

**RESOLUTION
OF THE RED WING PORT AUTHORITY
OF THE CITY OF RED WING
TO AMEND ITS RESOLUTION # 4393 ENTITLED
"BUSINESS SUBSIDY POLICY AND CRITERIA"
ORIGINALLY PASSED ON FEBRUARY 14, 2000 AND AMENDED ON
MARCH 22, 2004**

I. PARTIES

This agreement is made on September 7, 2006, the Approval Date, by and between the Red Wing Port Authority of Red Wing, Minnesota, local unit of government with offices at 419 Bush Street, of the City of Red Wing, MN. 55066 (651) 385-3623; (hereinafter "subzone administrator") and D B Industries, a non-retail, non-commercial trade or business organized and operating under the laws of the state of Minnesota (hereinafter "Qualified Business"), with it principal offices at 3833 Sala Way, (651-388-8282). This agreement shall become effective upon its Approval Date, the date on which the last person signs the agreement. In order to satisfy the provision of the Job Opportunity Building Zone Statute (M.S. §§ 469.310-469.320) and the Business Subsidy Statue (M.S. §§ 116J.993-116J.993), 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 D B Industries a Capital Safety Company is the lessee of the Property located at 3965 Pepin Avenue, in the City of Red Wing, Goodhue County, Minnesota, with property tax identification number 55.921.0010; consisting of 1 acre; and
- C. Whereas, the Property is located within a designated Job Opportunity Building Zone, as described in the **Southern Minnesota Job Zone Alliance Application**; is currently comprised of: Land and vacant buildings.
- D. Whereas, the D B Industries has been approved by the sub-zone administrator to be a non-retail, non-commercial: 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;

- E. Whereas, the qualified business **plans to begin business operations in the sub zone on November 15, 2006.**
- F. Whereas the Job Zone Term shall be **effective from the approval date until December 31, 2015.**
- G. Whereas, the qualified business agrees to satisfy the provisions of the business subsidy reporting requirements under the business subsidy statute (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

“Authorized Business Subsidy Signatory” means Red Wing Port Authority who is authorized by this Policy to execute business subsidy agreements on behalf of the City of Red Wing.

“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;

“Business Subsidy” means a state or local government agency grant, contribution of personal property, real property, infrastructure, the principal amount of loan at rates below those commercially available to the recipients, any reduction or any preferential use of government facilities given to a business, and as defined by the Business Subsidy state M.S. 116J993-116J.995. Business Subsidy does 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 Red Wing 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 education 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 law and other general tax law changes of a principally technical nature;
- 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

“Agreement” means this Job Opportunity Building Zone Business Subsidy Agreement by and between “sub-zone administrator” and the “qualified business.”

“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

“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.

“Business Subsidy Report” means the annual report required to comply with M.S. § 116J.994 Subd. 7. (b).

“Capital Investment” means any investment that is defined as depreciable for purposes of the U.S. Internal Revenue Service.

“DEED” means Minnesota Department of Employment and Economic Development.

“Job Zone Term” shall mean stated period of stated in Section II.E. of this agreement.

“JOBZ” means Job Opportunity Building Zone as defined in M.S. § 469.310

“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.

“Person” includes an individual, corporation, partnership, Limited Liability Company, association, or any other entity.

“Property” means the parcel or parcels located within 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.B. of this agreement.

“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.D. of this agreement. A non-profit organization is not considered a qualified business unless it meets the requirements of M.S. 116J.993, subd. 6.

“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.C. of this agreement.

“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 and provides for repayment of all tax benefits if the requirement of (a) are not met.

“Sub-Zone” means the parcel or parcel of land designated by the Commissioner of Employment and Economic Development within a Job Opportunity Zone within the boundaries of Red Wing to receive certain tax credits and exemptions specified under M.S. § 469.310-469.314.

“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.

“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.

RESOLVED by the City Council of the City of Red Wing, that it shall adopt the following Business Subsidy Policy and Criteria:

Preamble. Whenever the Red Wing Port Authority 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 jobs possible for the residents

of the City of Red Wing and the surrounding region. The Red Wing Port Authority policy makers and economic development agents must keep the critical need for living wage 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 Red Wing.

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
5. such other objectives as may be established by the City Council

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

Business Subsidy Implementation. The Red Wing Port Authority will focus its business subsidy assistance to businesses which demonstrate a clear and ongoing commitment to the community by providing living wage jobs to their employees and to Red Wing residents, where applicable, by giving priority to those businesses over businesses that have not traditionally paid living wages.

The Red Wing Port Authority of the City of Red Wing will 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.

Although the primary purpose of this policy is the creation of living wage jobs, we cannot achieve our economic development goals without a trained and ready workforce and adequate child care. The Port Authority will commit to assist businesses to obtain trained and work-ready workforce employees through the DEED Workforce Development Centers; MNSCU and other services; and to facilitate access to child care.

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 Zones 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. 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

C. The measurable, specific, and tangible goals for the job zone subsidy shall include:

- (1) The qualified business shall create 10 new fulltime equivalent jobs per acre developed by **(November 15, 2007)** and retained by the qualified business during the Job Zone Term and within the sub zone boundary.
- (2) The qualified business shall maintain the 10 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) 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.

INSERT ALL THAT APPLY

- D. A properly noticed public hearing shall be held by the sub zone administrator as provided by M.S. §116J.994. The purpose of the hearing shall be held to identify 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 granted until the sub zone 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.
- E. 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.
- F. 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, as defined in and in M.S. § 116J.994 Subd. 6.
- G. A commitment to continue to operate in the jurisdiction where the subsidy is used for the duration of the job zone term.
- H. 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 be DEED.
- I. A qualified business agrees not to compete with or displace local businesses currently operating within the sub zone community.
- J. 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.
- K. A qualified business receiving 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.
- L. A qualified business is encouraged to list new job opportunities in the Minnesota Job Bank by contacting the MN Job Help Desk at 651-296-8400, or go directly to the MN Job Bank at www.mnworks.org.

This agreement shall be binding upon any successors or assignees of the parties.

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 DB Industries

By 

Title PRESIDENT & CEO

Date 9.7.06

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 

Title Executive Director

Date 9-7-06

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