

MODEL
JOB OPPORTUNITY BUILDING ZONE
BUSINESS SUBSIDY AGREEMENT

I. PARTIES

This agreement is made on «BusinessSubsidyApprovDate», the Approval Date, by and between the City of «CityName», Minnesota, local unit of government with offices at «CityAddress», (Telephone Number: «CityPhone»; (hereinafter “subzone administrator”) and «QualifiedBusinessName», a non-retail, non-commercial trade or business organized and operating under the laws of the State of Minnesota (hereinafter “qualified business”), with its principal offices at «QualifiedBusinessName», «QBAddr1», «QBAddr2», «QBAddr3» (Telephone Number: «QBTel»). This agreement shall become effective upon its Approval Date, the date on which the last person signs the agreement. In order to satisfy the provisions of the Job Opportunity Building Zone statute (M.S. §§ 469.310 - 469.320) and the Business Subsidy Statute (M.S. §§ 116J.993 - 116J.995), the subzone administrator and a representative of the qualified business acknowledge and agree as follows:

II. RECITALS

- A. Whereas, the «QualifiedBusinessName» owned by «QualifiedBusinessOwnerName» is the **CHOOSE: fee owner / lessee** of the Property located at «SiteAdd1», «SiteAddr2», in the city of «City», «SiteCounty» County, Minnesota, with property tax identification number «SitePIN»; consisting of «#ofAcres» acres; and
- B. Whereas, the Property is located within a designated Job Opportunity Building Zone, as described in the «ZoneName» Application; and is currently comprised of: **CHOOSE ONE from 1-5:**
1. Vacant land;
 2. Land with vacant buildings;
 3. Land with buildings currently containing operations adjacent to which the qualified business plans to expand
 4. Land with buildings containing an non-qualified operating business
 5. Other (specify)
- C. Whereas, the «QualifiedBusinessName» has been approved by the subzone administrator to be a non-retail, non-commercial: **CHOOSE ONE from 1-5:**
1. Trade or business located in and operating in a JOBZ or APF Zone at the time of Zone designation; **AND/OR**
 2. New trade or business start-up located with a Zone; **AND/OR**
 3. Business expansion 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 «CityName» subzone; **AND/OR**
 4. A business relocating from another state; **AND/OR**

5. A business relocating from another Minnesota non-Zone location; that:
 - a. Commits to signing a Relocation Agreement with DEED; and
CHOOSE ONE from b. or c.:
 - b. Ceased one or more operations or functions at a non-Zone location and begins performing substantially the same functions inside the «CityName» Zone; or
 - c. Reduces employment at the non-Zone location starting one year before and ending one year after beginning operations in the Zone and 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 from d. and e.:
 - d. Increases 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
 - e. Makes 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. Whereas, the qualified business **CHOOSE: has begun / plans to begin** business operations in the subzone on «OperationStartDate».
- E. Whereas the Job Zone Term shall be effective from the approval date until «ZoneTermEndDate». (*Note: In any case this date shall not be later than December 31, 2015.*)
- F. Whereas, the qualified business agrees to satisfy the provisions of the business subsidy reporting requirements under the business subsidy statute at (M.S. § 116J.993 -116J.995); and as required by M.S. § 469.320 Subd. 1., identified in Section IV. of this agreement.

III. DEFINITIONS

- A. “Agreement” means this Job Opportunity Building Zone Business Subsidy Agreement by and between “subzone administrator” and the “qualified business”.
- B. “Approval Date” means the date upon which the final execution of this agreement takes place; and after which a qualified business has been approved by the subzone administrator.
- C. “Benefit Date” is the date after which tax benefits shall begin to accrue to the qualified business; and shall mean the “Operations Start Date” for a qualified relocating business.
- D. “Business Subsidy” means tax exemptions or tax credits available to a qualified business located in a job zone, and or 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.
- E. “Business Subsidy Report” means the annual report required to comply with M.S. § 116J.994 Subd. 7. (b).
- F. “Capital Investment” means any investment that is defined as depreciable for purposes of the U.S. Internal Revenue Service.
- G. “DEED” means Minnesota Department of Employment and Economic Development.
- H. “Job Zone Term” shall mean stated period of time stated in Section II. E. of this agreement.
- I. “JOBZ” means Job Opportunity Building Zone as defined in M.S. § 469.310.
- J. “Local Government Unit” means a statutory or home rule charter city, county, town, iron range resources and rehabilitation agency, regional development commission, or federally designated economic development district.

- K. "Person" includes an individual, corporation, partnership, Limited Liability Company, association, or any other entity.
- L. "Property" means the parcel or parcels located within a subzone on which a qualified business is or will be operating, that excludes any building footprint of a business operating in a subzone prior to January 1, 2004; and as identified in Section II.A. of this agreement.
- M. "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" 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 designated subzone administrator. A qualified business shall not include a retail, low-wage service, agricultural production business, or provide less than the minimum wages provided in section IV.D.4. of this agreement.
- N. "Relocation Agreement" means a binding written agreement between a relocating qualified business and the commissioner of DEED pledging that the qualified business will either: (a) increase full-time for 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.
- O. "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 <CityName> to receive certain tax credits and exemptions specified under M.S. § 469.310-469.320.
- P. "Subzone Administrator" means the legal representative designated by the Local Governmental Unit to administer the subzone and shall also mean "Grantor" as defined by the business subsidy statute M.S. § 116J.993 Subd. 4.
- Q. "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.

IV. BUSINESS SUBSIDY REQUIREMENTS

Whereas, compliance with provisions of the Minnesota business subsidy statutes (M.S. §116J.993 - 116J.995) require the following, the parties agree that:

- A. The Job Opportunity Building Zone business subsidy shall include all tax exemptions, job credits or other business subsidies provided from the Approval Date until the last date of the Job Zone Term, including but not limited to:
 - (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.
- B. Other business subsidies provided to the qualified business, as described in the Business Subsidy statute at M.S. § 116J.993 - 116J.995, shall be identified, including the amounts and type of subsidy provided, specifically: **CHOOSE THOSE THAT APPLY AND PROVIDE AN**

APPENDIX TO THIS AGREEMENT OUTLINING THE TERMS OF ANY OF THESE ADDITIONAL SUBSIDIES:

- (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.
- C. The public purpose(s) for the Job Opportunity Building Zone business subsidy agreed to by the Parties shall include, but not be limited to: **CHOOSE ALL THOSE APPLICABLE THAT APPLY:**
- (1) The enhancement of economic diversity
 - (2) The creation of high quality job growth
 - (3) Job retention
 - (4) Stabilizing the community
 - (5) Other specified purpose
- D. The measurable, specific, and tangible goals for the job zone subsidy shall include: **CHOOSE ALL THOSE APPLICABLE THAT APPLY:**
- (1) The qualified business shall create «NumNewFTEJobs» new FTE jobs by «NewJobCreationDate» by and retained by the qualified business during the Job Zone Term and within the subzone boundary.
 - (2) The qualified business shall maintain «NumNewFTEJobs» the new FTE jobs during the Job Zone Term and within the subzone boundary.
 - (3) The qualified business shall provide an average wage and benefit level for the new FTE jobs of at least «AvgHourlyWageNewFTE» per hour, during the Job Zone Term and within the subzone boundary.
 - (4) The qualified business shall provide a specific wage and benefit floor for the wages and benefits to be paid for the new jobs created. The wage and benefit floor may be stated as a specific dollar amount or may be stated as a formula that will generate a specific dollar amount: **INSERT WAGE AND BENEFIT FLOOR GOALS FOR NEW JOBS.**
Suggested floor: 110% of 2003 poverty level for a family of four in the state of Minnesota is \$9.73 per hour.
 - (5) Where area job loss in a zone has been specific and demonstrable, «NumRetainedJobs» jobs shall be retained during the Job Zone Term and within the subzone boundary; and wage and benefit goals for retained jobs are stated here: **INSERT WAGE AND BENEFIT GOALS OR ENHANCEMENTS FOR RETAINED JOBS.**
 - (6) Notwithstanding M.S. § 116J.994 Subd.4 (3) wage and benefit and job goals for job zone business subsidy recipients shall not be set at zero.
 - (7) A capital investment in the zone of not less than \$«AmtCapitalInvestment» during the first year of business operation in the zone.
 - (8) Other specified measurable goals and objectives as follows:
INSERT LOCAL GOALS AND OBJECTIVES

- E. A properly noticed public hearing shall be held by the subzone administrator as provided by M.S. § 116J.994. The purpose of the hearing is to define the criteria that a qualified business must meet in order to be eligible to receive a Job Opportunities Building Zone business subsidy. The hearing may also specify the public purpose(s) that shall be achieved and the measurable, specific, and tangible goals committed to by the qualified business. A business subsidy may not be granted until the subzone administrator has adopted criteria as required by M.S. § 116J.994 Subd. 2. A copy of the criteria shall be submitted to the Department of Employment and Economic Development along with the first annual report. 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.
- F. A description of the financial obligation(s) of the qualified business to repay all JOBZ related tax benefits obtained if it does not meet the goals identified in this agreement, and as defined in M.S. § 469.319.
- G. A description of the financial obligation(s) of the qualified business related to other business subsidies provided to the qualified business, as governed by the Business Subsidy statute at M.S. § 116J.993 - 116J.995, and to repay tax benefits obtained if it does not meet the goals identified in this agreement, and as defined in and in M.S. § 116J.994 Subd. 6.
- H. A commitment to continue to operations in the jurisdiction where the subsidy is used for the duration of the job zone term.
- I. A qualified business agrees to furnish to the subzone administrator, on or before March 1 in each year, an annual business subsidy report required in M.S. § 116J.994, Subd. 7., on a form developed and made available by DEED.
- J. A qualified business agrees not to compete with or displace local businesses currently operating within the subzone community.
- K. The Local Government Unit will provide the qualified business with all of the local tax benefits and property tax benefits permitted under M.S. § 469.315.
- L. A qualified business receiving sales tax exemptions provided under M.S. 297A.68, subdivision 37(b) and (c) and (d) agrees to comply with prevailing wages requirements under M.S. 116J.871.

IN WITNESS WHEREOF, the subzone administrator and the qualified business have acknowledged their assent to this agreement and agree to be bound by its terms through the signatures entered below:

QUALIFIED BUSINESS: I have read and I agree to all of the above provisions of this agreement; By and through the Representative of the «QualifiedBusinessName»:

By _____

Title _____

Date _____

SUBZONE ADMINISTRATOR: I have read and I agree to all of the above provisions of this agreement; By and through the Representative of the City of «CityName»,

By _____

Title _____

Date _____