

CITY OF BRAINERD
BUSINESS SUBSIDY POLICY
AND JOBZ BUSINESS SUBSIDY POLICY

June 21, 2004

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 Brainerd (the "City") will be evaluated according to this Policy and the criteria set forth herein. Meeting all or a majority of the criteria, however, does not mean that a business subsidy will be awarded or denied by the City. The City maintains its ability to approve or reject a business subsidy at its discretion, based on the merits of the project and the overall benefit to the community, using the criteria as a means of measuring overall benefit.

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,
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” means 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” means 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.

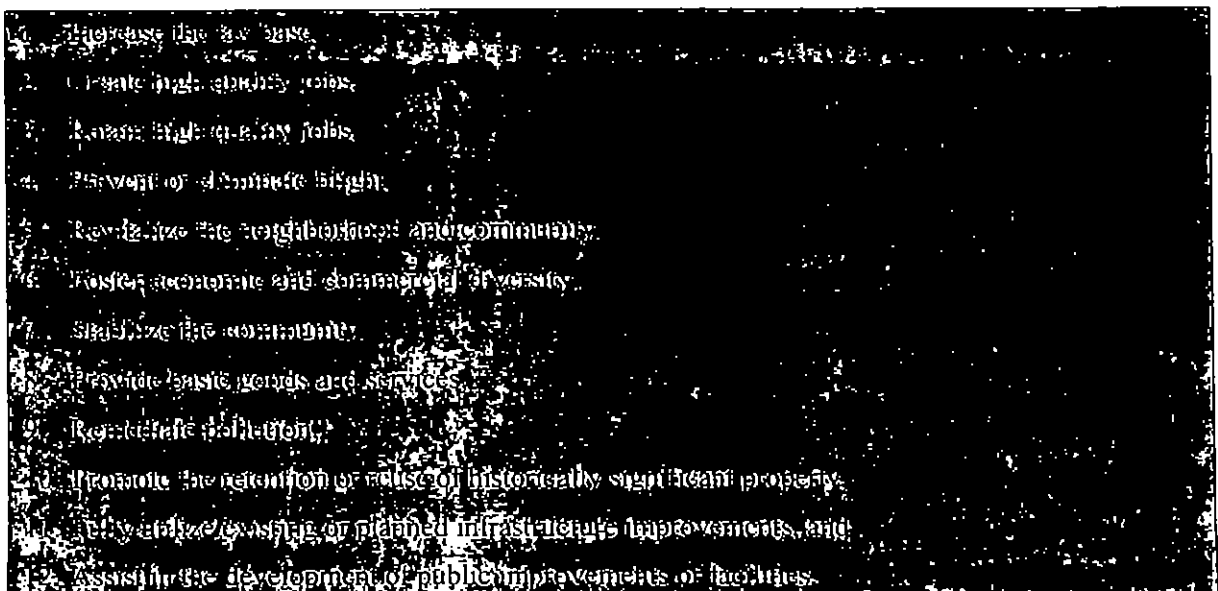
II. BUSINESS SUBSIDY REQUIREMENTS

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:



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 equivalent (FTE) jobs specified in the Business Subsidy Agreement and must meet the wage goals for those jobs specified in the Business Subsidy Agreement. 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 and retain at least 1 FTE job.
2. *General Wage Goal.* For all Business Subsidies, the Business Subsidy Recipient must create 1 FTE job that pays at least 125% of the Federal minimum wage.
3. *JOBZ Job Goal.* For all JOBZ Business Subsidies, the Business Subsidy Recipient must create and retain at least 3 FTE jobs.
4. *JOBZ Wage Goal.* For all JOBZ Business Subsidies, the Business Subsidy Recipient must create and retain at least 3 FTE jobs that pay at least 175 % of the Federal minimum wage.

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.

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.

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.

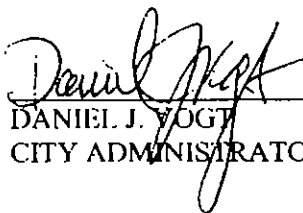
E. **Additional Policies.** All businesses receiving a general Business Subsidy or a JOBZ Business Subsidy shall also comply with the following:

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 5 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.

Adopted by the Brainerd City Council on June 21, 2004.



DANIEL J. VOGT
CITY ADMINISTRATOR