

CITY OF LUVERNE
BUSINESS SUBSIDY POLICY

DATED: April 22, 2003

RECEIVED MAR 31 2004

I. PURPOSE

- 1.01 The purpose of this policy is to establish the policy of the City of Luverne (hereinafter "City") as relates to the granting of business subsidies as the same are defined in Minnesota Statutes §116J.993, Subdivision 3. This policy is to be used as a guide in processing, reviewing and considering applications requesting business subsidies. This policy supercedes and replaces any prior policy on the granting of business subsidies.
- 1.02 This policy is intended to comply with the provisions of Minnesota Statutes §116J.993 through 116J.995, the Minnesota Business Subsidies Act (the "Act").
- 1.03 All City programs that provide business subsidies are hereby revised to incorporate the provisions of this Business Subsidy Policy as deemed necessary and appropriate.

II. STATUTORY AUTHORITY

- 2.01 All business subsidy requests must comply with this Business Subsidy Policy and all applicable Minnesota statutes. City's authority and ability to grant business subsidies shall be governed by the requirements in Minnesota Statutes §116J.993 through 116J.995.

III PUBLIC PURPOSE REQUIREMENT

- 3.01 All business subsidies must meet a public purpose which may include, but shall not be limited to the following:
 1. Increasing the tax base.
 2. Job creation or retention. Job creation or retention may be, but is not required to be, a public purpose for granting a business subsidy. Any determination that job creation or retention is not a public purpose for the business subsidy and/or that related wage and job goals are zero shall only be made following a public hearing by the City. Job retention may be used as a public purpose only in cases where job loss is specific and demonstrable.
 3. Encouraging the expansion, retention, establishment or improvement of businesses providing services promoting the general health, safety and welfare of the citizens of Luverne. For example, and not by way of limitation, this would include provision of health care facilities, services and related businesses.

4. Encouraging investment in geographic areas in need of redevelopment.
5. Facilitating the re-use of historic properties.
6. Facilitating the elimination of substandard buildings or blight.
7. Facilitating environmental remediation.
8. Facilitating the relocation of uses that are not in conformity with the City's comprehensive plan or zoning ordinances.

IV. BUSINESS SUBSIDY OF CRITERIA

- 4.01 All business subsidies shall be provided within applicable state legislative restrictions, debt limit guidelines, and other appropriate financial requirements and policies of the City and other appropriate authorities.
- 4.02 The project shall comply with the City of Luverne's Comprehensive Plan and Zoning Ordinances, or the business subsidy must be conditioned on the required changes to the Comprehensive Plan and/or Ordinances being approved by the City of Luverne.
- 4.03 Business subsidies requests should maximize the amount of private development investment in the project.
- 4.04 Wage and job goals must be sensitive to prevailing wage rates, local economic conditions, external economic forces, the individual financial resources of recipient and the competitive environment in which the recipient's business exists. The wage floor for jobs to be created shall be \$8.00 per hour.
- 4.05 As is permitted by the Act, City may deviate from the criteria of this Business Subsidy Policy by documenting in writing the reasons for the deviation and attaching a copy of that documentation to its next annual report to the Minnesota Department of Trade and Economic Development.

V. SUBSIDY AGREEMENT

- 5.01 All recipients must enter into a subsidy agreement with the City which will comply with provisions of Minnesota Statutes §116J.994, Subdivision 3 and shall include all required elements as set forth therein.
- 5.02 All subsidy agreements shall include a provision requiring the recipient to provide the information necessary to file all annual reports required by Minnesota Statutes §116J.994, Subdivision 7.

revised
JUN 09 2004

CITY OF LUVERNE

AND

LUVERNE ECONOMIC DEVELOPMENT AUTHORITY (LEDA)

A BUSINESS SUBSIDY POLICY FOR TRADITIONAL BUSINESS SUBSIDY

and

JOBZ BUSINESS SUBSIDY DEVELOPMENTS

Dated: April 13, 2004

RESOLVED by the City Council of the City of Luverne that it shall adopt the following **Business Subsidy Policy and Criteria:**

Preamble. Whenever the City of Luverne invests public funds or agrees to voluntarily forfeit tax or other revenue that benefit private development projects, those projects should create the greatest number of living wage FTE jobs possible for the City of Luverne and the surrounding region. City of Luverne policy makers and economic development agents must keep the critical need for living wage FTE jobs the priority whenever public dollars are invested in a private business or development project.

Business Subsidy Public Purpose. The public purposes of this policy shall be to accomplish the following on behalf of the City of Luverne.

1. Enhance economic growth in this area.
2. Create high quality job growth in this area.
3. Retain high quality jobs in this area.
4. Stabilize the community.

This policy is adopted in compliance with M.S. §116J.994 Subd. 2. A copy of this policy shall be submitted to the Department of Employment and Economic Development along with the first annual Business Subsidy report.

All city programs that provide business subsidies are hereby revised to incorporate the provisions of this business subsidy policy as deemed necessary and appropriate.

Principles of Business Subsidy Implementation. The City of Luverne shall target its

business subsidy assistance to businesses that demonstrate a clear and ongoing commitment to the community by providing living wage jobs to their employees and to the City of Luverne residents, where applicable, by giving priority to those businesses over businesses that have not traditionally paid living wages.

The City of Luverne shall focus its business subsidy assistance only to businesses which agree to comply with annual business subsidy reporting requirements as required by Job Opportunity Building Zone (JOBZ) statute M.S. § § 469.310-469.320; and/or as required by the Business Subsidy statute M.S. § § 116J.993-116J.995.

All other things being equal and to the extent legally possible, the City of Luverne shall give preferential treatment for business subsidies to business that engage in responsible labor relations defined as neutrality on union organizing.

Although the primary purpose of this policy is the creation of living wage jobs, the City cannot achieve its economic development goals without a trained and ready workforce and adequate childcare. The city shall commit to assist businesses to obtain trained and work-ready employees through the DEED Workforce Development Centers; MNSCU and other services; and to facilitate access to childcare.

The City of Luverne agrees to require that a qualified business shall not compete with or displace local businesses currently operating within the subzone community.

I. DEFINITIONS.

“Authorized Business Subsidy Signatory” means the Luverne City Administrator and/or the President of the Luverne Economic Development Authority. No other person is authorized by this Policy to execute business subsidy agreements on behalf of the City of Luverne.

“JOBZ Business Subsidy” means tax exemptions or tax credits available to a qualified business located in a job zone under the Job Opportunity Building Zone (JOBZ) statute M.S. § § 469.310-469.320. JOBZ Business Subsidies shall include.

1. Exemption from individual income taxes as provided under M.S. §469.316; and
2. Exemption from corporate franchise taxes as provided under M.S. § 469.317; and
3. Exemption from the state sales and use tax and any local sales and use taxes on qualifying purchases as provided in M.S. § 297A.68, subdivision 37; and
4. Exemption from the state sales tax on motor vehicles and any local sales tax on motor vehicles as provided under M.S. §297B.03; and
5. Exemption from the property tax as provided in M.S. § 272.02, subdivision 64; and
6. Exemption from the wind energy production tax under M.S. § 272.09, subdivision 7; and
7. The jobs credit allowed under M.S. § 469.318.

“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 subsidies shall include, but not be limited to:

1. Loan
2. Grant
3. Tax Abatement
4. TIF or other tax reduction or deferral
5. Guarantee of payment
6. Contribution of property or infrastructure
7. Preferential use of governmental facilities
8. Land Contribution
9. Other specified subsidy.

Business subsidies do not include the following:

1. assistance of less than \$25,000.00
2. assistance that is generally available to all businesses or to a general class of similar businesses, such as a line of businesses, size, location or similar general criteria;
3. public improvements to buildings or lands owned by the City of Luverne 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. property polluted by contaminants being redeveloped as defined in M.S. § 116J552, subd. 3.
5. assistance provided for the sole purpose of renovating old or decaying building stock or bringing it up to code and assistance to designated historic preservation sites or districts, provided that the assistance is equal to or less than 50% of the total cost of the development.
6. assistance to provide job readiness and training services;
7. assistance for housing;
8. assistance for pollution control or abatement, including assistance from a TIF hazardous substances subdistrict;
9. assistance for energy conservation;
10. tax reductions resulting from conformity with federal law;
11. workers compensation and unemployment compensation;
12. benefits derived from regulation;
13. indirect benefits derived from assistance to educational institutions;
14. funds from bonds allocated under M.S., Chapter 47A refunding bonds and 501(c) (3) bonds;
15. assistance for collaboration between a Minnesota higher education institution and a business;
16. assistance from a tax increment financing soils condition district as defined under

- M.S. 469.174, subd. 19;
17. redevelopment when the Recipients or Qualified Business, 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 local government unit;
 20. funds from dock or wharf bonds issued by a seaway port authority;
 21. business loans or loan guarantees of \$75,000 or less; and
 22. federal loan funds provided through the U.S. Economic Development Administration.

"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 LGU in order to comply with M.S. § 116J.994 Subd. 7. (b).

"Criteria" means the equitably applied, uniform standards by which the Luverne Economic Development Authority and/or the City bases its decision to award any business subsidy to a private business or development project establishing a business creating jobs in the City of Luverne.

"DEED" means Minnesota Department of Employment and Economic Development.

"Economic Development Agent" means the city department, local or regional economic development authority or other authorized entity that is empowered to solicit, negotiate and form business subsidy agreements on behalf of the City of Luverne. The Economic Development Agent for the City of Luverne shall be the Luverne Economic Development Authority, hereinafter "Agent."

"Health Insurance" means basic health insurance which shall include: employer 70% premium payment for individual coverage or 50% premium payment for family coverage; employer minimum payment for 50% of office visits, emergency care, surgery and prescriptions; a maximum yearly deduction of \$5,000.00, and maternity coverage.

"Living Wage Job" shall mean a job which pays wages and health benefits that total at the least rate of 110% of the current poverty level for a family of four.

"Local Governmental Unit" hereinafter LGU, means the statutory or home rule charter city, county, town, iron range resources and rehabilitation agency, regional development commission.

"Operation Start Date" shall mean the date by which the business begins its operations in the zone as evidenced by constructing a facility or relocating to an existing building in a facility and beginning revenue generating operations and/or hiring employees.

“Qualified Business” means a person that carries on a trade or business at a place of business located within a Job Opportunity Building Zone as reference in M.S. § 469.310 Subd. 11; and complies with the reporting requirements specified by M.S. § 469.313 Subd. 2. (5); and shall comply with the criteria in Section II. C. of this agreement; and shall also mean “Recipient” as defined by Business Subsidy law. A qualified business shall not include a retail business, a low-wage service business, an agricultural production business, or a business that pays less than the living wage defined in this agreement.

“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 the City of Luverne or the Luverne Economic Development Authority.

“Relocating Business” A business relocating from another Minnesota non-JOB Zone location.

“Relocation Agreement” means a binding written agreement between a relocating qualified business and the commissioner of DEED pledging that the qualified business shall either: (a) increase full-time or full-time equivalent employment in the first full year of operation within the job opportunity building zone by at least 20 percent *or* (b) make a capital investment on the property equivalent to 10% of the gross revenues of operation that was relocated in the immediately preceding taxable year; and (c) provides for repayment of all tax benefits if the requirements of (a) or (b) are not met.

“Subzone” means the parcel or parcels of land designated by the Commissioner of Employment and Economic Development within a Job Opportunity Building Zone within the boundaries of the City of Luverne to receive certain tax credits and exemptions specified under M.S. § 469.310-469.320.

“Zone” means a Job Opportunity Building Zone or an Agricultural Processing Facility Zone designated by the Commissioner of Employment and Economic Development under M.S. § 469.314.

II. BUSINESS SUBSIDY REQUIREMENTS

- A. **Business Subsidy Policies.** The City of Luverne adopts the following:
1. Any time the City of Luverne provides a business subsidy to a Qualified Business or Recipient, that business is subject to the wage levels, job creation and other criteria set forth in this policy and specified in the Business Subsidy Agreement made with the LGU. In the event of a conflict between the requirements of the Business Subsidy statute M.S. § § 116J.993-116J.995 and the JOBZ statute M.S. § 469.310-469.320, the JOBZ statute shall supercede.
 2. The recipient, in the case of a quantifiable non-JOBZ business subsidy, shall create and retain at least one full-time living wage job which provides employer-

paid basic health insurance for each \$25,000 of business subsidy received. These jobs shall be created not later than two years from the date of the Business Subsidy Agreement.

3. The qualified business, in the case of a JOBZ business subsidy that is non-quantifiable at the time of the Business Subsidy Agreement, must create and retain for the period of the Job Zone duration or until December 31, 2015, whichever is shorter, at least one of FTE job that pays a living wage for every \$25,000.00 of the total estimated value of all tax exemptions and credits the business anticipates receiving.
4. The recipient or qualified business shall pay provide cash benefits including health insurance equal to four percent (4%) of wages. These jobs shall be created not later than a specific date identified in a Business Subsidy Agreement.
5. The qualified business shall be identified in the Business Subsidy Agreement or as a: **(CHOOSE)**
 - a. Trade or business located in and operating in a JOBZ or APF Zone at the time of Zone designation; **OR**
 - b. New trade or business start-up located within the subzone; **OR**
 - c. Business expanding in the subzone which is a business that maintains its current operations in its current location and is expanding its operations *and* its payroll within the City of Luverne subzone; **OR**
 - d. A business relocating or expanding from another state; **OR**
 - e. A business relocating from another Minnesota non-Zone locating specifying the City.
6. The City of Luverne may deviate from wage and job criteria in Section II, by documenting the reason in writing for the deviation and attaching a copy of this reason to the next annual Business Subsidy Report submitted to DEED.
7. The City of Luverne shall have an overall goal of twenty-five percent (25 %) of new FTE jobs created under this policy shall be held by City of Luverne residents. It is expected that all qualified businesses or recipients shall have a quantified target for the number of residents to be hired.
8. The City of Luverne authorizes the City Administrator and LEDA President as representative of the city to act as its Authorized Business Subsidy Signatory to execute business subsidy agreements on behalf of the City of Luverne.

9. The City of Luverne authorizes the Luverne Economic Development Authority to act as its Economic Development Agent for purposes of marketing and/or initiating and negotiating Business Subsidy Agreements and/or executing Business Subsidy Agreements on its behalf.

10. **Requirements of business.** The City of Luverne shall require all businesses receiving a business subsidy to comply with the following.
 - a. A properly noticed public hearing shall be held by the City of Luverne or the LEDA as provided by M.S. § 116J.994, when the value of the subsidy does or is expected to exceed \$100,000 from local sources. The purpose of the hearing shall be to identify the criteria that the qualified business or recipient shall meet in order to be eligible to receive a business subsidy or become a qualified business for purposes of the JOBZ statute. The hearing shall specify the subsidy provided, public purpose(s) that shall be achieved by offering the subsidy, and shall specify the measurable, specific, and tangible goals committed to by the qualified business. As provided by M.S. 116J.994, Subd. 5., a public notice shall be published in print and if possible, on the internet, at least 10 days prior to the hearing, identifying the location, date, time and place of hearing; and providing information about the business subsidy proposed, including a summary of the terms of the subsidy.

 - b. If the business is qualified to receive JOBZ tax benefits, that business shall agree to continue to operate in the jurisdiction where the subsidy is used (the subzone) for the duration of the job zone term.

 - c. If the qualified business or recipient is a relocating business under the definition in this agreement, the business shall be required to enter into a binding written "Relocation Agreement" between the qualified business and the Commissioner of the DEED pledging that the qualified relocating business shall:
 - (1) Commit to signing a Relocation Agreement with DEED; and **CHOOSE ONE FROM 2 OR 3:**

 - (2) Cease one or more operations or functions at a non-Zone location and begin performing substantially the same functions inside the City of Luverne Zone; or

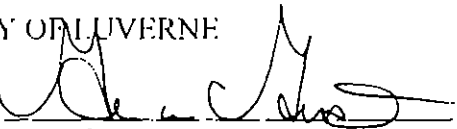
 - (3) Reduce employment at the non-Zone location starting one year before and ending one year after beginning operations

in the Zone where its employees in the Zone are engaged in the same line of business as the employees at the location where it reduced employment; and

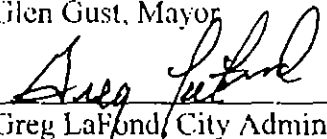
CHOOSE ONE (Or both, if applicable) FROM 4 & 5

- (4) Increase full time employment by 20% (measured relative to the operations that were relocated) within the first full taxable year of operation within the Zone and maintains the required level of employment during each year of zone designation; or
 - (5) Make a capital investment in the Zone equivalent to at least 10% of gross revenues for the taxable year immediately preceding relocation to the Zone.
- (d) The business shall identify an operation start date when business operations for the proposed qualified business are planned to begin in the zone. The date when business operations begin is called the "operation start date."


DATED: APRIL 13, 2004

CITY OF LUVERNE
BY: 
Glen Gust, Mayor

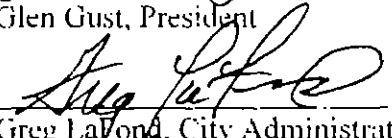
DATED: APRIL 13, 2004

BY: 
Greg LaFond, City Administrator

DATED: APRIL 13, 2004

LUVERNE ECONOMIC DEVELOPMENT
AUTHORITY
BY: 
Glen Gust, President

DATED: APRIL 13, 2004

BY: 
Greg LaFond, City Administrator