

## BUSINESS SUBSIDY AGREEMENT

This Business Subsidy Agreement is entered into this \_\_\_\_ day of \_\_\_\_\_, 2004, by and between the Prior Lake Economic Development Authority, MN., a public body corporate and politic (the "EDA") and \_\_\_\_\_ (company name) a \_\_\_\_\_ (type of company) and its heirs and assigns.

### Recitals

**Description of the Business Subsidy** \_\_\_\_\_ (company), situated at \_\_\_\_\_ (address) and legally described as the \_\_\_\_\_ (legal description) City of Prior Lake, Scott County, Minnesota. The subsidy is intended to assist the property owner in \_\_\_\_\_ (state activity, type of subsidy).

A. **Statement of Need for Business Subsidy.** The applicant recognizes the need for a business subsidy to \_\_\_\_\_ (state reason for need). Furthermore, the applicant states that without the subsidy the project could not move forward.

B. **Public Purpose Statement.** The EDA also recognizes that area and/or neighborhood revitalization; creation of job opportunities with benefits; retention and expansion of existing Prior Lake businesses; **insert other goals and stuff from the business subsidy policy here** \_\_\_\_\_ is the cornerstone of job creation efforts in the City of Prior Lake.

In consideration of the above premises and the covenants herein, the parties hereto agree as follows:

1. **Wage and Job Goals at the Project.** As a condition to \_\_\_\_\_ (the Project), and the use of \_\_\_\_\_ (the type of subsidy, such as Available Tax Increment) in connection with \_\_\_\_\_ (the Project), on the terms and conditions set forth in the Development Agreement, Company will meet the Wage and Job Goals of the Project as they are outlined in Exhibit A, which is attached hereto and incorporated by reference herein.

2. **Repayment of Business Subsidy.**

(a) As security for the \_\_\_\_\_ (company) compliance with the Wage and Job Goals in Exhibit A, above, \_\_\_\_\_ (company) agrees that in the event it cannot achieve the Wage and Job Goals outlined in Exhibit A it will repay the Business Subsidy pursuant to the terms and conditions outlined in Exhibit B, which is attached hereto and incorporated by reference herein.

3. **Reporting Requirement.**

(a) Annually, on March 1, commencing on the March 1 immediately following the Benefit Date and continuing until the applicable report evidences satisfaction of the Wage

and Job Goals, or two years, whichever is later, the company will furnish to the EDA Minnesota Business Assistance Form in substantially the form attached hereto as **Exhibit C** (as such form may be modified to comply with reporting requirements imposed by law including Minn. Stat. Section 116J.994, Subdivision 7), covering the preceding 12 months, certified to be accurate by the Chief Operating Officer or Director of Human Resources of the \_\_\_\_\_ (company).

(b) If \_\_\_\_\_ (company) does not file a report by the due date set forth in subparagraph (a), above, the EDA will mail a warning to \_\_\_\_\_ (company) within one week of the filing date. If \_\_\_\_\_ (company) does not file the report within 14 days after the postmarked date of the warning, \_\_\_\_\_ (company) must pay the EDA a penalty of \$100 for each subsequent day until the report is filed. The maximum penalty shall not exceed \$1,000.

4. **Five Year Commitment to City.**

(a) \_\_\_\_\_ (company) acknowledges that it has received a Business Subsidy in connection with the Project and, in consideration thereof, hereby agrees to conduct the operations anticipated by the Development Agreement at the Project site, for at least five years after the Benefit Date, unless the consent of the EDA to a move from the Project site is first obtained, which, subject to the provisions of subparagraph (b), below, shall not be unreasonably withheld or delayed.

(b) If, during the five year period referred to in subparagraph (a), above, \_\_\_\_\_ (company) decides to move the operations which it was conducting at the Project site to a location other than the Project site, \_\_\_\_\_ (company) must first notify the EDA of such decision, including in its notification the specific business reasons for such decision. Following receipt of such notice, the EDA will promptly schedule and conduct the public hearing required by law.

5. **Name and Address of Parent Corporation (if applicable).** The \_\_\_\_\_ (company's) parent corporation is \_\_\_\_\_ (name and address).

6. **Other Business Subsidies Receive for this Project.**

Nothing herein shall preclude \_\_\_\_\_ (company) from receiving additional financial assistance for the Project. \_\_\_\_\_ (company) has also received a total of \$\_\_\_\_\_ in financial assistance from other grantors for the Project. A complete list of all grantors and the amounts of financial assistance is attached to this Agreement as **Attachment 2**.

7. **Indemnity.**

\_\_\_\_\_ (company) hereby agrees to pay, indemnify and hold the EDA harmless from any and all costs, expenses and fees, including reasonable attorney's fees that may be incurred by the EDA in enforcing this Agreement, provided the EDA is the prevailing party.

8. **Successors and Assigns.**

This Agreement and all terms, conditions and obligations contained herein, shall run with the Land and shall be binding upon and inure to the benefit of the EDA and \_\_\_\_\_ (the company), and their respective successors and permitted assigns.

9. **Breach, Notice, and Remedies.**

(a) Breach. If for any reason the Company is unable to meet the requirements of this Agreement, including, but not limited to, the requirement to meet specific Wage and Job Goals, the Reporting Requirements and the Five Year Commitment, then the Company will be deemed to be in breach of this Agreement.

(b) Notice. Once a breach has occurred, the Company shall provide written notice (the "Notice") of the breach. The Notice shall include a description of the nature of the breach, a description of the actions or accomplishments which must occur to cure the breach, and a reasonable time to cure the breach which will be at least 15 days.

(c) Remedies. If a breach occurs and is not cured within a reasonable time, the EDA may pursue any of its remedies at law or in equity including, but not limited to the following:

I. Repayment of the Subsidy. The EDA may, at its discretion, invoke requirement to repay the Business Subsidy as outlined in Section 2 of this Agreement in the event of a breach of the Agreement.

II. Specific Performance. The parties hereto agree that, in the event of a default by \_\_\_\_\_ (the company) in the performance of the obligations set forth in this Agreement, money damages shall not provide an adequate remedy. As a result, the parties understand and agree that, in the event of a default by \_\_\_\_\_ (company) in the performance of its obligations under this Agreement, the EDA shall be entitled to seek specific performance by the \_\_\_\_\_ (company) of such agreement.

10. **Term.**

The term of this Agreement shall be from the day and year first above written until the date on which all of the requirements of this Agreement have been satisfied. This Agreement shall specifically survive the termination of the Development Agreement.

11. **Attachments.**

The following documents attached to this Agreement are hereby incorporated by reference and made a part hereof:

Attachment 1: Minnesota Business Assistance Form

Attachment 2: Other Grantors and Financial Assistance to the Project

IN WITNESS WHEREOF this Agreement has been duly executed and delivered by the parties hereto as of the date above written.

Approved as to Form

ECONOMIC DEVELOPMENT  
AUTHORITY OF THE CITY  
OF PRIOR LAKE, MINNESOTA

\_\_\_\_\_  
City Attorney

By:

\_\_\_\_\_  
Its Chair/Commissioner

By:

\_\_\_\_\_  
Its Executive Director

By:

\_\_\_\_\_

STATE OF MINNESOTA    )  
                                          ) ss.  
COUNTY OF SCOTT                    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2000\_\_, by \_\_\_\_\_, the Chair/Commissioner of the Economic Development Authority of the City of Prior Lake, Minnesota, a Minnesota public body corporate and politic, on behalf of said public body.

\_\_\_\_\_  
Notary Public

STATE OF MINNESOTA    )  
                                          ) ss.  
COUNTY OF SCOTT                    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2000\_\_, by \_\_\_\_\_, the Executive Director of the Economic Development Authority of the City of Prior Lake, Minnesota, a Minnesota public body corporate and politic, on behalf of said public body.

\_\_\_\_\_  
Notary Public

COMPANY NAME

By

\_\_\_\_\_  
\_\_\_\_\_

Its

STATE OF MINNESOTA    )  
                                          ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 200\_\_, by \_\_\_\_\_ (name), the \_\_\_\_\_ (title) of \_\_\_\_\_ (company), on behalf of said company.

\_\_\_\_\_  
Notary Public

THIS INSTRUMENT WAS DRAFTED BY  
AND WHEN RECORDED RETURN TO:

City attorney's name and address here

ATTACHMENT 1

**MINNESOTA BUSINESS ASSISTANCE FORM**

[to be attached]

ATTACHMENT 2

**OTHER GRANTORS AND FINANCIAL ASSISTANCE**

<u>Grantor</u>	<u>Amount of Financial Assistance</u>
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	
11.	

## EXHIBIT A

## EXHIBIT B