

JOB OPPORTUNITY BUILDING ZONE BUSINESS SUBSIDY AGREEMENT

I. PARTIES

This agreement is made on September 1, 2004 by and between the City of Olivia, Minnesota, with offices at 1009 W. Lincoln Ave, Olivia, MN 56277 – Telephone 320,523.1055; (hereinafter “subzone administrator”) and John W. Baumgartner, President, Baumgartner Environics, Inc., a non-retail, trade or business organized and operating under the laws of the State of Minnesota (hereinafter “qualified business”), with its principal offices at 2510 W Lincoln Ave, Olivia, MN 56277 (302.523.1644). 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, Baumgartner Environics, Inc. owned by John W. Baumgartner is the fee owner of the Property located at 201 N 11th, in the city of Olivia, Renville County, Minnesota, with property tax identification number #35-2515, 2520, 2235, 2335, 2376; consisting of approximately 2 acres; (See Map - Exhibit 1) and

B. Whereas, the Property is located within a designated Job Opportunity Building Zone, as described in the City of Olivia Application; and is currently comprised of land with vacant buildings;

C. Whereas, the Baumgartner Environics, Inc. is approved as a non-retail business in the subzone, is currently operating in Olivia and another Minnesota non-Zone location, and will expand its operations within the City of Olivia subzone:

1. Commits to signing a Relocation Agreement with DEED; and
2. Cease one or more functions at non-Zone locations and begin performing substantially the same functions inside the Olivia subzone and
3. 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. A minimum of \$200,000 in site improvements will be made at the designated subzone as described in Section II, A of this agreement.

D. Whereas, the qualified business plans to begin business operations in the subzone on or before December 31, 2004.

E. Whereas the Job Zone Term shall be effective from the approval date until no 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 V. of this agreement.

JOB OPPORTUNITY BUILDING ZONE BUSINESS SUBSIDY AGREEMENT

I. PARTIES

This agreement is made on April 30, 2004 by and between the City of Olivia, Minnesota, with offices at 1009 W. Lincoln Ave, Olivia, MN 56277 – Telephone 320,523.1055; (hereinafter “subzone administrator”) and John W. Baumgartner, President, Baumgartner Environics, Inc., a non-retail, trade or business organized and operating under the laws of the State of Minnesota (hereinafter “qualified business”), with its principal offices at 2510 W Lincoln Ave, Olivia, MN 56277 (302.523.1644). 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:

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B. Whereas, the Property is located within a designated Job Opportunity Building Zone, as described in the City of Olivia Application; and is currently comprised of land with vacant buildings;

C. Whereas, the Baumgartner Environics, Inc. is approved as a non-retail business in the subzone, is currently operating in Olivia and another Minnesota non-Zone location, and will expand its operations within the City of Olivia subzone:

1. Commits to signing a Relocation Agreement with DEED; and
2. Cease one or more functions at non-Zone locations and begin performing substantially the same functions inside the Olivia subzone and
3. 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. A minimum of \$200,000 in site improvements will be made at the designated subzone as described in Section II, A of this agreement.

D. Whereas, the qualified business plans to begin business operations in the subzone on or before December 31, 2004.

E. Whereas the Job Zone Term shall be effective from the approval date until no 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 V. 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 the subzone administrator has approved a qualified business.
- 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 the 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 or entity that carries on a trade or business at a location 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 retail, 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 parcels of land designated by the Commissioner of Employment and Economic Development within a Job Opportunity Building Zone within the boundaries of Olivia 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: (Not Applicable)
- 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: Enhance economic diversity, Job retention, Stabilize the community and Assist in revitalizing underused industrial land and property in the community

- D. The measurable, specific, and tangible goals for the job zone subsidy shall include: The qualified business maintains 13 existing jobs during Job Zone Term and within the subzone boundary; The recipient or qualified business shall pay wages and benefits that total at least 110% of the current poverty level for a family of four; A capital investment made in the zone of not less than 10% of the gross revenue of the taxable year immediately preceding relocation to the zone, this investment shall occur during the first year of business operation in the zone; A minimum of \$200,000 in site improvements will be made by December 31, 2006.
- E. A properly noticed public hearing held on March 18, 2004 by the subzone administrator as provided by M.S. § 116J.994. The hearing identified the criteria a qualified business must meet to receive a Job Opportunities Building Zone business subsidy. The hearing also specified the public purpose(s) that shall be achieved and the measurable, specific, and tangible goals committed to by the qualified business. The subzone administrator adopted a Jobz business subsidy policy on March 18, 2004 as required by M.S. § 116J.994 Subd. 2. A copy of the policy will submitted to the Department of Employment and Economic Development along with the first annual report.
- F. As defined in M.S. § 469.319 the qualified business is financially obligated to repay all JOBZ related tax benefits obtained if it does not meet the goals identified in this agreement.
- G. As defined in M.S. § 116J.994 Subd. 6A the qualified business is financially obligated, 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.
- 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. If the qualified business requires construction or extension of municipal services, sanitary sewer, water storm sewer, electric service and/or street access, all city project costs associated with those improvements will be paid by the qualified business.
- L. For the City to prepare and provide necessary documents for the JOBZ tax benefits the applicant must pay a \$750 application fee prior to submittal and agree to pay an annual administration cost of 2% of the annual tax benefits described under the definition of "JOBZ Business Subsidy". The administration fee will be paid when the annual business subsidy report is submitted to DEED, no later than March 1 of each year.
- M. 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 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 Baumgartner Environics Inc:

By John W. Baumgardner
Title President
Date 9-10-04

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 Olivia:

By Galt Ehrlich
Title Director Olivia EDA
Date 9-1-04