

RESOLUTION #63-2017
BUSINESS SUBSIDY POLICY

WHEREAS, the city's Business Subsidy Policy had been adopted in September of 2004 and contained provisions related to business subsidies had been updated by state legislative action and,

WHEREAS, the City Attorney has reviewed the policy for consistency with Minnesota Statutes, Sections 116J.993 to 116J.995 and,

WHEREAS, on March 20, 2017 the Fergus Falls City Council called for a public hearing to be held on April 3, 2017 and,

WHEREAS, the updated information on the policy was provided and the public was provided an opportunity to speak at the hearing,

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Fergus Falls, Minnesota to accept the amended Business Subsidy Policy.

The above and foregoing resolution was offered at a regular meeting of the City Council held on April 3, 2017 by Council Member Thompson, who moved its adoption, was seconded by Council Member Arneson and was adopted by the following vote:

AYES: Rufer, Arneson, Thompson, Spidahl, Hicks, Appert, Fish
NAYS: None
ABSENT: Rachels, Hicks

Whereupon the above resolution was adopted.

ATTEST:


City Administrator

APPROVED:


Mayor

City of Fergus, Minnesota
Business Subsidy Policy

Amended: April 3, 2017

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1.0 PURPOSE AND AUTHORITY

- 1.1 The purpose of this document is to establish the criteria for the City of Fergus Falls, 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.
- 1.2 The City's ability to grant business subsidies is governed by the limitations established in Minnesota Statutes 116J.993 through 116J.995 (the "Statutes").
- 1.3 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.
- 1.4 These criteria are to be used in conjunction with other relevant policies of the Grantor.
- 1.5 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.
- 1.6 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 the higher of State or Federal minimum wage as adjusted periodically.
 - j. Tax Base. The project will increase the City's tax base and generate new property tax revenue.
 - k. Linkages. The project has link to local business and will result in strengthening local business.
 - l. Promote Agricultural: Projects that support and strengthen agricultural opportunities.
 - m. Environmental: Projects that do not adversely affect the environment and recreational resources in and around the community.
- 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. 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.
- 2.3 The creation of tax base shall not be the sole public purpose of a subsidy.

- 2.4 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 Any applicable application fees must accompany the application in order to be considered complete. 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 Granter 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. The wage goals shall be fixed at the time of entering into the subsidy agreement.
- 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.

Adopted April 3, 2017, following a properly published public hearing held on the same.