

**ECONOMIC DEVELOPMENT AUTHORITY OF RICHFIELD, MINNESOTA;
HOUSING AND REDEVELOPMENT AUTHORITY IN AND FOR THE CITY OF
RICHFIELD, MINNESOTA;
AND CITY OF RICHFIELD, MINNESOTA**

AMENDED AND RESTATED BUSINESS SUBSIDY POLICY

I. Purpose

This document sets forth the business subsidy policies and specific criteria to be considered by the Richfield Economic Development Authority, the Housing and Redevelopment Authority and the City of Richfield, in evaluating requests for Business Subsidies, including Tax Increment Financing, Tax Abatement, or other financial assistance programs that may become available through the Grantor.

In adopting these criteria, it is the intent of the Grantor to comply with Minnesota Statutes, Sections 116J.993 through 116J.995, as amended. The governing bodies of each Grantor have adopted this policy and these criteria after a duly noticed public hearing held in accordance with the Business Subsidy Act.

II. Definitions

“Benefit Date” means the date that the recipient receives the Business Subsidy. If the Business Subsidy involves the purchase, lease, or donation of physical equipment, then the benefit date begins when the recipient puts the equipment into service. If the Business Subsidy is for improvements to property, then the benefit date refers to the earliest date of either:

- a) When the improvements are finished for the entire project; or
- b) When a business occupies the property. If a business occupies the property and the subsidy Grantor expects that other businesses will also occupy the same property, the Grantor may assign a separate benefit date for each business when it first occupies the property.

“Business Subsidy” means a City, HRA, or EDA 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. Certain forms of financial assistance set forth in Section 116J.993, subd. 3 of the Business Subsidy Act are not considered a Business Subsidy.

“Business Subsidy Act” means Minnesota Statutes Section 116J.993 to 116J.995, as hereafter amended.

“Business Subsidy Agreement” means an agreement between a Grantor and a Recipient that meets the requirements of Section 116J.994, subd. 3 of the Business Subsidy Act. The Business Subsidy Agreement may be incorporated into a broader Development Agreement for a project.

“Business Subsidy Report” means the annual report submitted each year by a business receiving a Business Subsidy. The report is submitted by the local government unit in order to comply with Section 116J.994 Subd. 7 (b) of the Business Subsidy Act. Both the Recipient and the Grantor must comply with the business subsidy reporting and monitoring requirements of the Business Subsidy Act.

“City” means the City of Richfield, Minnesota.

“Criteria” means the standards upon which the Grantor will evaluate requests for a Business Subsidy to a private business or development project in the City of Richfield. Meeting the Criteria does not mean that a project will automatically be approved, nor does it create any contractual rights on the part of any applicant.

“EDA” means the Economic Development Authority of Richfield, Minnesota.

“Grantor” means the City, the HRA or the EDA, as defined herein.

“HRA” means the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota.

“Public Purpose” A Business Subsidy must meet a public purpose which may include, but may not be limited to, increasing the tax base. Job retention may only be used as a public purpose in cases where job loss is specific and demonstrable.

“Recipient” means any for-profit or nonprofit business entity meeting the requirements of Section 116J.993, subd. 6 of the Business Subsidy Act that receives a Business Subsidy.

III. Business Subsidy Criteria

The following criteria shall be used to evaluate a request for a Business Subsidy, although meeting these criteria does not create a contractual right to a Business Subsidy, and the Grantor may later modify these criteria, as permitted by the Business Subsidy Act.

An applicant who is not in good standing with the City regarding licenses, code violations, or delinquent taxes, bills, fines or other charges will not be considered for a Business Subsidy.

- 1. Public Purpose.** Every Business Subsidy must meet a public purpose, which may include, but may not be limited to, increasing the tax base.
 - a. *Job and Wage Goals.* Unless job creation or retention is not a public purpose of the Business Subsidy, every Recipient must create or retain jobs, and these jobs must pay at least 125 percent of the existing state minimum wage per hour, exclusive of benefits. Retained jobs may be included in job goals only if job loss is specific and demonstrable. Wage and jobs goals will be set forth in the Business Subsidy Agreement and must be met by the Recipient within two (2) years of the Benefit Date.

- b. *Goals Other Than Job Creation or Retention.* If, after a public hearing, it is determined by the governing bodies of the Grantor that creation or retention of jobs is not a goal, the wages and jobs required of a Recipient may be set to zero; however, the Recipient must achieve at least one of the following measurable, specific, and tangible goals:
- i. The project enhances the viability of other businesses in the City;
 - ii. The project provides a service or meets a consumer need not currently or adequately met in the City;
 - iii. The project results in revitalization and redevelopment in the downtown area or along priority commercial corridors as identified in adopted City policies and plans;
 - iv. The project removes blighted or substandard property;
 - v. The project stimulates additional capital investment and acts as a catalyst for future development and redevelopment;
 - vi. The project prevents the closure of an essential business in the City;
 - vii. The project promotes the retention or adaptive reuse of buildings of historical or architectural significance;
 - viii. The project results in improvements to public infrastructure or public facilities, including, without limitation; roads, pedestrian and bike infrastructure, transit, parks, and recreational facilities; or
 - ix. The project includes necessary environmental clean-up of the site for development or redevelopment.

The Grantor may deviate from these goal criteria in granting Business Subsidies if the reasons for the deviation are documented in writing and reported to the Minnesota Department of Employment and Economic Development, pursuant to the Business Subsidy Act.

2. **Increase in Tax Base.** While the Business Subsidy Act provides that an increase in the tax base cannot be the sole grounds for granting a Business Subsidy, the Grantor gives a strong preference to proposed Business Subsidies that increase the tax base.
3. **Zoning.** Any project benefited by a Business Subsidy must be consistent with the City's Comprehensive Plan and Zoning Ordinance. If required changes to the Comprehensive Plan and Zoning Ordinance are under active consideration by the City, the Grantor may conditionally approve a request for a Business Subsidy.
4. **Require Business Subsidy to Proceed.** Business Subsidies will only be provided to Recipients who would not be able to proceed with the stated project without the benefit

of the Business Subsidy. Business Subsidies will not be issued to Recipients for the purpose of increasing Recipient's profit margin.

5. **Continued Operations.** Recipients must commit to continue operations of the business in the City for at least five (5) years following the Benefit Date of the Business Subsidy.

IV. Process for Awarding Business Subsidies

The Business Subsidy applicant will enter into negotiations with the Grantor and may enter into a proposed Business Subsidy Agreement to be drafted by the Grantor and its consultants. All applicants will be responsible for legal, financial, consultant and other costs associated with the review of the application and development of the Business Subsidy Agreement.

Prior to approval of a Business Subsidy, the Business Subsidy applicant shall provide any required market and financial feasibility studies, appraisals, soil boring analysis, information provided to private lenders, credit reviews, and other information or data that the Grantor or its consultants may require in order to proceed with the Business Subsidy application process. The Grantor may undertake such a review on its own accord, to be paid from the fee paid by the Business Subsidy applicant. A Business Subsidy applicant should be able to demonstrate past successful general development capability as well as specific capability in the type and size of development proposed.

Before the Grantor signs a Business Subsidy Agreement with a proposed Recipient, the Grantor must check with the compilation and summary report compiled by the Department of Employment and Economic Development to determine if the proposed Recipient is eligible to receive a Business Subsidy.

1. **Business Subsidy Agreement.** The Recipient must enter into a Business Subsidy Agreement with the Grantor. The Business Subsidy Agreement must include:
 - a. A description of the Business Subsidy, including amount and type, and type of district if the Business Subsidy is Tax Increment Financing;
 - b. The public purpose(s) for the Business Subsidy;
 - c. Any measurable, specific, and tangible goals related to the Business Subsidy and the financial obligation of the Recipient if said goals are not met;
 - d. A statement of why the Business Subsidy is needed for the project;
 - e. A commitment from the Recipient to continue operations in the City for at least five (5) years following the Benefit Date;
 - f. The name and address of any parent corporation of the Recipient; and
 - g. A list of all Business Subsidies received for the project.
 - h. A requirement for the Recipient to comply with labor laws.

2. **Public Hearing.** A publicly noticed public hearing is required for Business Subsidies in amounts over \$150,000, unless otherwise required by law.
3. **Governing Body Approval.** A Business Subsidy of \$150,000 or less, must be approved by the governing body of the Grantor. For a Business Subsidy of \$150,000 or more, the governing body of the Grantor and the City Council must approve the Business Subsidy.

V. Compliance

1. **Reporting.** Both the Recipient and the Grantor must comply with the reporting and monitoring requirements of the Business Subsidy Act. Each Recipient must provide a report to the Grantor each March 1. The Grantor will provide the report to the Department of Employment and Economic Development on or before April 1.
2. **Failure to Meet Set Goals.** If a Recipient fails to meet the wage and job goals as set forth in the Business Subsidy Agreement within two (2) years of the Benefit Date, the Business Subsidy assistance plus interest must be paid back to the Grantor, provided that repayment may be prorated to reflect partial fulfillment of the goals. Interest to be repaid must be set at no less than the implicit price deflator for government consumption expenditures and gross investment for state and local governments prepared by the Bureau of Economic Analysis of the United States Department of Commerce for the twelve-month period ending March 31 of the previous year.
 - a. The Grantor may, after a public hearing, extend the time for compliance with Business Subsidy job and wage goals by up to one (1) year. The Grantor may extend the period of time for meeting other goals specified in the Business Subsidy Agreement by documenting in writing the reason for the extension and attaching a copy of the document to its next annual report to the Department of Employment and Economic Development.
 - b. A Recipient that fails to meet the terms of a Business Subsidy Agreement may not receive a Business Subsidy from any grantor for a period of five (5) years from the date of failure or until the Recipient satisfies its repayment obligation under the Business Subsidy Agreement, whichever occurs first.

VI. FINANCIAL ASSISTANCE *NOT* CONSIDERED A BUSINESS SUBSIDY

Section 116J.993, subd. 3 of the Business Subsidy Act provides that the following forms of assistance are not a Business Subsidy within the meaning of the Business Subsidy Act:

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 in Minnesota Statutes Section 116J.552, subdivision 3.
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 sub-district as defined under Minnesota Statutes Section 469.174, subdivision 23;
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 Minnesota Statutes 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 under Minnesota Statutes Section 469.174, subdivision 19.
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 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 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.
23. Property tax abatements granted under Minnesota Statutes Section 469.1813 to property that is subject to valuation under Minnesota Rules, Chapter 8100.

However, Minn. Stat. Section 116J.994 states that notwithstanding Minn. Stat. Section 116J.993, subd. 3, clauses (1) and (21), Business Subsidies as defined under Minn. Stat. Section 116J.993 include the following forms of financial assistance: a business subsidy of \$25,000 or more; and business loans and guarantees of \$75,000 or more. The Grantor is required to provide reporting for these types of subsidies pursuant to Minn. Stat. Section 116J.994, subd. 7(c).

Requests for subsidies exempt from the Business Subsidy Act are still subject to review and approval of the Grantor. Such approval is at the sole discretion of the Grantor.

VII. AMENDMENTS TO BUSINESS SUBSIDY ACT

The references to the Business Subsidy Act in this Business Subsidy Policy shall include any and all amendments to the Business Subsidy Act that are made after this policy is adopted.

Adopted by the Board of Commissioners of the Housing and Redevelopment Authority in and for the City of Richfield, Minnesota, this 16th day of October, 2023.

Adopted by the Board of Commissioners of the Richfield Economic Development Authority of Richfield, Minnesota, this 16th day of October, 2023.

Adopted by the City Council of the City of Richfield, Minnesota, this 26th day of September, 2023.