

CITY OF LE SUEUR, MINNESOTA  
ECONOMIC DEVELOPMENT AUTHORITY **RESOLUTION 2020-003**

APPROVING A REVISED BUSINESS SUBSIDY POLICY

WHEREAS, Minnesota Statutes, Sections 116J.993 through 116J.995 (the "Statutes") require the adoption of criteria for the granting of business subsidies as def med in the Statutes;

WHEREAS, the Economic Development Authority, City of Le Sueur, Minnesota (the "EDA") has determined that it is necessary and appropriate to" adopt business subsidy criteria pursuant to the Statutes;

WHEREAS, the EDA has performed all actions required by law to be performed prior to the adoption and approval of the proposed business subsidies, including the holding of a public hearing upon published notice as required by law; and


WHEREAS, the EDA previously approved Business subsidy criteria on October 11, 1999, and has now determined to amend and restate the criteria in accordance with requirements of the Business Subsidy Act.

NOW, THEREFORE, BE IT RESOLVED BY THE ECONOMIC DEVELOPMENT AUTHORITY THAT:

1. The business subsidy criteria, contained in Exhibit A of this resolution are hereby approved, ratified, established, and adopted and shall be placed on file at the City of Le Sueur, Minnesota.
2. City staff are authorized to transmit a copy of the Policy to the Minnesota Department of Employment and Economic Development in accordance with the Business Subsidy Act.

PASSED by the Economic Development Authority of the City of Le Sueur on this 26 day of May 2020.

ATTEST

  
\_\_\_\_\_  
President

  
\_\_\_\_\_  
Executive Director

VOTE: X MANKE X FAVOLISE X MEGER X WENISCH  
X PFARR X MAHONEY X SULLIVAN



## EXHIBIT A

Amended: May 26, 2020  
Originally Adopted: Oct. 11, 1999

# Business Subsidy Policy

## I. Purpose

The purpose of the Le Sueur Business Subsidy Policy is to establish criteria for the granting of business subsidies, including assistance through Tax Increment Financing, Tax Abatement, and other incentive and assistance programs that may become available through the City of Le Sueur. *For the purposes of this document, the term "City" includes the Le Sueur City Council, the Le Sueur Economic Development Authority, staff, financial consultants, and legal counsel.*

This policy will be used as criteria for providing subsidies, in addition to the requirements and limitations set forth by provision of Minnesota Statutes Section 116J.993 through 116J.995, as amended (the "Business Subsidy Act").

The criteria set forth in this Business Subsidy Policy shall be used as a guide in processing and reviewing applications requesting business subsidy assistance and shall be used in conjunction with other relevant policies of the City and the Authority.

The City may amend this Business Subsidy Plan at any time. Amendments to this Plan are subject to public hearing requirements contained in the Business Subsidy Act. 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 for the project. Approval or denial of one project is not intended to set precedent for approval or denial of another project.

The City can deviate from this policy for projects that supersede the objects identified herein. Any applicant who is not in good standing with the city, regarding licenses, fees or other specific charges will not be considered for a business subsidy.

## II. Business Subsidy Criteria

The following criteria shall be utilized in evaluating a request for a business subsidy. However, that an applicant meets these criteria does not create a constitutional right to a business subsidy. The City may at any time and at its own discretion modify these criteria as permitted by the Act.

1. *Public Purpose.* The business subsidy must meet a public purpose which may include, but may not be limited to, increasing the tax base. Job retention may only be used as a public purpose in cases where job loss is specific and demonstrable.
2. *Increase Tax Base.* The Act provides that an increase in tax base cannot be the sole basis for generating a business subsidy. However, the City considers an increase in tax base to be a critical factor in granting a business subsidy.
3. *Wage & Job Creation.* The project provided a business subsidy must create at least one full-time equivalent job paying at least 150% of the State minimum wage in effect at the time the subsidy is granted. The maximum amount of subsidy per job created will be equal to the annual salary of the job(s) being created that comply with the wage requirement. If, after the public hearing, the City determines that the creation or retention of jobs is not a goal of the specific project, the job creation goal may be set at zero (0).
4. *"But-For" Test.* There is a substantial likelihood that the project would not go forward without the business subsidy. This criterion may be met based solely on representation of the recipient of the business subsidy.
5. *Other Economic or Redevelopment Goals.* If creation of jobs is determined not to be a goal of a project (and by extension wages) the proposed business subsidy must achieve specific, tangible, and measurable goals related to one or more of the following:
  - a. To encourage additional unsubsidized private development in the area, either directly or indirectly through "spin off" development.
  - b. To remove blight and/or encourage development of commercial and industrial areas in the city that result in higher quality development or redevelopment and private investment.
  - c. To facilitate the development process and to achieve development on sites which would not otherwise be developed but for the use of a business subsidy.
  - d. To support a project that will improve the quality of life in the City by providing a desirable good or service and addressing an unmet demand in the community.
  - e. To promote revitalization and redevelopment in the Main Street Corridor.

In granting business subsidies, the City may deviate from the criteria outlined above if a) the reasons for the deviation is documented in writing, and b) reported to the Minnesota Department of Employment and Economic Development (DEED) pursuant to the Act.

### **III. APPLICATION PROCESS**

The applicant will complete and submit the City's Application for Business Subsidy along with the required application fee (refer to the current year's adopted fee schedule). The application fee covers the City's outside legal counsel review, and financial analysis costs. The applicant will also provide any additional information requested by the City. The applicant will be liable for any additional costs beyond the initial deposit. All materials submitted to the City in connection with a business subsidy application shall become the property of the City and is subject to data privacy law. The review process shall involve at least the following:

1. Staff shall review the application materials and make a preliminary recommendation to the City Council and/or EDA regarding

- a. The completeness of the application,
  - b. Whether the application meets the goals of this policy, and
  - c. Whether the application complies with the criteria established in this policy.
2. In the event that the City Council and/or EDA concur with the recommendation in a. above, a public hearing will be set at which the City will consider a final recommendation related to the application. The final review and recommendation by City shall take into account at least the following:
  - a. Applicable credit analysis.
  - b. Financial structure of the proposed project/application.
  - c. Legal compliance of the project/application.
3. At the time of the scheduled public hearing, staff will make a final recommendation to the City regarding this application. The City may adopt the recommendation or direct staff to develop alternative information and/or alternatives for action by the City.
4. If the business subsidy is approved, the business and the city will enter into a business subsidy agreement.

#### **IV. BUSINESS SUBSIDY AGREEMENT**

1. A recipient must enter into a subsidy agreement with the grantor of the subsidy that includes:
  - a. A description of the subsidy, including the amount and type of subsidy, and type of district if the subsidy is tax increment financing.
  - b. A statement of the public purposes for the subsidy.
  - c. Measurable, specific, and tangible goals for the subsidy.
  - d. A description of the financial obligation of the recipient if the goals are not met.
  - e. A statement of why the subsidy is needed.
  - f. A commitment to continue operations in the jurisdiction where the subsidy is used for at least five years after the benefit date.
  - g. The name and address of the parent corporation of the recipient, if any.
  - h. A list of all financial assistance by all grantors for the project.
2. Business subsidies in the form of grants must be structured as forgivable loans. For other types of business subsidies, the agreement must state the fair market value of the subsidy to the recipient, including the value of conveying property at less than a fair market price, or other in-kind benefits to the recipient.
3. If a business subsidy benefits more than one recipient, the grantor must assign a proportion of the business subsidy to each recipient that signs a subsidy agreement. The proportion assessed to each recipient must reflect a reasonable estimate of the recipient's share of the total benefits of the project.
4. The state or local government agency and the recipient must both sign the subsidy agreement and, if the grantor is a local government agency, the agreement must be approved by the local elected governing body, except for the St. Paul Port Authority and a seaway port authority.

5. Notwithstanding the provision in paragraph (a), clause (6), a recipient may be authorized to move from the jurisdiction where the subsidy is used within the five-year period after the benefit date if, after a public hearing, the grantor approves the recipient's request to move. For the purpose of this paragraph, if the grantor is a state government agency other than the Department of Iron Range Resources and Rehabilitation, "jurisdiction" means a city or township.

## **V. Compliance and Reporting**

1. Any assistance that does not meet the definition of a "business subsidy" will be excluded from the requirement of holding a public hearing prior to granting a business subsidy. All assistance that meets the definition shall be subject to the requirement of a public hearing.
2. Every recipient of a business subsidy must enter into a business subsidy agreement with the City, in which the agreement must fulfill the requirements of the Act.
3. Both the recipient and the City must comply with the business subsidy reporting and monitoring requirements of the Act.
4. In the event that a recipient fails within two (2) years of the benefit date as defined in the Act to meet the job and wage goals set forth in the business subsidy agreement, the recipient or its successors and assigns shall be liable to repay to the City the assistance plus interest. The City may prorate repayment to reflect partial fulfillment of the goals set forth in the business subsidy agreement. The rate of interest charged must be set at no less than the implicit price deflator for government consumption expenditures and gross investment for local governments prepared by the Bureau of Economic Analysis of the United States Department of Commerce.
5. The city may, after holding a public hearing, extend the time for compliance with the business subsidy agreement job and wage goals by up to one (1) year.

## **VI. FINANCIAL ASSISTANCE NOT CONSIDERED A BUSINESS SUBSIDY:**

1. A business subsidy of less than \$150,000.
2. 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.
3. 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.
4. Redevelopment property polluted by contaminants as defined in 116J.552, subdivision 3.
5. 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 percent of the total cost.
6. Assistance to provide job readiness and training services if the sole purpose of the assistance is to provide those services.
7. Assistance for housing.
8. Assistance for pollution control or abatement, including assistance for a tax increment financing hazardous substance sub-district as defined under M.S. §469.174, subdivision 23;

9. Assistance for energy conservation.
10. Tax reductions resulting from conformity with federal tax law.
11. Workers' compensation and unemployment insurance.
12. Benefits derived from regulation.
13. Indirect benefits derived from assistance to educational institutions.
14. 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.
15. Assistance for a collaboration between a Minnesota higher education institution and a business.
16. Assistance for a tax increment financing soils condition district as defined under section 469.174, subdivision 19.
17. 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 years estimated market value.
18. General changes in tax increment financing law and other general tax law changes of a principally technical nature.
19. Federal assistance until the assistance has been repaid to, and reinvested by, the state or local government agency.
20. Funds from dock and wharf bonds issued by a seaway port authority.
21. Business loans and loan guarantees of \$150,000 or less.
22. Federal loan funds provided through the United States Department of Commerce, Economic Development Administration.
23. Property tax abatements granted under M.S. §469.1813 to property that is subject to valuation under Minnesota Rules, chapter 8100.

## VII. Definitions

**"Benefit date"** means the date that the recipient receives the business subsidy. If the business subsidy involves the purchase, lease, or donation of physical equipment, then the benefit date begins 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:

**"Business 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, and as defined by the Business Subsidy statute M.S. §116J.993 - 116J.995.

**"Business Subsidy Report"** means the annual reports submitted each year for each business receiving a business subsidy in the community. The report is submitted by the local government unit in order to comply with M.S. §116J.994 Subd. 7. (b).

**“Criteria”** means the equitably applied, uniform standards by which the City bases its decision to award any business subsidy to a private business or development project establishing a business and creating jobs in the City of Le Sueur.

**“DEED”** means Minnesota Department of Employment and Economic Development.

**“Full-Time Equivalent Job”** The number does not reflect headcount, but rather all annual hours recorded by the employer over a specific period of time divided by 40 hours per week.

**“Grantor”** means the city department, city attorney, local or regional economic development agency or other authorized entity that is empowered to solicit, negotiate, and form business subsidy agreements on behalf of the City of Le Sueur.

**“Public purpose”** A business subsidy must meet a public purpose which may include, but may not be limited to, increasing the tax base. Job retention may only be used as a public purpose in cases where job loss is specific and demonstrable.

**“Recipient”** means any business entity that receives a business subsidy as defined by M.S. §116J.993, and that has signed a Business Subsidy Agreement with a city.