

EDA RESOLUTION NO. 16-02

**COPY**

**RESOLUTION OF THE BOARD OF COMMISSIONERS  
OF THE ECONOMIC DEVELOPMENT AUTHORITY  
IN AND FOR THE CITY OF WOODBURY, MINNESOTA**

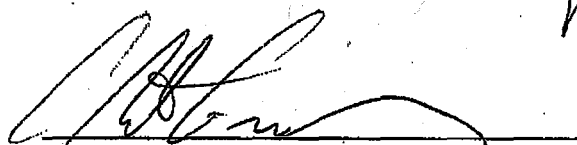
**ENDORING THE CITY OF WOODBURY'S  
BUSINESS SUBSIDY POLICY**

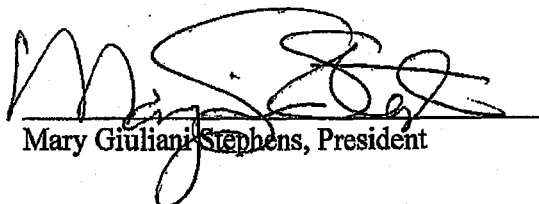
BE IT RESOLVED by the Board of Commissioners (the "Board") of the Economic Development Authority in and for the City of Woodbury, Minnesota (the "Authority"), as follows:




1. Recitals. All things required by the applicable provisions of Minnesota Statutes, Sections 469.090 to 469.108, have been duly taken in order to create, constitute, and activate the Authority.
2. Business Subsidies. The Authority is authorized to issue business subsidies as defined by the State's Business Subsidies Act, which is Minnesota Statutes, Sections 116J.993 through 116J.995.
3. Endorsement of CD-COMDEV-3.4. The Authority hereby endorses the City of Woodbury's Business Subsidy policy, CD-COMDEV-3.4, and establishes a procedure of following CD-COMDEV-3.4 when considering economic development financing opportunities.

This Resolution was declared duly passed and adopted and was signed by the President and attested to by the Executive Director this 27<sup>th</sup> day of January, 2016.

Attest:

  
\_\_\_\_\_  
Clinton P. Gridley, Executive Director

  
\_\_\_\_\_  
Mary Giuliani Stephens, President

  <b>COUNCIL DIRECTIVE</b>	<b>Adopted:</b> <b>EDA: 12-16-99</b> <b>Council: 1-12-00</b> <b>Revised:</b> <b>EDA: 3-11-04</b> <b>Council: 4-28-04</b> <b>Council: 8-27-08</b> <b>EDA: 9-11-08</b> <b>Council: 2-24-16</b>	<b>Number: CD-COMDEV-3.4</b>
	<b>Mayor:</b> 	<b>City Administrator:</b> 
	<b>For: Community Development</b>	
	<b>Subject: Business Subsidy Policy</b>	

**PURPOSE**

This umbrella policy is intended to govern the use of municipal economic development financing tools within the City of Woodbury. The intent of this umbrella policy is to ensure that any municipal investment structured in the shape of a business subsidy ("Business Subsidy") shall meet a two-part test:

1. But For Test. A business requesting financial assistance must demonstrate a substantial likelihood that the project would not otherwise proceed without a Business Subsidy and that the requested amount is the minimum amount needed to ensure a successful project.
2. Feasibility. A business requesting financial assistance must demonstrate to the satisfaction of the City Council that the project will be adequately capitalized and will be able to be completed in a timely fashion if financial assistance is provided.

This policy shall be adopted by both the City of Woodbury and the Economic Development Authority in and for the City of Woodbury (EDA). References hereinafter to the City or to the City Council shall be assumed to also reference the EDA and its Board of Commissioners.

The legal grounding of this policy is two-fold:

1. To comply with the Business Subsidies Act (the "Act"), which is Minnesota Statutes, Sections 116J.993 through 116J.995, as amended, and;
2. To establish minimum performance parameters for assistance provided through economic development financing tools including but not limited to Tax Increment Financing (TIF), Tax Abatement and/or the Woodbury Growth Fund.

**DEFINITIONS**

Terms used in this policy are intended to have the same meanings as used in the Act, however, this policy shall apply both to subsidies granted under the Act and to financial assistance not governed under the Act.

For the purpose of this policy, a Business Subsidy is defined as in Section 116J.993, Subdivision 3 of the Act, in an amount of \$25,000 or greater.

Many forms of financial assistance are not legally considered a Business Subsidy and are therefore not regulated by the Act. Although these forms of financial assistance are not legally considered a Business Subsidy, the City Council may require at its sole discretion that the recipient of said financial assistance must comply with this Policy. Forms of financial assistance not considered to be a Business Subsidy are listed in Section 116J.993, Subdivision 3 of the Act, including but not limited to:

1. 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;
2. Assistance for housing; and
3. 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.

#### POLICY

A. A Business Subsidy in the City of Woodbury must meet a public purpose, which includes, but is not limited to, increasing the tax base. Additional public purposes may include the following:

- Enhancing economic diversity so as to improve the mix of businesses in the area;
- Creating high quality job growth;
- Providing for job retention, where job loss is imminent and demonstrable;
- Community stabilization; or
- Other public purposes as determined by the City Council

B. To receive a Business Subsidy, a business must enter into a Business Subsidy Agreement ("Agreement") with the City of Woodbury. This Agreement, except as provided by state law, must include project descriptions and definitions, wage and job goals, enforcement mechanisms, reporting requirements, and other related contract documentation including but not limited to the requirements of Section 116J.994 of the Act.

#### CRITERIA

All projects receiving a Business Subsidy must comply with the But For and Feasibility tests as identified above. Additionally, the following criteria apply to recipients of economic development financing regardless of whether or not the proposed project meets the definition of a Business Subsidy as defined by the Act.

The City shall be guided by the following principles and criteria for establishing job creation and wage level goals, regardless of whether or not the proposed project meets the definition of a Business Subsidy as defined by the Act:

- If the City determines that the objective for providing the Business Subsidy involves the creation of jobs, the benefiting business must define in its Agreement with the City the number of jobs to be created. The number of jobs may include separate goals for the number of part-time or full-time jobs, or, in cases where job loss is specific and demonstrable, goals for the number of jobs retained. These goals must be attained within two years of the Benefit Date as defined by Section 116J.993, Subdivision 2 of the Act ("Benefit Date"). The benefiting business must also agree to pay 100 percent of the number of newly hired employees as required in the Agreement at a rate equal to or greater than 200 percent of the federal minimum wage in order to receive the Business Subsidy. Only jobs meeting this requirement will be credited toward the wage and job goals agreed to between the City and the benefiting business.
- A provision within the Agreement regarding the creation of jobs may not be required for projects for which the City determines that the creation of jobs is not the primary goal.
- In cases where the objective is the retention of existing jobs, the recipient of the Business Subsidy shall be required to provide demonstrable evidence that the loss of those jobs is imminent without the Business Subsidy.
- Because it is not possible to anticipate every type of project which may be desirable to the community, the City Council may, at its sole discretion and in accordance with applicable law, approve projects and economic development financing assistance which may vary from the principles and criteria outlined in this Policy. The City will document any deviations and include the same with its next annual report to the Department of Employment and Economic Development.

#### Public Notice Requirements

Before granting a Business Subsidy that exceeds \$25,000, the City must provide public notice and a public hearing on the proposed Business Subsidy consistent with the requirements of Section 116J.994, Subdivision 5 of the Act. Public notice of a proposed Business Subsidy must be published in the City's official newspaper not less than ten days prior to the public hearing.

#### Monitoring and Reporting

The City must monitor the progress by the recipient of a Business Subsidy toward achieving Agreement goals. The recipient must provide information regarding goals and results for two years after the Benefit Date or until the goals are met, whichever is later. If the goals are not met, the recipient must continue to provide information on the subsidy until the subsidy is repaid. The information must be filed on forms developed by the Commissioner of Employment and Economic Development in cooperation with representatives of the City. Subsidy recipients must submit a report meeting the requirements of Section 116J.994, Subdivision 7(b) of the Act to the City not later than March 1 of each year for the previous year. The City must forward copies of the reports filed by recipients to the Commissioner of Employment and Economic Development by the subsequent April 1. If the recipient does not submit its

report to the City, the City must mail the recipient a warning within one week of the required filing date. If, after 14 days of the postmarked date of the warning, the recipient fails to provide a report to the City, the recipient must pay the City a penalty of \$100 for each subsequent day until the report is filed. The maximum penalty shall not exceed \$1,000.

The City, regardless of whether or not they have awarded any business subsidies, must file a report by April 1 of each year with the Commissioner of Employment and Economic Development. The report must include a list of recipients that did not complete the recipient report required and a list of recipients that have not met their job and wage goals within two years and steps being taken to bring them into compliance or to recoup the subsidy.

**Adopted by the Woodbury City Council on February 24, 2016, Resolution No. 16-20**