

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

12-0308R

REPLACEMENT 2

RESOLUTION AUTHORIZING A JOB OPPORTUNITY BUILDING ZONE (JOBZ) BUSINESS SUBSIDY AGREEMENT WITH AAR AIRCRAFT SERVICES, INC.

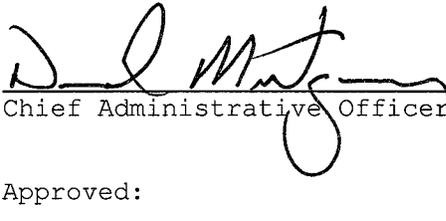
CITY PROPOSAL:

RESOLVED, that the proper city officials are authorized to enter into a JOBZ business subsidy agreement substantially in the form of that on file in the office of the city clerk as Public Document No. _____ with AAR Aircraft Services, Inc. (qualified business) related to property located at the former NWA MRO facility.

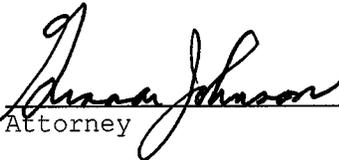
Approved:


Department Director

Approved for presentation to council:


Chief Administrative Officer

Approved as to form:


Attorney

Approved:


Auditor

DEDA/ATTY HTB:bel/tmn 06/19/2012

STATEMENT OF PURPOSE: The purpose of this resolution is to authorize a JOBZ business subsidy agreement with AAR Aircraft Services, Inc. (AAR) ("qualified business"). Under the agreement, the qualified business agrees to create at least 50 new FTEs within 1 year of its start of operations. Further it is anticipated that by the end of the third year that number will have risen to 192 jobs. The qualified business will pay, on an annualized basis, compensation that is no less than 110 percent of the federal poverty level for a family of four, including benefits not mandated by law, until the JOBZ program ends (December 31, 2015). This wage floor applies to all employees; currently the wage floor is established at \$11.82/hour and will be adjusted annually. As a point of information, the schedule of new jobs at AAR's location indicates an average hourly salary of \$20 (\$24.72/hour with non-mandated benefits such as insurance).

As part of the financing necessary to the project, it will be receiving support in the form of JOBZ benefits and, at the end of the JOBZ program, tax abatement.

Therefore, the tax impact to the City of this project will be de minimus for the immediate future.

Pursuant to Resolution 12-0287R adopted June 11, 2012, the city authorized the "swap" of 27.1 acres of JOBZ subzone acreage to create the "Maintenance Facility JOBZ subzone" (subzone #100.2).

Minnesota Job Opportunity Building Zone Program

BUSINESS SUBSIDY AND RELOCATION AGREEMENT

THIS AGREEMENT is made and entered into by and between the City of Duluth (hereinafter referred to as the “Local Administrator”), a local unit of government, and AAR Aircraft Services, Inc. (hereinafter referred to as “JOBZ Qualified Business”), and the Minnesota Department of Employment and Economic Development (hereinafter referred to as “DEED”) and shall be effective and have an effective date that is the date on which this Agreement is approved by DEED. Provided, however, DEED shall only be a party to this Agreement if under Section 7 the JOBZ Qualified Business is relocating a trade or business from outside a JOBZ Zone, as hereinafter defined, into the AAR Aircraft Services, Inc. JOBZ Subzone, as hereinafter defined, and if no such relocation is occurring then DEED is not a party to this Agreement, any reference to DEED in the body of this Agreement shall be ignored as if such reference did not exist, and the only involvement by DEED shall be the need for DEED to approve this Agreement. This limitation as to the involvement of DEED in this Agreement only applies to DEED and does not apply to the Commissioner of DEED, and all references to the Commissioner of DEED shall remain in this Agreement and be of full force and effect even if the JOBZ is not relocating a trade or business as referred to hereinabove.

RECITALS

I. Minn. Stat. §469.310 through 469.3201, and 116J.993 through 116J.995 (hereinafter cumulatively referred to as the “JOBZ Act”) authorizes the creation of a program (hereinafter referred to as the “JOBZ Program”) under which qualified entities are entitled to statutorily created tax benefits.

II. Under the JOBZ Act, the Commissioner of the Minnesota Department of Employment and Economic Development for the State of Minnesota (hereinafter referred to as the “Commissioner of DEED”), after consultation with the Commissioner of the Minnesota Department of Revenue (hereinafter referred to as the “Commissioner of Revenue”), is directed to designate up to ten zones in the State of Minnesota (hereinafter individually referred to as a “JOBZ Zone”) that would qualify for participation in the JOBZ Program.

III. Under the provisions contained in Minn. Stat. §469.312, Subd. 2, a JOBZ Zone may consist of one or more noncontiguous areas or subzones.

IV. The Local Administrator has submitted an application to the Commissioner of DEED, in which it requested that the portion of the State of Minnesota identified therein (hereinafter referred to as the “AAR Aircraft Services, Inc. JOBZ Subzone”) be approved as a JOBZ Zone or a subzone within a JOBZ Zone, which such AAR Aircraft Services, Inc. JOBZ Subzone being specifically shown in and identified as such in the plat, survey, map, drawing or other depiction attached hereto as **Attachment I**.

V. The Commissioner of DEED, in accordance with the statutory provisions contained in the JOBZ Act, has selected and designated the AAR Aircraft Services, Inc. JOBZ Subzone to be included in the JOBZ Program, and has designated the Local Administrator as the local government unit that will administer the AAR Aircraft Services, Inc. JOBZ Subzone under the JOBZ Program.

VI. Under the JOBZ Act and JOBZ Program certain businesses that are located in a JOBZ Zone, individuals who invest in such businesses, property that is located in a JOBZ Zone and the individuals who own such property may qualify for the following statutorily created economic benefits (hereinafter cumulatively the "JOBZ Economic Benefits"):

- A. Exemption from individual income taxes as provided in Minn. Stat. §469.316.
- B. Exemption from corporate franchise taxes as provide in Minn. Stat. §469.317.
- C. Exemption from state sales and use tax and any local sales and use taxes on qualifying purchases as provided in Minn. Stat. §297A.68, Subd. 37.
- D. Exemption from the state sales tax on motor vehicles and any local sales tax on motor vehicles as provided under Minn. Stat. §297B.03.
- E. Exemption from the property tax as provided in Minn. Stat. §272.02, Subd. 64.
- F. Exemption from the wind energy production tax under Minn. Stat. §272.029, Subd. 7.
- G. The jobs credit allowed under Minn. Stat. §469.318

VII. In order to obtain the JOBZ Economic Benefits, a business must (i) be located in a JOBZ Zone, (ii) meet the requirements for a "qualified business" under Minn. Stat. §469.310, Subd. 11, (iii) agree to create and maintain a certain number of new jobs in a JOBZ Zone, (iv) agree to pay a certain level of wages, and (v) enter into an agreement with the local government unit that administers the JOBZ Zone in which it will be located evidencing its intent to create and maintain such new jobs.

VIII. The parties hereto are entering into this Agreement in order to meet the statutory requirement that a business requesting benefits under the JOBZ Program and the local administrator for the specific JOBZ Zone must enter into an agreement under which said business intends to create and maintain new jobs within such JOBZ Zone and the additional statutory requirement that a business requesting benefits under the JOBZ Program that relocates a trade or business into a JOBZ Zone must enter into an agreement with the DEED.

IX. The JOBZ Qualified Business and the Local Administrator have jointly submitted to DEED a Job Opportunity Building Zone (JOBZ) Program Application, which is incorporated herein by reference.

NOW, THEREFORE, the parties hereto do hereby covenant, warranty, represent, and agree as follows:

1. **Defined Terms.** As used in this Agreement, the following terms shall have the meanings set out respectively after each such term (the meanings to be equally applicable to both the singular and plural forms of the terms defined), unless the context specifically indicates otherwise:

“Agreement” – means this Minnesota Job Opportunity Building Zone Program Building Subsidy Agreement, and all amendments, modifications, restatements, and replacements thereof.

“Benefit Date” - means the date that the recipient receives the business subsidy. If the business subsidy involves the purchase, lease, or donation of physical equipment, then the benefit date begins when the recipient puts the equipment into service. If the business subsidy is for improvements to property, then the benefit date refers to the earliest date of either:

- (1) when the improvements are finished for the entire project; or
- (2) when a business occupies the property. If a business occupies the property and the subsidy grantor expects that other businesses will also occupy the same property, the grantor may assign a separate benefit date for each business when it first occupies the property.

“Base Salary” – means hourly salary and any non-statutorily required benefits, and shall not include any statutorily required benefits. If the Base Salary is an annual amount per year and not an hourly amount, then the Base Salary shall be the annual amount divided by the greater of 2,080 hours or the actual number of hours normally worked during a calendar year. All non-statutorily required benefits that are included in the Base Salary shall be calculated in accordance with and comply with normally accepted accounting principles.

“Capital Investment”- means an investment that may be depreciated under the United States Internal Revenue Code and such regulations that are adopted pursuant thereto.

“Commissioner of DEED” – means the Commissioner of the Minnesota Department of Employment and Economic Development

“Commissioner of DOLI” – means the Commissioner of the Minnesota Department of Labor and Industry.

“Commissioner of Revenue” – means the Commissioner of the Minnesota Department of Revenue.

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

“Existing FTE Jobs” – means those FTE Jobs that the JOBZ Qualifying Business maintains in the State of Minnesota as of the effective date of this Agreement, not including the New FTE Jobs.

“Disqualifying Event” - means one or more of those events delineated in Section 12 herein.

“FTE Job”- means one job or a combination of jobs that will produce annualized cumulative expected hours of work, without the inclusion of any hours of overtime work, equal to 2,080 hours, which such jobs are held by direct employees of the JOBZ Qualified Business for which it is required to pay social security and worker’s compensation taxes if such employees were to work the minimum number of hours to require such payment. A FTE Job may be seasonal in nature and need not be maintained through out a calendar year as long as the required number of FTE Jobs are created and maintained for each calendar year. Student workers, interns, etc. are neither considered part-time, nor full time employees, and are not subject to the requirement for minimum wage requirements of the JOBZ program and will not be counted toward achieving job goals.

“JOBZ Act” – means the provisions contained in Minn. Stat. §§469.310 through 469.3201 and 116J.993 through 116J.995 that exist as of the effective date of this Agreement and as such may subsequently be amended, modified or replaced from time to time.

“JOBZ Economic Benefits” – means the economic benefits delineated in Recital VI herein.

“JOBZ Benefits Period” – means the time period from the effective date of this Agreement until the earlier of the date on which a Disqualifying Event shall occur or the date on which the AAR Aircraft Services, Inc. JOBZ Subzone terminates as provided in Minn. Stat. §469.312, Subd. 5.

“JOBZ Economic Benefits Recipients” – cumulatively means those individuals, estates, trusts, and entities that are eligible for JOBZ Economic Benefits under the JOBZ Act and JOBZ Program.

“JOBZ Program” – means the program described in Minn. Stat. §§469.310 through 469.3201 that exist as of the effective date of this Agreement and as such may subsequently be amended, modified or replaced from time to time.

“JOBZ Qualified Business” – means the entity indentified as such in the lead in paragraph to this Agreement.

“JOBZ Zone” – means those portions of the State of Minnesota that are situated in the ten zones that the Commissioner of DEED, after consultation with the Commissioner of Revenue has designated for inclusion in the JOBZ Program.

“Local Administrator” – means the entity identified as such in the lead-in paragraph to this Agreement.

“New FTE Jobs” – means new FTE Jobs that the JOBZ Qualifying Business will add for the business that it will operate on the Property from and after the effective date of this Agreement. Such new jobs must be in addition to and not in replacement of other jobs that the JOBZ Qualified Business has at any of its operations in the State of Minnesota as of the effective date of this Agreement, whether or not such operations are located on or off of the Property.

“Program Application” – means that certain Job Opportunity Building Zone (JOBZ) Program Application that the JOBZ Qualified Business and the Local Administrator jointly submitted to DEED which is incorporated herein by reference.

“Property” – means the real property and all structures situated thereon on and in which the JOBZ Qualified Business is operating, or intends to operate, the portion of its business that is, or will be, situated in the AAR Aircraft Services, Inc. JOBZ Subzone, which such real property (i) is located at 4600 Stebner Road, in the City of Duluth, County of Saint Louis, State of Minnesota, and (iii) is specifically shown in and identified as the “Property” in the plat, survey, map, drawing or other depiction attached hereto as **Attachment I**.

“Revenue” – means the Minnesota Department of Revenue.

“AAR Aircraft Services, Inc. JOBZ Subzone” – means that portion of the State of Minnesota that is identified in an application that the Local Administrator submitted to the Commissioner of DEED to have such portion of the State of Minnesota included in the JOBZ Program as a JOBZ Zone, and which is specifically shown in and identified as the “AAR Aircraft Services JOBZ Subzone” in the plat, survey, map, drawing or other depiction attached hereto as **Attachment I**.

2. **JOBZ Subzone and Qualified Business.** The following statements are based upon the information contained in the Program Application or additional information supplied by the JOBZ Qualified Business or independently obtained by the Local Administrator:

A. The Property is situated entirely within the AAR Aircraft Services, Inc. JOBZ Subzone

B. The business operation that the JOBZ Qualified Business will operate in the AAR Aircraft Services, Inc. JOBZ Subzone will not be primarily engaged in making retail sales to purchasers who are physically present at the location of such business operation.

C. The business operation that the JOBZ Qualified Business will operate in the AAR Aircraft Services, Inc. JOBZ Subzone will not be a public utility as such term is defined in Minn. Stat. §336B.01.

3. **Job Existence, Creation, and Maintenance.** With respect to current and future employment levels, the JOBZ Qualified Business represents to the Local Administrator, by way of the information contained in the Program Application or other information submitted to or independently obtained by the Local Administrator, as follows:

A. It has the following number of Existing FTE Jobs at all of its operations located in the State of Minnesota:

Location	Number of Existing FTE Jobs
N/A	N/A

B. The JOBZ Qualified Business will create the following number of New FTE Jobs with the following Base Salaries at the business it is operating, or intends to operate, on the Property within the delineated time periods, and will continue to maintain such jobs at such Base Salaries for as long as this Agreement is in effect.

Create fifty (50) New FTE Jobs within one year of the Benefit Date.

C. All of the Base Salaries for the New FTE Jobs are equal to or greater than 110% of the federal poverty level for a family of four for such location adjusted as provided in Minn. Stat. §469.310, Subd. 11(g).

4. **Capital Investment.** As of the effective date of this Agreement, the JOBZ Qualified Business intends to does not intend to [*check appropriate space*] make a Capital Investment in the facilities that it will operate on the Property. If the JOBZ Qualified Business will make a Capital Investment, then the Capital Investment shall be in the following amount and shall be completed within the indicated time period.

5. **Term of this Agreement.** Upon the JOBZ Qualified Business' full and complete compliance with all of the terms, conditions, provisions, and representations contained herein for the full JOBZ Benefits Period, this Agreement shall terminate and no longer have any force or effect.

6. **Business Subsidy Requirements.** The creation of the AAR Aircraft Services, Inc. JOBZ Subzone and the providing of the JOBZ Economic Benefits to the JOBZ Qualified Business and the JOBZ Economic Benefits Recipients will satisfy one or more of the following public purposes:

A. The creation or maintenance of jobs that pay wages equal to or greater than 110% of the federal poverty level for a family of four for such location.

B. The expansion of the tax base in the AAR Aircraft Services, Inc. JOBZ Subzone.

C. The enhancement of regional economic growth in the AAR Aircraft Services, Inc. JOBZ Subzone.

D. The support of businesses that make a long term commitment to operate in the AAR Aircraft Services, Inc. JOBZ Subzone.

E. The encouragement of neighborhood stability and growth in the AAR Aircraft Services, Inc. JOBZ Subzone that is consistent with good planning.

7. **Relocation Provisions.** The JOBZ Qualified Business represents that it is is not [Check appropriate space. If no space is checked, then it is rebuttable presumed that "is" was checked.] relocating a trade or business from outside of a JOBZ Zone into the AAR Aircraft Services, Inc. JOBZ Zone. *If the JOBZ Qualified Business is not relocating a trade or business from outside a JOBZ Zone into the AAR Aircraft Services, Inc. JOBZ Zone, then this section is not needed and should be ignored as if it were not included in this Agreement and all references to this Section in this Agreement shall be ignored as if they did not exist.*

A. Relocates or Relocating. By representing that it is (i) relocating a trade or business from outside a JOBZ Zone into the _____ JOBZ Subzone, the JOBZ Qualified Business is representing that it is ceasing one or more operations or functions at another location in the State of Minnesota and will begin performing substantially the same operations or functions within the _____ JOBZ Subzone, or (ii) it has or will reduce employment at another location in the State of Minnesota during the time period starting 1 year before and ending 1 year after it begins operating in the _____ JOBZ Subzone and its employees in the _____ JOBZ Subzone are or will be engaged in the same line of business as the employees that are at the location where it reduced employment. Relocation or relocating does not include an expansion by the JOBZ Qualified Business that establishes a new facility that does not, in whole or in part, replace or supplant an existing operation or employment.

B. Trade or Business. The reference to trade or business includes any business entity that is substantially similar in operation or ownership to the JOBZ Qualified Business.

C. Increase in Employment. In the 1st full year of operation within the JOBZ Zone, the JOBZ Qualified Business shall, including but not limited to the New FTE Jobs delineated in Section 3.C herein, increase the number of FTE Jobs for the business that it will operate on the Property by no less than the greater of 5 FTE Jobs or 20 percent measured relative to the operations that were relocated, and maintain the required level of employment for each year the _____ JOBZ Subzone designation applies. If the number of New FTE Jobs delineated in Section 3.C herein is not sufficient to meet such increased employment requirement imposed by this subsection, then the JOBZ Qualified Business

shall add such additional New FTE Jobs necessary to met such requirement within such 1st year of operation and maintain them for such designated period of time.

8. **Reports and Certifications.** The JOBZ Qualified Business shall prepare and deliver the following reports and certifications:

A. Business Subsidy Report. On or before the 1st day of March of each calendar year, the JOBZ Qualified Business shall deliver to the Local Administrator and DEED a report that contains all of the information required under Minn. Stat. §116J.994, Subd. 7 on a form or forms to be developed by and available from DEED.

B. Certification of JOBZ Compliance with BSA. In addition to the report required under Section 8.A herein, on or before the 15th day of October of each calendar year, the JOBZ Qualified Business shall deliver to the Local Administrator and Revenue a certification in a form to be developed by and available from Revenue in which the JOBZ Qualified Business certifies, under oath, whether or not it is in full and complete compliance with the terms, conditions, provisions, representations and warranties contained in this Agreement, and if it is not in such compliance a statement as to which of the terms, conditions, provisions, representations and warranties contained herein for which it is not in compliance and an explanation of how it is out of compliance.

C. JOBZ Tax Benefit Report. On or before the 15th day of October of each calendar year, the JOBZ Qualified Business shall deliver to Revenue a report in a form to be developed by and available from Revenue in which the JOBZ Qualified Business reports on the amount of tax benefits claimed in the previous tax year.

D. Report on Anniversary Dates. Businesses new to the JOBZ program will be required to report on the numbers of jobs created and wages paid two years after they either put equipment into service or occupy a new or improved property. Businesses that are relocating their operations into a JOB Zone must report on jobs and wages one year after they begin their operations. These "Anniversary" reports are separate from the normally required Minnesota Business Assistance Form (MBAF) that must continue to be sent to DEED by April 1 for the preceding calendar year.

E. Other such performance reports as may be required by DEED on forms to be developed and made available by DEED.

9. **Record Keeping and Preservation of Items.** For as long as this Agreement is in effect the JOBZ Qualified Business shall maintain or cause to be maintained books, records, documents and other evidence pertaining to the operation of the business it is operating, or intends to operate, at the Property that are needed to comply with the provisions and requirements contained in this Agreement and the JOBZ Act, and upon request shall allow, or cause the entity which is maintaining such items to allow, the Local Administrator, DEED, Revenue, the Legislative Auditor for the State of Minnesota, and the State Auditor for the State of Minnesota, to inspect, audit, copy, and abstract, all of such items. The JOBZ Qualified

Business shall use, or cause the entity which is maintaining such items to use, generally accepted accounting principles in the maintenance of such items, and shall retain, or cause to be retained, all of such items for a period of 6 years from the end of the JOBZ Benefits Period.

In addition and for as long as this Agreement is in effect, the JOBZ Qualified Business shall preserve the existence of all licenses, permits, certificates of good standing, and other similar items needed and required for its continued operation of the business it is operating, or intends to operate, on the Property, and shall produce and provide copies thereof to the Local Administrator, DEED, and Revenue upon request thereby.

10. **Prevailing Wages.** The JOBZ Qualified Business must fully and completely comply with all of the applicable requirements regarding prevailing wages that are contained in Minn. Stat. §116J.871. These requirements include, but are not limited to, providing a certification to the Commissioner of DOLI that laborers and mechanics that are involved with any construction, installation, remodeling or repair activities at the project site for which the financial assistance will be paid the prevailing wage rate, as provided in Minn. Stat. §116J.871, Subd. 2.

The certification to be provided to the Commissioner of DOLI shall be under oath and in the form attached hereto as **Attachment II**. The JOBZ Qualified Business shall supply such certification to the Commissioner of DOLI at the address shown in such certification even if no construction, installation, remodeling or repair activities will occur at the referenced project sit, and shall do so no later then 30 days after the date that this Agreement is approved by DEED. The JOBZ Qualified Business shall also promptly supply to the Local Administrator and DEED copies of the certification that it supplies to the Commissioner of DOLI along with any correspondence that was used to supply such certification to such commissioner.

The JOBZ Qualified Business shall maintain all documentation necessary to establish that it paid any required prevailing wage, and shall allow the Commissioner of DOLI, the Local Administrator, and DEED reasonable access to such data.

11. **JOBZ Qualified Business Representations.** The JOBZ Qualified Business covenants with, and represents and warrants to the Local Administrator and DEED as follows:

A. The location of the AAR Aircraft Services, Inc. JOBZ Subzone and the Property are as shown in **Attachment I**.

B. All of the structures in which the JOBZ Qualified Business is operating, or intends to operate, in the AAR Aircraft Services, Inc. JOBZ Subzone are located entirely within the boundaries of the Property.

C. It has legal authority to enter into, execute, and deliver this Agreement, and it has taken all actions necessary for its execution and delivery of such documents.

D. It has legal authority to operate the business it has represented that it is operating, or intends to operate, on the Property.

E. This Agreement is the legal, valid and binding obligations of the JOBZ Qualified Business and is enforceable against it in accordance with its contents.

F. It will comply with all of the terms, conditions, provisions, covenants, requirements, and warranties in this Agreement.

G. It will comply with all of the provisions and requirements contained in and imposed by the JOBZ Act.

H. It has made no material false statement or misstatement of fact in connection with its application for inclusion in the JOBZ Program and receipt of the JOBZ Economic Benefits, and all of the information it has submitted, or will submit, regarding its inclusion in the JOBZ Program or receipt of JOBZ Economic Benefits is, or will be, true and correct, and will continue to be true and correct.

I. It is not in violation of any provisions of its charter or of the laws of the State of Minnesota, and there are no actions, lawsuits, or proceedings pending, or to its knowledge threatened, before any judicial body or governmental authority against or affecting it relating to the Property, its ownership interest therein, or its operation of the business it is operating, or intends to operate, on the Property.

J. It is not in default with respect to any order, writ, injunction, decree, or demand of any court or any governmental authority which would impair (i) its ability to enter into this Agreement, (ii) the performance any of the acts required of it herein, (iii) its ownership interest in the Property, or (iv) its operation of the business it is operating, or intends to operate, on the Property.

K. Neither the execution and delivery of this Agreement, nor compliance with any of the terms, conditions, requirements, or provisions contained herein is prevented by, is a breach of, or will result in a breach of, any term, condition, or provision of any agreement or document to which it is now a party or by which it is bound.

L. The contemplated use of the Property and the operation of the business that it is operating, or intends to operate, on the Property will not violate any applicable zoning or use statute, ordinance, building code, rule or regulation, or any covenant or agreement of record relating thereto.

M. It will operate the business it is operating, or intends to operate, on the Property in full compliance with all applicable laws, statutes, rules, ordinances, and regulations issued by any federal, state, or local political subdivisions having jurisdiction over such operation. Provided, however, nothing herein shall require it to comply with, observe or conform to any such law, statute, rule, ordinance or regulation for any time period during which it is contesting, in good faith, the validity thereof by way of a duly initiated legal and pursued legal action.

N. All applicable licenses, permits and bonds required for its operation of the business that it is operating, or intends to operate, on the Property have been, or will be, obtained.

O. It shall promptly pay or otherwise satisfy and discharge all of its obligations and indebtedness, independent of whether or not such obligations or indebtedness involve the business it is operating, or intends to operate, on the Property, when such become due and payable other than those whose validity, amount, enforceability, or collectability are being contested, in good faith, by appropriate proceedings.

P. It shall furnish such satisfactory evidence regarding the representations and warranties described herein as may be required and requested by the Local Administrator, or Revenue.

12. **Disqualifying Event(s).** The following events shall constitute a Disqualifying Event under this Agreement, and such a Disqualifying Event may not be waived in any manner or form:

A. If the JOBZ Qualified Business fails to fully comply with any provision, term, condition, covenant, or warranty contained in this Agreement, including but not limited to its failure to:

(i) Maintain the number of Existing FTE Jobs that are located in the AAR Aircraft Services, Inc. JOBZ Subzone and designated in Section 3.B herein for as long as it is receiving any of the JOBZ Economic Benefits;

(ii) Create the number of New FTE Jobs required under in Section 3.C herein within the time periods delineated therein, and maintain such jobs for as long as it is receiving any of the JOBZ Benefits;

(iii) Create the number of New FTE Jobs required under in Section 7.C herein within the time periods delineated therein, and maintain such jobs for the time period specified in such section;

(iv) Pay the level of wages to employees as specified in Section 3 herein;

(v) Make the Capital Investment required under Section 3 herein;

(vi) Deliver the information required under Section 8 herein; or

(v) Comply with the prevailing wage requirements contained in Section 10 herein.

B. If the JOBZ Qualified Business fails to fully comply with any requirement imposed by the JOBZ Act or JOBZ Program.

C. If the JOBZ Qualified Business ceases to perform a substantial level of activities in the AAR Aircraft Services, Inc. JOBZ Subzone.

D. If the JOBZ Qualified Business ceases to be a qualified business under the JOBZ Act or the JOBZ Program.

E. If any representation, covenant, or warranty made by the JOBZ Qualified Business in this Agreement or in order to induce the Local Administrator to qualify it for inclusion in the JOBZ Program, shall prove to have been untrue or incorrect in any material respect or materially misleading as of the time such representation, covenant, or warranty was made.

13. Effect of Disqualifying Event. In accordance with the repayment provisions contained in the JOBZ Act and subject to enforcement actions by the appropriate taxing entities or authorities, upon the occurrence of a Disqualifying Event the JOBZ Qualified Business and any and all other entities and individuals who claimed a JOBZ Economic Benefit may be required, subject to any limitations imposed by the JOBZ Act, to repay the JOBZ Economic Benefits they received during the two years immediately prior to date on which Disqualifying Event occurred and for the years in which a Disqualifying Event continued to exist.

The repayment of such JOBZ Economic Benefits and the amount thereof to be repaid, if required, shall be in accordance with the provisions contained in the JOBZ Act and Minn. Stat. §§ 469.319 and 469.3191 that exist as of the date that such repayment is first required.

In addition and not in limitation, upon the occurrence of a Disqualifying Event and at any time during the existence of such Disqualifying Event, the Local Administrator and/or DEED may, subject to any limitations imposed by the JOBZ Act, assert any or all of the following remedies:

A. Terminate this Agreement and rescind all of the benefits that the JOBZ Qualified Business and JOBZ Economic Benefits Recipients acquired hereunder.

B. Terminate the JOBZ Qualified Business' status as a "qualified business" under the JOBZ Act.

C. Enforce any and all additional remedies that they may have in law or equity.

The rights and remedies herein specified are cumulative and not exclusive of any rights or remedies that the Local Administrator, DEED, and the appropriate taxing entities or authorities would otherwise possess.

If the JOBZ Qualified Business does not meet the goals specified in this Agreement but performs a substantial level of activities described in this Agreement, such business will be

allowed to remain in the JOBZ Program if the Local Administrator, the Commissioner of DEED, and the such business mutually agree on a new set of goals, as provided in Minn. Stat. §469.3191. A new or amended Minnesota Job Opportunity Building Zone Program Business Subsidy Agreement must be entered into and executed by such business in order to remain as a qualified business under the JOBZ Program. However, the duration of the AAR Aircraft Services, Inc. JOBZ Subzone will be shortened proportionately by the degree to which the JOBZ Qualified Business attained the goals in the original Minnesota Job Opportunity Building Zone Program Business Subsidy Agreement. This is a one-time reduction. Failing to meet their revised goals will be a Disqualifying Event, and such business will be terminated from the JOBZ Program.

14. **Amendments to Agreement.** Except as authorized under Minn. Stat. §469.3192, under no circumstances shall the terms, conditions, or provisions contained herein that relate to job creation, job retention, or wage goals be amended, modified or otherwise changed.

15. **Non-Discrimination.** The JOBZ Qualified Business agrees to not engage in discriminatory employment practices regarding the operation of the business it is operating, or intends to operate, on the Property, and it shall, with respect to such activities, fully comply with all of the provisions contained in Chapters 363A and 181 of the Minnesota Statutes that exist as of the effective date of this Agreement and as such may subsequently be amended, modified or replaced from time to time.

16. **Worker's Compensation.** The JOBZ Qualified Business agrees to comply with all of the provisions relating to worker's compensation contained in Minn. Stat. §§ 176.181 Subd. 2 & 176.182 that exist as of the date of this Agreement and as such may subsequently be amended, modified or replaced from time to time, with respect to the business it is operating or intends to operate on the Property.

17. **Liability.** The JOBZ Qualified Business, the Local Administrator and DEED agree that they will, subject to any indemnifications provided herein, be responsible for their own acts and the results thereof to the extent authorized by law, and they shall not be responsible for the acts of any other party and the results thereof.

18. **Indemnification by the JOBZ Qualified Business.** The JOBZ Qualified Business shall bear all loss, expense (including attorneys' fees), and damage in connection with the business it is operating, or intends to operate, on the Property, and agrees to indemnify and hold harmless the Local Administrator, DEED, Revenue, and the State of Minnesota, and their officers and employees from all claims, demands and judgments made or recovered against such entities arising out of, incidental to, or in connection with the granting or receipt of JOBZ Economic Benefits or the JOBZ Qualified Business's operation of the business it is operating, or intends to operate, on the Property, whether or not due to any act of omission or commission, including negligence of the JOBZ Qualified Business or any contractor or his or their employees, servants or agents, and whether or not due to any act of omission or commission (excluding, however, negligence or breach of statutory duty) of any such indemnified entity.

The JOBZ Qualified Business's liability hereunder shall not be limited to the extent of insurance carried by or provided by the JOBZ Qualified Business, or subject to any exclusions from coverage in any insurance policy.

19. Relationship of the Parties. Nothing contained in this Agreement is intended or should be construed in any manner as creating or establishing the relationship of co-partners or a joint venture between the JOBZ Qualified Business, the Local Administrator, DEED, Revenue, or the State of Minnesota, nor shall the JOBZ Qualified Business be considered or deemed to be an agent, representative, or employee of either the Local Administrator, DEED, Revenue, or the State of Minnesota in the performance of this Agreement.

The JOBZ Qualified Business represents that it has already or will secure or cause to be secured all personnel required for the performance of this Agreement and its operation of the business it is operating, or intends to operate, on the Property. All personnel of the JOBZ Qualified Business or other persons while engaging in the Qualifying JOBZ Business' operation of the business it is operating, or intends to operate, on the Property shall not have any contractual relationship with either the Local Administrator, DEED, Revenue, or the State of Minnesota, and shall not be considered employees of any of such entities. In addition, all claims that may arise on behalf of said personnel or other persons out of employment or alleged employment including, but not limited to, claims under the Workers' Compensation Act of the State of Minnesota, claims of discrimination against the JOBZ Qualified Business, its officers, agents, contractors, or employees shall in no way be the responsibility of either the Local Administrator, DEED, Revenue, or the State of Minnesota. Such personnel or other persons shall not require nor be entitled to any compensation, rights or benefits of any kind whatsoever from either the Local Administrator, DEED, Revenue, or the State of Minnesota including, but not limited to, tenure rights, medical and hospital care, sick and vacation leave, disability benefits, severance pay and retirement benefits.

20. Binding Effect and Assignment or Modification. This Agreement shall be binding upon and inure to the benefit of the JOBZ Qualified Business, the Local Administrator, DEED, and their respective successors and assigns. Provided, however, that a party hereto may not assign any of its rights or obligations under this Agreement without the prior written consent of all of the other parties. No change or modification of the terms or provisions of this Agreement shall be binding on a party hereto unless such change or modification is in writing and signed by an authorized official of the party against which such change or modification is to be imposed.

21. Waiver. Neither the failure by the JOBZ Qualified Business, the Local Administrator, DEED, or Revenue, in any one or more instances to insist upon the complete and total observance or performance of any term or provision hereof, nor the failure of the JOBZ Qualified Business, the Local Administrator, DEED, or Revenue to exercise any right, privilege, or remedy conferred hereunder or afforded by law shall be construed as waiving any breach of such term, provision, or the right to exercise such right, privilege, or remedy thereafter. In addition, no delay on the part of either the JOBZ Qualified Business, the Local Administrator, DEED, or Revenue in exercising any right or remedy hereunder shall operate as a waiver thereof,

nor shall any single or partial exercise of any right or remedy preclude other or further exercise thereof or the exercise of any other right or remedy.

22. **Choice of Law and Venue.** All matters relating to the validity, construction, performance, or enforcement of this Agreement shall be determined in accordance with the laws of the State of Minnesota.

23. **Severability.** If any provision of this Agreement is finally judged by any court to be invalid, then the remaining provisions shall remain in full force and effect and they shall be interpreted, performed, and enforced as if the invalid provision did not appear herein.

24. **Time of Essence.** Time is of the essence with respect to all of the matters contained in this Agreement.

25. **Third-Party Beneficiary.** The State of Minnesota, by and through its Commissioner of DEED, Revenue, and DEED if it is not a direct party to this Agreement, shall be third-party beneficiaries of this Agreement.

26. **Conflict with Program Application.** The provisions, representations, and warranties contained in this Agreement shall control over any conflicting provision, warranty, or representation contained in the Program Application.

(THE REMAINING PORTION OF THIS PAGE WAS INTENTIONALLY LEFT BLANK.)

This Minnesota Job Opportunity Building Zone Program Business Subsidy Agreement was entered into and executed on the day and date shown immediately below the following signatures.

LOCAL ADMININSTRATOR

_____,
a local unit of government.

By: _____

Its: _____

And: _____

Its: _____

Dated the ____ day of _____, 20__

JOBZ QUALIFIED BUSINESS

_____,
a _____.

By: _____

Its: _____

And: _____

Its: _____

Dated the ____ day of _____, 20__

[The following signature block for the Minnesota Department of Employment and Economic Development shall only be used if the JOBZ Qualified Business indicated in Section 7 herein that it is relocating a trade or business from outside a JOBZ Zone into the AAR Aircraft Services, Inc. JOBZ Subzone, and shall not be used for any other circumstance. The use of this signature block by the Minnesota Department of Employment and Economic Development makes such department a direct party to this Agreement.]

MINNESOTA DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT

By: _____

Its: _____

Dated the ____ day of _____, 20__

[The following approval by the Minnesota Department of Employment and Economic Development shall be used in all circumstances and instances.]

This Minnesota Job Opportunity Building Program Business Subsidy Agreement was submitted to and approved by the Minnesota Department of Employment and Economic Development on the day and date shown immediately below the following signature.

MINNESOTA DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT

By: _____

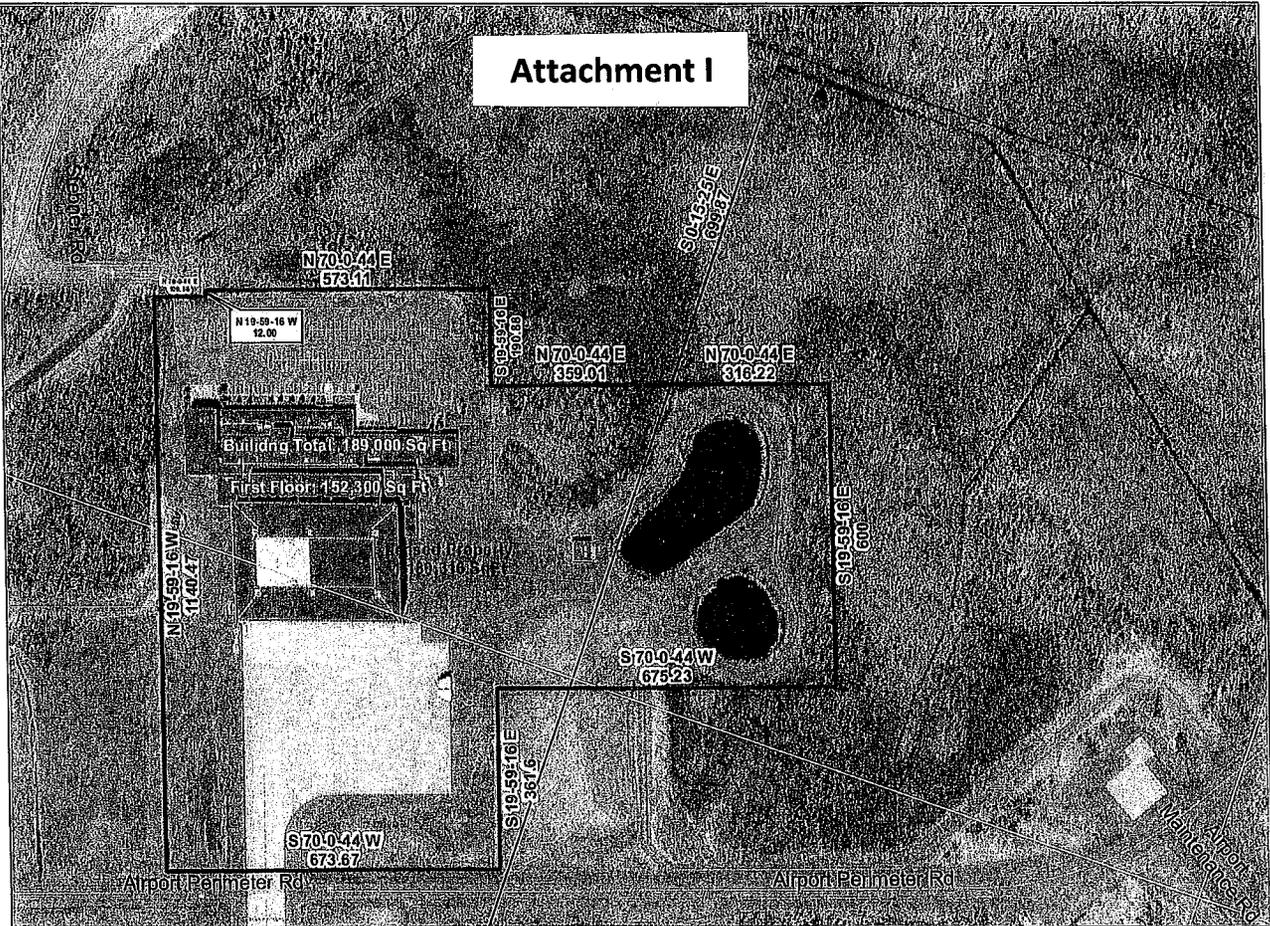
Its: _____

Dated the ____ day of _____, 20__

Attachment I

**Plat, survey, map, drawing or other depiction of
AAR Aircraft Services, Inc. JOBZ Subzone and Property**

Attachment I



The City of Duluth has used its best efforts to ensure that the information contained in this map is accurate. However, the City of Duluth makes no warranty or guarantee concerning the accuracy or reliability of the information. The information is provided as a reference only and is not intended to be used for any other purpose. The City of Duluth is not liable for any damages or losses resulting from the use of this information.

Duluth Maintenance Facility

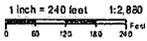


Photo Date: 2011
Printed: 5/9/2012



Attachment II

PREVAILING WAGE CERTIFICATION

TO: Commissioner of the Minnesota Department of Labor and Industry
443 Lafayette Road N.
St. Paul, MN 55155

Being duly sworn under oath the undersigned does hereby certify as follows:

1. I have the following relationship with the following business, which is a “qualified business” under the Minnesota JOBZ Program created by Minn. Stat. §§469.310-469.3201:

Relationship (i.e. owner, partner, President, Vice President, etc)

Name of “qualified business”:
AAR Aircraft Services, Inc.

2. The above identified “qualified business” intends on operating the following trade or business at the following business address in the AAR Aircraft Services, Inc. JOBZ Subzone:

Name of Trade or Business:
AAR Aircraft Services

Business Address of Trade or Business
4600 Stebner Road
Duluth, MN 55802

3. That the operation of the trade or business identified in Paragraph 2 hereinabove in the AAR Aircraft Services, Inc. JOBZ Subzone will will not [Check appropriate box] involve the hiring of laborers and mechanics for construction, installation, remodeling or repair activities.

4. That if the operation of the trade or business identified in Paragraph 2 hereinabove in the AAR Aircraft Services, Inc. JOBZ Subzone will involve the hiring of laborers and mechanics for construction, installation, remodeling or repair activities, then such trade or business will pay such laborers and mechanics the prevailing wages required under the laws of the State of Minnesota, as the term prevailing wage rate is defined in Minn. Stat. § 177.42, Subd. 6, or any replacement statute.

[Signature of person executing this Prevailing Wage Certification]

[Type or print name of person executing this Prevailing Wage Certification]

Sworn to before me on this ____ day of _____, 20__.

(Notary Public for the State of Minnesota)

[Place Notary Seal at this point]