

**City of Caledonia
&
Caledonia Economic Development Authority**

**BUSINESS SUBSIDY CRITERIA
&
Business Assistance Policies**

**Effective March 27, 2000
Amended July 10, 2000
Amended April 28, 2003**

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City of Caledonia
BUSINESS SUBSIDY CRITERIA
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BUSINESS SUBSIDIES CRITERIA

(As Amended, April 28, 2003)

City of Caledonia, Minnesota

I. Public Purpose

Determining whether to grant a Business Subsidy is an inherently inexact process that greatly depends on individual situations. This policy is a general statement of guidelines. The City in adopting this policy retains the sole and absolute discretion to deny or grant any subsidy request for any reason. The City shall have the option, by action of the City Council, to amend or waive sections of this Policy when determined necessary, appropriate, and in keeping with the best interests of the City.

This Policy is adopted by the City of Caledonia ("City") in accordance with the Minnesota Business Subsidy Law ("Act"), Minnesota Statutes, Sections 116J.993 through 116J.995. Terms used in this Policy are intended to have the same meanings as used in the Act. "A Business Subsidy must meet a public purpose other than increasing the tax base. Job retention may only be used as a public purpose in cases where job loss is imminent and demonstrable." (Act, Subd.1)

II. Administrative Authority for Caledonia Business Subsidies Policy

On May 11, 1992, the City established an Economic Development Authority (EDA) which is responsible, contingent upon City Council approval, for the administration and issuance of all business subsidies. The EDA will consider Business Subsidy requests in accordance with the City's Business Subsidy Criteria. The EDA is responsible for ensuring that the project would not otherwise occur "but for" the assistance being requested.

III. Business Subsidy / Community & Economic Development Tools:

The City of Caledonia shall continue its support of community and economic development projects by utilizing any and all available economic development financing tools it deems appropriate, including, but not limited to revolving loan fund gap financing, Tax Increment Financing, and Tax Abatement. This policy shall apply to Revenue Bonds issued by the City only to the extent required by law.

This policy with its Exhibits supercedes and replaces all prior City and EDA policies concerning the use of public financing tools. Compliance with the General Business Subsidy Criteria Policy shall not automatically mean compliance with such separate policies. Federal or State funding sources may have additional requirements or benefits.

IV. Definitions

Administrator- Administrator of the Business Subsidies Criteria Policy shall be the EDA Staff.

Applicant- Any person(s) who applies for a Business Subsidy.

City- City of Caledonia, Minnesota.

City Attorney or other Professional- Individual, firm or governmental agency contracted with the City for the provision of legal or other professional services.

City Engineer- Individual or firm contracted with the City for the provision of engineering services.

Developer- Sole proprietor, partnership, corporation, or company, franchiser, franchisee, or utility company developing or improving property within the City of Caledonia.

Development Costs- Costs, expenses and fees directly related to a specific development or improvement within City limits.

EDA or Authority- EDA or Authority shall mean the Caledonia Economic Development Authority.

Full-time Equivalent (FTE) Job- A Full-time Equivalent (FTE) job shall mean one or more positions, that separately or when combined, represent an average forty-hour work week.

Owner- Sole proprietor, partnership, corporation, or company which owns property in fee simple or as a contract for deed purchaser or lessee.

V. General Business Subsidy Criteria

To insure that publicly assisted economic development projects guarantee a public benefit and to assist the City in satisfying its community and economic development goals and objectives, the City may grant business subsidies to projects in accordance with the criteria listed below. The City will evaluate each request for a Business Subsidy on a case by case basis.

A. But-for Test. A key indicator for the use of all business subsidies shall be the "but for" analysis that says the proposed development project would not occur "but for" the Business Subsidy assistance, i.e., does it pass the "but for" test set forth in this sub-section? Therefore, the City and Authority will review each Business Subsidy application based on the following:

1. Whether development obstacles exist on the site (c.g., deteriorated/obsolete buildings; poor soil conditions).
2. Whether the site has been targeted by the City and/or Authority for redevelopment or development based on specified needs and policy.
3. Whether the development project will locate or relocate to a different city and/or state without local public financing.
4. Whether public infrastructure is necessary in order to serve a large area or targeted site.
5. Whether land acquisition assistance is required in order to address a specified public strategy or need.
6. Whether public financing fills an identifiable financing "gap" for the project due to such factors as inadequate lender financing or below-market return on investments.

- 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. Encourage New / Existing Business. The project will attract or retain competitive and financially strong commercial and industrial businesses which offer a potential for significant growth in employment and tax base.
- D. Highest and Best Land Use. The use of the Business Subsidy will encourage a high quality of construction and promote the highest and best use of land, consistent with the City's Comprehensive Plan, zoning ordinance, and other local regulations
- 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. Economic Feasibility. The recipient can demonstrate that it has experience, sufficient other financing for the project, and that the project can be completed in a timely manner.
- G. Impact on City Services and Infrastructure. The project will not significantly and adversely increase the demands for service needs in the City.
- H. Job & Wage Goals. The project will create or retain jobs which pay desirable wages and benefits in the area. The City may take into account the special needs of small or growth-phase businesses with potential to create high-paying jobs in the future. *(Amended 4-28-03)*
 - 1. Minimum Job & Wage Requirements: *Within two years after the date of a business subsidy development agreement (the "Compliance Date") and continuing from the Compliance Date until the Termination Date, the Developer shall cause to exist at least one (1) new Full-time Equivalent Job on the Development Property (excluding any jobs previously existing in the State as of the date of completion of construction of the Minimum Improvements and relocated to the Development Property) and shall cause the wages for all employees on the Development Property to be no less than the greatest of: (i) 105% of the minimum wage as established by federal law; (ii) 105% of the minimum wage as established by State law; or (iii) \$6.00 per hour, in all cases exclusive of benefits.*
 - 2. While it is recognized that the creation of well paying jobs is a desirable goal which benefits the community, the City of Caledonia also recognizes that not all projects that may be assisted with subsidies will derive their public purposes and importance solely by virtue of job creation.
 - 3. Whereas job creation is highly sought after as a traditional measure of a subsidy's public benefit, it is also recognized that job creation is by no means the only measurable benefit. In addition, the imposition of high job creation requirements and high wage levels may be unrealistic and counter-productive in the face of larger economic forces and the financial and competitive circumstances of an individual business.
 - 4. Therefore, where no other criteria apply, job and wage goals under this policy shall be required of Applicants on the basis of reasonable projections for comparable businesses, industries, or other organizations, and whether these jobs constitute "head of household"

opportunities. The job and wage goals subsequently required under this policy shall be fulfilled by the end of the second full year of operation. "Job retention may only be used as a public purpose in cases where job loss is imminent and demonstrable."(Act, Subd.1)

- I. Tax Base. The project will broaden or diversify and thereby increase the City's tax base and generate new property tax revenue.

VI. Eligibility Requirements for all Business Subsidies

To be eligible for a Business Subsidy in the City of Caledonia:

- A. Applicants must have the authority to incur debt and carry out the proposed project purpose within the City of Caledonia.
- B. Applicants must have the legal right to own and operate the project for which a Business Subsidy is requested.
- C. Applicants must be unable to finance the proposed project from their own resources or through commercial credit or other federal or state programs at reasonable rates and terms.
- D. A Business Subsidy must not result in any conflict of interest prohibited by law.
- E. Any delinquent debt to the federal, state or local government, by the Applicant or any of its principals, shall cause the Applicant to be ineligible to receive Business Subsidies in the City of Caledonia.

VII. General Limitations for all Business Subsidy Projects

- A. With the exception of Small Cities Development Program (SCDP) low interest and deferred commercial loans, Business Subsidies shall be generally limited to projects within the City of Caledonia, in which:
 1. The overall level of public financing necessary, as a percent of the total project cost, is no more than fifteen percent (15%) for economic development projects or twenty-five (25%) for redevelopment projects.
 2. The City shall require at least as much Applicant/Owner cash or private equity in the project as the level of public financing. The balance of the project cost may be funded privately or through a private lender.

VIII. Minimum Standards & Costs for All Business Subsidy Projects

- A. A building or zoning permit shall not be obtained and construction shall not begin until the Council and the Authority have approved the applicable Business Subsidy documents, and executed with the Applicant, a corresponding development agreement / contract for private development, or other appropriate agreements.

- B. The Applicant shall be responsible for costs associated with contract professionals for reviewing the Business Subsidy application, preparing and approving required documents, and executing the agreements. The Applicant will deposit with the City an administrative fee equal to 100% of the projected costs, which will be applied to costs incurred by the City in conjunction with the proposed project. In the event such costs exceed the deposit, the Applicant may be required to pay the additional costs as billed by the City or Authority. In the event the deposit exceeds the costs, the balance will be refunded to the applicant.
- C. At all times, policies and procedures related to the proposed or actual approval of the Business Subsidy Project shall comply with applicable laws.
- D. All applications and supporting documents shall become the property of the City, and the classification of the data shall be governed by the Data Practices Act.
- E. The Council and Authority reserve the right to select and retain, at the expense of the Applicant, a third party to assist in the evaluation of the proposed development project and corresponding documents and agreements.
- F. The Applicant shall pay all permits and fees normally charged by the City as part of the approval process unless otherwise approved by the City.
- G. Interest rate shall be determined by the type/source of Business Subsidy.
- H. Maximum Length of Term shall be determined by the type/source of Business Subsidy and the useful life of the assets being financed, limited to the following schedule:

1. Acquisition of Land	20 year financing terms
2. Acquisition of Building	20 year financing terms
3. New Construction	20 year financing terms
4. Machinery and Equipment	7 year financing terms
5. Building Renovation	15 year financing terms
6. Working Capital	1-5 year financing terms

IX. Business Subsidy Application Procedure

A. Preapplication

- 1. Prior to any consideration by the EDA and City Council, the Applicant must deliver to the EDA:
 - a. Completed Business Subsidy Application (*Exhibit A*).
 - b. Release Authorization(s) (*Exhibit B*).
 - c. Letter of Agreement substantially in the form attached (*Exhibit C*).
 - d. Minimum fee deposit of \$500 for Business Subsidy requests that involve Tax Increment Financing, Tax Abatement, or other financing that requires a preliminary consultant review; or
 - e. A Pre-Application fee of \$25.00 for Revolving Loan Fund Loans. Additional fees may be required with the full application for loans that require consultant review.

Note: The Pre-application fee and/or fee deposit requirement will be reviewed and may

be revised annually upon EDA recommendation and City Council approval.

2. City Staff and/or a third party will review the Pre-Application and provide a recommendation to the Authority and Council whether a full application should be considered, based on consideration of the proposed project in accordance with the City's Business Subsidy Criteria.

B. Full Application

The Applicant must provide all supplementary information and attachments as required for the Business Subsidy being requested; and:

1. A "but for" letter documenting the need as set forth in *Section V* of this Policy and financial analysis demonstrating need for public financing assistance.
2. Letter of feasibility from a bank, lender, or financial advisor, including the following (where applicable):
 - Letter of commitment for bank / private financing
 - Retail or office market analysis;
 - Property appraisal for the proposed project;
 - Pro forma analysis.
3. A statement addressing environmental review requirements and evidence of compliance with applicable requirements.
4. Balance of fee deposit as prescribed for the projected costs of the subsidy being requested according to the guidelines applicable to that subsidy.
5. Building and site plans.
6. Property information, including legal description, tax parcel ID number, size of parcel(s), current market value and estimated market value upon completion (land and improvements), and map showing exact boundaries of proposed development.
7. Statement of property ownership or control (e.g., purchase agreements and contracts).
8. Historic information on the Applicant and a copy of the Applicant's Business Plan.
9. Business financial statements including past three years of profit/loss statements and balance sheets. (See VIII.D.)
10. Resumes and personal financial statements of all principals with 20% or more ownership in the business. (See VIII.D.)
11. List of other development projects the Applicant has completed. List the value, debt load, and lender(s) of each project and note if the Applicant has ever defaulted on any loan commitment, development or redevelopment agreement, or other subsidy for any of the projects listed.
12. Any other information deemed necessary or desirable by the City or the EDA.

X. Application Review and Project Approval

A. Preliminary Approval

City Staff and/or a third party will review the full application and provide a recommendation for preliminary approval to the Authority and Council. Other required project approvals may proceed simultaneously with the Business Subsidy approval process.

The City will make a finding based upon information presented as to whether the proposed project is consistent with this Policy. If deemed appropriate, the City may direct staff and consultants to prepare the required documents and agreements.

B. Final Approval

Final Approval of a Business Subsidy shall occur with the approval and signing of all required documents and agreements, including, but not limited to:

1. A Business Subsidy / Development Agreement;
2. A Loan Agreement and Promissory Note;
3. Collateral adequate to safeguard the Business Subsidy, with the understanding that the City interest in the assets financed may be subordinate to the primary lender.
4. Personal Guarantees may be required in any project at the sole discretion of the EDA or City and may be collateralized with personal assets where appropriate.
- 5.

XI. Follow-up Reporting Requirements

The Act requires follow-up reporting on the part of the business to the City of Caledonia and from the City to the State of Minnesota or other funding entity. The City shall provide a description of the information required and the forms / format for such reporting. Failure to abide by the City /EDA guidelines, laws and approved plans or agreements may result in the calling of the loan at the City's request.

DATE OF AMENDED POLICY ADOPTION: April 28, 2003

BY: Robert E. Nelson
(Title)

DATE OF PUBLIC HEARING: April 28, 2003