CITY OF EAGAN
BUSINESS ASSISTANCE POLICY
Adopted December 19, 2006

1. PURPOSE

1.01 The purpose of this policy is to provide a guideline for **the City of Eagan** to offer assistance for commercial and housing development and redevelopment projects. The Business Subsidies Statutes are codified as *Minnesota Statutes 116J.993 through 116J.995*.

Minnesota Statutes 116J.993, Subd. 3 defines a Business Subsidy as "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." Appendix A lists forms of financial assistance that are not a business subsidy. This policy shall be used as a guide in processing and reviewing applications requesting business assistance.

1.02 The City shall have the option of amending or waiving sections of this policy when determined necessary or appropriate. *Minnesota Statutes 116J.994, Subd. 2*, allows the City to deviate from its criteria by documenting in writing the reason for the deviation and attaching a copy of the document to its next annual report to the department.

2. STATUTORY LIMITATIONS

2.01 In accordance with the **City of Eagan's Business Assistance Policy**, assistance requests must comply with applicable State Statutes, including *Minnesota Statutes 116J.993 through 116J.995*.

3. GOALS

3.01 As a matter of adopted policy, the City of Eagan will consider using a business assistance tool to assist private developments only in those circumstances in which the proposed private projects show a demonstrated financing gap and meet one of more of the goals, as identified in the City of Eagan's Comprehensive Plan for Economic Development dated February 22, 2001.

4. BUSINESS ASSISTANCE PROJECT APPROVAL CRITERIA

4 .01 All new projects approved by the City of Eagan should meet the following mandatory 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 assistance shall be provided within applicable state legislative restrictions, State Auditor interpretation, debt limit guidelines, and other appropriate financial requirements and policies.

B. The project should meet one or more of the goals referenced in the City of Eagan's Comprehensive Plan for Economic Development.

C. The project must be in accord with the Comprehensive Plan and Zoning Ordinances, or required changes to the Comprehensive Plan and Zoning Ordinances must be under active consideration by the City at the time of approval.

D. The assistance will not be provided to projects that have the financial feasibility to proceed without the benefit of the assistance. Assistance will not be provided solely to broaden a developer's profit margins on a project. Prior to consideration of a business assistance request, the City may undertake an independent underwriting of the project to help ensure that the request for assistance is valid.

E. Prior to approval of business assistance, the developer shall provide any required market and financial feasibility studies, appraisals, soil boring, information provided to private lenders for the project, and other information or data that the City or its financial consultants may require in order to proceed with an independent underwriting.

F. Any developer requesting business assistance should be able to demonstrate past successful general development capability as well as specific capability in the type and size of development proposed.

G. 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 assistance.

H. The level of business assistance funding should be reduced to the lowest possible level and least amount of time by maximizing the use of private debt and equity financing first, and then using other funding sources or income producing vehicles that can be structured into the project financing, prior to using additional business assistance funding.

5. BUSINESS ASSISTANCE PROJECT EVALUATION CRITERIA

5.01 If a business meets the criteria in Section 4 and is eligible for assistance, the following criteria will be used to determine the amount of assistance and type of assistance that may be provided. All projects will be evaluated by the EDA and Eagan City Council on the following criteria for comparison with other proposed business assistance projects reviewed by the City, and for comparison with other subsidy standards (where appropriate). It is realized that changes in local markets, costs of construction, and interest rates may cause changes in the amounts of business assistance subsidies that a given project may require at any given time. In applying the criteria to a specific project, the following will apply:

A. The City may consider the requirements of any other business subsidy received, or to be received, from a grantor other than the City.

B. If the business subsidy is a guaranty, the amount of the business subsidy may be valued at the principal amount of the guaranteed payment obligation.

C. If the business subsidy is real or personal property, the amount of the subsidy will be the fair market value of the property as determined by the City.

D. If the business subsidy is received over time, the City may value the subsidy as it determines is fair and reasonable under the circumstances.

As used herein, "Benefit Date," means the date the business subsidy is received. If the business subsidy involves the purchase, lease, or donation of physical equipment, then the benefit date occurs when the recipient puts the equipment into service. If the business subsidy is for improvements to property, then the Benefit Date refers to the earliest date of either when the improvements are finished for the entire project or when a business occupies the property.

E. All business assistance projects will need to meet a "Reasonable Rate of Return." Assistance will not be used unless the need for the City's economic participation is sufficient that, without that assistance the project could not proceed in the manner as proposed. The Reasonable Rate of Return will be based on market standards at the time of the application for assistance.

F. Business assistance will not be used when the developer's credentials, in the sole judgment of the City, are inadequate due to past track record relating to: completion of projects, general reputation and/or bankruptcy, or other problems or issues considered relevant by the City.

G. Business assistance funding should not be provided to those projects that fail to meet good public policy criteria as determined by the Council, including: poor project quality; projects that are not in accord with the comprehensive plan, zoning, redevelopment plans, and city policies; projects that provide no significant improvement to surrounding land uses, the neighborhood, and/or the City; projects that do not have significant new, or retained, employment; projects that do not meet financial feasibility criteria established by the City; and projects that do not provide the highest and best desired use for the property.

H. All projects receiving business assistance under the criteria listed in *Minnesota Statutes 116J.993, Subd. 3* must meet the job and wage goals described below. Minnesota Statutes 116J.994, Subd. 2 allows the City to deviate from its criteria by documenting in writing the reason for the deviation and attaching a copy of the document to its next annual report to the Department of Employment and Economic Development.

1. Except as described in 2 and 3, a business subsidy must result in the creation or retention of jobs, which will pay at least 80% of the Median Income for Dakota County (base jobs). In addition, consideration will also be given to the creation or retention of jobs, which will pay 100% of Median Income for Dakota County (head of household jobs). The Median Income for the County is annually defined by the Minnesota Housing Finance Agency. In 2008, 100% of the median is $80,950 and 80% of median is $64,720. Wage goals will be set forth specifically in the business subsidy agreement. Where job creation is one of the public purposes of the business subsidy, the subsidy may be up to $10,000 per base job retained or created and may be up to $20,000 per head of household job retained or created. The amount of assistance available to a project will be limited by the amount of proceeds that TIF or other financing tools may support.

2. Job creation or retention is not required for businesses subsidies as long as the grantor identifies an alternate public purpose in addition to tax base increase. If after a public hearing/council consideration of the alternate public purpose(s) proposed, the creation or retention of jobs is determined not to be a goal, the wage and job goals may be set at zero.

3. In lieu of job creation or retention, other measurable, specific, and tangible goals shall be established. Examples of tangible goals may include redevelopment, or pollution or soil remediation.

I. Business assistance will normally be used for projects that address the following land use issues: (1) more compatible with the City's Comprehensive Plan than other permitted uses for property; (2) located on property which needs but is not likely to be developed or redeveloped because of blight or other adverse conditions of the property; and/or include design and/or amenity features not otherwise required by law.

J. Business assistance will be evaluated on the project's impact on existing and future public investment: (1) whether and to what extent the project will utilize existent public infrastructure capacity and the extent it requires additional publicly funded infrastructure investments; (2) arrangements for the City to receive a direct monetary return on its investment in the project.

K. Business assistance will normally be used for projects that demonstrate to the satisfaction of the City adequate financing for the project is available and that the project will be completed in a timely fashion.

L. Business assistance from the City must satisfy all requirements of *Minnesota Statutes 116J.993 through 116J.995*.

5.02 Some criteria, by their very nature, must remain subjective. However, wherever possible "benchmark" criteria have been established for review purposes. The fact that a given proposal meets one or more "benchmark" criteria does not mean that it is entitled to funding under this policy, but rather that the City is in a position to proceed with evaluations of (and comparisons between) various business assistance proposals, using uniform standards whenever possible.

-s-

Pat Geagan
Mayor

CITY OF EAGAN
PRE-APPLICATION
BUSINESS ASSISTANCE FINANCING

Legal name of applicant: _____

Address: _____

Telephone number: _____

Name of contact person: _____

REQUESTED INFORMATION

Addendum shall be attached hereto addressing in detail the following:

1. A map showing the exact boundaries of proposed development.

2. Give a general description of the project including size and location of building(s); business type or use; traffic information including parking, projected vehicle counts and traffic flow; timing of the project; estimated market value following completion.

3. The existing Comprehensive Guide Plan Land Use designation and zoning of the property. Include a statement as to how the proposed development will conform to the land use designation and how the property will be zoned.

4. A statement identifying how the assistance will be used and why it is necessary to undertake the project.

5. A statement identifying the public benefits of the proposal including estimated increase in property valuation, new jobs to be created, hourly wages and other community assets.

6. A written description of the developer's business, principals, history and past projects

I understand that the application fee will be used for City staff and consultant costs and may be partially refundable if the request for assistance is withdrawn. Refunds will be made at the discretion of the City Council and be based on the costs incurred by the City prior to the withdrawal of the request for assistance. If the initial application fee is insufficient, I will be responsible for additional deposits.

SIGNATURE

Applicant's signature: _____

Date: _____

CITY OF EAGAN

Application for Business Assistance Financing

GENERAL INFORMATION:

Business Name: _____ Date: _____

Address: _____

Type (Partnership, etc.): _____

Authorized Representative: _____ Phone: _____

Description of Business: _____

_____

Legal Counsel: _____

Address: _____ Phone: _____

FINANCIAL BACKGROUND:

1. Have you ever filed for bankruptcy? _____

_____

2. Have you ever defaulted on any loan commitment? _____

_____

3. Have you applied for conventional financing for the project? _____

_____

4. List financial references:

   a. _____

   b. _____

   c. _____

5. Have you ever used Business Assistance Financing before? _____

If yes, what, where and when? _____

PROJECT INFORMATION:

1. Location of Proposed Project: _____

_____

2. Amount of Business Assistance requested? _____

3. Need for Business Assistance: _____

4. Present ownership of site: _____

5. Number of permanent jobs created as a result of project? _____

6. Estimated annual sales: Present: _____ Future: _____

7. Market value of project following completion: _____

_____

_____

8. Anticipated start date: _____ Completion Date: _____

FINANCIAL INFORMATION:

1. Estimated project related 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		_____

2. Source of financing:

a.	private financing institution	$ _____
b.	requested public assistance funds	_____
c.	other public funds	_____
d.	developer equity	
Total		_____

PLEASE INCLUDE:

1. Preliminary financial commitment from bank.
2. Plans and drawing of project.
3. Background material of company.
4. Pro Forma analysis.
5. Financial statements.
6. Statement of property ownership or control.
7. Payment of application fee of $1,000
8. Escrow payment $10,000 and Escrow Agreement

APPENDIX A

The Business Subsidies Statutes specifically exclude 22 items from the definition. The following are NOT business subsidies:

- A business subsidy of less than $150,000;
- Assistance that is generally available to all businesses or to a general class of similar businesses, such as a line of business, size, location, or similar general criteria;
- 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;
- Redevelopment property polluted by contaminants as defined in *M.S. Section 116J.552, Subd. 3*;
- Assistance provided for the sole purpose of renovating old or decaying building stock or bringing it up to code and assistance provided for designated historic preservation districts, provided that the assistance is equal to or less than 50% of the total cost;
- Assistance to provide job readiness and training services if the sole purpose of the assistance is to provide those services;
- Assistance for housing;
- Assistance for pollution control or abatement, including assistance for a tax increment financing hazardous substance sub-district as defined under *M.S. Section 469.174, Subd. 23*;
- Assistance for energy conservation;
- Tax reductions resulting from conformity with federal tax law;
- Workers' compensation and unemployment compensation;
- Benefits derived from regulation;
- Indirect benefits derived from assistance to educational institutions;
- Funds from bonds allocated under 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;
- Assistance for a collaboration between a Minnesota higher education institution and a business;
- Assistance for a tax increment financing soils condition district as defined under *M.S. Section 469.174, Subd. 19*;
- Redevelopment when the recipient's investment in the purchase of the site and in site preparation is 70 percent or more of the assessor's current year's estimated market value;
- General changes in tax increment financing law and other general tax law changes of a principally technical nature;
- Federal assistance until the assistance has been repaid to, and reinvested by, the state or local government agency;
- Funds from dock and wharf bonds issued by a seaway port authority;
- Business loans and loan guarantees of $150,000 or less; and
- Federal loan funds provided through the United States Department of Commerce, Economic Development Administration.