



**City of Brooklyn Center and
Brooklyn Center Economic Development Authority
Business Subsidy & Public Financing Policy
November 2019**

INTRODUCTION:

This Policy is adopted for purposes of the business subsidies act, pursuant to Minnesota Statutes, Sections 116J.993 through 116J.995 (the “Statutes”). Terms used in this Policy are intended to have the same meanings as used in Statutes. Subdivision 3 of the Statutes specifies forms of financial assistance that are not considered a business subsidy. This list contains exceptions for several activities, including redevelopment, pollution clean-up, and housing, among others. By providing a business subsidy, the city commits to holding a public hearing, as applicable, and reporting annually to the Department of Employment and Economic Development (“DEED”) on job and wage goal progress.

1. PURPOSE AND AUTHORITY

- A. The purpose of this document is to establish criteria for the City of Brooklyn Center (“City”) and the Brooklyn Center Economic Development Authority (“EDA”) for the granting of business subsidies and public financing for private development within the City. As used in this Policy, the term “City” shall be understood to include the EDA. These criteria shall be used as a guide in processing and reviewing applications requesting business subsidies and/or City public financing.
- B. The City's ability to grant business subsidies is governed by the limitations established in the Statutes. The City may choose to apply its Business Subsidy Criteria to other development activities not covered under this statute. City public financing may or may not be considered a business subsidy as defined by the Statutes.
- C. 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, tax increment financing (TIF), abatement of property taxes, loans made from City funds, any guarantee of

any payment under any loan, lease, or other obligation, or any preferential use of government facilities given to a business.

- D. These criteria are to be used in conjunction with other relevant policies of the City. Compliance with the Business Subsidy Criteria and City Public Financing Guidelines shall not automatically mean compliance with such separate policies.
- E. The City, at its sole discretion, may deviate from the job and wage goals criteria outlined in Section 5 D, E, and F below by documenting in writing the reason(s) for the deviation. The documentation shall be submitted to DEED with the next annual report.
- F. The City may amend this document at any time. Amendments to these criteria are subject to public hearing requirements contained in the Statutes.

2. CITY'S OBJECTIVE FOR THE USE OF PUBLIC FINANCING

- A. As a matter of adopted policy, the City may consider using public financing which may include tax increment financing (TIF), tax abatement, bonds, and other forms of public financing as appropriate, to assist private development projects. Such assistance must comply with all applicable statutory requirements and accomplish one or more of the following objectives:
 - 1. Remove blight and/or encourage redevelopment in designated redevelopment/development area(s) per the goals and visions established by the City Council and EDA.
 - 2. Expand and diversify the local economy and tax base.
 - 3. Encourage additional unsubsidized private development in the area, either directly or through secondary "spin-off" development.
 - 4. Offset increased costs for redevelopment over and above the costs that a developer would incur in normal urban and suburban development (determined as part of the But-For analysis).
 - 5. Facilitate the development process and promote development on sites that could not be developed without this assistance.
 - 6. Retain local jobs and/or increase the number and diversity of quality jobs
 - 7. Provide opportunities for small businesses and/or entrepreneurs and promote resident economic stability.
 - 8. Meet other uses of public policy, as adopted by the City Council or EDA from time to time, including but not limited to promotion of quality urban design, quality architectural design, energy conservation, sustainable building practices, and decreasing the capital and operating costs of local government.

3. PUBLIC FINANCING PRINCIPLES

- A. The guidelines and principles set forth in this document pertain to all applications for City public financing regardless of whether they are considered a Business Subsidy as defined by the Statutes. The following general assumptions of development/redevelopment shall serve as a guide for City public financing:
1. All viable requests for City public financing assistance shall be reviewed by staff, and, if staff so designates, a third party financial advisor who will inform the City of its findings and recommendations. This process, known as the “But For” analysis is intended to establish the project would not be feasible but for the City assistance.
 2. The City shall establish mechanisms within the development agreement to ensure that adequate checks and balances are incorporated in the distribution of financial assistance where feasible and appropriate, including but not limited to:
 - a. Third party “but for” analysis
 - b. Establishment of “look back provisions”
 - c. Establishment of minimum assessment agreements
 3. TIF and abatement will be provided on a pay-as-you-go-basis. Any request for upfront assistance will be evaluated on its own merits and may require security to cover any risks assumed by the City.
 4. The City will set up TIF districts in accordance with the maximum number of statutory years allowable. However, this does not mean that the developer will be granted assistance for the full term of the district.
 5. The City shall elect to have the fiscal disparities contribution come from inside applicable TIF district(s) to eliminate any impact to the existing tax payers of the community.
 6. Public financing will not be used to support speculative commercial, office or housing projects. In general the developer should be able to provide market data, tenant letters of commitment or finance statements which support the market potential/demand for the proposed project.
 7. Public financing will generally not be used to support retail development. The City may consider projects that include a retail component provided they meet a Desired Qualification as identified in Section 4.2.C of this policy.
 8. Public financing will not be used in projects that would give a significant competitive financial advantage over similar projects in the area due to the use of public subsidies. Developers should

provide information to support that assistance will not create such a competitive advantage. Priority consideration will be given to projects that fill an unmet market need.

9. Public financing will not be used in a project that involves a land and/or property acquisition where the price is in excess of the fair market value.
10. TIF and Abatement will not be utilized for the construction of Warehouse/distribution, commercial storage, discount motel or Fortune 1,000 companies.
11. The developer shall pay all applicable application fees and pay for the City and EDA's fiscal and legal advisor time as stated in the City's Public Assistance Application.
12. The City may consider waiving fees including, but not limited to, park dedication fees, and SAC charges. The City may consider using SAC credits, to the extent they are available, to off-set a project's SAC expenses.
13. The developer shall proactively attempt to minimize the amount of public assistance needed through the pursuit of grants, innovative solutions in structuring the deal, and other funding mechanisms.
14. All developments are subject to execution and recording of a Minimum Assessment Agreement.

4. PROJECTS WHICH MAY QUALIFY FOR PUBLIC FINANCING ASSISTANCE

- A. All new applications for public financial assistance that are considered by the City must meet each of the following minimum qualifications. However, it should **not** be presumed that a project meeting these qualifications will automatically be approved for assistance. Meeting the qualifications does not imply or create contractual rights on the part of any potential developer to have its project approved for assistance.

4.1 MINIMUM QUALIFICATIONS/REQUIREMENTS:

- A. In addition to meeting the applicable requirements of State law, the project shall meet one or more of the public financing objectives outlined in Sec. 2.
- B. The developer must demonstrate to the satisfaction of the City that the project is not financially feasible "but for" the use of tax increment or other public financing.
- C. The project is, or will be through the City approval processes, consistent with the City's Comprehensive Plan and Zoning Ordinances, Design Guidelines or any other applicable land use documents.

- D. Prior to approval of a financing plan, the developer shall provide any requested market and financial feasibility studies, appraisals, soil boring, private lender commitment, and/or other information the City or its financial consultants may require in order to proceed with an independent evaluation of the proposal.
- E. The developer must provide adequate financial guarantees to ensure the repayment of any public financing and completion of the project. These may include, but are not limited to, assessment agreements, letters of credit, personal deficiency guarantees, guaranteed maximum cost contract, etc.
- F. Any developer requesting public financial assistance must be able to demonstrate a previous capability for successful development, as well as specific capability regarding the type and size of the development proposed, unless for a use specified in 4.2C (7-8). Public financing shall not be used when the developer's credentials, in the sole judgment of the City, are inadequate due to previous history relating to completion of projects, general reputation, and/or bankruptcy, or other problems or issues considered relevant to the City.
- G. The developer, or its contractual assigns, shall retain ownership of any portion of the project long enough to complete it, stabilize its occupancy, establish project management and/or needed mechanisms to ensure successful operation.

4.2 DESIRED QUALIFICATIONS:

- A. Projects providing a high ratio of private investment to City public investment shall receive priority consideration. Private investment includes developer cash, government and bank loans, conduit bonds, tax credit equity, and land if already owned by the developer.
- B. Proposals that significantly increase the amount of property taxes paid after redevelopment will receive priority consideration.
- C. Proposals that encourage the following will receive priority consideration:
 - 1. Implements the City's vision and values for a City-identified redevelopment area
 - 2. Provides significant improvement to surrounding land uses, neighborhoods, and/or the City
 - 3. Attracts or retains an employer within the City providing over 50 jobs
 - 4. Provides increased quality and higher paying jobs
 - 5. Promotes multi-family housing investment that meets the following City goals:

- a. Increase housing choice within the community; diversify existing housing stock; and provide options that do not currently exist
 - b. Provide clean, safe, and affordable housing units
 - c. Include housing as part of City special purpose projects, such as the Opportunity Site, or other priority City redevelopment areas.
 - d. Multi-family housing with high-amenities considered luxury and/or market rate
- 6. Provides opportunity for the attraction and retention of sit-down restaurants
 - 7. Provides opportunities for small businesses and/or entrepreneurs
 - 8. Projects that promote resident economic stability
 - 9. Redevelops a blighted, contaminated and/or challenged area
 - 10. Preserves and/or stabilizes a major commercial or industrial node
 - 11. Adds needed public infrastructure such as roads or structured parking

5. BUSINESS SUBSIDY PUBLIC PURPOSE, JOBS AND WAGE REQUIREMENT

- A. All business subsidies must meet a public purpose with measurable benefit to the City as a whole.
- B. Job retention may only be used as a public purpose in cases where job loss is specific and demonstrable. The City shall document the information used to determine the nature of the job loss.
- C. The creation of tax base shall not be the sole public purpose of a subsidy.
- D. Unless the creation of jobs is removed from a particular project pursuant to the requirements of the Statutes, the creation of jobs is a public purpose for granting a subsidy. Creation of at least **1** Full Time, or Full Time Equivalent (FTE) jobs is a minimum requirement for consideration of assistance. For purposes of this Policy, FTE jobs must be permanent positions with set hours, and be eligible for benefits.
- E. Part-Time Equivalent jobs may receive a partial credit and be counted toward the job goals.
- F. The wage floor for wages to be paid for the jobs created shall be not less than 150% of the State of MN Minimum Wage. The City will seek to create jobs with higher wages as appropriate for the overall public purpose of the subsidy. Wage goals may also be set to enhance existing jobs through increased wages, which increase must result in wages higher than the minimum under this Section.
- G. After a public hearing, if the creation or retention of jobs is determined not to be a goal, the wage and job goals may be set at zero.

6. **SUBSIDY AGREEMENT**

- A. In granting a business subsidy, the City shall enter into a subsidy agreement with the recipient that provides the following information: wage and job goals (if applicable), and recourse for failure to meet goals required by the Statutes.
- B. The subsidy agreement may be incorporated into a broader development agreement for a project.
- C. The subsidy agreement will commit the recipient to providing the reporting information required by the Statutes.

7. **PUBLIC FINANCING PROJECT EVALUATION PROCESS**

- A. The following methods of analysis for all public financing proposals will be used:
 - 1. Project is deemed consistent with City's Goals and Objectives
 - 2. Consideration of project meeting minimum qualifications
 - 3. Consideration of project meeting desired qualifications
 - 4. Project meets "but-for" analysis and/or statutory qualifications

Please note that the evaluation methodology is intended to provide a balanced review. Each area will be evaluated individually and collectively and in no case should one area outweigh another in terms of importance to determining the level of assistance.