



## **Business Subsidy Policy and Criteria**

### **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 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.
- 1.02 The City and the EDA may amend or waive any part of this policy as they determine necessary or appropriate in their sole discretion. *(As per statute, only by documenting in writing the reasons for the deviation and attaching a copy of the document to its next annual report to DEED)*

### **2. STATUTORY LIMITATIONS**

- 2.01 This policy is adopted in compliance with M.S. 116J.994 Subd. 2. 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.

### **3. ELIGIBLE BUSINESS ASSISTANCE USES**

- 3.01 The City and the 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.
- I. To accelerate the development process and to achieve development on sites which would not be developed without assistance.

#### **4. BUSINESS ASSISTANCE PROJECT APPROVAL CRITERIA**

- 4.01 All new projects the City or EDA approves must meet all of the following mandatory minimum approval criteria. However, the City or EDA will not automatically approve a project meeting these criteria, and meeting these criteria will not create contractual rights on the part of any potential applicant or developer.
- 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 3 above.
  - C. The project must be in accord with the City's Comprehensive Plan and Zoning Ordinances, or required changes to the Plan and Ordinances must be under active consideration by the City at the time of approval.
  - 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. The City or EDA may undertake an independent review of the project to help ensure that the request for assistance is valid.
  - E. Before approving a Business Assistance Plan, the City or EDA may require an applicant to 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 consultants may require to independently review the project.

- F. An applicant requesting business assistance must demonstrate past successful general development capability as well as specific capability in the type and size of proposed development.
- 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 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.
- I. The project must be located in the City or planning to locate in the City before completion.
- 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 HRA cannot be less than \$12.25 per hour, not including benefits. The City or HRA may deviate from this requirement according to state law depending on the type of job(s) created.
- 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*
- N. *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.*

## **5. BUSINESS ASSISTANCE PROJECT EVALUATION CRITERIA**

- 5.01 The City or EDA will evaluate all projects on the following criteria for comparison with other proposed business assistance projects reviewed by the City and the 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.
- 5.02 While some criteria, by their very nature, must remain subjective, the City and HRA have established possible "benchmark" criteria for review purposes. The fact that a given proposal meets one or more "benchmark" criteria does not mean that the 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.

5.03 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 redevelopment after taking into consideration all of the project's goals. Given the different assessment circumstances in the City, this ratio will vary widely.
- 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. All projects obtaining business assistance must meet the "but for" test. The City or EDA will not provide assistance unless the need for the City's or EDA's economic participation is sufficient that, without that assistance, the project could not proceed in the manner as proposed.
- H. The City or EDA will not provide business assistance if the project developer's credentials, in the sole judgment of the City or EDA, are inadequate due to past track record relating to project completion, general reputation and/or bankruptcy, or other problems or issues considered relevant by the City or EDA.
- I. The City or HRA 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.
- J. The City or EDA will not provide business assistance funding to those projects that fail to meet good public policy criteria including project quality; projects that are not in accord with the City's comprehensive plan, zoning, redevelopment plans and policies; projects that provide no significant improvement to surrounding land uses, the neighborhood, and/or the City; where applicable, projects that do not provide a significant increase in tax base; where applicable, projects that do not have significant new, or retained, employment; projects that do not meet financial feasibility criteria established by the City or EDA; and projects that do not provide the highest and best desired use for the property.

## **6. APPLICATION PROCESS AND FEES**

- 6.01 All applicants for business assistance must fill out and submit a Pre-application for Business Assistance form to the City or EDA.
- 6.02 Based upon the Pre-application submitted, the City or EDA may request the applicant to fill out and submit a formal Business Assistance Application.
- 6.03 All applications must include an application fee as established by the City or HRA. As of August 1, 2004 the application fee is \$250. For projects and types of assistance not listed, the City or EDA may establish a fee based upon the specific assistance requested.
- 6.04 All applications that are approved by the City of Arlington will have an annual administrative fee of .25% of the gross income or a cap of \$2,500.

## **7. BUSINESS ASSISTANCE AWARD**

- 7.01 The City or EDA shall consider, evaluate and make a decision regarding a business assistance application within sixty (60) days after receiving a properly completed Business Assistance Application.

- 7.02 *If the amount of the requested business assistance exceeds \$100,000, the City or EDA will hold a public hearing before granting or denying the business assistance. The City or HRA will publish notice of the public hearing at least ten (10) days before the hearing.*
- 7.03 *If the City or EDA decides to grant any business assistance to the applicant, the applicant and the City or HRA must enter into a Business Assistance Agreement containing at least the following elements: Review if we need to do this for our grant program and bldg permit rebate program.)*
- 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.
  - 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.

## **8.0 BUSINESS SUBSIDY REQUIREMENTS**

- A. *Any time the City of Arlington 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.*
- B. *The recipient, in the case of a quantifiable non-JOBZ business subsidy, shall create and retain at least one full-time living wage job and which provide employer paid basic health insurance for each \$25,000 of business subsidy received. These jobs shall be created not later than [REDACTED] (Specify date.)*
- C. *The qualified business in the case of a currently non-quantifiable JOBZ business subsidy, must create and retain for the period of the JobZone duration or until December 31, 2015, whichever is shorter, at least [REDACTED] (#) of jobs that pay a living wage; and which provide employer paid basic health insurance. These jobs shall be created not later than [REDACTED] (Specify date.)*
- D. *The City of Arlington 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.*
- E. *The City of Arlington shall have an overall goal of 10% of new jobs created under this policy will be held by City of Arlington residents. It is expected that all qualified businesses or recipients shall have a quantified target for the number of residents to be hired.*
- F. *The City shall require all businesses receiving a business subsidy to comply with the following:*
  - 1. *Attend a properly noticed public hearing shall be held by the City as provided by M.S. § 116J.994. The purpose of the hearing shall be held 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. The hearing shall specify the subsidy provided, public purpose(s) that shall be achieved by offering the subsidy, and shall specify the measurable, specific, and tangible goals committed to by the qualified business. As provided by M.S. 116J.994, Subd. 5., a public notice shall be published in print and if possible, on the internet, at least 10 days prior to the hearing, identifying the location, date*

- time and place of the hearing; and providing information about the business subsidy proposed, including a summary of the terms of the subsidy.*
2. *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.*
  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 relocating 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.*

## **9. Definitions**

- 9.01** ***“Authorized Business Subsidy Signatory”** means the President of the Mayor of the City of Arlington and/or the EDA Director and Treasurer, who are authorized by this Policy to execute business subsidy agreements on behalf of the City of Arlington and/or Arlington EDA;*
- 9.02** ***“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;*
- 9.03** ***“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. §§ 116J.993 - 116J.995. Business subsidy does not include the following:*
1. *assistance of less than \$25,000.*
  2. *assistance that is generally available to all businesses or to a general class of similar businesses, such as a line of businesses, size, location or similar general criteria;*
  3. *public improvements to buildings or lands owned by the (**CHOOSE**) City/Township/County that serve a public purpose and do not principally benefit a single business or defined group of businesses at the time the improvements are made;*
  4. *property polluted by contaminants being redeveloped as defined in M.S. § 116J.552, subd. 3.*
  5. *assistance provided for the sole purpose of renovating old or decaying building stock or brining it up to code and assistance to designated historic preservation sites or districts, provided that the assistance is equal to or less than 50% of the total cost of the development;*
  6. *assistance to provide job readiness and training services;*
  7. *assistance for housing;*
  8. *assistance for pollution control or abatement, including assistance from a TIF hazardous substances subdistrict;*
  9. *assistance for energy conservation;*
  10. *tax reductions resulting from conformity with federal tax law;*

11. *workers compensation and unemployment compensation;*
12. *benefits derived from regulation;*
13. *indirect benefits derived from assistance to educational institutions;*
14. *funds from bonds allocated under M.S., Chapter 47A refunding bonds and 501(c)(3) bonds;*
15. *assistance for collaboration between a Minnesota higher education institution and a business;*
16. *assistance fro a tax increment financing soils condition district as defined under M.S.469.174, subd.19;*
17. *redevelopment when the Recipients or Qualified Business' investment in the purchase of the site and in site preparation is 70 percent or more of the assessor's current years estimated market value;*
18. *general changes in tax increment financing law and other general tax law changes of a principally technical nature;*
19. *federal assistance until the assistance has been repaid to and reinvested by the local governmental unit;*
20. *funds from dock or wharf bonds issued by a seaway port authority;*
21. *business loans or loan guarantees of \$100,000 or less; and*
22. *federal loan funds provided through the U.S. Economic Development Administration.*

- 9.04**     ***“Business Subsidy Report”*** means the annual report submitted by the LGA required to comply with M.S. § 116J.994 Subd. 7. (b);
- 9.05**     ***“Criteria”*** means the equitably applied, uniform standards by which the Economic Development Agency and /or the 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 Arlington;
- 9.06**     ***“DEED”*** means Minnesota Department of Employment and Economic Development;
- 9.07**     ***“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 Arlington. Economic Development Agent for the City of Arlington shall be the Arlington EDA, hereinafter “Agent”;
- 9.08**     ***“Health Insurance”*** means basic health insurance which shall include: employer 100% premium payment for individual coverage or 80% premium payment for family coverage; employer minimum payment for 80% of office visits, emergency care, surgery and prescriptions; a maximum yearly deduction of \$1,000, and maternity coverage;
- 9.09**     ***“Living Wage Job”*** shall mean a job which pays wages and health benefits that total at least the rate of 110% of the current poverty level for a family of four;
- 9.10**     ***“Local Governmental Unit”*** hereinafter LGA, means the statutory or home rule charter city, county, town, iron range resources and rehabilitation agency, regional development commission;
- 9.11**     ***“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 II.C. 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;*

- 9.12** *“Recipient” mean any business entity that receives a business subsidy as defined by M.S. § 116J.993, and that has signed a Business Subsidy Agreement with a city;*
- 9.13** *“Relocating Business” A business relocating from another Minnesota non-JOB Zone location;*
- 9.14** *“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;*
- 9.15** *“Subzone” means the parcel or parcel of land designated by the Commissioner of Employment and Economic Development within a Job Opportunity Building Zone within the boundaries of Arlington to receive certain tax credits and exemptions specified under M.S. § 469.310-469.320;*
- 9.16** *“Zone” means a Job Opportunity Building Zone or an Agricultural Processing Facility Zone designated by the commissioner of Employment and Economic Development under M.S. § [469.314](#).*