

JSDC Policies

JAMESTOWN/STUTSMAN DEVELOPMENT CORPORATION
ADOPTED JUNE 11, 2015

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MISSION

Jamestown/Stutsman Development Corporation (JSDC) is dedicated to area economic development growth and diversification.

PURPOSE AND SCOPE

PURPOSE FOR ECONOMIC DEVELOPMENT FUNDS

- Focus on the expansion of the primary sector in Jamestown and Stutsman County
- Create new jobs
- Save existing jobs
- Improve facilities and infrastructure
- Diversify the economy
- Improve business conditions
- Attract new businesses and industry
- Support existing businesses and industry
- Encourage new business starts
- Improve trade activities
- Create new wealth
- Expand the local tax base
- Increase capital investment
- Supportive and related activities

SCOPE FOR POLICIES

The Jamestown/Stutsman Development Corporation has been designated by the City Council and County Commission¹ to seek out, examine and process applications for purposes of making recommendations to the City Council and County Commission concerning worthy projects for utilization of the Economic Development Funds.²

AMENDMENT

Any amendments, modifications, or other changes to these policies must be approved by the Jamestown City Council and the Stutsman County Commission.³

GUIDELINES

As guidelines for the Economic Development Fund were developed, some overriding objectives for utilization of the process of the fund were:

- 1) The program should provide a distinct economic advantage to companies wishing to locate or expand in Jamestown or Stutsman County or regional trade area.
- 2) Whenever possible and practical, funds should be both recycled and leveraged against other sources of economic development financing as well as weighing the impact of the business venture on the area economy. In this way, local dollars are stretched and multiplied.
- 3) The program should not be administratively cumbersome for the applicant, the City or the County.
- 4) The program needs to be flexible in its approach so each project can be tailored to meet individual circumstances and needs.

¹ Resolution of the City of Jamestown on September 8, 2008

² Contractual agreement between the City of Jamestown, Stutsman County and Jamestown/Stutsman Development Corporation on September 8, 2008

³ Contractual agreement between the City of Jamestown, Stutsman County and Jamestown/Stutsman Development Corporation on September 8, 2008, Section 4.03

- 5) The acid test of the value of a project is the positive “impact mix” on the economy of the region. This is measured by:
- a) Number of jobs created or saved.
 - b) Quality of jobs in terms of salary and benefits.
 - c) Expansion of the tax base.
 - d) Financial mix, including owner’s equity required to make project successful.
 - e) Organizational growth potential of the project and the amount of primary sector money generated.
- 6) Preference will be given to the utilization of vacant buildings.

BACKGROUND

Stutsman County levies up to 4 mills on all taxable real estate in the county under NDCC § 11-11.1 Job Development Authorities, these funds are considered the County Property Tax Economic Development Fund.⁴ The County's funds only support economic development within Stutsman County.

In 1991, the voters of the City of Jamestown amended the Home Rule Charter subpart "P" "to impose sales and use taxes by a favorable vote of 54.3%.⁵ Also in 1991, the voters of the City of Jamestown authorized a "one percent sales and use tax with the proceeds dedicated to jobs development and infrastructure improvements for economic and jobs development" by a favorable vote of 58.7%.⁶

In 1992, the City of Jamestown adopted the "Policies and Procedures Statement for the Economic Development Fund" for the distribution of proceeds of the City Sales Tax Fund.⁷ The Policies and Procedures were "revised as set forth by the City Attorney" later in 1992.⁸

In 1998, the Jamestown City Council amended Ordinance 1152 to extend the "tax imposed by this article shall be in full force and effect through June 30, 2005."⁹

In 2005, Jamestown City Council authorized a special election to extend the City Sales Tax.¹⁰ The voters of the City of Jamestown approved "extend the 1% City Sales Tax through December 31, 2012, to be used for the purpose of, and dedicated to, jobs development and infrastructure improvements for economic and jobs development" by a favorable vote of 64.8%.¹¹

In 2008, the City of Jamestown, Stutsman County and Jamestown/Stutsman Development Corporation entered into a written contract pursuant to NDCC § 40-57.4-04.¹²

In 2010, the Jamestown City Council voted to approve and authorize the taking of 50% of the 1% City Sales Tax for Economic Development, and utilize the funds for the City Share of Special Assessments; to extend the 1% City Sales Tax until the year 2022.¹³ Later in 2010 the Jamestown City Council voted to amend Ordinance No. 1361, to extend the 1% sales tax through December 31, 2018 and all revenues raised shall be dedicated as follows:

- A) 50% of the 1% shall be dedicated for economic development and jobs development, and
- B) .50% of the 1% shall be dedicated to payment of the city's share of special assessments on city public works projects.¹⁴ In 2014, the Jamestown City Council passed Ordinance No. 1448 to amend and re-enact Section

⁴ Resolution of the Stutsman County Commission July 8, 1985

⁵ Resolution of the City of Jamestown on May 16, 1991 (Roll Call No. 2)

⁶ Resolution of the City of Jamestown on May 16, 1991 (Roll Call No. 3)

⁷ Resolution of the City of Jamestown on March 2, 1992 (Roll Call No. 4)

⁸ Resolution of the City of Jamestown on July 6, 1992 (Roll Call No. 14)

⁹ Amendment to City of Jamestown Ordinance No. 1152, Final passage February 2, 1998 (Roll Call No. 14)

¹⁰ Resolution of the City of Jamestown on April 4, 2005 (Roll Call No. 4)

¹¹ Resolution of the City of Jamestown on June 21, 2005 (Roll Call No. 1)

¹² Resolution of the City of Jamestown on September 8, 2008 (Roll Call No. 1)

¹³ Resolution of the City of Jamestown on February 16, 2010 (Roll Call No. 2)

¹⁴ Amendment to Ordinance No. 1361. Final Passage April 5, 2010 (Roll Call No. 9)

25.5-26 of the code of the City of Jamestown pertaining to termination date of 1% City Sales Tax. "A tax imposed by this article shall be in full force and effect through December 31, 2033.

POLICIES

APPROVAL

The Jamestown City Council and Stutsman County Commission will review and grant final approval for all projects which are recommended by the JSDC Board of Directors. The Board of Directors has the authority to disapprove applications. The Jamestown City Council and Stutsman County Commission will be advised of JSDC disapprovals as a part of an annual report.

CONFLICT OF INTEREST

No director/officer, employee or contracted professional of JSDC shall refuse or fail to disclose to the JSDC Board any direct or indirect personal interest on the part of his/her employer/company concerning requests or applications to the JSDC Economic Development Fund. A director/officer that discloses a conflict of interest with a project may excuse him/herself at the time the project is discussed, neither participating in discussions nor voting on the project in question. However, a director/officer that discloses a conflict of interest with a project shall have an opportunity to explain his/her involvement and answer questions of the directors/officers prior to exiting the discussion.

The foregoing shall not be applicable if it is determined by at least a 75% vote of the directors in attendance at the meeting to be in the best interest of the City and County to have the director/officer with a conflict of interest to participate in all discussions and vote on the project.¹⁵

If any confusion exists concerning whether a direct or indirect conflict of interest exists, that board member, employee or contracted professional is urged to disclose the concern so as to preserve his/her own integrity and that of JSDC.

CITY/COUNTY ED FUNDS

The City Council and County Commission, within their respective economic development fund accounts will have the option to accrue and carry those funds forward from one year to the next in the event all funds are not expended in a single year.

The City Council and County Commission may obligate up to 50% of the anticipated (budgeted) revenues of the current fiscal year prior to receipt of those revenues. Revenues will not be disbursed prior to receipt of funds by the City or County.

¹⁵ Bylaws of Jamestown/Stutsman Development Corporation, Article 9.5, Section 1 on January 29, 1992
Amendment to 25.5-26 . Final passage November 3,2014 (Roll Call No. 4)

FINANCING

JSDC will have substantial flexibility in the types of financing tools available to them. Examples include, but are not limited to: loans, equity positions, equipment and building purchase and lease-back, interest write downs, grants and other financing vehicles as may be necessary and appropriate with such security as is determined by JSDC and approved by the City Council and County Commission.

Funds available through the Economic Development Funds may be used to provide temporary or long-term financing of any business cost related to the relocation and/or establishment of a new business or the expansion of an existing business.

Funds may be used to provide temporary or long-term financing for the purchase of land and associated site improvements; construction, acquisition and renovation of buildings; fees, services and other costs associated with construction; the purchase and installation of machinery and equipment; trade receivables, inventory, work-in process inventory, other working capital needs; and seed capital.

Funds will be available for leveraging related financing through venture capital funds, participating financial institutions or other sources of financing.

No loan will be assumable without prior written approval from the City Council and County Commission.

SECURITY

Every effort will be made to secure loans with mortgages, liens or other instruments as may be feasible and practical. JSDC will also require personal guarantees be signed by all party participants with 20% or more invested.

SUNSET

Each approved project will have a sunset date one year from the final approval of the project by the City Council and County Commission, unless otherwise approved. The applicant must apply for re-authorization of funding of any project not commenced by the sunset date.

LOAN PAYMENT

All loan payments to JSDC will be repaid to the Economic Development Funds in the ratio they were disbursed.

CLAW-BACK

The granting, loaning or investment of funds shall provide for reasonable consequences for failure of a project to fulfill commitments such as job creation promises by providing for specific consequences, including, but not limited to: subsequent personal guarantees, reimbursement of funding incentives, additional security, and adjusting of interest rates.

INTEREST RATES

Interest rates will not be fixed, but will be based upon the relative risk involved, the desirability of the project to the area and the immediate and long-term growth potential of the business.

DIRECT LOANS

Direct loans may be provided as “gap financing” where all other sources have been exhausted and are not available.

EXISTING DEBT

Applications which involve the repayment or restructuring of existing debt will not be considered unless the proposal involves the creation of new jobs or the retention of existing jobs.

DELINQUENT DEBT

All delinquent debt financed through JSDC funds will be satisfied before additional funding is obligated. Applicants and JSDC may find a way to settle or restructure delinquent debt.

INTEREST BUY-DOWNS

PACE

The funds may be used for participation in the Bank of North Dakota PACE Interest buy-down program which is open to primary sector businesses. The Economic Development Funds portion of the interest buy-down is a loan which is paid back to the Economic Development Fund at a negotiated interest rate, which is determined at the beginning of the loan, after the loan is satisfied with Bank of North Dakota. If the original loan is in default, the Bank of North Dakota will return the unused portion of the JSDC buy-down to JSDC. JSDC will pursue re-payment of the balance owed according to the legal documents signed at the time of the original agreement between JSDC and the project principal(s).

FLEX PACE

The funds may be used for participation in the Bank of North Dakota Flex PACE Interest buy-down program which is open to all businesses. The Economic Development Funds portion of the interest buy-down is a loan which is paid back to the Economic Development Fund at a negotiated interest rate, which is determined at the beginning of the loan, after the loan is satisfied with Bank of North Dakota. If the original loan is in default, the Bank of North Dakota will return the unused portion of the JSDC buy-down to JSDC. JSDC will pursue re-payment of the balance owed according to the legal documents signed at the time of the original agreement between JSDC and the project principal(s).

DIRECT

Direct interest buy-downs may be considered where all other sources have been exhausted and are not available.

LEVERAGE

Whenever possible and practical, funds should be both recycled and leveraged against other sources of economic development financing. In this way, local dollars are stretched and multiplied.

NEW JOBS TRAINING FUNDS

The New Jobs Training fund is a state of North Dakota income tax incentive. Details are found at the following link: <http://www.jobsnd.com/business/federal-and-state-resources>

AGRICULTURAL PRODUCTS UTILIZATION COMMISSION (APUC)

APUC Grants provided through the Department of Commerce may be eligible for matching funds for qualified applicants. Details are found at the following link: <http://www.business.nd.gov/apuc/>

GRANT FUNDS

Various grant funding options may be provided as grant opportunities become available.

Direct Grants may be used if all other financing techniques have been explored. Direct grants generally may not exceed 10% of the total project cost and the applicant must provide a minimum 10% equity. These both apply unless waived by JSDC and approved by the City Council and County Commission.

LAND

INFRASTRUCTURE/LAND DEVELOPMENT

Proceeds from the Economic Development Funds may be used for but not limited to infrastructure improvement by JSDC for project related sites by means of construction of roads, streets, sidewalks, curb and gutter, water and sewer systems or other public infrastructure.

LAND PURCHASE

Funds may be used to provide temporary or long-term financing for the purchase of land. JSDC may purchase land for the purpose of economic development.

LAND SALE/LEASE

All assets held or acquired in the name of JSDC utilizing public funds advanced to JSDC by the City and County in persistence of City and County economic and jobs development functions, are held by JSDC in trust for the City and County in proportion to their respective contributions. Any disposition, encumbrance, or lease of any such property shall require the approval of the City and/or County which advanced the public funds required for acquisition.

Any property held in the name of JSDC for the City and/or County shall be tax exempt as though held in the name of the City and/or County¹⁶.

BUSINESS INCENTIVES, AGREEMENTS, AND REPORTS

JSDC complies with North Dakota Century Code related to chapter 54-60.1. <http://www.legis.nd.gov/cencode/t54.html>

¹⁶ Contractual agreement between the City of Jamestown, Stutsman County and Jamestown/Stutsman Development Corporation on September 8, 2008, Section 2

GENERAL JSDC FUNCTIONS

MARKETING

JSDC's CEO or designee is tasked with the development of a marketing program to recruit industry for the Jamestown/Stutsman County area. The CEO implements the marketing program with emphasis on travel to industry prospects and assistance to existing local industry for possible expansion.

PUBLIC RELATIONS

JSDC's CEO or designee serves as the primary spokesperson between JSDC and various federal, state and local agencies in matters relating to the programs of interest and concern to JSDC. The CEO maintains close contact with other organizations concerned with economic development and cooperate with these organizations in their programs.

OPERATIONS AND ADMINISTRATION

Administrative funds are used to promote the program, provide adequate staff and administrative support to retain the services of consultants as needed.

BUDGET

The annual budget is approved by the JSDC Board of Directors in July, the City Council in August followed by the County Commission in September.

REPORTING

JSDC is responsible for gathering appropriate evaluation data on all projects and publishing an annual report to the City Council and County Commission. The annual report shall include, where relevant, the number of primary and secondary jobs created or saved in each project; the economic impact of each project in terms of tax base expansion, new wealth created, or impact on reversing the export of wealth, payroll, cost per job and private sector dollars leveraged; and the community impact of each project in terms of impact on municipal services and the social and business environment. The annual report shall be made available to the City Council and County Commission on or before the 4th Wednesday in April and cover fund activities for the previous calendar year. The annual report shall also discuss the current status of each approved project, and each proposed project that was disapproved in the previous calendar year.¹⁷

JSDC shall provide a monthly report to the City Council and County Commission.

JSDC shall attempt to inform the City Council and County Commission as well as the general public relative to its activities in support of economic development. JSDC shall:

1. Prepare monthly reports to the community through the JSDC website;
2. Prepare and distribute a written Annual Report; and
3. Meet with City Council and County Commission jointly at least once per year at the JSDC annual public meeting.

¹⁷ Reference NDCC 54-60.1-08

NON PRIMARY SECTOR PROJECTS

Non-primary sector projects may be considered for funding if the applicant can demonstrate the project will create or save significant employment.

Non-primary sector projects may receive assistance through the Flex PACE interest buy-down, land sale/lease and other programs for which they may qualify.

COMMUNITY DEVELOPMENT

Funds may be committed for Community Development Projects in a manner consistent with the Economic Development Funds purpose. Qualifying community development projects may not be projects for the maintenance, repair, or replacement of existing public improvements but must be in the nature of providing enhancements to existing or planned public improvements.

NON-PROFITS

Non-profit organizations may be considered for these funds only under the most unusual circumstances, and only when it can be determined the non-profit venture meets the general purposes for which the funds are established.

RETAIL

Retail projects will not generally be considered for funding, with the exception of the Flex PACE Interest buy down, unless the applicant can demonstrate the project will create or save significant employment and continuation or creation of the retail business is otherwise feasible.

TOURISM

As a major North Dakota industry and a vital sector of our regional economy, tourism projects supporting the growth of tourism, JSDC is bringing in new tourism dollars, creating new jobs and services, preventing local tourism dollars from being spent elsewhere and developing new local facilities and activities beneficial to the growth of tourism may be considered.

GLOSSARY

CAPITAL INVESTMENT

Money invested in a business venture with an expectation of income, and recovered through earnings generated by the business over several years. It is generally understood to be used for capital expenditure rather than for day-to-day operations (working capital) or other expenses.

CLAW-BACK

Money or benefits that are distributed and then taken back as a result of special circumstances. A claw-back provision is contractual language that is used in writing performance-based compensation contracts. It allows a company to take back such compensation if future events show that some or all of the compensation was excessive according to the intended terms of the contract. Thus, if a bonus is earned through chicanery and a deliberate misstatement of financial results, that bonus may be taken away.

COMMUNITY DEVELOPMENT

Community development projects are public improvement projects. Generally, funds may be committed for community development projects in a manner consistent with the General Purposes¹⁸ for projects. Any community development project must be initiated and requested by the governing body of a political subdivision including, but not limited to, the communities throughout Stutsman County.

ECONOMIC DEVELOPMENT FUNDS

The fund managed by Stutsman County for 4 mills dedicated to jobs and economic development and the fund managed by the City of Jamestown for .5% sales tax dollars dedicated to primary sector jobs and economic development.

LOCAL TAX BASE

The assessed value of the taxable property, assets, and income within a specific geographic area. The value of all assets that a government may tax. The tax base may increase for a number of reasons, particularly with the creation of wealth or when persons with high income move to an area. The tax base is particularly important to local governments because persons with large amounts of assets can move in and out with relative ease. The tax base is also the reason that government revenues tend to increase during economic growth and shrink during recessions.

NEW JOBS TRAINING FUNDS

The program provides primary sector business with no-cost funding to help offset the cost of training new employees. The North Dakota New Jobs Training Program provides for the capture of the state income tax withholding generated from the new job positions that are created.

NON-PRIMARY SECTOR:

Businesses and industries that are not eligible for primary sector business classification through the North Dakota Department of Commerce

¹⁸ Bylaws of Jamestown/Stutsman Development Corporation as amended and approved, June 2009, Article 2

PRIMARY SECTOR

The primary sector is composed of industries and business producing goods or services mainly (75% or more) sold outside Stutsman County, thereby importing dollars into the community/county. Industries and business producing goods and services, which result in the retention of dollars presently exported from the area, will also be considered to be in the primary sector. "Primary sector business" means an individual, corporation, limited liability company, partnership, or association which through the employment of knowledge or labor adds value to a product, process, or service that results in the creation of new wealth and those businesses certified by the North Dakota Department of Commerce as primary sector.

SERVICE

The service sector is defined as those businesses involved in the direct sales of services to the ultimate consumer within the area, thereby tending to recirculate dollars within the community.

TOURISM

The business of providing information, accommodations, transportation, and other services to tourists and the promotion of tourist travel.

TRADE AREA

A geographic area within which a business enterprise or center of retail or wholesale distribution draws most of its business.

Political subdivision

Means a unit of local government in this state which has direct or indirect authority to grant a business incentive. The terms includes any authority agency, special district, or entity created by, authorized by, under the jurisdiction of, or contracting with a political subdivision.¹⁹

Public purpose

Includes assisting community development, increasing the tax base, directly creating employment opportunities, or indirectly creating employment opportunities through increased economic activity. Job retention is only a public purpose in cases in which job loss is specific and demonstrable.²⁰

Business incentive

A state or political subdivision direct cash transfer, loan or equity investment; contribution of property or infrastructure; reduction or deferral of any tax or any fee; guarantee of any payment under any loan, lease, or other obligation; or preferential use of government facilities given to a business.²¹

Grantor

¹⁹ Reference NDCC 54-60.01

²⁰ Reference NDCC 54960.01

²¹ Reference NDCC 54-60.01

Means the state or any political subdivision that directly or indirectly grants business incentives to a recipient. A grantor may not grant a business incentive that does not meet a public purpose.²²

²² Reference NDCC 54-60.01-02

VERIFICATIONS AND AUTHORIZATIONS

SIGNATURES

1. JSDC Board of Directors Authorized Signer

Printed Name and Title

Date

Signature

Printed Name and Title

Date

Signature

2. City of Jamestown Authorized Signer

Printed Name and Title

Date

Signature

3. Stutsman County Authorized Signer

Printed Name and Title

Date

Signature

COPIES OF MINUTES AND/OR RESOLUTIONS FOR APPROVAL

Attach copies of minutes or resolutions from approval.