

CITY OF FARIBAULT
AMENDED BUSINESS SUBSIDY POLICY

Including Tax Abatement and Tax Increment Financing Business Assistance

Approved February 27, 2018 ~ Resolution 2018-042

I. INTRODUCTION, PURPOSE 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”). Terms used in this Policy are intended to have the same meanings as if used in the Business Subsidy Act (“Act”), and any amendments or modifications to the Act shall amend or modify the definitions and terms of this Policy without any further action of the City of Faribault (“City”). This Policy shall apply only with respect to subsidies granted under the Acts if and to the extent required thereby.

This Policy shall be used as a guide in processing and reviewing applications requesting business assistance – and all requests will be evaluated on a case-by-case basis.

A. **Purpose.** Business subsidies are used to stabilize and grow the community by providing resources to increase the tax base, provide basic goods and services, retain or reuse historically significant properties, remediate pollution, revitalize neighborhoods, retain and increase quality jobs, and enhance the economic growth and opportunity in the City. The City will consider business assistance requests on a case-by-case basis, focusing on providing the lowest possible level of business assistance, for the least amount of time, to leverage and optimize private investment.

B. **Types of Business Subsidy.** Every potential business subsidy project within the City will be evaluated according to this Policy and the criteria set forth herein. A Business Subsidy, as further defined herein and in the 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. Tax Increment Financing (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.

C. **Definitions.** The following defined terms apply equally to business subsidies. Any terms not defined herein shall have the meanings set forth in the Act. If the Act is amended to affect any of these defined terms, then the definition or definitions set forth in the Act 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” 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:

- When the improvements are finished for the entire project; or
- 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 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.

Notwithstanding this definition, “Business Subsidy” as defined also includes the following forms of “Financial Assistance” and is subject to this policy with the exception of the required public hearing, if the amount is less than \$150,000, and limited reporting forms shall be required:

- A Business Subsidy of \$25,000 or more; and
- Business loans and guarantees of \$75,000 or more

“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” mean any business entity 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.

II. BUSINESS SUBSIDY REQUIREMENTS, PROCEDURES AND GOALS

The requirements for a Business Subsidy herein described apply to any Business Subsidy. If the Act is amended to modify any of these requirements, then the requirement or requirements set forth in the Act 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 Recipient 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. 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,
4. Meet all of the additional polices set forth in Section II. D below, including holding a public hearing if required and complying with payback provisions.

A. **Business Subsidy Implementation.** The following is the Business Subsidy procedure:

1. *Application.* A business must submit a written request/application to the City for a Business Subsidy or other financial assistance with the required fee. The business must submit all information as found in the Business Subsidy Application for any request for financial assistance from the City. The City may request additional financial information as the City deems appropriate or necessary in its discretion to analyze and process the application.
2. *A Public Hearing.* A Business Subsidy valued at \$150,000 or more requires a public hearing with at least a 10-day notice in the local newspaper. A public hearing for another purpose such as tax increment financing or tax abatement may be combined with the Business Subsidy hearing. A copy of the draft Business Subsidy agreement must be on file with the City.
3. *Business Subsidy Agreement.* In all cases of business subsidy, where the subsidy is equal to or greater than the threshold prescribed in Minnesota Statutes, a subsidy agreement will be entered into between the City and the recipient. This agreement will comply with the requirements of Minn. Stat. Section 116J.994, subd. 3, and delineate, among other required provisions, the subsidy structure and amount, as well as the expected public benefit. The agreement will include provisions for repayment and other resolution options if the expected public benefit is not achieved. Upon completion of the project, the actual costs of the elements of the project eligible for the business subsidy will be verified. All business subsidies will be subject to the criteria outlined in Minnesota Statutes, Section 116J.933 through Section 116J.955, except those subsidies as exempted by the same. Business Subsidies in the form of grants must be structured as forgivable loans. For other types of Business Subsidies, the agreement must state the fair market value of the subsidy to the recipient, including the value of conveying property at less than a fair market price, or other in-kind benefits to the recipient. The City shall monitor the progress by the recipient in achieving the goals contained in the business subsidy agreement, and the recipient shall cooperate in all respects in meeting the reporting requirements contained in Minnesota Statutes Section 116J.994 subd. 7.

4. *Length of Operation.* All Business Subsidy Recipients must agree to continue operation within the City for at least five 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.
5. *Monitoring.* The City shall monitor the progress by the recipient in achieving the goals contained in the business subsidy agreement, and the recipient shall cooperate in all respects in meeting the reporting requirements contained in Minnesota Statutes Section 116J.994, subd. 7.
6. *Payback Provisions and Extensions.* Any 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 Act as it may be amended. For all 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 procedures in the Act, extend the period for meeting other goals for any period specified by the City.
7. *Modification.* The City reserves the right to modify the Policy from time to time in accordance with the Act.

B. **Economic Growth Goals.** Every Business Subsidy must meet a public purpose as follows, which may include but must not be limited to increasing the tax base:

1. Enhance economic growth and increase the tax base in the City;
2. Revitalize neighborhoods and the community;
3. Create high quality jobs in the City with minimum job creation goals as set forth in the policy;
4. Locate industrial development within established industrial parks;
5. Retain high quality jobs, increase local job base, and/or provide diversity in the job base in the City;
6. Prevent or eliminate blight;
7. Foster economic and commercial diversity;
8. Encourage additional unsubsidized private development, either directly or through "spin-off" development;
9. Stabilize the community;
10. Meet housing-related issues pertaining to diversity of housing options and affordable housing;
11. Provide basic goods and services;
12. To offset increased costs of redevelopment, over and above those costs that a developer would incur in normal development;
13. Remediate pollution;
14. Promote the retention or reuse of historically significant property;
15. Fully utilize existing or planned infrastructure improvements;
16. Assist in the development of public improvements of facilities; and
17. Provide business subsidy incentives to qualified businesses pursuant to Minnesota Statutes Sections 116J.993 through 116J.995 (the "Business Subsidy Act").

Business assistance funding should not be provided to those projects that fail to meet good public policy criteria as determined by the EDA and City, including: poor project quality; projects that are not in accord with the comprehensive plan, zoning, redevelopment plans, and city policies; project that provide no benefit or improvement to surrounding land use, the neighborhood, and/or the City; projects that do not meet financial feasibility criteria established by the City; and projects that do not meet the highest and best use for the property. Business assistance should also not be used when the developer's credentials, in the judgement of the City, are inadequate due to past record of accomplishment relating to: timeliness and quality level of completed projects, general reputation, bankruptcy, credit worthiness or other relevant considerations by the City.

C. **Job and Wage Goals.** Except as provided in Section II D. herein, every Business Subsidy Recipient 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 Act or an amendment to the Act 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. In addition, every Business Subsidy Recipient must create the number of full-time specified in the Business Subsidy Agreement and must meet the wage goals for those jobs specified in the Business Subsidy Agreement. The Business Subsidy Agreement may contain separate job and wage goals for part-time jobs and full-time jobs. The City may set goals in terms of full-time equivalent at their discretion. 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 at least one (1) full-time job.
2. *General Wage Goal.* For all Business Subsidies, the Business Subsidy Recipient must create full-time job(s) that pay a living wage and/or meet the specific wage threshold as published annually by DEED. Living wage is defined as wages and health benefits that have an hourly rate that totals at least 110-percent of the current poverty level for a family of four.

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. Wages should increase annually based on the consumer price index.

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 a general 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; or

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.

APPLICATION FOR BUSINESS SUBSIDY AND BUSINESS FINANCING

Applicant Information

1. Applicant Name: _____
(Name should be the officially registered name of the business entity.)

Address: _____

Telephone: _____ Email Address: _____

2. Name of Person Completing the application: _____

Address: _____

Telephone: _____ Email Address: _____

3. Names and Addresses of Attorney, Architect, Engineer, and General Contractor for this project:

Attorney Name: _____

Address: _____

Telephone: _____ Email Address: _____

Architect Name: _____

Address: _____

Telephone: _____ Email Address: _____

Engineer Name: _____

Address: _____

Telephone: _____ Email Address: _____

General Contractor Name: _____

Address: _____

Telephone: _____ Email Address: _____

4. If the applicant is a corporation, please name officers, directors, or stockholders holding more than 5% of the stock of the corporation. If the corporation is not formed, provide as much information as possible concerning potential officers, directors, or stockholders:

4a. If the applicant is a general partnership, name of the general partners and if a limited partnership, state the general partners and limited partners with more than 5% interest in the limited partnership. If the partnership is not formed, provide as much information as possible concerning potential officers, directors or stockholders.

4b. Has the applicant ever been in bankruptcy? If yes, please describe the circumstances.

Yes (please Explain): _____

No: _____

4c. Has the applicant ever been convicted of a felony? Is yes, please describe the circumstances.

Yes (please Explain): _____

No: _____

4d. Has the applicant ever defaulted on any bond or mortgage commitment?

Yes (please Explain): _____

No: _____

Project Information

5. PID#'s, legal description, address, and size of project site:

PID#: _____

Address: _____

Legal Description: _____

Size of Project Size (Acres): _____

6. Current ownership of the site: _____

7. Do you have current control of the site:

Yes: _____ No: _____

8. Project description.

9. If property is to be subdivided or replatted, please describe.

10. Estimated project costs: (Please enclose detailed sources and uses and 15-year operating Pro Forma).

| | |
|-------------------------------------|----------|
| Land Acquisition: | \$ _____ |
| Environmental/Soil Corrections: | _____ |
| Surveys: | _____ |
| Public Improvements: | _____ |
| Site Development: | _____ |
| Demolition: | _____ |
| Building(s): | _____ |
| Shell (if applicable) | _____ |
| Tenant Improvements (if applicable) | _____ |
| FF&E: | _____ |
| Architectural & Engineering Fees: | _____ |
| Legal Fees/Other Consulting Fees: | _____ |
| Financing Costs: | _____ |
| Construction Interest: | _____ |
| Title Insurance: | _____ |
| Mortgage Registration: | _____ |
| Bank/Borrower Legal: | _____ |
| Recording/Closing: | _____ |
| Construction Loan Fees: | _____ |
| SAC/WAC: | _____ |
| Park Dedication: | _____ |
| Appraisal: | _____ |
| Taxes: | _____ |
| Contingencies (construction): | _____ |
| Contingencies (soft): | _____ |

Other: _____
TOTAL \$ _____

11. Source of Financing

Equity: \$ _____
Bank Financing: _____
Public Assistance: (TIF or Tax Abatement) _____
Other governmental loans/grants: _____
Deferred Developer Fees: _____
Other: _____
TOTAL \$ _____

Terms of Financing (years): _____
Rate of Financing: _____
Cap Rate: _____

Project Construction Schedule:

Construction Start Date: _____
Construction Completion Date: _____

If Phased Project:

January 2, (year) _____ % Completed _____
January 2, (year) _____ % Completed _____

12. Total Estimated Market Value of Project upon completion \$ _____

13. Please indicate whether the project meets one or more of Faribault's Economic Growth Goals as identified in Section II. B of the City's Business Subsidy Policy (identify desired qualification and state reason):

14. Will any public official of the City, either directly or indirectly, benefit from the issuance of public assistance within the meaning of Minnesota Statutes, Section 412.311 or 471.87? If yes, please explain the circumstances.

No: _____
Yes (please explain): _____



Public Assistance Request

15. Amount of public assistance requested and desired term.

Amount: _____ Term (years): _____

16. Describe the purpose for which public assistance (TIF, Tax Abatement, etc.) is required.

17. Please submit an itemized list of project costs for which public assistance is being requested.

18. State specific reasons why, "but for" the use of public assistance, this project would not be possible.

Application Process

19. The following documents must accompany the Application:

- A. A detailed sources & uses statement and 15-year project *Pro Forma*
- B. Preliminary Financial Commitment from lending institution.
- C. Financial statements.
- D. Parcel Map depicting the proposed redevelopment area
- E. Site plans and floors plans (as available)
- F. Significant additional information may be requested at any time by the City/EDA/HRA and may be in addition to the materials outlined in this application. The Applicant shall be required to submit all information as requested by the City/EDA/HRA.

20. Applicant acknowledges and agrees to pay the \$5,000 Business Subsidy/Public Assistance Application Fee and is **non-refundable**.

21. At the time of acceptance by staff of the Business Subsidy/Public Financing Application, the applicant shall deposit \$10,000 with the City/HRA to cover attorney and consultant costs incurred as part of conducting any fiscal analysis that may be required to meet the requirements of utilizing any public financing, drafting and negotiating a development agreement, and establishing a TIF district or abatement.

If additional expenses are incurred beyond the \$10,000, prior to the execution of a development agreement, the City/EDA/HRA shall notify the applicant in writing and the applicant will be required to deposit additional funds upon notice.

22. The Applicant shall hold the City/EDA/HRA, its officers, consultants, attorneys, and agents harmless from any and all claims arising from or in connection with the Project or Public Assistance Application, including but not limited to, any legal or actual violations of any State or Federal securities laws.

23. The Applicant recognizes and agrees that the City/EDA/HRA reserves the right to deny any application for Business Subsidy/Public Assistance at any stage of the proceedings prior to adopting the resolution approving the public assistance, that the Applicant is not entitled to rely on any preliminary actions by the City/EDA/HRA prior to the final resolution, and that all expenditures, obligations, costs, fees, or liabilities incurred by the Applicant in connection with the Project are incurred by the Applicant at its sole risk and expense and not in reliance on any actions of the City/EDA/HRA.

The undersigned, a duly authorized representative of the Applicant, hereby certifies that the foregoing information is true, correct, and complete as of the date hereof and agrees that the Applicant shall be bound by the terms and provisions herein.

APPLICANT'S NAME

DATE

CITY ACCEPTANCE OF APPLICATION

DATE

\$ _____
FEE AMOUNT REMITTED

DATE

APPLICATION FEES:

- Industrial Development Loan - \$350.00
- Minnesota Investment Fund - \$350.00
- Economic Development Revolving Fund - \$350.00
- Tax Abatement - \$5,000.00
- Tax Increment Financing - \$5,000.00