

**Watertown Economic Development Authority**September 12<sup>th</sup>, 2019**Agenda Item: Business Subsidy Policy Amendments****Request for Action: Adopt Resolution #2019-01EDA****Department: Shane Fineran, City Administrator****Background:**

In 2018 the City adopted a Business Subsidy Policy. This is a required statement from the City in order to be compliant with state statute as it evaluates and issues municipal subsidy for private development or to private businesses. The adopted policy lays the ground work for the criteria in which municipal subsidy would be evaluated and goals associated with providing assistance to further the economic development goals of the community.

In August the EDA reviewed proposed policy language to update the Business Subsidy Policy that added detail related to how the City would review, evaluate, and provide subsidy utilizing Tax Increment Financing (TIF) and utility trunk fee waivers would be utilized for economic development projects and for affordable housing.

The Business Subsidy Policy has been updated to add language regarding criteria related to affordable housing. This section sets the minimum criteria for developing affordable housing when requesting a municipal subsidy. This would correspond to issuance of revolving loan funds or utility trunk fee waivers credits. Tax Increment Financing (TIF) provided for affordable housing would need to follow state and federal law as it relates to creation of affordable housing, which has a higher target for the creation of affordable housing.

The Addendum 1 – Tax Increment Financing Policy, provides clarification and expectations on how the application of TIF will be evaluated, eligible expenses to be provided, and project qualifications. Those include mandating minimums that must be met based upon the type of TIF development district created such as building size, job creation and retention tied to TIF value, tax base valuation increases, and affordable housing.

The Addendum 2 – Utility Trunk Fee Waiver further clarifies the expectations on what and how waivers from utility trunk fees would be considered. The criteria and requirements are closely tied to those as found in the TIF addendum for economic development and affordable housing applications. It also sets a maximum amount of which utility trunk fees would be waived.

Staff is seeking discussion and direction on the proposed policy language and addendums.

**Funding Source:**

EDA Operating&gt;Economic Development Payments

**Attachments:**

Business Subsidy Policy

Addendum 1 – TIF

Addendum 2 – Utility Trunk



**ECONOMIC DEVELOPMENT AUTHORITY OF WATERTOWN, MINNESOTA  
AND  
CITY OF WATERTOWN, MINNESOTA  
BUSINESS SUBSIDY CRITERIA**

**Purpose**

This document sets forth the business subsidy policies and specific criteria to be considered by the Economic Development Authority of Watertown, Minnesota (the “Authority”) and the City of Watertown, Minnesota (the “City,” and together with the Authority, 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 (d), every Recipient must create or retain the maximum number of jobs feasible for the proposed project, and these jobs must pay at least state 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) full time equivalent job or the minimum number of jobs retained is one hundred percent (100%) of those on the business payroll thirty (30) days prior to application with the Grantor for a Business Subsidy.
- c) *Affordable Housing.* Any rental housing project that is benefitted from a Business Subsidy must utilize the Low-Income Housing Tax Credit (LIHTC) affordability standard for Carver County. At a minimum at least ten percent (10%) of the dwelling units shall be occupied by households at or below fifty percent (50%) of the Multifamily Tax Subsidy Income Limits (MTSP) or twenty percent (20%) of the total dwelling units shall be occupied by households at or below sixty percent (60%) of the MTSP or as allowed under state and federal law. Affordability rates shall be in effect for a period of 20 years or the life of the district.

For sale projects that are benefitted from a Business Subsidy must at minimum provide twenty percent (20%) of the dwelling units at initial sale prices affordable to those at eighty percent (80%) of the MTSP and controlled at the time of re-sale through restricted land use covenants for the life of the district or as allowed under state and federal law.

Income, tax credit standards, and rental rates can be found at [www.mnhousing.gov](http://www.mnhousing.gov).

- d) *Zoning.* Any project benefitted by a Business Subsidy must be consistent with the City's Comprehensive Plan and Zoning Ordinance.
- e) *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.
- f) *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.
- 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 the 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 proposed Recipient of a Business Subsidy 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 proposed Recipient of a Business Subsidy 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 proposed Recipient of a Business Subsidy 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 proposed recipient of a Business Subsidy 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 Watertown, Minnesota, this 13th day of February, 2018.

## City of Watertown, Minnesota

### ADDENDUM 1

## TAX INCREMENT FINANCING (TIF) POLICY

### 1) POLICY PURPOSE

*For the purposes of this document the term "City" includes the Watertown City Council, Staff, the Economic Development Authority, Advisory Boards and Commission, Financial consultants, and legal counsel.*

The purpose of this policy is to establish the City of Watertown's position relating to the use of Tax Increment Financing (TIF) for private development above and beyond the requirements and limitations set forth by State Law. This policy shall be used as a guide in the processing and review of applications requesting tax increment assistance.

The City of Watertown (City) is granted the power to utilize TIF by the Minnesota Tax Increment Financing Act, Minnesota Statutes 469.174 through 469.1794, as amended. The fundamental purpose of tax increment financing in the City of Watertown is to encourage desirable development or redevelopment that would not otherwise occur *but for* the assistance provided through TIF.

The City reserves the right to approve or reject projects on a case by case basis, taking into consideration established policies, project criteria, and demand on City services in relation to the potential benefits from the project. Meeting policy criteria does not guarantee the award of business assistance to the project. Approval or denial of one project is not intended to set precedent for approval or denial of another project.

The City Council (and EDA Board) can deviate from this policy for projects that supersede the objectives identified herein.

### 2) OBJECTIVES OF TAX INCREMENT FINANCING

Tax Increment Financing (TIF) uses the increased property taxes generated by new real estate development within a tax increment district to pay for certain eligible costs associated with the development. As a matter of adopted policy, the City will consider using TIF to assist private development projects that will achieve one or more of the business subsidy criteria.

### 3) USE OF TAX INCREMENT FINANCING

1. When possible, TIF shall be used to finance public improvements associated with the project. The priority for the use of TIF funds is:
  - a. Public improvements, legal, administrative, and engineering costs.

- b. Site preparation, site improvement, land purchase, demolition, and environmental remediation.
  - c. Capitalized interest, bonding costs.
- 2. The following types of TIF districts may be established:
  - a. Economic Development Districts (maximum term 9 years)
  - b. Redevelopment Districts (maximum term 26 years)
  - c. Housing Districts (maximum term 26 years)
  - d. Renewal and Renovation Districts (maximum term 16 years)
  - e. Other types of TIF districts, along with specific criteria, may be considered on a case by case basis.
- 3. TIF assistance shall not be provided for reimbursement of land and/or property price that is in excess of fair market value. An appraisal by a third party, agreed upon by the City and Developer, will determine the fair market value of the land.
- 4. The City shall retain a fee to reimburse administrative costs up to but not to exceed ten percent (10%) of any tax increment received.
- 5. Any developer receiving TIF assistance shall provide a minimum of twenty percent (20%) cash equity investment in the project. The TIF assistance shall not be used to supplant cash equity. The City may consider exceptions for “pay-as-you-go” TIF projects.
- 6. Developer shall be able to demonstrate a market demand for a proposed project. TIF shall not be used to support purely speculative projects.
- 7. TIF shall not be utilized in cases where it would create an unfair and significant competitive financial advantage over other projects in the City.
- 8. TIF shall not be provided for projects that would place extraordinary demands on city services or for projects that would generate significant environmental impacts.
- 9. The developer must provide adequate financial guarantees to ensure completion of the project, including, but not limited to: assessment agreements, letters of credit, personal guarantees, etc.
- 10. The developer shall 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.
- 11. For the purposes of analyzing the proposal, the developer shall provide any requested market, financial, environmental, or other data requested by the City or its consultants.

**4) PROJECT QUALIFICATIONS**

All TIF projects considered by the City of Watertown must meet all of the following requirements:

- 1) To be eligible for TIF, a project shall result in one of the following:
  - a. For Economic Development TIF Districts, new construction of a minimum of 2,000 square foot building.

- b. For Economic Development TIF Districts, the minimum creation of one new or retained full time job per \$15,000 of TIF provided.
  - c. For Redevelopment TIF Districts, a minimum value increase of 2 times the current year assessed value, whichever is greater.
  - d. For Housing Development districts, must meet minimum requirements as prescribed by state and federal law and/or item c. of the City's Business Subsidy Criteria.
- 2) The project shall meet at least **one** of the objectives set forth in the business subsidy criteria and satisfy all the provisions set forth in Section 3 of this document.
  - 3) The developer shall demonstrate that the project is not financially feasible but-for the use of TIF.
  - 4) The project must be consistent with the City's Comprehensive Plan, Land Use Plan, and Zoning Ordinances.
  - 5) The project shall serve at least **two** of the following public purposes:
    - a. Creation of jobs with livable wages and benefits, per City's Business Subsidy Criteria.
    - b. Increase of tax base.
    - c. Enhancement or diversification of the City's economic base.
    - d. Industrial development that will spur additional private investment in the area.
    - e. The project contributes to the fulfillment of the City's development or redevelopment objectives.
    - f. Removal of blight or the rehabilitation of a high profile or priority downtown site.
    - g. Provide housing at affordable rates as outlined in the City's Business Subsidy Criteria.

**5) SUBSIDY AGREEMENT & REPORTING REQUIREMENTS**

- All developers/businesses receiving tax increment financing assistance from the City of Watertown shall be subject to the provisions and requirements set forth by State Statute 116J.993 and summarized below. Developers/businesses must also comply with the City's Business Subsidy Policy.
- All developers/businesses receiving TIF assistance shall enter into a *Subsidy Agreement* with the City of Watertown that identifies: the reason for the subsidy, the public purpose served by the subsidy, and the goals for the subsidy, as well as other criteria set forth by State Statute 116J.993.
- The developer/business shall file a report annually for two years after the date the benefit is received or until all goals set forth in the application and performance agreement have been met, whichever is later. Reports shall be completed using the format drafted by the State of Minnesota and shall be filed with the City of Watertown no later than March 1 of each year for the previous calendar year. Businesses fulfilling job creation requirements must file a report to that effect with the City within 30 days of meeting the requirements.
- The developer/business owner shall maintain and operate its facility at the site where TIF assistance is used for a period of five years after the benefit is received.
- The developer/business will be required to attain or exceed the jobs and wages

goals set forth in the *Subsidy Agreement*.

- Developer/Businesses failing to comply with the above provisions will be subject to fines, repayment requirements, and be deemed ineligible by the State of Minnesota to receive any loans or grants from public entities for a period of five years.

## **6) APPLICATION PROCESS**

- 1) Applicant submits the completed business subsidy application and supporting documentation.
- 2) At the time of application, the applicant submits the application escrow of \$5,000. The Tax Increment Financing Plan, all necessary notices, resolutions and certificates are prepared by City staff and/or consultants. The application funds will be placed in a non-interest-bearing account and any unused portion of the fee will be returned to the applicant.
- 3) The application will be reviewed by the EDA for recommendation to be made to the City Council.
- 4) Notices are published and sent to the county and school board.
- 5) Public hearing(s) on the proposed project are held.
- 6) The City Council grants final approval or denial of the proposal.

## City of Watertown, Minnesota

### ADENDUM 2

## UTILITY TRUNK FEE WAIVER POLICY

### 1) POLICY PURPOSE

*For the purposes of this document the term "City" includes the Watertown City Council, Staff, the Economic Development Authority, Advisory Boards and Commission, Financial consultants, and legal counsel.*

The purpose of this policy is to establish the City of Watertown's position relating to the waiver of trunk fees for water, sewer, and storm utilities as identified in the City's adopted fee schedule. Trunk fees will be determined by using the equivalent residential unit (ERU) calculation found in municipal code. This policy shall be used as a guide in the processing and review of applications requesting municipal subsidy in a development or redevelopment project that meets the business subsidy criteria.

The City reserves the right to approve or reject requests on a case by case basis, taking into consideration established policies, project criteria, and demand on City services in relation to the potential benefits from the project. Meeting policy criteria does not guarantee the award of municipal subsidy to the project. Approval or denial of one project is not intended to set precedent for approval or denial of another project. Fee waivers related to trunk fees will not result in a reduction of the equivalent residential unit calculation for ongoing monthly usage billing.

The City Council (and EDA Board) can deviate from this policy for projects that supersede the objectives identified herein.

### 2) OBJECTIVES OF FEE WAIVERS

Fee waivers can be utilized by the City to provide subsidy to a project that meets the desired objectives of the business subsidy criteria. As a matter of adopted policy, the City will consider using fee waivers to assist private development projects that will achieve one or more of the business subsidy criteria.

### 3) GENERAL CONSIDERATIONS FOR USE OF FEE WAIVER

1. Developer shall be able to demonstrate a market demand for a proposed project. Fee waivers shall not be used to support purely speculative projects.
2. Fee waivers shall not be utilized in cases where it would create an unfair and significant competitive financial advantage over other projects in the City.
3. Fee waivers shall not be provided for projects that would place extraordinary demands on city services or for projects that would generate significant

environmental impacts.

4. The developer must provide adequate financial guarantees to ensure completion of the project, including, but not limited to: assessment agreements, letters of credit, personal guarantees, etc.
5. The developer shall 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.
6. For the purposes of analyzing the proposal, the developer shall provide any requested market, financial, environmental, or other data requested by the City or its consultants.
7. Trunk charges will be based upon the application of the equivalent residential unit calculation method as determined in Watertown Municipal Code.

#### **4) COMMERCIAL AND INDUSTRIAL PROJECT QUALIFICATIONS**

Projects requesting to be considered by the City of Watertown must meet all of the following requirements:

- 1) To be eligible for consideration of a fee waiver, a project shall result in one or both of the following outcomes:
  - a. new construction or addition of a minimum of 2,000 square foot building.
  - b. the minimum creation of one new job providing a wage that meets or exceeds the level that meets the cost of living for Carver County as determined by the Minnesota Department of Employment and Economic Development.
  
- 2) Fee waiver will be considered at the following levels for projects that meet the minimum outcomes:
  - a. For every 2,000 square feet of newly constructed building a fee waiver of twenty-five (25%) of the utility trunk fees for water, sewer, and storm water maybe waived to a maximum amount of \$100,000.

and/or

- b. For every job created that meets the stated outcome in Section 4-1(b) of this addendum, a fee waiver of twenty-five percent (25%) of the utility trunk fees for water, sewer, and storm water maybe waived to a maximum amount of \$100,000. Jobs created must be maintained in the community a minimum of five (5) years. In any year that a reduction in work force occurs, the full amount of the fee waiver will become due and payable.

## **5) AFFORDABLE HOUSING PROJECT REQUIREMENTS**

Income limits for affordability will be based upon the Low-Income Housing Tax Credit (LIHTC) for Carver County as established by the Minnesota Housing Finance Agency and found at [www.mnhousing.gov](http://www.mnhousing.gov). For sale housing units and manufactured home units will not be eligible for consideration of fee waivers. Housing projects that seek to provide affordable rental rates to occupants maybe considered for fee waivers at the following level:

- 1) For affordable rental units that meet eighty percent (80%) to sixty-one (61%), Area Median Income (AMI) a reduction of trunk fees of \$1,500 per affordable dwelling unit created, to a maximum of \$90,000 in reduction of fees.
- 2) For affordable rental units that meet sixty percent (60%) to fifty-one percent (51%) AMI, a reduction of trunk fees of \$3,000 per affordable dwelling unit created, to a maximum of \$180,000 in reduction of fees.
- 3) For affordable rental units that meet fifty percent (50%) or less AMI, a reduction of trunk fees of \$4,000 per affordable dwelling unit created, to a maximum of \$240,000 in reduction of fees.

Affordability rates shall be maintained for a period of twenty (20) years. In any year that the affordability is not maintained, the full amount of fee waiver shall become due and payable.

## **6) APPLICATION AND REPORTING PROCESS**

- 1) Applicant shall submit in writing, their request to the City of Watertown at least thirty (30) days prior to the imposition of the utility trunk fees.
- 2) All requests shall be granted at the discretion of the City Council and will be done via resolution at a regularly scheduled meeting.
- 3) Annual reporting by the grantee will be required during the period of guarantee stated, due upon the anniversary date of fee imposed.
- 4) All fee waivers shall be memorialized by an agreement as stated in the Business Subsidy Criteria policy, to be recorded to the benefitting property and/or through deed restriction.