City of Zumbrota Business Subsidy Policy and Criteria

I. PURPOSE

This policy's purpose is to establish the City's position relating to the use of tax increment financing, tax abatement, industrial revenue bonds, JOBZ incentives and other business assistance programs for private development. The City and EDA will use this policy as a guide in processing and reviewing applications requesting tax increment, tax abatement, bonding and other business assistance.

The City and EDA may amend or waive any part of this policy as allowed under Minnesota Law.

II. STATUTORY LIMITATIONS

This policy is adopted in compliance with M.S. 116J.994 Subd. 2 and M.S. 469.310 – 469.320. A copy of the policy shall be submitted to the Department of Employment and Economic Development along with the first annual Business Subsidy report. All business assistance requests must comply with applicable Minnesota Law.

III. PUBLIC POLICY REQUIREMENT

All business subsidies must meet public purpose other than increasing the tax base. Job retention may only be used as a public purpose in cases where job loss is specific and demonstrable.

IV. DEFINITIONS

"Authorized Business Subsidy Signatory" means the Mayor and City Administrator for the City of Zumbrota and/or the EDA President and Treasurer, who is/are authorized by this Policy to execute business subsidy agreements on behalf of the City of Zumbrota and/or Zumbrota Economic Development Authority;

"Benefit Date" means the date the business receives the business subsidy as defined by MN Statutes 116J.993 Subd. 2. If the subsidy is for improvement to property, the benefit date is the earlier of (1) date the improvements are finished

for the entire project, or (2) date the business occupies the property.
"JOBZ Business Subsidy" means tax exemptions or tax credits available to a qualified business located in a job zone under the Job Opportunity Building Zone (JOBZ) statute M.S. 469.310-469.320;

4.04 **"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, except any assistance worth less than $25,000 and any business loans and loan guarantees less than $75,000 and as defined by the Business Subsidy statute M.S. 116J.993-995.

"Business Subsidy Report" means the annual report submitted by the LGU required to comply with M.S. 116J.994 Subd. 7 (b) through 116J.994 Subd. 8;

4.06 **"Criteria"** means the equitably applied, uniform standards by which the Economic Development Authority and/or City bases its decision to award any business subsidy to a private business or development project establishing a business and creating jobs in the City of Zumbrota;

"DEED" means the Minnesota Department of Employment and Economic Development;

4.08 **"Economic Development Agent"** means the city department, local or regional economic development agency or other authorized entity that is empowered to solicit, negotiate and form business subsidy agreements on behalf of the City of Zumbrota. Economic Development Agent for the City of Zumbrota shall be the Zumbrota EDA, hereinafter "Agent";

4.09 **"Living Wage Job"** shall mean a job which pays wages and health benefits that total at least 110% of the current poverty level for a family of four, as defined by the Federal Poverty Level;

"Local Governmental Unit" hereinafter LGU, mean the statutory or home rule charter city, county, town, iron range resources and rehabilitation agency, regional development commission;

"Qualified Business" means a person that caries on a trade or business located within a Job Opportunity Building Zone as referenced in M.S. 469.310 Subd.11; and complies with the reporting requirements specified in M.S. 469.313 Subd.2. (5); and shall comply with the criteria in Section VI. of this agreement; and shall also mean "Recipient" as defined by Business Subsidy law. A qualified business shall not include a retail business, a low-wage service business, an agricultural production business, or a business that pays less than the living wage defined in this agreement.

4.12 **"Recipient"** means any business entity that receives a business subsidy as defined in M.S. 116J.993, and that has signed a Business Subsidy Agreement with a city;

"Relocating Business" A business relocating from another Minnesota non-JOB Zone location;

"Relocation Agreement" means a binding written agreement between a relocating qualified business and the commissioner of DEED pledging that the qualified business will either: (a) increase full-time for 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; and provides for repayment of all tax benefits if the requirements of (a) or (b) are not met;

"Subzone" means the parcel or parcel of land designated by the Commissioner of DEED within a JOB Zone within the boundaries of Zumbrota to receive certain tax credits and exemptions specified under M.S. 469.310-320;

4.16 **"Zone"** means a Job Opportunity Building Zone or an Agricultural Processing Facility Zone designated by the Commission of DEED under M.S. 469.314.

V. ELIGIBLE BUSINESS ASSISTANCE USES

5.01 The City and EDA will consider using business assistance tools to assist private development only in those circumstances in which the proposed project meets at least one of the following public purposes:

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 City's commercial and industrial areas to encourage high levels of property maintenance and private reinvestment in those areas.

D. In combination with any other use provided for in this section, to increase the City's tax base to ensure the City's long-term ability to provide adequate services for its residents while lessening the reliance on residential property tax.

E. To retain local jobs where job loss is specific and demonstrable, increase the local job base and create high quality job growth, and provide diversity in the job base.

F. To enhance economic growth and diversity and encourage additional unsubsidized private development in the area, either directly, or through secondary "spin-off" development.

G. To offset increased redevelopment costs, over and above those costs that a developer would incur in normal development, and to encourage redevelopment and revitalization of the City or specific areas within the City.

H. To retain a stable and centralized business area and downtown, to assist in assuring the City's continued vitality, culture and identity and to provide for a centralized and convenient location of retail sales and services for City residents.

To accelerate the development process and to achieve development on sites which would not be developed without assistance.

VI. BUSINESS ASSISTANCE APPROVAL CRITERIA

6.01 All new projects the City or EDA approves must meet all of the following mandatory minimum approval criteria. However, meeting these criteria will not guarantee automatic approval of a subsidy.

A. The assistance must be provided within applicable state legislative restrictions, State Auditor interpretations, debt limit guidelines, and other appropriate financial and legal requirements and policies.

B. The project must meet at least one of the uses outlined in Section V above.

C. The project must be in accord with the City's Comprehensive Plan, Strategic Plan and Zoning Ordinances.

D. The applicant must demonstrate that the project would not be created on the same scale and/or quality without City or EDA Business Assistance. The applicant should maximize the amount of private investment in the project.

E. The applicant must provide any required market and financial feasibility studies, appraisals, soil boring, information provided to private lenders for the project,

and any other information or data that the City, the EDA or their financial consultant may require to independently review the project.

F. An applicant requesting business assistance must demonstrate past successful general development capability or specific capability in the type and size of proposed development in the sole judgment of the City or EDA.

G. The applicant receiving business assistance must commit to continue operations within the City for five (5) years. The applicant receiving business assistance through JOBZ must commit to continue operations within the City for ten (10) years or the life of the JOB zone, whichever is longer.

H. The applicant must demonstrate evidence of required equity and other project financing sources. The applicant should reduce its level of needed business assistance funding 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's financing, before using additional business assistance funding.

The project must be located in the City or planning to locate in the City before commencing construction.

J. The applicant must use all business assistance funding from the City or EDA for land and/or building improvements which increase the property's tax value, foster future economic development within the City, and maintain existing or create additional jobs in the City.

K. The applicant must demonstrate a clear and ongoing commitment to the community by providing living wage jobs to their employees and to City residents, and where applicable, by giving priority to those residents. The hourly wage to be paid for jobs created as a result of receiving business assistance from the City or EDA should have minimum wages and benefits of 110% of the Federal Poverty Level for a family of 4 (the 2004 Federal Poverty Level for a

family of 4=$18,850 times 110% divided by 2080 equals $9.97 per hour). The Federal Poverty Level is adjusted annually. The governing body reserves the right to approve exception to the wage requirements.

L. The applicant must meet specific job and wage goals within 24 months of the benefit date; JOBZ relocation projects must meet job and wage goals within 12 months of the benefit date.

M The applicant must demonstrate the ability to repay the business assistance if the goals set forth in the business assistance agreement are not met.

N The applicant agrees to comply with the annual Business Subsidy Reporting Requirements as required by Business Subsidy Statute M.S. 116J.993-995 and /or JOBZ statute M.S. 469.310-320.

VII. BUSINESS ASSISTANCE EVALUATION CRITERIA

The City or EDA will evaluate all projects on the following criteria for comparison with other proposed business assistance project reviewed by the City and EDA, and for comparison with other subsidy standards (where appropriate). Changes in local markets, construction costs, and interest rates may cause changes in the amounts of business assistance subsidies that a given project may require at any given time.

While some criteria, by their very nature, must remain subjective, the City and EDA have established possible "benchmark" criteria for review purposes. The fact that a given proposal meets one or more "benchmark" criteria does not mean that he project is entitled to funding under this policy, but rather that the City or EDA is in a position to proceed with evaluations of (and comparisons between) various business assistance proposals, using uniform standards whenever possible.

The City or EDA will use the following evaluation criteria

A. All proposals should optimize a site's private development potential.

B. All proposals should create the highest feasible number of jobs on the site given the project's nature and other goals.

C. All proposals must meet all applicable business assistance criteria established by the City or EDA.

D. All proposals should create the highest possible ratio of property taxes paid before and after taking into consideration all of the project's goals.

E. Proposals should normally not be used to support speculative industrial, commercial and office projects.

F. The City or EDA will not normally provide business assistance to a project that involves an excessive land and/or property price.

G. The City or EDA will not normally use business assistance for projects that would generate significant environmental or social problems in the opinion of the local, state, or federal government.

H. Proposals will need to meet the "but for" test. Business assistance will not be granted unless the need for the City's economic participation is sufficient that, without the assistance the project could not proceed in the manner as proposed.

Because it is not possible to anticipate every type of project which may in its context and time present desirable community building or preservation goals and objectives, the governing body must retain the right in its discretion to approve projects and subsidies which may vary from principles and criteria of this policy.

VIII. APPLICATION PROCESS AND FEES

8.01 Applicant shall fill out and submit a Pre-Application for Business Assistance and meet with City staff to discuss the scope of the project, public assistance being requested, time schedule and other information as may be necessary.

8.02 The Pre-Application shall be reviewed by City staff on a preliminary basis as to the feasibility of the project. Based upon the pre-application submitted, staff may require the

applicant to fill out and submit a formal Business Assistance Application. City staff shall prepare a report on the project.

The application shall be placed on the EDA agenda for concept review. The applicant may make a presentation of the project at that time. City staff will present its preliminary findings.

The following items must accompany the application:

A. Application Fee
B. Statement of Public Purpose
C. Description of Project
D. Plans and Drawings of Project
E. Company Background Material
F. Letter of feasibility
G. Market Analysis (if new business)
H. Pro Forma Analysis
I. Financial Statements (Previous two-years)
J. Zoning and Strategic Plan Analysis
K. Other

8.05 Following the necessary analysis of the application by City staff, a report shall be prepared and presented to the EDA for formal action. If the application is approved, City staff will be directed to undertake the following steps:

A. Prepare a development agreement (including a Business Subsidy Agreement) between the City of Zumbrota/Economic Development Authority and the Developer;

B. Prepare or modify the TIF plan (if within an established district) if required/applicable.

C. If zoning amendments or Planning Commission action is required as part of the project, the appropriate actions shall be taken prior to final consideration of the development agreement/Business Subsidy approval.

D. Applicant <u>must</u> follow all city development review processes (e.g. site plan, platting, rezoning, PUD, etc.) before final Business Subsidy application may be approved.

8.06 All full applications must include an application fee and deposit as established by the City or EDA. There is no fee or deposit required for a pre-application. A deposit is required on a full application and will be refunded only if the project commences. The current established rate for an application fee is $100. The current established rate for the deposit is $500. The City or EDA may seek reimbursement for an amount negotiated in the Business Subsidy Agreement for any additional costs and expenses incurred in processing the application.

IX. BUSINESS ASSISTANCE AWARD

The City or EDA shall consider, evaluate and take action regarding a completed Business Subsidy Application within sixty (60) days after receiving a properly completed Business Assistance Application.

The City or EDA shall hold a public hearing, if the amount of financial assistance exceeds $100,000, before granting or denying the business assistance. The City or EDA will publish notice of the public hearing at least ten (10) days before the hearing.

If the City or EDA decides to grant any business assistance to the applicant, the applicant and the City or EDA must enter into a Business Subsidy Agreement containing at least the following elements:

A. A description of the business assistance, including the amount and type of assistance, and the type of district if tax increment financing is provided.

B. A statement of the business assistance's use and public purpose.

C. Measurable, specific and tangible goals for the business assistance.

D. A description of the recipient's financial obligations if the goals are not met.

E. A statement of why the subsidy is needed.

F The recipient's commitment to continue operations in the City for at least five (5) years from the Benefit Date; for

JOBZ assistance, ten (10) years or the remainder of the JOB zone duration, whichever is longer.

G. The name and address of the recipient's parent corporation, if any.

H. A detailed list of all financial assistance by all grantors for the project.

Goals for the number of jobs created or retained, and wage goals for the jobs created or retained if any, and wage goals for any jobs to be enhanced through increased wages, to be attainted within 2 years of the benefit date.

J Agreement from applicant to repay all or a part of the Business Subsidy to the City or EDA, plus interest, accruing from the Benefit Date if goals (job creation and wages) are not met. If goals are met in part, the applicant will repay a portion of the Business Subsidy (plus interest) determined by multiplying the Business Subsidy by a fraction, the numerator of which is the number of jobs in the Goals which were not created at the wage level set forth and the denominator of which is the number of jobs agreed to be created.

X. ADDITIONAL JOBZ BUSINESS SUBSIDY REQUIREMENTS

10.01 Any time the City of Zumbrota provides a business subsidy to a Qualified Business or Recipient, that business is subject to the wage goals, job goals and other criteria set forth in this policy. In the event of a conflict between the requirements o the Business Subsidy statute M.S. 116J.993-995 and the JOBZ statute M.S. 469.310-320, the JOBZ statue shall control.

10.02 The City of Zumbrota agrees to require that a qualified business shall not compete with or displace local businesses currently operating in the community. Applicant will be responsible for showing they would not be in competition with existing businesses. The EDA may require the potential recipient to seek waiver from businesses that are deemed in competition.

10.03 The City of Zumbrota may deviate from wage and job criteria in this Section 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.

10.04 The City shall require all businesses receiving a business subsidy to comply with the following:

A. Attend a properly noticed public hearing held by the City as provided by M.S. 116J.994. The purpose of the hearing shall be to identify the criteria that the qualified business or recipient will meet in order to be eligible to receive a business subsidy or become a qualified business for purposes of the JOBZ statute.

B. If the business is qualified to receive JOBZ tax benefits, that business shall agree to continue to operations in the jurisdiction where the subsidy is used (the subzone) for the duration of the job zone term.

C If the qualified business or recipient is a relocating business under the definition in this agreement, the business shall be required to enter into a binding written "Relocation Agreement" between the qualified business and the commissioner of DEED pledging that the qualified relocating business will either:

(1) increase full-time for full-time equivalent employment in the first full year of operation within the job opportunity building zone by at least 20 percent, or
(2) make a capital investment on the property equivalent to 10 percent of the gross revenues of operation that was relocated in the immediately preceding taxable year; and provides for repayment of all tax benefits if the requirements of (1) or (2) are not met.

D The business shall identify an operation start date when business operations for the proposed business are planned to begin in the zone. The date when the business operations begin is called the "operation start date."

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shall pay an annual fee to the City of $25 per animal up to a maximum of $250 annually per person. The City may charge an additional fee of $50, if a site inspection is required.

Motion Benson, second Eberhart to adopt Ordinance #2005-02, an Ordinance amending Zumbrota City Code Chapter 95: Animals, providing for registration of regulated animals and setting an annual registration fee of $25 per animal up to a maximum of $250 annually per person and an additional $50 fee, if a site inspection is required. Carried 4-0-0.

0 2005

5. Community Development Director Angie Bersaw told Council the person who inquired about a summer internship has taken another job. As the City could use the help with setting up the GIS system and other projects, Bersaw requested hiring a part-time employee for the May through August season and recommended an $8.00 per hour wage.

Motion Eberhart, second Borgschatz to advertise for part-time planning intern position from May through August at $8.00 an hour. Carried 4-0-0.

RECE

6. City Attorney Rockne is reviewing the parking fine fees for possible adjustments. He will bring his suggestions to the next meeting.

PUBLIC HEARINGS

1. At 6:15 p.m., Dale Hinderaker opened the Public Hearing for adoption of the Amended Business Subsidy Policy. Mayor Bauer opened the City portion of the Hearing. Bersaw explained the changes to the Policy: an incorporation of the statutory JOBZ language, an amendment of the minimum hourly wage from $8 per hour to 110% of the Federal Poverty Level (2004=$9.97) which will change whenever the federal poverty level is adjusted and an application process and deposit requirement. There were no public comments on the policy. Hinderaker closed the EDA hearing. Mayor Bauer closed the city portion of the hearing. EDA member Falk motioned recommendation of City Council approval of the policy, Sturm seconded. Carried 5-0-0.

Motion Benson, second Borgschatz to adopt the Amended Business Subsidy Policy. Carried 5-0-0.

NEW BUSINESS

1. The Planning Commission reviewed the final plat for the Jacobson Commercial Park. There were no changes from the preliminary plat. Planning Commission recommended Council approve the final plat.

Motion Benson, second Eberhart to approve the Jacobson Commercial Park final plat, by Resolution #2005-07. Carried 4-0-0.

2. Fairview Red Wing Health Services submitted a preliminary plat application for the Fairview Clinic Subdivision. They propose subdividing parcel 72.740.1210 into three parcels. The area is zoned C2, Highway Commerce, and the new parcels would exceed minimum requirements for the C2 zoning. A portion of the property is within the floodplain, therefore, each building permit will need to be reviewed by the DNR for certification of building elevation at the Regulatory Flood Protection Elevation. Planning Commission reviewed the plat and recommended City Coucil approval.