Business Subsidy Policy and Criteria For the City of Ada

1. PURPOSE

1.01 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 will use this policy as a guide in processing and reviewing applications requesting tax increment, tax abatement, bonding and other business assistance.

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

2. STATUTORY LIMITATIONS

2.01 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. All business assistance requests must comply with applicable Minnesota law.

3. DEFINITIONS

3.01 "Authorized Business Subsidy Signatory" means the Mayor and the City Clerk for the City who are authorized by this Policy to execute business subsidy agreements on behalf of the City;

3.02 "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;

3.03 "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 statute M.S. §§ I 16J.993-1 16J.995.

3.04 "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.

3.05 "Criteria" means the equitably applied, uniform standards by which the City bases its decision to award any business subsidy to a private business or development project establishing a business and creating living wage jobs; .

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

3.07 "Benefits" means non-mandatory benefits such as paid time off, health insurance, dental insurance, child care benefits, cafeteria plan benefit packages, and/or life insurance. For purposes of this definition, "Benefits" does not include workman's compensation, unemployment compensation and social security benefits;

3.08 "Living Wage Job" shall mean a job which pays wages, not including benefits, that total at least the rate of 110% of the current poverty level for a family of four;

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

3.10 "JOBZ Qualified Business" means a person that carries on a trade or business at a place of business located within a Job Opportunity Building Zone as referenced in M.S. § 469.310 Subd. 11; and complies with the reporting requirements specified by M.S. § 469.313 Subd. 2. (5); and shall comply with the criteria in Section 4 of this Business Subsidy Policy; 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;

3.11 "Recipient" means any business entity that receives a business subsidy as defined by M.S. § 116J.993 and that has a Business Subsidy Agreement with the City;

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

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

3.14 "Subzone" means that parcel or parcel of land designated by the Commissioner of Employment and Economic Development within a Job Opportunity Buildi~g Zone within the boundaries of the City to receive certain tax credits and exemptions specified under M.S. § 469.310-469.320;

3.15 "Subzone Administrator" means the person or entity authorized by the City to act as its Subzone Administrator. The responsibilities of the Subzone Administrator shall be defined more specifically in a separate agreement negotiated between the City, its designated Sub-Zone Administrator (if different than the Zone Administrator) and the Zone Administrator for the Headwaters Economic Opportunity Zone. The Subzone Administrator may have financial consulting responsibilities, as defined by the agreement between the City and the Zone Administrator, for purposes of evaluating applicants under the Business .Subsidy Criteria.

4. ELIGIBLE BUSINESS ASSISTANCE USES

4.01 The City will consider using business assistance tools to assist private development only in those circumstances in which the following public purposes are met by the project:

A. Enhance economic growth in this area;
B. Create high quality job growth in this area;
C. Retain high quality jobs in this area where job loss is specific and demonstrable;
D. Stabilize the community;
E. Encourage entrepreneurial commercial/industrial endeavors; and
F. To accelerate the development process and achieve development on sites which would not be developed without assistance.

A qualified business shall not compete with or displace local businesses currently operating within the subzone community.

5. BUSINESS ASSISTANCE PROJECT APPROVAL CRITERIA

5.01 All new projects the City 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, debit 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 4 above.

C. The project must be in accord with the City's Comprehensive 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 Business Subsidy 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, or their financial consultants 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.

G. If applicable, the applicant must retain ownership of the project at least long enough to complete it, to stabilize its occupancy, and to establish the project's management.

H. The applicant must demonstrate evidence of the 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 assistance funding.

I. The project must be located in the City or plan to locate in the City within a negotiated time-frame approved by the City.

J. The applicant must use all business assistance funding from the City 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. The hourly wage to be paid for jobs created as a result of receiving business assistance from the City cannot be less than 110% of poverty level for a family of 4, not including benefits.

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

M. The applicant agrees to comply with annual Business Subsidy Reporting Requirements as required by Business Subsidy Statute M.S. 116J.993-116J.995 and/or Job Opportunity Building Zone (JOBZ) statute M.S. 469.310-469.320.

6. BUSINESS ASSISTANCE PROJECT EVALUATION CRITERIA

6.01 The City will evaluate all projects 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). Changes in local markets, construction costs, and interest rates may cause changes in the amounts of business assistance proposals, using uniform standards whenever possible.

6.02 While some criteria, by their very nature, must remain subjective, the City has established possible "benchmark" criteria for review purposes. The fact that a given proposal meets one or more "benchmark" policy criteria does not mean that the project 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.

6.03 All other things being equal and to the extent legally possible, the City will give preferential treatment for business subsidies to businesses that engage in responsible labor relations defined as neutrality on union organizing.

6.04 The City 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.

D. All proposals should create the highest possible ratio of property taxes paid before and after redevelopment 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 will not normally provide business assistance to a project that involves an excessive land and/or property price.

G. The City 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 governments.

7. APPLICATION PROCESS AND FEES

7.01 All applicants for business assistance must fill out and submit a Business Subsidy Application.

7.02 All applications must include an application fee as established by the City. The City, or its assigned financial consultant, may seek reimbursement for an amount negotiated in the Business Subsidy Agreement for any additional costs and expenses incurred in processing the application.

8. BUSINESS ASSISTANCE AWARD

8.01 The City will hold a public hearing before granting or denying the business assistance. The City will publish notice of the public hearing at least ten (10) days before the hearing.

8.02 If the City decides to grant any business assistance to the applicant, the applicant and the City 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 stateri1ent 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 day the Business Subsidy Agreement goes into effect.
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
I. 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 attained within 2 years of the benefit date.

9. ADDITIONAL JOBZ BUSINESS SUBSIDY REQUIREMENTS

9.01. Any time the City 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 of the Business Subsidy statute M.S. §§ 116J.993-116J.995 and the JOBZ statute M.S. §§ 469.310-469.320, the JOBZ statute shall control.

9.02. The City 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.

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

1. 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.
2. If the business is qualified to receive JOBZ tax benefits, that business shall agree to continue to operate in the jurisdiction where the subsidy is used (the subzone) for the duration of the job zone term.
3. 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 relocation 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 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 (a) or (b) are not met. 9.04 The business shall identify an operation start date when business operations for the proposed qualified business are planned to begin in the zone. The date when business operations begin is called the "operation start date."

NOTICE OF PUBLIC HEARING ON THE ADOPTION OF A POLICY AND

CRITERIA FOR GRANTING BUSINESS SUBSIDIES

NOTICE IS HEREBY GIVEN that the City Council (the "Council") of the City of Ada, Minnesota, will hold a public hearing on August 4 .2004, at City Hall at a meeting of the Council beginning at approximately 6:30 p.m. The meeting will be held at for the purpose of reviewing the proposed adoption of the City's Business Subsidy . Policy "(entitled "Business Subsidy Policy and Criteria For the City of Ada") under Minnesota Statutes Section 116J.993 through 116J.995 and Minnesota Statute Section 469.310-469.320, the Job Opportunity Building Zone statute. All persons may appear at the public hearing and present their views orally or in written form. A copy of the proposed Business Subsidy Policy may be obtained at the City's offices located at 404 West Main Street, Ada, Minnesota.