

City of
**Elk
River**

Business Subsidy Policy

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CITY OF ELK RIVER POLICY AND PROCEDURES RELATING TO THE USE OF BUSINESS SUBSIDIES

I. PURPOSE

For the purposes of this document, the term “City” shall include the Elk River City Council, Economic Development Authority, and Housing and Redevelopment Authority.

The purpose of this policy is to establish guidelines and criteria regarding the use of business subsidies, such as tax increment financing (TIF), tax abatement, and other business subsidies for private development projects within the City of Elk River. This policy shall be used as criteria for providing subsidies, in addition to the requirements and limitations set forth by provisions of Minnesota Statutes Section 116J.993 to 116J.995 (Minnesota Business Subsidy Law), and the City’s policy and guidelines of the particular form of subsidy.

These guidelines shall be used in processing and reviewing applications requesting business subsidy assistance. The fundamental purpose of business subsidies in the City is to encourage desirable development or redevelopment that would not otherwise occur “but for” the assistance provided through business subsidies.

It is the intent of the City to provide business subsidies, as well as other incentives that the City may deem appropriate, at the shortest term required for the project to proceed. The City reserves the right to approve or reject projects on a case-by-case basis, taking into account established policies, specific project criteria, and demand on city services in relation to the potential benefits to be received from a proposed project. Meeting policy guidelines or other criteria does not guarantee the award of a business subsidy. Furthermore, the approval or denial of one project is not intended to set precedent for approval or denial of another project.

Whenever possible it is the City’s intent to coordinate the use of business subsidies with other applicable taxing jurisdictions.

II. DEFINITION OF “BUSINESS SUBSIDY”

“Business subsidy” has the meaning set forth in the Minnesota Business Subsidy Law and may include a 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.

A business subsidy does not include financial assistance excluded by the Minnesota Business Subsidy Law including the following forms of financial assistance:

1. a business subsidy of less than \$150,000;
2. assistance that is generally available to all businesses or to a general class of similar businesses, such as a line of business, size, location, or similar general criteria;

3. public improvements to buildings or lands owned by the state or local government 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. redevelopment property polluted by contaminants as defined;
5. assistance provided for the sole purpose of renovating old or decaying building stock or bringing it up to code and assistance provided for designated historic preservation districts, provided that the assistance is equal to or less than 50 percent of the total cost;
6. assistance to provide job readiness and training services if the sole purpose of the assistance is to provide those services;
7. assistance for housing;
8. assistance for pollution control or abatement, including assistance for a tax increment financing hazardous substance subdistrict as defined;
9. assistance for energy conservation;
10. tax reductions resulting from conformity with federal tax law;
11. workers' compensation and unemployment insurance;
12. benefits derived from regulation;
13. indirect benefits derived from assistance to educational institutions;
14. funds from bonds allocated under chapter 474A, bonds issued to refund outstanding bonds, and bonds issued for the benefit of an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1999;
15. assistance for a collaboration between a Minnesota higher education institution and a business;
16. assistance for a tax increment financing soils condition district as defined;
17. redevelopment when the recipient's investment in the purchase of the site and in site preparation is 70 percent or more of the assessor's current year's 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 state or local government agency;
20. funds from dock and wharf bonds issued by a seaway port authority;
21. business loans and loan guarantees of \$150,000 or less;
22. federal loan funds provided through the United States Department of Commerce, Economic Development Administration; and
23. property tax abatements granted under section 469.1813 to property that is subject to valuation under Minnesota Rules, chapter 8100.

Notwithstanding the definitions listed above under 1 and 21, "business subsidies" as defined also includes the following forms of financial assistance and is subject to this policy, with the exception of a public hearing as the amount of assistance is less than \$150,000, with limited reporting forms required:

1. a business subsidy of \$25,000 or more; and
2. business loans and guarantees of \$75,000 or more.

The definition of a "business subsidy" is in compliance with the current Minnesota Business Subsidy Law and is subject to any law changes that may occur.

III. PUBLIC PURPOSE OBJECTIVES OF BUSINESS SUBSIDIES

In accordance with the Minnesota Business Subsidy Law, the City will consider using business subsidies to assist private development projects to achieve one or more of the following public purpose objectives:

- To retain local jobs and/or increase the number and diversity of jobs that offer stable employment and/or attractive wages and benefits.
- To enhance and diversify the City of Elk River's tax base.
- To encourage additional unsubsidized private development in the area, either directly or indirectly through "spin off" development.
- To achieve development on sites which would not be developed without business subsidies assistance.
- To remove blight and/or encourage development of commercial and industrial areas in the city that result in higher quality development or redevelopment and private investment.
- To offset increased costs of development of specific properties when the unique physical characteristics of the site may otherwise preclude private investment.
- To create opportunities for the construction, operation and maintenance of affordable housing.

IV. GENERAL POLICIES FOR THE USE OF BUSINESS SUBSIDIES

- A. Business subsidy assistance will be provided from the City, on a "pay-as-you-go" note method, to the developer if the business subsidy is tax increment financing or tax abatement. Requests for up front financing will be considered on a case-by-case basis.
- B. A developer requesting business subsidy assistance must demonstrate, to the satisfaction of the City, sufficient cash equity investment in the project as required within the City's policy for the particular form of subsidy.
- C. Business subsidy assistance will not be provided in circumstances where land and/or property price is demonstrated by the County Assessor to be in excess of fair market value. This would normally be where the acquisition price is more than 10% in excess of market value.
- D. A developer must be able to demonstrate to the City, or, if applicable, to the underwriting authority, a market-demand for a proposed project.

- E. Business subsidy assistance will not be used in cases where the subsidy would create an unfair and significant competitive financial advantage over other similar projects in the area.
- F. Business subsidy assistance will not be used for projects that would place extraordinary demands on city infrastructure and services.
- G. If requested by the City the developer shall provide adequate financial guarantees to ensure completion of the project, including, but not limited to: minimum assessment agreements, letters of credit, cash escrows, and personal guaranties.
- H. Each developer must be able to demonstrate to the City's satisfaction, an ability to construct, operate, and maintain the proposed project based on past experience, general reputation, and credit history.
- I. If requested by the City, or its consultants, the developer shall provide sufficient market, financial, environmental, or other data relative to the successful operation of the project.
- I. Projects receiving business subsidy approval from other affected taxing jurisdictions will be more favorably received by the City.

V. GUIDELINES FOR COMMERCIAL/INDUSTRIAL BUSINESS SUBSIDIES

- A. Business subsidies may be considered for retail or service businesses if it will result in satisfying a clear strategic goal of the City, including, but not limited to substantial increase in tax base and a significant improvement in a redevelopment project, quality employment, paying at least 175% of the state or federal minimum wage, whichever is greater.
- B. The project must be consistent with the City's Comprehensive Plan, Land Use Plan, and Zoning Ordinances.
- C. The project must result in the retention of existing jobs that would be lost "but for" the proposed development or result an increase and diversification in local jobs. Business retention jobs will be considered on a one-for-one match to job creation only in cases where job loss is specific and demonstrable in accordance with the Minnesota Business Subsidy Law.
- D. Specific wage and job goals will be determined by the City giving consideration to the particular form of the subsidy, nature of the development, the purpose of the subsidy, local economic conditions and similar factors. The recipient will have up to two years from the benefit date, as defined in the Minnesota Business Subsidy Law, to meet the job and wage goals established by the City.
- E. The minimum wage for a job to be considered a new or retained job shall be the greater of \$15.00 per hour or 150% of state or federal minimum wage, whichever is greater, exclusive of benefits

required by law. Deviations from the job and wage goal may be considered for projects that will result in a significant increase in tax base. Deviations less than the wage floor will be considered on a case-by-case basis and in accordance with the requirements of the Minnesota Business Subsidy Law.

- F. Business subsidies will not be used for commercial/industrial projects that have a history of inconsistent compliance with applicable environmental rules and regulations.

VI. SUBSIDY APPLICATION PROCESS AND PROCEDURE

- A. Application for business subsidies shall be made on the City's forms for the particular type of assistance. The application for business subsidies shall request information required within the City's policies on the particular form of subsidy including but not limited to; a detailed description of the project; a preliminary site plan; the amount of business subsidy requested; the public purpose of the project; the number and types of jobs to be created; the wages and benefits to be paid new employees; and verifiable funding sources and uses.
- B. Following a review by appropriate City Staff the application shall be referred to the either the Economic Development Authority, or Housing and Redevelopment Authority, for recommendation to the City Council for denial or approval.
- C. Before granting a business subsidy that exceeds \$150,000, the City shall provide public notice and hold a hearing on the subsidy unless a hearing and notice on the subsidy is otherwise required by law.

VII. SUBSIDY AGREEMENT AND REPORTING REQUIREMENTS

Each company receiving a business subsidy shall be subject to the subsidy agreement and reporting provisions and requirements set forth by the Minnesota Business Subsidy Law and summarized below:

- A. Progress Reports
The recipient shall file a report annually for two years after the benefit date, as defined in the Minnesota Business Subsidy Law, or until all goals set forth in the subsidy agreement have been met, which ever is later. Reports shall be completed using the format drafted by the State of Minnesota and shall be filed with the City's Economic Development Division no later than March 1 of each year for the progress made the previous year.
- B. Maintain Facility
The recipient agrees to maintain and operate its facility at the site where the subsidy is used for a period of five years from the benefit date, as defined in the Minnesota Business Subsidy Law.

C. Failure to Comply

Businesses failing to comply with the subsidy agreement will be subject to the terms of the individual agreement, repayment requirements at the rate established within the Minnesota Business Subsidy Law, and be deemed ineligible by the State to receive any loans or grants from public entities for a period of five years.

Business Subsidy Policy History

| Adopted by: | On (date) | Item # |
|--------------|------------|--------|
| City Council | 02/19/2019 | 7.1 |
| City Council | 4/20/2015 | 4.11 |
| EDA | 4/20/2019 | 6.1 |
| HRA | 11/2/2015 | 7.3 |
| City Council | 2/18/2014 | 4.9 |
| EDA | 2/18/2014 | 6.3 |
| City Council | 11/25/2002 | 6.2 |
| EDA | 12/09/2002 | 3.5 |
| HRA | 11/25/2002 | 6.1 |
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**City of Elk River
City Council**

Resolution 19-06

A Resolution of the City Council of the City of Elk River Approving an Amended Business Subsidy Policy

WHEREAS, the City Council (the “Council”) of the City of Elk River, Minnesota (the “City”) acknowledges the need to provide financial assistance to businesses to further the economic development objectives of the City; and


WHEREAS, Minnesota Statutes, Sections 116J.993 through 116J.995, as amended (the “Business Subsidy Act”) requires any state or local government agency with the authority to grant a business subsidy to establish business subsidy criteria before any new business subsidy can be provided; and

WHEREAS, the Council previously approved business subsidy criteria and has now determined to amend the criteria in accordance with the Business Subsidy Act; and

WHEREAS, the Council has performed all actions required by law to be performed prior to the adoption of an amended version of the City of Elk River, Minnesota Business Subsidy Criteria (the “Policy”), including the holding of a public hearing on behalf of itself, the Economic Development Authority of the City of Elk River and the Housing and Redevelopment Authority in and for the City of Elk River, Minnesota, upon published notice as required by law.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Elk River, Minnesota, as follows: 1. The Council hereby adopts the amended Policy, a copy of which is on file at the City Hall. 2. City staff is authorized to transmit a copy of the Policy to the Minnesota Department of Employment and Economic Development in accordance with the Business Subsidy Act.

Passed and adopted this 19th day of February 2019.



John J. Dietz, Mayor

ATTEST:



Tina Allard, City Clerk

