must demonstrate that job loss is specific and demonstrable. The setting of specific wage and job goals in the Business Subsidy Agreement will be sensitive to local economic conditions, external economic forces over which neither the grantor nor the Business Subsidy Recipient has control, the individual financial resources of the recipient, and the competitive environment in which the Business Subsidy Recipient's business exists.

1. *General Job Goal.* For all Business Subsidies, the Business Subsidy Recipient must create at least 10 full-time jobs.
2. *General Wage Goal.* For all Business Subsidies, the Business Subsidy Recipient must create full-time job(s) with minimum wages \$10.00 per hour plus benefits.
3. *JOBZ Job Goal.* For all JOBZ Business Subsidies, the Qualified Business must create 20 full-time jobs and retain their current number of employees.
4. *JOBZ Wage Goal.* For all JOBZ Business Subsidies, the Qualified Business must create full-time jobs that pay at minimum wage of \$ 12.00 per hour plus benefits.

The City may deviate from job and wage goals by documenting the reason in writing for the deviation and attaching a copy of this reason to the next annual Business Subsidy Report submitted to DEED. Wages should increase annually based on the consumer price index.

D. **Alternative to Job and Wage Goals.** The City may determine, after a public hearing, that job creation or job retention is not a goal of either a general Business Subsidy or a JOBZ Business Subsidy. In such cases, the Business Subsidy Recipient must meet at least one of the following minimum requirements:

1. The Business Subsidy accomplishes the removal, rehabilitation or redevelopment of, or prevention of development or spread of, a blighted area as defined by Minnesota Statutes, Section 469.002, Subdivision 11, or constitutes a cost of correcting conditions that permits designation of a redevelopment district or renewal and renovation district under Minnesota Statutes, Section 469.174 to 469.179; or
2. The Business Subsidy improves public infrastructure or public facilities, including without limitation streets, sewers, storm sewers, streets, parks, recreational facilities, and other City facilities; or
3. The Business Subsidy removes physical impediments to development of land, including without limitation poor soils, bedrock conditions, steep slopes, or similar geotechnical problems; or

The above requirements must be expressed as specific, measurable and tangible goals in each Business Subsidy Agreement. The job and wage goals that would otherwise be required may be set at zero. In addition, in the case of a JOBZ Business Subsidy, the requirements of a Relocation Agreement must be met.

E. **Additional Policies.** All businesses receiving a general Business Subsidy or a JOBZ Business Subsidy shall also comply with the following:

1. *Public Hearing.* When the value of a Business Subsidy exceeds \$100,000, a properly noticed public hearing shall be held pursuant to the Business Subsidy Act, at which the amount of subsidy provided, the public purpose(s), and the specific, measurable, and tangible goals to be achieved shall be made known.
2. *Length of Operation.* All Business Subsidy Recipients must agree to continue operation within the City for at least five years after the benefit date as described in the Business Subsidy Act. After a public hearing, the City may authorize the Business Subsidy Recipient to move outside the City within the first five years of operation.

3. *JOBZ Length of Operation.* JOBZ Business Subsidy Recipients must further agree to continue to operations in the Subzone for the duration of the JOBZ term determined for the Subzone pursuant to the JOBZ Act.
4. *JOBZ Relocation Requirement.* A JOBZ Business Subsidy Recipient does not qualify as a Relocating Business unless the business is qualified to enter and enters into a Relocation Agreement according to the JOBZ Act.
5. *Pay Back Provisions and Extensions.* Any general or JOBZ Business Subsidy Recipient must pay back assistance received if the job and wage goals or other specified goals are not met within two (2) years of the Benefit Date or such time as permitted by the Acts as they may be amended. For all general and JOBZ Business Subsidies, assistance provided by the City must be paid back, with interest as determined in the Business Subsidy Act, to the City, or at the City's request, to the account created under the Business Subsidy Act. Any repayment may be prorated by the City to reflect partial fulfillment of goals. The City may, after a public hearing, extend the period for meeting job and wage goals for up to one year and may pursuant to the procedure in the Acts, extend the period for meeting other goals for any period specified by the City. For JOBZ Business Subsidies, state tax exemptions must be paid back to the State of Minnesota and property tax exemptions paid back to the Subzone county, all pursuant to the JOBZ Act. The Commissioner of DEED may waive, without a hearing, the necessity of such state and county repayment if in consultation with City officials the Commissioner determines that requiring repayment is not in the best interest of the state or City and the business ceased operating as a result of circumstances described in the JOBZ Act.
6. *Modification.* The City reserves the right to modify this Policy from time to time in accordance with the Acts.

CITY OF FARIBAULT

Tax Abatement Business Assistance Policy

1. PURPOSE

- 1.01 The purpose of this policy is to establish the City of Faribault's position as it relates to the use of Tax Abatement. This policy shall be used as a guide in processing and reviewing applications requesting business assistance.
- 1.02 The City shall have the option of amending or waiving sections of this policy when determined necessary or appropriate. *Minnesota Statutes 116J.994, Subd. 2*, allows the City to deviate from its criteria by documenting in writing the reason for the deviation and attaching a copy of the document to its next annual report to the department.

2. STATUTORY LIMITATIONS

- 2.01 In accordance with the City of Faribault's Business Assistance Policy, assistance requests must comply with applicable State Statutes.

3. ELIGIBLE USES FOR THE RECEIPT OF BUSINESS ASSISTANCE

- 3.01 As a matter of adopted policy, the City of Faribault will consider using a tax abatement assistance tool to assist private developments only in those circumstances in which the proposed private projects meet one or more of the following uses:
 - A. To redevelop blighted or under-utilized areas of the community.
 - B. To meet the following housing-related uses:
 - 1. To provide a diversity of housing not currently provided by the private market.
 - 2. To provide a variety of housing ownership alternatives and housing choices.
 - 3. To promote affordable housing for low or moderate-income individuals.
 - 4. To promote neighborhood stabilization and revitalization by the removal of blight and the upgrading in existing housing stock in residential areas.
 - C. To remove blight and encourage redevelopment in the commercial and industrial areas of the City in order to encourage high levels of property maintenance and private reinvestment in those areas.
 - D. To increase the tax base of the City in order to ensure the long-term ability of the City to provide adequate services for its residents while lessening the reliance on residential property tax.
 - E. To retain local jobs, increase the local job base, and provide diversity in that job base.
 - F. To increase the local business and industrial market potential of the City of Faribault.

- G. To encourage additional unsubsidized private development in the area, either directly, or through secondary "spin-off" development.
- H. To offset increased costs of redevelopment, over and above those cost that a developer would incur in normal development.
- I. To accelerate the development process and to achieve development on sites which would not be developed without this assistance.

4. BUSINESS ASSISTANCE PROJECT APPROVAL CRITERIA

- 4.01 All new projects approved by the City of Faribault should meet the following mandatory minimum approval criteria. However, it should not be presumed that a project meeting these criteria would automatically be approved. Meeting these criteria creates no contractual rights on the part of any potential developer.
- A. The assistance shall be provided within applicable state legislative restrictions, State Auditor interpretation, debt limit guidelines, and other appropriate financial requirements and policies.
 - B. The project should meet one or more of the uses identified in Section 3, Eligible Uses for the Receipt of Business Assistance.
 - C. The project must be in accord with the Comprehensive Land Use Plan and Zoning Ordinances, or required changes to the Comprehensive Land Use Plan and Zoning Ordinances must be under active consideration by the City at the time of approval.
 - D. The assistance will not be provided to projects that have the financial feasibility to proceed without the benefit of the assistance. Assistance will not be provided solely to broaden a developer's profit margins on a project. Prior to consideration of a business assistance request, the City may undertake an independent underwriting of the project to help ensure that the request for assistance is valid.
 - E. Prior to approval of business assistance, the developer shall provide any required market and financial feasibility studies, appraisals, soil boring, information provided to private lenders for the project, and other information or data that the City or its financial consultants may require in order to proceed with an independent underwriting.
 - F. Any developer requesting business assistance should be able to demonstrate past successful general development capability as well as specific capability in the type and size of development proposed.
 - G. The developer must retain ownership of the project at least long enough to complete it, to stabilize its occupancy, to establish the project management, and to initiate repayment of the business assistance.
 - H. The level of business assistance funding should be reduced to the lowest possible level and least amount of time by maximizing the use of private debt and equity financing first, and then using other funding sources or income producing vehicles that can be structured into the project financing, prior to using additional business assistance funding.

5. BUSINESS ASSISTANCE PROJECT EVALUATION CRITERIA

- 5.01 All projects will be evaluated by the Faribault Economic Development Authority and City Council on the following criteria for comparison with other proposed business assistance projects reviewed by the City, and for comparison with other subsidy standards (where appropriate). It is realized that changes in local markets, costs of construction, and interest rates may cause changes in the amounts of business assistance subsidies that a given project may require at any given time.
- 5.02 Some criteria, by their very nature, must remain subjective. However, wherever possible "benchmark" criteria have been established for review purposes. The fact that a given proposal meets one or more "benchmark" criteria does not mean that it is entitled to funding under this policy, but rather that the City is in a position to proceed with evaluations of (and comparisons between) various business assistance proposals, using uniform standards whenever possible.
- 5.03 Following are the evaluation criteria that will be used by the City of Faribault:
- A. All proposals should, in the opinion of the Economic Development Authority and City Council, optimize the private development potential of a site.
 - B. All proposals should, in the opinion of the Economic Development Authority and City Council, create the highest feasible number of jobs on the site or otherwise satisfy economic development goals and priorities of the City at the time of application. All proposals shall meet the Business Subsidy Criteria established by the City.
 - C. Business assistance will not be provided when the relocating or new business requesting assistance would be in competition with an established business in the community unless it is clearly demonstrated that the business provides a service or use under served and/or in high demand in the city.
 - D. All proposals should, in the opinion of the Economic Development Authority and City Council, create the highest possible ratio of property taxes paid before and after redevelopment. Given the different assessment circumstances in the City, this ratio will vary widely.
 - E. Proposals should usually not be used to support speculative industrial, commercial, and office projects.
 - F. Assistance will usually not be used in a project that involves an excessive land and/or property price.
 - G. All business assistance projects will need to meet the "but for" test. Assistance will not be used unless the need for the City's economic participation is sufficient that, without such assistance the project could not proceed in the manner as proposed.
 - H. Business assistance will not be used when the developer's credentials, in the judgment of the City, are inadequate due to past track record relating to: timeliness and quality level of completed projects, general reputation, bankruptcy, credit worthiness or other relevant considerations by the City.

- I. Business assistance will not normally be used for projects that would generate significant environmental problems in the opinion of the local, state, or federal governments.

- J. Business assistance funding should not be provided to those projects that fail to meet good public policy criteria as determined by the EDA and Council, including: poor project quality; projects that are not in accord with the comprehensive plan, zoning, redevelopment plans, and city policies; projects that provide no benefit or improvement to surrounding land uses, the neighborhood, and/or the City; projects that do not have significant new, or retained, employment; projects that do not meet financial feasibility criteria established by the City; and projects that do not provide the highest and best desired use for the property.

- K. All projects receiving business assistance must create a minimum of 1 new full-time equivalent jobs per \$50,000.00 worth of assistance in the community with a minimum wage of \$12.00 per hour plus benefits.

CITY OF FARIBAULT
PRE-APPLICATION
BUSINESS ASSISTANCE FINANCING

Legal name of applicant:

Address:

Telephone number:

Name of contact person:

REQUESTED INFORMATION

Addendum shall be attached hereto addressing in detail the following:

1. A map showing the exact boundaries of proposed development.
2. Give a general description of the project including size and location of building(s); business type or use; traffic information including parking, projected vehicle counts and traffic flow; timing of the project; estimated market value following completion.
3. The existing Comprehensive Land Use Plan designation and zoning of the property. Include a statement as to how the proposed development will conform to the land use designation and how the property will be zoned.
4. A statement identifying how the increment assistance will be used and why it is necessary to undertake the project.
5. A statement identifying the public benefits of the proposal including estimated increase in property valuation, new jobs to be created, hourly wages and other community assets.
6. A written description of the developer's business, principals, history and past projects

I understand that the application fee will be used for City staff and consultant costs and may be partially refundable if the request for assistance is withdrawn. Refunds will be made at the discretion of the Economic Development Authority and be based on the costs incurred by the City prior to the withdrawal of the request for assistance. If the initial application fee is insufficient, I will be responsible for additional deposits.

SIGNATURE

Applicant's signature:

Date:

CITY OF FARIBAULT

Application for Business Assistance Financing

GENERAL INFORMATION:

Business Name: _____ Date: _____

Address: _____

Type (Partnership, etc.): _____

Authorized Representative: _____ Phone: _____

Description of Business: _____

Legal Counsel: _____

Address: _____ Phone: _____

FINANCIAL BACKGROUND:

1. Have you ever filed for bankruptcy? _____

2. Have you ever defaulted on any loan commitment? _____

3. Have you applied for conventional financing for the project? _____

4. List financial references:
a. _____
b. _____
c. _____

5. Have you ever-used Business Assistance Financing before? _____

If yes, what, where and when? _____

PROJECT INFORMATION:

1. Location of Proposed Project: _____

2. Amount of Business Assistance requested? _____

3. Need for Business Assistance: _____

4. Present ownership of site: _____

5. Number of permanent jobs created as a result of project? _____

6. Estimated annual sales:

Present: _____

Future: _____

7. Market value of project following completion: _____

8. Anticipated start date: _____

Completion Date: _____

FINANCIAL INFORMATION:

1. Estimated project related costs:

- | | | | |
|----|-------------------------------|----|-------|
| a. | land acquisition | \$ | |
| b. | site development | | _____ |
| c. | building cost | | _____ |
| d. | equipment | | _____ |
| e. | architectural/engineering fee | | _____ |
| f. | legal fees | | _____ |
| g. | off-site development costs | | _____ |

2. Source of financing:

- | | | | |
|----|-------------------------------|----|-------|
| a. | private financing institution | \$ | |
| b. | tax abatement funds | | _____ |
| c. | other public funds | | _____ |
| d. | developer equity | | _____ |

PLEASE INCLUDE:

1. Preliminary financial commitment from bank.
2. Plans and drawing of project.
3. Background material of company.
4. Pro Forma analysis.
5. Financial statements.
6. Statement of property ownership or control.
7. Payment of application fee as follows:

- | | |
|--|------------|
| • Industrial Development Loan: | \$350.00 |
| • Minnesota Investment Fund: | \$350.00 |
| • Economic Development Revolving Fund: | \$350.00 |
| • JOBZ: | \$1,000.00 |
| • Tax Abatement: | \$5,000.00 |
| • Tax Increment Financing: | \$5,000.00 |