

RECEIVED MAY 1 2004

**AMENDMENT TO
"BUSINESS SUBSIDY POLICY AND CRITERIA"
ORIGINALLY ADOPTED ON FEBRUARY 14, 2000
AND AMENDED ON APRIL 26, 2004**

I. PARTIES

This agreement is made on **<Business Subsidy Approval Date>**, the Approval Date, by and between the Red Wing Port Authority of the City of Red Wing, Minnesota, local unit of government with offices at 419 Bush Street, Red Wing, MN 55066 (651)385-3623; (hereinafter "sub zone administrator") and **<Qualified Business Name>**, 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 **<Qualified Business name>**, **<Qualified Business address>** (Telephone number). 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 State (M.S. §§ 116J.993 – 116J.995), the sub zone administrator and a representative of the qualified business acknowledge and agree as follows:

II. RECITALS

- A. Whereas, the sub zone administrator has developed a set of criteria for awarding business subsidies pursuant to M.S. § 116J.994, subd. 2; and
- B. Whereas, the **<Qualified Business Name>** owned by **<Qualified Business Owner Name>** is the **CHOOSE**: fee owner / lessee of the Property located at **<Site address>** in the City of Red Wing, Goodhue County, Minnesota, with property tax identification number **<Site PIN>**; consisting of **<#acres>** acres; ;and
- C. Whereas, the Property is located within a designated Job Opportunity Building Zone, as described in the **<Zone Name>** 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)

D. Whereas, the <Qualified Business Name> has been approved by the sub zone 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 sub zone which is a business that maintains its current operations in its current location and is expanding its operations and its payroll within the Red Wing sub zone; **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 Red Wing Zone; or
- c. Reduces employment at the non-Zone location starting one year before ending one year after beginning operation 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. Increased 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 a least 10% of gross revenues for the taxable year immediately preceding relation to the Zone;

E. Whereas, the qualified business **CHOOSE: has begun / plans to begin** business operations in the sub zone on <Operations Start Date>.

F. Whereas the Job Zone Term shall be effective from the approval date until <Zone Term End Date>. (Note: in any case this date shall not be later than December 31, 2015.)

- G. 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.

III. DEFINITIONS

- A. "Agreement" means this Job Opportunity Building Zone Business Subsidy Agreement by and between "sub zone 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 sub zone 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 or any tax of 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. All business subsidies must comply with the requirements of M.S. § 116J.993, subd. 3.
- 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 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 rehabilitations 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 with a sub zone on which a qualified business is or will be operating, that excludes any building, footprint of a business operating in a sub zone 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 of 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. A nonprofit organization is not considered a qualified business unless it meets the requirements of M.S. 116J.993, subd. 6.
- N. "Recipient" means any business entity that received a business subsidy as defined by M.S. §116J.993, and that has signed a Business Subsidy Agreement with a designated sub zone 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.
- O. "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.
- P. "Sub Zone" 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 Red Wing to receive certain tax credits and exemptions specified under M.S. § 469.310 – 469.314.

- Q. "Sub Zone Administrator" means the legal representative designated by the Red Wing Port Authority to administer the sub zone and shall also mean "Grantor" as defined by the business subsidy statute M.S. § 116J.993 Subd. 4.
- R. "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 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, where job loss is specific and demonstrable
- (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 10 new Full Time Equivalent jobs per acre acquired by <New Job Creation Date> and retained by the qualified business during the Job Zone Term and within the sub zone boundary.
- (2) The qualified business shall maintain <Number New Full Time Equivalent Jobs> the new Full Time Equivalent jobs during the Job Zone Term and within the sub zone boundary
- (3) The qualified business shall provide an average wage for the new Full Time Equivalent jobs of at least \$13.50 per hour, plus benefits, during the Job Zone Term and within the sub zone 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.**
- (5) Where area job loss in a zone has been specific and demonstrable, <Number Retained Jobs> jobs shall be retained during the Job Zone Term and within the sub zone 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 \$<Amount capital investment> during the first year of business operation in the zone.
- (8) Other specified measurable goals and objectives as follows:

INSERT ALL THAT APPLY

- E. As provided by M.S. § 116J.994 Subd.5., prior to granting a business subsidy in excess of \$100,000, the grantor shall publish a public notice in a local newspaper of general circulation and if possible, on the Internet, at least ten days prior to the hearing. The public notice must include the date, time and place of the hearing, and must identify the location at which information about the business subsidy, including a summary of the terms of the subsidy, is available.
- 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, as and as defined in M.S. § 469.319.
- G. A description of the financial obligations(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 – 116J995, 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 sub zone 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 sub zone 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.

IN WITNESS WHEREOF, the sub zone 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 <Qualified Business Name>.

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 Red Wing.

By _____

By _____

Title _____

Title _____

Date _____

Date _____

Resolution No. 5209

Resolution Amending Business Subsidy Criteria

RECEIVED MAY 7 2004

WHEREAS, the City of Red Wing acknowledges the need to provide financial assistance to businesses in the City to further the economic and development objectives of the City; and,

WHEREAS, Minnesota Statutes 116J.993 through 116J.995 required the City to establish business subsidy criteria before any new business subsidy could be provided; and,

WHEREAS, the City of Red Wing adopted business subsidy criteria on February 14, 2000, as Resolution No. 4393; and,

WHEREAS, on January 1, 2004 the City of Red Wing was designated by the State of Minnesota as a Job Opportunity Building Zone sub zone ("JOBZ Sub Zone") as authorized by the 2003 Legislature; and,

WHEREAS, as a JOBZ Sub Zone all tax exemptions listed in Minnesota Statutes 469.315 will be provided to every qualified business and individual that invests in a qualified business, and property located in the designated Zone during the Zone term; and,

WHEREAS, the tax exemptions are subject to Minnesota Statutes 116J.993 through 116J.995 and shall be included in the City's business subsidy criteria; and,

WHEREAS, the City has performed all actions required by law to be performed prior to the adoption of the Business Subsidy Criteria, including the holding of a public hearing upon published notice as required by law.

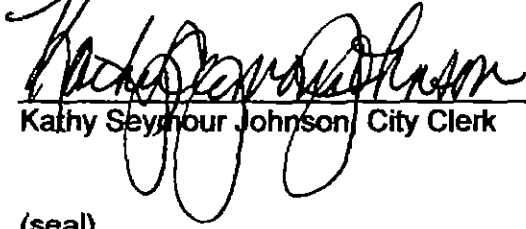
NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Red Wing hereby amends the Business Subsidy Criteria as attached as Exhibit A in fulfillment of the requirements of Minnesota Statutes 116J.993 through 116J.995 effective immediately.

Adopted by the City Council this 26th day of April, 2004.



Stephen Castner, Council President

Attest:


Kathy Seymour Johnson, City Clerk

(seal)

Presented to the Mayor at 8:18 p.m. on this 26th day of April, 2004.
Approved this 26th day of April, 2004.


Vernon L. Steffenhagen, Mayor

**RED WING PORT AUTHORITY, AN ECONOMIC DEVELOPMENT AGENCY
CITY OF RED WING, MINNESOTA
NEW RESOLUTION NO. 182
AMENDING RESOLUTION NO. 136
AMENDMENT EFFECTIVE APRIL 26, 2004**

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WHEREAS, the City of Red Wing, Minnesota acknowledges the need to provide financial assistance to businesses in the City to further the economic and development objectives of the City; and,

WHEREAS, Minnesota Statutes 116J.993 through 116J.995 required the City to establish business subsidy criteria before any new business subsidy can be provided; and,

WHEREAS, the City of Red Wing adopted business subsidy criteria on February 14, 2000; and was recorded as document number 4393; and,

WHEREAS, on January 1, 2004 the City of Red Wing was designated by the State of Minnesota as a Job Opportunity Building Zone Sub zone ("JOBZ Sub Zone") as authorized by the 2003 legislature; and,

WHEREAS, as a JOBZ Sub Zone all tax exemptions, listed in Minnesota Statutes 469.315 will be provided to every qualified business, individual that invests in a qualified business, and property located in the designated Zone during the Zone term; and,


WHEREAS, the tax exemptions are subject to Minnesota Statutes 116J.993 through 116J.995 and shall be included in the City's business subsidy criteria.

WHEREAS, the City has performed all actions required by law to be performed prior to the adoption of Business Subsidy Criteria, including the holding of a public hearing upon published notice as required by law.


NOW THEREFORE BE IT RESOLVED by the Board of Commissioners of the Red Wing Port Authority of the City of Red Wing as follows:

That the Red Wing Port Authority hereby amends the Business Subsidy Criteria as attached as Exhibit A, in fulfillment of the requirements of Minnesota Statutes 116J.993 through 116J.995, effective Monday, April 19, 2004.

ATTEST:


Myron White, Executive Director

RED WING PORT AUTHORITY:


Nona Nelson, President

**Notice of Public Hearing on the Adoption of
Amended Business Subsidy Policy and Criteria**

NOTICE IS HEREBY GIVEN that the City Council of the City of Red Wing, Minnesota, will hold a public hearing on Monday, April 26, 2004, at a meeting of the City Council at 7:00 p.m. in the Council Chambers of City Hall, 315 West 4th Street, Red Wing, Minnesota, on the proposed amendment to the City's Business Subsidy Policy and Criteria under Minnesota Statutes, Sections 116J.993 through 116J.995.

All persons may appear at the public hearing and present their views orally or in writing. A copy of the proposed Amendment to Business Subsidy Policy and Criteria may be obtained at City Hall.

Dated: April 14, 2004

Kathy Seymour Johnson
City Clerk, City of Red Wing

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Publish April 16, 2004