

**City of Henning, Minnesota  
Business Subsidy Criteria  
Adopted May 12, 2015**

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## **PURPOSE AND AUTHORITY**

- 1.0 The purpose of this document is to establish the criteria for the City of Henning, Minnesota (the “Grantor”) for granting of business subsidies for private development. These criteria shall be used as a guide in the processing and reviewing of applications requesting business subsidies.
- 1.1 The City’s ability to grant business subsidies is governed by the limitations established in Minnesota Statutes 116J.993 through 116J.995 (the “Statutes”).
- 1.2 Unless specifically excluded by the Statutes, business subsidies include grants by state or local government agencies, contributions of personal property, real property, infrastructure, the principal amount of a loan at rates below those commercially available to the recipient of the subsidy, 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.
- 1.3 These criteria are to be used in conjunction with other relevant policies of the Grantor.
- 1.4 The City may deviate from these criteria by documenting in writing the reason(s) for the deviation. The documentation shall be submitted to the Department of Employment & Economic Development (DEED) with the next annual report.
- 1.5 The Grantor may amend this document at any time. Amendments to these criteria are subject to public hearing requirements contained in the Statutes. The Grantor may waive provisions of these criteria without holding a public hearing.

## **2 PUBLIC PURPOSE REQUIREMENT – CRITERIA**

- 2.1 All business subsidies must meet a public purpose. The City hereby expresses its support for the use of business subsidies that meet the below listed “Public Purpose” criteria.
  - a. But-for Test. There is a substantial likelihood that the project would not go forward without the business subsidy requested. These criteria must be supported by representations of the applicant for business subsidy.
  - b. Redevelopment. The project will remove, prevent or reduce blight or other adverse conditions of the property, thereby protecting the City’s property values and the general public health, safety, and welfare.
  - c. Attraction of New Business. The project will attract or retain competitive and financially strong commercial and industrial companies, which offer the potential for significant growth in employment and tax base.
  - d. Highest and Best Land Use. The use of the business subsidy will encourage quality construction and promote the highest and best use of land.
  - e. Needed Services. The project will provide a needed service in the community, including health care, convenience and social services which are not currently available.
  - f. Unmet Housing Needs. The project will provide housing alternatives the community currently

needs but are not available.

- g. Economic Feasibility. The recipient can demonstrate that it has experience and adequate financing for the project, and that the project can be completed in a timely manner.
- h. Impact on City Services and Infrastructure. The project will not significantly and adversely increase the demands for service needs in the City.
- i. Job Creation. The project will create or retain jobs which pay at *least* state minimum wage plus 10% as adjusted periodically.
- j. Tax Base. The project will increase the City's tax base and generate new property tax revenue.

2.2 The creation or retention of jobs may be, but is not required to be, a public purpose for granting a subsidy. The determination that jobs are not a public purpose for the subsidy and that the related wage and job goals are zero shall be made following a public hearing.

2.3 Job retention may only be used as a public purpose in cases where job loss is specific and demonstrable. The City shall document in the information used to determine the nature of the job loss.

2.4 The creation of tax base shall not be the sole public purpose of a subsidy.

2.5 *The City will seek to create jobs with higher wages as appropriate for the overall public purpose of the subsidy.*

### **3 VALUATION OF A BUSINESS SUBSIDY**

3.1 The City will calculate the value of assistance provided to a business in the following manner.

- a. If the subsidy is a contribution or sale of real or personal property, the amount of the subsidy will be the fair market value of the property as determined by the City, less any amount paid.
- b. If the subsidy is a loan, the amount of the subsidy will be the difference between market rate interest and the actual interest paid by the developer.
- c. If the subsidy is a loan guarantee, the amount of the subsidy will be principal amount of the loan guaranteed.
- d. If the subsidy takes the form of payments over time (such as pay-as-you-go tax increment) the amount of the subsidy will be the sum of projected payments, discounted to a present value using a discount factor determined by the City which approximates the interest rate available to the business from a commercial lender.

### **4 EVALUATION**

4.1 The City will evaluate each request for a business subsidy on a case by case basis. Applicants for assistance shall complete an application form and supply all additional information requested by the City.

4.2 The application fee must accompany the application in order to be considered complete and be placed on a meeting agenda. Upon approval to move forward with the project assistance, the

Developer will be required to deposit funds with the City sufficient to cover legal, consultant and/or administrative costs associated with completing the assistance package. The City will provide an estimate of these costs and any funds not used will be returned to the Developer. If additional costs are incurred, the developer will be responsible for the costs.

- 4.3 Meeting all or a majority of our criteria does not mean a subsidy will be awarded or denied. A decision to approve or reject a request for subsidy will be based on the merits of the project and the overall benefit to the community.
- 4.4 All new projects approved by the Grantor should meet the following minimum approval criteria. However, it should not be presumed that a project meeting these criteria will automatically be approved. Meeting these criteria creates no contractual rights on the part of any potential developer.
  - a. The subsidy must achieve a public purpose.
  - b. The project must comply with local plans and ordinances.
  - c. The recipient shall provide information demonstrating that granting the subsidy is necessary for the proposed development to occur.
  - d. The recipient must enter into an agreement pursuant to these criteria and the Statutes.
- 4.5 The business subsidy shall be provided within applicable state legislative restrictions, debt limit guidelines, and other appropriate financial requirements and policies.
- 4.6 The project must be in accord with the Comprehensive Plan and Zoning Ordinances, or required changes to the plan and Ordinances must be under active consideration by the City at the time of approval.
- 4.7 Any developer requesting a business subsidy should be able to demonstrate the need for assistance and past successful general development capability as well as specific capability in the type and size of development proposed.
- 4.8 The developer must retain ownership of the project at least long enough to complete it, to stabilize its occupancy, to establish the project management, and to initiate repayment of the business subsidy, if applicable.
- 4.9 A recipient of a business subsidy must enter into a subsidy agreement with the City as described in Section 5 and meet the requirements of statute.
- 4.10 A recipient of a business subsidy must make a commitment to continue operations within the City for at least five years after the benefit date.
- 4.11 Any business subsidy will be at the lowest possible level and for the least amount of time necessary, after the recipient maximizes the use of private debt and equity financing first.

## **5 SUBSIDY AGREEMENT**

- 5.1 In granting a business subsidy, the Grantor shall enter into a subsidy agreement with the recipient that provides the information, wage and job goals, commitments to provide necessary reporting data and recourse for failure to meet goals required by the Statutes.
- 5.2 The subsidy agreement may be incorporated into a broader development agreement for a

project.

- 5.3 The subsidy agreement will describe the requirements for the recipient to provide the reporting information required by the Statutes.

## **6 USE OF TAX ABATEMENT**

- 6.1 Since the property tax reform of 2001, local governments were forced to develop new local financing tools for economic development. Tax abatement is one such financing tool set forth by the Minnesota State Statutes Sections 469.1812 to 469.1815. The City of Henning (the "City") will consider tax abatement requests on a case-by-case basis. This policy will set forth basic information for persons involved, regarding the eligible use, application process, and annual reporting process for anyone requesting abatement. For the benefit of interested parties, this policy will also outline the general procedure, which needs to be followed create tax abatement. It is the intent of the Policy to serve as both a procedural and informational guide for all interested persons.
- 6.2 The purpose of the Tax Abatement Policy Statement is to provide a uniform set of standards and procedures for the City to follow when utilizing tax abatement in conjunction with Minnesota State Statutes Sections 469.1812 to 469.1815. Generally, tax abatement is a technique, which allows cities to rebate a property tax to the property owner, reallocates taxes to pay bondholders, reallocates the taxes to pay for public infrastructure costs, or defers the property taxes.
- 6.3 **CONDITIONS FOR GRANTING AN ABATEMENT** - According to Minnesota State Statutes, abatement can be granted if:
- a. The governing body (a) expects the benefits to the political subdivision of the proposed abatement to at least equal the cost of the abatement, OR, (b) intends the abatement to phase in a property tax increase as provided in (2)(g) below; AND
  - b. It finds that the abatement will be in the public interest because it will accomplish at least one of the criteria set forth in the adopted Business Subsidy Criteria of the City
  - c. Abatements may not be granted to property located within an active tax increment-financing District.
- 6.4 In general, the City has set forth some additional conditions the abatement must meet. They are as follows:
- a. The project must increase the permanent employment opportunities in the City.
  - b. The abatement will adhere to the Business Subsidy Policy the City regarding job and wage criteria.
  - c. On any abatement, the only abated portion of the property tax will consist of the increase in property tax based on the new construction, renovation, or redevelopment of the property.
  - d. For each Abatement application considered, the City may consider the adoption of an Abatement Plan that will set forth the minimum increase in market value wholly attributable to improvements in order to request tax abatement for that designated Abatement Area so as to meet the needs of applicants. The minimum increase in market value may vary depending upon the Abatement Area needs, unless special circumstances are presented.

- e. The abatement must be approved prior to any new construction or improvements being made to the proposed property.
  - f. The average duration of a tax abatement will be commensurate with the public benefits identified, not to exceed the term allowed by Minnesota Statutes.
- 6.5 The total abatements in any one year cannot exceed 10% of the property tax levy, or \$200,000.00, whichever is greater, as per Minnesota Statutes.
- 6.6 APPROVAL PROCESS - The City will make a finding, based upon information presented, as to whether the proposed project is consistent with Minnesota State Statutes Section 469.1812 to 469.1815 and if the Conditions of Granting an Abatement per Section 3 of the policy statement, are met. If deemed appropriate, the City may direct staff and consultant/advisors to prepare the Abatement Resolution for City Council consideration.
- 6.7 The City Council may grant abatement only by adopting an abatement resolution. The contents of the resolution should contain the following:
- a. Terms of the Abatement
  - b. Only one type of tax abatement can be stated
  - c. Amount of the abatement
  - d. Method of Annual Determination
  - e. Number of Years
  - f. Effective starting date or the first payable year for the abatement
  - g. Nature and extent of public benefits
- 6.8 The City may approve an abatement resolution only after holding a public hearing on the proposed abatement. All public notification and public hearing laws apply to the abatement approval process.
- 6.9 The City Council will grant final approval of the abatement resolution. The City will retain an annual maintenance fee from each abatement which will be negotiated and included in the Abatement Resolution and/or Development Agreement for each project.

**7 REPAYMENT OF ASSISTANCE**

Failure of the recipient to meet the terms of the assistance may trigger repayment of the assistance. Imposition of any repayment is at the sole discretion of the taxing authority and will be reviewed/considered on a case-by-case basis. Reasons for the repayment of benefits may include the following:

- a. Sale or closure of the facility and departure of the company from the jurisdiction.
- b. Significant change in the use of the facility and/or the business activities of the company.
- c. Significant employment reductions not reflective of the company's (normal) business cycle and/or local and national economic conditions.
- d. Failure to achieve the minimum number of net new jobs and wage levels as specified in the application and the City Business Subsidy Policy.
- e. Failure to comply with the annual reporting requirements.

**EXHIBIT A**

**FEE SCHEDULE**

Application Fee \$100

All applications must be complete and accompanied by the application fee before they will be placed on a meeting agenda

TIF Creation or Tax Abatement Fee Cost

Applicants will be assessed a pro rata share of the actual costs to create the District based upon the estimated number of beneficiaries of assistance; Developers will also be charged the actual cost of legal fees incurred in connection with the preparation of the development agreement

Revolving Loan Fund Fee: \$100

Other:

To be agreed upon between developer and City prior to proceeding



REQUEST FOR FINANCIAL ASSISTANCE  
CITY OF HENNING, MINNESOTA

PROJECT:

1. Business Information:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Contact: \_\_\_\_\_

2. Brief description of the business:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Present ownership of the site:

\_\_\_\_\_  
\_\_\_\_\_

4. Proposed project: Building square footage, size of property, description of buildings – materials, etc

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. Total Estimated Project Costs:

a. Land Acquisition	\$ _____
b. Site Development	\$ _____
c. Building Cost	\$ _____
d. Soft Costs	\$ _____
e. Financing Costs	\$ _____
f. Contingencies	\$ _____
Total	\$ _____



6. Estimated Project Costs Eligible for TIF Assistance (i.e. Acquisition, Demolition, Site Improvements, Utilities, Streets):

- a. \$ \_\_\_\_\_
- b. \$ \_\_\_\_\_
  
- c. \$ \_\_\_\_\_
- d. \$ \_\_\_\_\_
- Total \$ \_\_\_\_\_

7. PLEASE SUBMIT PROJECT PROFORMAS SHOWING NEED FOR ASSISTANCE (I.E. WITH ASSISTANCE AND WITHOUT).

8. Total Estimated Market Value at completion: \$ \_\_\_\_\_

9. Estimated real estate taxes upon completion: \$ \_\_\_\_\_

10. Source of Financing

- a. Equity \$ \_\_\_\_\_
- b. Bank Loan \$ \_\_\_\_\_
- c. TIF (Gap) \$ \_\_\_\_\_
- Total \$ \_\_\_\_\_

11. Amount of Assistance (Estimated Gap): \_\_\_\_\_

12. Type of Assistance Requested (Upfront or PayGO): \_\_\_\_\_

13. Name & Address of architect, engineer, and general contractor:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

14. Project construction schedule:

- a. Construction Start Date \_\_\_\_\_
- b. Construction Completion Date \_\_\_\_\_
- c. If phase project: \_\_\_\_\_ Year \_\_\_\_\_ % Complete  
\_\_\_\_\_ Year \_\_\_\_\_ % Complete

15. State specific reasons why assistance is necessary for the project (the "but for" test).

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16. Please indicate how the project would meet one or more of the following: Economic Development goals; creation of jobs that pay wages adequate to support households, job retention, or tax base expansion.

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17. Municipal Reference (if applicable). Please name any other municipalities wherein the applicant, or other corporations the applicant has been involved with, has completed developments within the last five years.

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18. Additional Comments:

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19. Submit this form along with an initial \$100 nonrefundable application fee.