

RESOLUTION 20-20


RESOLUTION ADOPTING AMENDED BUSINESS SUBSIDY CRITERIA

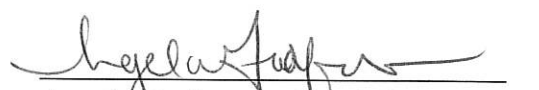
1. WHEREAS, Minnesota Statutes, Sections 116J.993 through 116J.994 (the "Statutes") require the adoption of criteria for the granting of business subsidies as defined in the Statutes; and,
2. WHEREAS, the Braham City Council (the "Council") adopted business assistance criteria on 4-3-18, pursuant to Resolution No. 2018-4.
3. WHEREAS, the Council has determined that it is necessary and appropriate to amend the adopted business assistance criteria pursuant to the Statutes; and,
4. WHEREAS, the Council has performed all actions required by law to be performed prior to the adoption and approval of the proposed amended business subsidy criteria, including the holding of a public hearing upon published notice as required by law on 4-3-18 for the original policy and on 7-7-20 for the amended policy.
5. NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Braham, that the business subsidy criteria, contained in Exhibit A of this resolution is hereby approved, ratified, established, and adopted and shall replace the business subsidy criteria adopted on and be placed on file at the Braham City Administrator's Office.

The motion for the adoption of the foregoing resolution was duly seconded by member Kunshier and upon vote being taken thereon, the following voted in favor thereof:

Shawn Sullivan, Jeremy Kunshier, Mayor Patricia Carlson, Robert Knowles  
and the following voted against the same: none and Vicki Ethen

Whereupon said resolution was declared duly passed and adopted.

  
Patricia Carlson, Mayor

  
Angela Grafstrom, City Administrator

## **CITY OF BRAHAM, MINNESOTA**

### **BUSINESS SUBSIDY CRITERIA**

#### **Purpose**

This document sets forth the business subsidy policies and specific criteria to be considered by the City of Braham, Minnesota (the “City”, and the “Grantor”) in evaluating requests for business subsidies. 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 “Act”). The governing bodies of the Grantor have adopted this policy and these criteria (collectively, the “Policy”) after a duly noticed public hearing held in accordance with the Act. All capitalized but undefined terms in this Policy shall be defined as in the Act.

Unless specifically excluded by the Act, “Business Subsidy” or “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.

#### **Goals and Objectives**

It is the Grantor’s intent to advance the following goals and objectives in granting Business Subsidies:

- a. A Business Subsidy may only be awarded to a Recipient for a public purpose.
- b. Recipients must enter into a Business Subsidy Agreement with the Grantor that is consistent with the Act. In a Business Subsidy Agreement, the Recipient of a Business Subsidy must (i) commit to continue operations in the City for five (5) years after the Benefit Date of the Subsidy; (ii) meet a specific wage floor for the wages to be paid for the jobs created, as further defined in this Policy; and (iii) set and meet specific wage and job goals, unless the public purpose of the Business Subsidy is not the creation or retention of jobs, in which case after a public hearing before the governing bodies of the Grantor, wage and job goals may be set at zero, but the Business Subsidy Agreement must specify other tangible goals consistent with this Policy.

#### **Business Subsidy Criteria**

As stated in this Policy, every Business Subsidy must meet a public purpose, which may include, but may not be limited to, increasing the tax base. A Business Subsidy will not be provided to Recipients who have the financial feasibility to proceed without the benefit of the Business Subsidy. In effect, Business Subsidies will not be provided solely to increase a Recipient’s profit margin on a project. 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 Act.

- a. *Increase in Tax Base.* While the 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.
- b. *Jobs and Wages.* Except as provided in paragraph (c), every Recipient must create or retain the maximum number of jobs feasible for the proposed project, and these jobs must pay at least federal minimum wage per hour, exclusive of benefits. The jobs to be created by a Recipient may include jobs to be retained, but only if job loss is specific and demonstrable. The job and wage goals may also specify wage goals, consistent with the minimum wage floor described above, for any jobs to be enhanced through increased wages. The minimum number of jobs to be created by a project is one (1) job per \$25,000 of Business Subsidy or the minimum number of jobs retained is one (1) job per \$25,000 of Business Subsidy.
- c. *Zoning.* Any project benefitted by a Business Subsidy must be consistent with the City's Comprehensive Plan and Zoning Ordinance.
- d. *Other Goals.* 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. If creation of jobs is not a goal, the Recipient must achieve at least one of the following measurable, specific and tangible goals:
  - (i) The Business Subsidy must result in improvements to public infrastructure or public facilities, including without limitation roads, parks, recreational facilities, and other City facilities; or
  - (ii) The Business Subsidy must remove physical impediments to development of land, including without limitation poor soils, abundance of wet lands, hazardous materials, bedrock conditions, steep slopes, or similar geotechnical problems.
- e. *Economic or Redevelopment.* Business Subsidies should promote one or more of the following goals within the City:
  - (i) Creation of higher paying jobs, jobs with increased benefits, or jobs with available opportunities for career advancement and training;
  - (ii) Provision of significant economic impact through the attraction of other business, jobs or investment;
  - (iii) Encouragement of economic and commercial diversity, including through the range of goods and services available;
  - (iv) Contribution to commercial development within a specific area in the City;
  - (v) Provision of basic goods and services to residents within the City;
  - (vi) Encouragement of fast-growing business;
  - (vii) Promotion of redevelopment objectives and removal of blight;

- (viii) Remediation of pollution; or
- (ix) Use of existing or planned infrastructure improvements.

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

### **Compliance and Reporting Requirements**

- a. A public hearing is required for every Business Subsidy granted by the Grantor that exceeds \$150,000. A public hearing is not required if a hearing on the Business Subsidy is otherwise required by law.
- b. Every Recipient must enter into a Business Subsidy Agreement fulfilling the requirements of the Act.
- c. Every Business Subsidy Agreement must be approved by the governing bodies of the Grantor, and if the Grantor is not the City, the City Council.
- d. Both the Recipient and the Grantor must comply with the reporting and monitoring requirements of the Act.
- e. If a Recipient fails to meet the 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.
- f. 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 years from the date of failure or until the Recipient satisfies its repayment obligation under the Business Subsidy Agreement, whichever occurs first.
- g. 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.

### **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. The Grantor may in its discretion charge a fee for consideration of the Business Subsidy Agreement, which fee may be based on the type of Subsidy provided. The Business Subsidy applicant must agree to pay the fee, if any, and provide any other information as requested by the Grantor.

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.

After review of the Business Subsidy application, the governing bodies of the Grantor shall hold a public hearing pursuant to the Act and consider final approval of the granting of the Business Subsidy. All application and supporting materials shall become the property of the Grantor.

Adopted by the City Council of the City of Braham, Minnesota, this 7<sup>th</sup> day of July 2020.

# ATTACHMENT 1

## Tax Increment Financing Policy

### 1. PURPOSE

**Subd. 1.01.** The purpose of this policy is to establish the City of Braham's position as it relates to the use of Tax Increment Financing for private development. This policy shall be used as a guide in processing and reviewing applications requesting business assistance, and in conjunction with the City's Business Assistance Policy. The City shall have the option of amending or waiving sections of this policy when determined necessary or appropriate.

### 2. STATUTORY LIMITATIONS

**Subd. 2.01.** In accordance with the City of Braham's Tax Increment Financing Policy, assistance requests must comply with applicable State Statutes. Minnesota Statutes, Section 469.174 through 469.179 (Tax Increment Finance Act), as amended authorizes local governments to utilize Tax Increment Financing to assist development and redevelopment of certain parcels within its boundaries.

### 3. POLICY BACKGROUND

**Subd. 3.01.** The City recognizes that local government plays a critical role in enhancing the vitality of our community. This is particularly true as the city reaches full development.

**Subd. 3.02.** All reasonable means shall be utilized to leverage private business development and redevelopment in the city consistent with this and other policies. Tax increment financing is an important and useful tool in attracting and retaining businesses.

**Subd. 3.03.** The fundamental principle that makes tax increment financing viable is that it is designed to encourage development that would not otherwise occur. The City shall be responsible to determine that (1) a project would not occur "but for" the assistance provided through tax increment financing; and (2) no other development would occur on the relevant site without tax increment assistance, that could create a larger market value increase than the increase expected from the proposed development (after adjusting for the value of the tax increment).

**Subd. 3.04.** The City shall consider tax increment financing in cases that serve to accomplish targeted city goals for development and redevelopment as they may change over time. These goals include, but are not limited to projects that will (1) foster and support redevelopment; (2) result in the creation or retention of a significant number of jobs that pay wages adequate to support households; or (3) assist with the retention and expansion of businesses, and (4) expand the city's tax base.

#### 4. CREATION OF TIF DISTRICTS

**Subd. 4.01.** The City shall consider the creation of any of the general types of TIF Districts allowed by Minnesota Statutes or the creation of other types of TIF Districts allowed by Special Legislation, when doing so is consistent with the development and redevelopment goals of the City.

**Subd. 4.02.** TIF Districts are the specific parcels within a Project Area from which tax increment is captured. MN Statutes currently defines five general types of TIF Districts which the City shall consider:

- 1) Redevelopment District
- 2) Renewal and Renovation District
- 3) Soils Condition District
- 4) Housing District
- 5) Economic Development District

**Subd. 4.03.** In addition to these five general types of TIF Districts, defined by Minnesota Statutes, the City may also consider the creation of TIF Districts as authorized by applicable special tax increment financing legislation.

**Subd. 4.04.** The City shall consider the creation of a TIF District based on qualifications and term restrictions, as defined in Minnesota Statutes. The Authority shall consider a range of attributes including but not limited to the following:

- Projects consistent with development and redevelopment goals of the city
- Development of office, office/corporate headquarters, office/service/warehouse and manufacturing
- Maximized use of other financial resources
- Projects that provide funding for appropriate public improvements that may benefit numerous development projects
- Low percentage of public investment; high percentage of private investment
- Analysis of detailed business pro forma with reasonable timeline for completion and occupancy
- Project has potential to enhance spin-off development and redevelopment
- Exceeds minimum design standards per City Ordinance
- Presents minimal risk to the City
- Maximizes increased tax base and contributes to higher market values
- Number of jobs and pay level of positions will be a consideration but not a requirement if other appropriate public purpose(s) is met

#### 5. ELIGIBLE COSTS

**Subd. 5.01.** The Authority shall consider the use of tax increment financing to cover project costs as allowed for under Minnesota Statutes. The types of project costs that are eligible for tax increment financing (under current state law) are as follows:

- TIF application deposit
- Architectural and engineering fees directly attributable to site work
- Earthwork/excavation
- Landscaping
- Streets and roads
- Street/parking lot lighting
- Sidewalks
- Special assessments
- Soils test and environmental studies
- Site related permits
- Soils correction
- Utilities (sanitary sewer, storm sewer, and water)
- Street/parking lot paving
- Curb and gutter
- Land acquisition
- Legal (acquisition, financing, and closing fees)
- Surveys
- Title insurance

## 6. DETERMINATION OF AMOUNT OF ASSISTANCE

**6.01** Whether in a new or existing TIF District, the amount of tax increment financing provided to an applicant shall be based on a review of the following:

- Request for Financial Assistance Form (Exhibit A)
- Review of Applicant Pro Forma
- Amount of Increment Generated by the Project

**Subd. 6.02.** The level of assistance shall be evaluated on a case-by-case basis and may reflect an increase or decrease in requested financial assistance. When considering a request for tax increment financing for a project, there shall be consideration of the level of financial assistance provided for other previously approved projects in the TIF District or Project Area.

## 7. FORMS OF ASSISTANCE

**Subd. 7.01.** Tax increment financing shall generally be provided on a "pay-as-you-go" basis wherein the City compensates the applicant for a predetermined amount for a stated number of years. The City shall have the option to issue a TIF Note with or without interest, where the principal amount of the TIF Note is equal to the amount of eligible project costs incurred and proven by the developer. In all cases, semi-annual TIF payments shall be based on available increment generated from the project. TIF payments shall be made after collection of property taxes.

**Subd. 7.02.** Another form of assistance that shall be considered only in extraordinary circumstances is an "up-front payment" to the applicant. This may be in the form of a revenue or general obligation bond or an internal loan. The tax increment generated from the applicant's project is a source of revenue for repayment of the bonds or loan. This form of assistance is not one the City or City will generally consider because under this



form of assistance the City assumes the risk that the tax increment will be sufficient for repayment of the bonds or interfund loan.

## 8. APPLICATION

**Subd. 8.01.** The City will require a deposit in the amount of \$10,000 from the applicant to investigate the feasibility of providing assistance to the applicant. If the City incurs additional expense beyond the \$10,000 prior to execution of the Developer's Agreement, the City shall notify the applicant in writing and the applicant must deposit additional funds for work on the application to continue. If the project is approved and the applicant proceeds with the project, the applicant's deposit may be reimbursed as an eligible project cost to the extent permissible under MN Statutes.

**Subd. 8.02.** In addition to the \$10,000 deposit fee, the applicant must submit the following forms and documentation at time of application for the application to be complete and review of the application to begin:

- Request for Financial Assistance Form (Exhibit A)
- Project Pro Forma Documentation (Developed by Applicant)

## ATTACHMENT 2

### Tax Abatement Policy

#### 1. PURPOSE

**Subd. 1.01.** The purpose of this policy is to establish the City of Braham's position as it relates to the use of Tax Abatement for private development. This policy shall be used as a guide in processing and reviewing applications requesting business assistance, and in conjunction with the City's Business Assistance Policy. The City shall have the option of amending or waiving sections of this policy when determined necessary or appropriate.

#### 2. STATUTORY LIMITATIONS

**Subd. 2.01.** In accordance with the City of Braham's Tax Abatement Policy, assistance requests must comply with applicable State Statutes. MN Statutes, Sections 469.1812 through 469.1815, authorizes a political subdivision to utilize property tax abatement on certain parcels of land within its boundaries.

#### 3. POLICY BACKGROUND

**Subd. 3.01.** The City recognizes that local government plays a critical role in enhancing the vitality of our community. This is particularly true as the city reaches full development.

**Subd. 3.02.** All reasonable means shall be utilized to leverage private business development and redevelopment in the city consistent with this and other policies. Tax abatement is an important and useful tool in attracting and retaining businesses.

**Subd. 3.03.** The tax abatement tool provides the ability to capture and use all or a portion of the property tax revenues within a defined geographic area. In practice, it is a tax "rebate" rather than an exemption from paying property taxes. Tax abatement is an important economic development tool that when used appropriately can be useful to accomplish the city's development and redevelopment goals and objectives. Requests for tax abatement must serve to accomplish the city's targeted goals for development and redevelopment. These goals include, but are not limited to projects that will result in the creation or retention of a significant number of jobs that pay wages adequate to support households, projects that will assist with the retention and expansion of businesses, and projects that will expand the city's tax base. Projects must meet the requirements established by the Business Assistance Policy of the City, to the extent it is applicable, in order to receive abatement.

#### 4. PROJECT ELIGIBILITY

**Subd. 4.01.** Projects eligible for consideration of property tax abatement include but are not limited to the following:

- Mixed use projects including new and redevelopment projects
- Commercial and industrial redevelopment projects
- Commercial and industrial new developments
- Residential business properties (with some restrictions as defined in this policy)

## 5. OBJECTIVES

**Subd. 5.01.** A property tax abatement must meet at least one of the following public purposes:

- Increase or preserve the tax base
- Provide employment opportunities in the City
- Provide or help acquire or construct public facilities
- Help redevelop or renew blighted areas
- Help provide access to services for City residents
- Finance or provide public infrastructure

**Subd. 5.02.** The developer/landowner shall be able to demonstrate a market demand for a proposed project.

**Subd. 5.03.** Tax abatement shall not be used for projects that would place extraordinary demands on City services or for projects that would generate significant environmental impacts.

**Subd. 5.04.** Because it is not possible to anticipate every type of project, which may in its context and time present desirable community building, development, or redevelopment goals and objectives, the City retains the right in its discretion to approve projects and tax abatements that may vary from the principles and criteria of this policy.

## 6. DETERMINATION OF AMOUNT OF ASSISTANCE

**Subd. 6.01.** Tax abatement assistance available shall generally be limited to the incremental taxes generated on the improvements to the property. The City may consider a greater level of financial assistance, up to the maximum allowed under Minnesota Statutes, in limited circumstances. The level of assistance will be evaluated on a case-by-case basis and may reflect an increase or decrease in requested financial assistance from the applicant.

**Subd. 6.02.** The amount of tax abatement assistance provided to an applicant shall be based on a review of the following:

- Request for Financial Assistance Form (Exhibit A)
- Review of Applicant Pro Forma
- Amount of Increment Generated by the Project

**Subd. 6.03.** In any year, the total amount of property taxes abated (citywide) may not exceed (1) ten percent of the current levy, or (2) \$200,000, whichever is greater. The limit does not apply to an uncollected abatement from a prior year that is added to the abatement levy.

**Subd. 6.04.** The developer/landowner must adequately demonstrate, to the City's sole satisfaction, an ability to complete the proposed project based on past development experience, general reputation, and credit history, among other factors, including the size and scope of the proposed project. The developer/landowner must provide adequate financial guarantees to ensure completion of the project, including, but not limited to: assessment agreements and letters of credit.

## 7. FORMS OF ASSISTANCE

**Subd. 7.01.** Tax abatement shall generally be provided on a "pay-as-you-go" basis wherein the City compensates the applicant for a predetermined amount for stated number of years. In all cases, semi-annual abatement payments are based on available (as approved by agreement) tax revenue from the property and issued to the applicant after payment of property taxes by the applicant.

**Subd. 7.02.** Another form of assistance that shall be considered only in extraordinary circumstances is an "up-front payment" to the applicant. This may be in the form of a revenue or general obligation bond or an internal loan. (The City would consider revenue bond financing where the terms of the financing are satisfactory to the City.) The tax increment generated from the applicant's project is a source of revenue for repayment of the bonds or loan. This form of assistance is not one the City will generally consider because under this form of assistance the taxpayers assume the risk that the tax increment will be sufficient for repayment of the bonds or the interfund loan.

## 8. DURATION AND RESTRICTIONS

**Subd. 8.01.** The City may grant an abatement for a period no longer than 15 years, except as provided under 8.02. The City may specify in the abatement resolution a shorter duration.

**Subd. 8.02.** The City, when proposing to abate taxes for a parcel, may make a written request to Isanti or Kanabec County or a school district in which a parcel is located to grant an abatement of county or school taxes for the property. If one of the two political subdivisions declines, in writing, to grant an abatement or if 90 days pass after receipt of the request to grant an abatement without a written response from one of the political subdivisions, the duration limit for an abatement for the parcel is increased to 20 years.

**Subd. 8.03.** The City may not enter into a property tax abatement agreement that provides for abatement of taxes on a parcel, if the abatement will occur while the parcel is located in a tax increment financing district.

## 9. APPLICATION

**Subd. 9.01.** The City will require a deposit in the amount of \$10,000 from the applicant to investigate the feasibility of providing assistance to the applicant. If the City incurs additional expense beyond the \$10,000 prior to execution of the Developer's Agreement, the City shall notify the applicant in writing and the applicant must deposit additional funds for work on the application to continue. If the project is approved and the applicant proceeds with the project, the applicant's deposit may be reimbursed as an eligible project cost to the extent permissible under MN Statutes.

**Subd. 9.02.** In addition to the \$10,000 deposit fee, the applicant must submit the following forms and documentation at time of application for the application to be complete and review of the application to begin:

- Request for Financial Assistance Form (Exhibit A)
- Project Pro Forma Documentation (Developed by Applicant)

# EXHIBIT A

## REQUEST FOR FINANCIAL ASSISTANCE FORM

1. Provide a brief project description and the following information:

Building square footage:

Size of property:

Description of building:

Materials and other additional relevant building information:

2. Provide a brief description of your business and the following information:

Business Name:

Address:

Telephone:

Contact Name:

3. Provide information on the present ownership of the site

Name:

Address:

Phone Number:

Contact Name:

4. Estimated Project Costs

a. Land acquisition	\$ _____
b. Site development	_____
c. Building cost	_____
d. Equipment	_____
e. Architectural/engineering fee	_____
f. Legal fees	_____
g. Off-site development costs	_____
TOTAL ESTIMATED COSTS	\$ _____

5. Estimated Project Funding

a. Private financing institution	\$ _____
b. Tax increment/abatement funds	_____
c. Other public funds	_____
d. Developer equity	_____
TOTAL ESTIMATED SOURCES	\$ _____

(should equal Total Estimated Costs)

6. Describe amount and purpose for which TIF or Tax Abatement is required.

7. State specific reasons why TIF or Tax Abatement is necessary for the project ("but for test).

8. List project costs that may be eligible for assistance.

9. Provide market value information.

Current market value (from County Assessor):

\$ \_\_\_\_\_

Proposed market value at completion:

\$ \_\_\_\_\_

10. Provide real estate property tax information.

Existing real estate taxes of property: \$ \_\_\_\_\_

Estimated real estate taxes of property upon completion: \$ \_\_\_\_\_

11. Provide name and address of architect, engineer, and general contractor for the project.

12. Provide project construction schedule.

Estimated construction start date: \_\_\_\_\_

Estimated construction completion date: \_\_\_\_\_

If phased project: \_\_\_\_\_ Year \_\_\_\_\_ % Complete

\_\_\_\_\_ Year \_\_\_\_\_ % Complete

13. Provides names of any other municipalities wherein the applicant, or other corporations the applicant has been involved with, has completed developments within the last five years

14. Provide the following required supplemental information:

- Project Pro Formas (one showing with assistance and one without assistance)
- Legal description of the property
- Application fee of \$10,000 payable to the City of Braham
- Site plan and building rendering

In addition to the required information from above (items 1-14), the following information is requested and will be considered as part of the application approval process:

- Provide number of years in business
- Provide number of years located in the City of Braham (if applicable)
- Describe potential for business growth or future development

- Explain whether the building will be owner-occupied (Yes/No)
- If rental space, provide the targeted retail rates
- Provide land costs per acre or square foot
- Provide the projected building cost per square foot
- Additional comments