

RESOLUTION 2001-01
OF THE CITY OF WELLS, FARIBAULT COUNTY, MINNESOTA

To Amend

Its

“Business Subsidy Policy”

originally passed

on January 24, 2000

and amended on August 9, 2004

RESOLVED by the City Council of the City of Wells, County of Faribault that it shall adopt the following Business Subsidy Policy and Criteria:

Preamble. The following business subsidy criteria are intended to satisfy the requirements of Minnesota Statutes §116J.993 through 116J.995 (the “Ac”) and Job Opportunity Building Zone (JOBA) M.S. § 469.310-469.320.

The City of Wells 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 Wells shall give preferential treatment for business subsidies to business that engage in responsible labor relations defined as neutrality on union organizing.

I. DEFINITIONS

“Authorized Business Subsidy Signatory” means the President, Vice President or Secretary/Treasurer of the Wells Economic Development Authority who are authorized by this Policy to execute business subsidy agreements on behalf of the City of Wells.

“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 (OPTIONAL SECTION) 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. § 272.029, 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.
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 Wells 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. § 116J.552, 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 tax 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 for 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 governmental 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 Economic Development Agency and /or 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 Wells.

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

"Economic Development Agent" means the city department, 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 Wells. The Economic Development Agent for the City of Wells shall be the Wells Economic Development Authority hereinafter "Agent".

"Living Wage Job" shall mean a job which pays wages and health benefits that total at least the 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 referenced 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" mean 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.

"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 provides for repayment of all tax benefits if the requirements of (a) or (b) are not met.

"Subzone" means the parcel or parcel of land designated by the Commissioner of Employment and Economic Development within a Job Opportunity Building Zone within the boundaries of the City of Wells 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 Wells adopts the following:

1. Any time the City of Wells 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 supersede.
2. But-for test. There is a substantial likelihood that the project would not go forward without the business subsidy requested. This criterion must be supported by representations of the applicant for business subsidy.
3. 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.
4. Attraction of New Business. The project will attract or retain competitive and financially strong commercial and industrial companies, which offer the potential for significant growth in employment and tax base.
5. Highest and Best Land use. The use of the business subsidy will encourage quality construction and promote the highest and best use of land, consistent with the City's Comprehensive Plan.
6. Economic Feasibility. The recipient can demonstrate that it has experience and adequate financing for the project, and that the project can be completed in a timely manner.

7. **Impact on City Services and Infrastructure.** The project will not significantly and adversely increase the demands for service needs in the City.
8. **Tax Base.** The project will increase the City's tax base and generate new property tax revenue.
9. **The qualified business shall be identified in the Business Subsidy Agreement as a:**
 - (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 Wells subzone; or
 - (d) A business relocating from another state; or
 - (e) A business relocating from another Minnesota non-Zone location specifying the City.
10. The City of Wells 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.
11. The City will evaluate each request for a business subsidy on a case by case basis. Applicants for assistance shall complete an application form and supply all additional information requested by the City. Meeting all or a majority of our criteria does not mean a subsidy will be awarded or denied. A decision to approve or reject a request for subsidy will be based on the merits of the project and the overall benefit to the community.
12. The City of Wells authorizes the Wells Economic Development Authority for purposes of marketing, and initiating and negotiating Business Subsidy Agreements and executing Business Subsidy Agreements on its behalf.
13. **Requirements of businesses.** The City of Wells shall require all businesses receiving a business subsidy to comply with the following:
 - a. The business shall attend a properly noticed public hearing shall be held by the City of Wells 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 held to identify define 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 the 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 operations 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 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 Wells 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 and 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".

14. Valuation of a Business Subsidy:

The City will calculate the value of assistance provided to a business in the following manner:

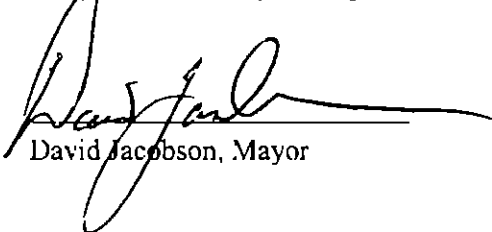
If the subsidy is a contribution of sale of real or personal property, the amount of the subsidy will be the fair market value of the property as determined by the City, less any amount paid.

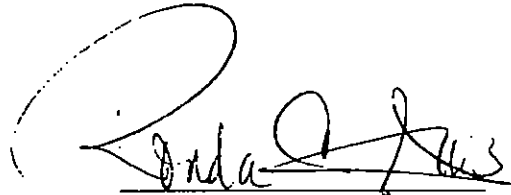
If the subsidy is a loan, the amount of the subsidy will be the principal amount of the loan.

If the subsidy is a loan guarantee, the amount of the subsidy will be principal amount of the loan guaranteed.

If the subsidy takes the form of payments over time (such as a pay-as-you-go tax increment) the amount of the subsidy will be the sum of projected payments, discounted to a present value using a discount factor determined by the City which approximates the interest rate available to the business from a commercial lender.

Adopted this 9th Day of August 2004


David Jacobson, Mayor



Attest:

Ronda Allis, City Administrator