

Build Your Ideal Food or Beverage Facility — and Get Help Paying for It

by Mitchell Carrel and Michael Moynihan, Partners

A FREEBORN & PETERS FOOD INDUSTRY TEAM WHITE PAPER

ABOUT THIS WHITE PAPER:

The facilities that manufacture and process (and store and distribute) food and beverages are strategic and valuable assets to food and beverage companies. This White Paper provides an overview of the site selection and financial incentive opportunities available to food and beverage companies when renovating or relocating their facilities.

Imagine you're standing in the middle of your food or beverage manufacturing or processing facility. Now look around.

If you're like most business owners, CFOs or facilities managers, there are many things you'd love to change. It could be production line layouts that are inefficient—constrained by a building that wasn't created to house them. It might be the new roof you must add in a few years—to a structure that's decades old, but one you own. Perhaps it's the transportation costs you face by being so far away from your sources of raw materials or end users.



Why haven't you dealt with some of these issues? That's easy: they require time and money. Besides, it's accepted wisdom that operating in a fully depreciated facility is sound business. This leads to three more questions. How much is this approach costing you in inefficiencies—and potential FSMA fines? How is doing nothing limiting your growth? Are you depressed yet?

What if you could design the ideal facility: one that was flexible enough to meet your needs for the next 10 to 20 years? And while you're at it, why not tap some incentives to help with part of the cost and increase your return on investment? This isn't just a dream—other companies have successfully done it. The good news is that there has never been a better time for you to do the same.

Start with the Strategy

Where does your company want to be in five years—or 10 years, or 20 years? What kind of facility will you need to reach these goals? In this big picture phase, you have everything at your disposal. Considering the following options will bring your ideal facility into a clearer focus:

- Is your current building fine and located near your supply chain and end users—but you need more room to support growth? Then an addition might work well.

- Do you have a great location but aren't using it effectively? Then renovating your space may be a good solution.
- Over time, will you have special requirements to manufacture or assemble new products—or want to increase production, expand distribution, get physically closer to new markets, and lower your costs? Then a custom-built facility may make the most sense.

To best understand all available options and opportunities, you need to develop a site selection strategy. This should be broad enough to address more than the right site and flexible zoning approvals that allow for future expansion—in capacity as well as product lines. It should include a review of the available financial incentive opportunities. Timing should also be considered. A successful site selection strategy involves coordinated efforts to get entitlements and incentives. That requires early and heavy coordination with government authorities to get the best results, plus ensure proper timing for receiving the necessary approvals.

This paper shares some basic ideas to help you start the site selection process.

What's Involved in the Site Selection Process?

This is more than just picking a “good location.” It's the process of evaluating your facility options by clarifying your short- and long-term goals, establishing the measurable objectives you want to reach, and weighing the entitlement and incentive opportunities available to help you get there.

Begin by looking at a lot of options, and then use your goals and objectives to narrow the field. After doing this, visit each site. Have a coordinated outreach plan to ensure you have timely communications with interested parties, which may include community members as well as local businesses and government officials and staff. Evaluate the local workforce. Start comparing operating costs for each option. This should help you narrow the field to three to five locations.

Now you're ready to take a serious look at the entitlement and incentive options each one offers and compare these. Engage consultants to help you formulate your entitlement and incentive strategy, as well as negotiate with local and state governments, to ensure you secure the best possible deal.



Finding a Site that Meets Your Strategy

When relocation is the best solution, answering these questions can help you make a sound decision:

1. Can we realize efficiencies by consolidating several legacy locations into one?
2. Can we co-locate with or move close to any of our suppliers or logistics resources?
3. How close is the site to the raw materials our products need—and to our customers?
4. Does the site offer efficient access to transportation options? Can the routes serving the site accommodate traffic volumes and patterns so we can quickly move raw materials in and products out?
5. Does the location offer any financial incentives—including tax advantages or other benefits—because it is located in an Enterprise Zone, Tax Increment Financing (TIF) district or other opportune area?
6. Is the location zoned or can it be zoned not only for our current and future needs, but also to minimize risk that incompatible uses might move into the area later, putting us at an operational disadvantage?
7. Are there any notable operational restrictions—including those against 24-hour operations and noise levels—that may pose problems or require special permits?
8. Is there access to a good pool of employees?
9. What are our utility needs (electricity, gas, water, fiber, etc.) and is the site near adequate, reliable and redundant resources?
10. What are the costs of construction, operations, fees and taxes for each site, and how do they compare with the other site options?

Investigate Incentives

Food and beverage companies are attractive employers. Economic development officers in many regions wage intense campaigns to find and attract businesses that can offer even *modest* growth.

State and local incentives often exist for companies opening new operations, or for those that are expanding their workforce. This is particularly true of food and beverage companies, in part because employment in this industry has remained relatively stable for the past five years. In addition, overall employment in certain food niches—including processing—is expected to increase. Food and beverage companies also are known for generally employing local people and offering good paying jobs—which generates personal income to support other community businesses.

Government assistance and incentives should be considered early in the site selection process. Incentives may be able to bridge the financing gap, to reach an acceptable market rate of return. There also may be opportunities to incorporate sustainable efforts into a project—such as using alternative energies—that otherwise would be cost prohibitive.

When you initiate a good faith search for a new location, work with local and state governments at each potential site to determine incentive opportunities. Don't forget to reach out to the places where you currently operate. You may also qualify for an incentive package there to assist with the costs of renovating your existing facility, or possibly for certain costs related to building a new one.

At Freeborn & Peters, we routinely become a part of our clients' strategy team, working with them to make good decisions. This often begins with discussing the range of incentive options to consider. Here are a few that generally offer the greatest impact for food and beverage companies.

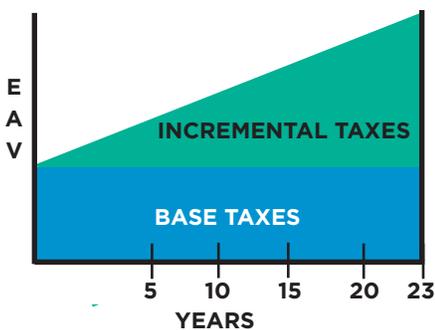
Wirtz Beverage Illinois Benefits from TIF and Class 6b

Companies large and small may be eligible for incentives. Wirtz Beverage's \$80 million facility in suburban Chicago is a model of how a beverage company can maximize available land and incentives to consolidate operations into an ideal facility.

The 600,000 square foot building reportedly helped the company increase the number of cases it processes per hour between 70 percent and 100 percent. It will promote lower transportation, energy and other costs. The new facility also creates a real market advantage by increasing productivity and speed to market, allowing the company to deliver products to customers efficiently and effectively. In addition, the company will reportedly slash the number of times a case is "touched" from 15 to two.

Wirtz secured about \$13 million in Tax Increment Financing (TIF). It also reportedly received a Cook County Class 6b tax classification to reduce its real estate tax bill for the next 12 years. While it can be unusual to receive this combination of incentives, the significant community and public benefits of the new facility may have contributed to Wirtz's ability to secure this incentive package.

How TIF Works



Tax Increment Financing districts are established for 23 years and can be extended. While the TIF is in place, the base taxes are paid to the normal taxing bodies, and the incremental taxes are paid into the TIF fund.

Tax Increment Allocation Financing (TIF)

This is a financial incentive and funding tool used to promote public and private investment. TIF districts generally are established in areas that need redevelopment, primarily because they are considered blighted, deteriorated or economically depressed. The idea is to use *future gains* in real estate taxes (generated by your project or possibly other businesses in the district) to subsidize the *current improvements* that will create these gains. TIF monies are used to build and repair roads and infrastructure, clean polluted land, and put vacant properties back into productive use often in conjunction with private development projects.

When an area is declared a TIF district, a portion of the property taxes is set aside to fund redevelopment projects in that area. TIF is a supplement to conventional debt financing and equity investment. It pays for or reimburses part of the project's expenses, so companies can get a market rate of return. To qualify, you must meet the "but for" test: if your company did *not* receive these incentives, it wouldn't relocate to or build the project at this location.

A number of project expenses may be eligible for TIF:

- Property assembly costs, including land acquisition, demolition of existing structures and site cleanup
- Costs of rehabilitation, reconstruction or repair of existing public or private buildings
- Costs of construction of public works or improvements, including roads and storm water management
- Costs of job training and retraining—for example, food handling and food safety training costs

The costs of constructing a new building generally are *not* TIF eligible.

TIF is usually paid in one of two ways: 1) with an upfront lump sum, or 2) each year, as incremental taxes are generated—called “pay as you go.” The approach is determined by the municipality in charge of the TIF district.

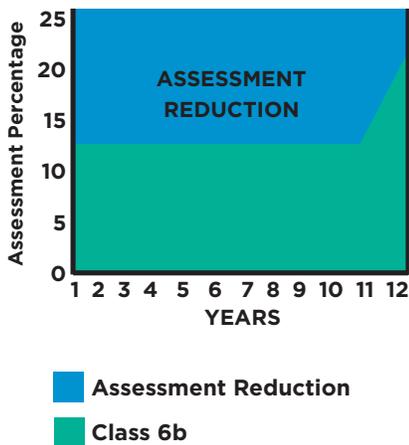
Class 6b Classification

This financial incentive is available for qualifying real estate to develop certain new industrial facilities, rehabilitate existing industrial facilities, and revitalize abandoned buildings for industrial use. The project must be designed to attract new industry, retain and stimulate expansion of existing industry, and increase employment opportunities in Illinois’ Cook County.

The amount of the reduction is tied to the type of project, and the 6b classification may be renewed for additional periods too. The reduction in the level of assessment can result in significant savings.

Class 6b is coordinated by municipalities and Cook County. Companies that receive this classification reduce their real estate tax bills over a 12-year period. On this sliding scale, instead of the normal assessment of real estate taxes at 25 percent of market value, companies pay 10 percent for the first 10 years, 15 percent in year 11, and 20 percent in year 12.

How Class 6b Works



Class 6b incentives allow companies that develop new or rehabilitate existing industrial buildings to reduce their property taxes for 12 years.

Give Your Company an EDGE

The Economic Development for a Growing Economy (“EDGE”) grant program is designed to encourage companies to locate or expand their operations in Illinois. The objective is to foster job creation and retention. It offers a credit against state income taxes attributable to new—and sometimes retained—employees. This chart gives a general overview of the incentive:

Minimum Eligibility Standards	<ul style="list-style-type: none"> - Taxpayer engaged in interstate or intrastate commerce adds to export potential of Illinois - Eligible business (manufacturing or services exported out of state) - Actively seeking competitive locations outside Illinois
Eligible Project Scope	<ul style="list-style-type: none"> - >100 employees: \$5M cap improvement & 25 new jobs - <100 employees: \$1M cap improvement & 5 new jobs - Substantial economic benefit to the state
Test and Gap	<ul style="list-style-type: none"> - Evidence that without EDGE project would not occur in Illinois - Identify cost differential
Result	<ul style="list-style-type: none"> - Potential state income tax credit: up to 100% employee state income taxes withheld - Max term 10 years

Get Smart on Your Options—and Start Early

The examples in this paper are just a few of the myriad federal, state and local incentives that may be available to help renovate or develop the food and beverage facility of your dreams.

You also should explore incentives tied to increasing sustainability practices in your new or improved facility. Additionally, utilities may offer rebates for reduced demand and using energy-efficient equipment. State tax deductions could be available when you use renewable energy sources. There may be other federal tax benefits. And you can create good will with customers and the community by adopting “green” practices—as well as complying with certain client requirements for greening and third-party certifications.

How do you begin the process of site selection and developing a facility that will promote efficient growth for the next 10 to 20 years? First, start early. It generally takes several years to find the right location and line up entitlements and incentives—particularly if you expect to use alternative energy sources. Second, create a team of experts who can support this effort—because you still have a business to run. These professionals will be able to help:

- **Legal advisor** who can explore the best entitlement and incentive options with you, and—just as importantly—guide you through the required processes
- **Real estate broker/site selection professional**—preferably with experience in your industry and the local markets, and in successfully negotiating attractive deals for businesses
- **Architect/design consultant** who is knowledgeable about feasibility and suitability of sites, planning, construction, and other services
- **Accountant/Financial Consultant** with expertise in land acquisition and construction finance, as well as relevant tax and incentive issues

Close your eyes and imagine walking around that ideal food or beverage facility. You have built in safety standards that are at or above the requirements—minimizing FSMA or other risks and maximizing returns, both financially and customer-based. Your production lines run smoothly and seamlessly deliver your products to packaging and shipping. Your energy costs for production and transportation are lower than the industry average, giving you strong margins and a competitive advantage.

Now open your eyes and take action. Contact a legal advisor who understands the Chicago regional market and schedule a meeting to see if this makes sense. Debt financing is at historically low rates, especially for businesses with reliable cash flow and good collateral. Don't miss the best time in a generation to make your dream facility a reality—and take your growth to the next level.

ABOUT THE AUTHORS:



Mitchell Carrel

Partner

(312) 360-6542

mcarrel@freeborn.com

Mitch focuses his practice on representing public and private companies, land owners, developers and investors and helping them secure land use and zoning approvals, public incentives, local regulatory and siting approvals, as well as performing zoning due diligence.



Michael Moynihan

Partner

(312) 360-6419

mmoynihan@freeborn.com

Mike leads the Firm's Food Industry Team where his focus is on helping clients address real estate related issues.

The Freeborn & Peters Food Industry Team

From food safety to finance, real estate to risk management, intellectual property to international operations, Freeborn offers a full range of legal services to food processors, manufacturers, suppliers, growers and producers, wholesalers and distributors to help address the complex challenges facing the food industry. Our country's food industry is more than providing what's for breakfast, lunch or dinner. It provides nutrition for the nation, creates millions of jobs and sustains thousands of support industries.

Americans consume approximately \$1 trillion in food annually. Add what it takes to grow, package, distribute and sell what we eat, it's easy to see how the food industry fuels a broad network of economic activity. The Freeborn Food Industry Team is dedicated to helping our clients build a better future for the food industry.

ABOUT FREEBORN & PETERS LLP

Freeborn & Peters LLP is a full-service law firm headquartered in Chicago, with international capabilities. Freeborn is always looking ahead and seeking to find better ways to serve its clients. It takes a proactive approach to ensure its clients are more informed, prepared and able to achieve greater success – not just now, but also in the future. While Freeborn serves clients across a broad range of sectors, it has also pioneered an interdisciplinary approach that serves the specific needs of targeted industries, including food, private equity and venture capital, transportation, insurance and reinsurance.

Freeborn is a firm that genuinely lives up to its core values of integrity, caring, effectiveness, teamwork and commitment, and embodies them through high standards of client service and responsive action. Its lawyers build close and lasting relationships with clients and are driven to help them achieve their legal and business objectives.

Call us at **(312) 360-6000** to discuss your specific needs. For more information visit: www.freeborn.com

CHICAGO

311 South Wacker Drive
Suite 3000

Chicago, IL 60606

(312) 360-6000

(312) 360-6520 fax

SPRINGFIELD

217 East Monroe Street
Suite 202

Springfield, IL 62701

(217) 535-1060

(217) 535-1069 fax

DISCLAIMER: This publication is made available for educational purposes only, as well as to provide general information about the law, not specific legal advice. It does not establish an attorney/client relationship between you and Freeborn & Peters LLP, and should not be used as a substitute for competent legal advice from a licensed professional in your state.

© 2014 Freeborn & Peters LLP. All rights reserved. Permission is granted to copy and forward all articles and text as long as proper attribution to Freeborn & Peters LLP is provided and this copyright statement is reproduced.