

Before an industry is assisted directly or indirectly with Community Block Grant (CDBG) funds, the industry and Grantee must make the following commitments:

- Commitment by the industry to create or retain a specific number of jobs, as agreed upon during Contract Negotiations;
- Commitment by the industry to create or retain jobs that are either: 1) made available to; or 2) are held by; at least 51% LMI persons as defined by HUD; agreed upon during Contract Negotiations; and
- Appropriate local investment, as agreed upon during Contract Negotiations.

Commitments with regard to industry financial investment, job creation and the creation of jobs that are at least 51% LMI must be secured by a legally enforceable contract (Industry Agreement) executed by the Grantee and the Industry. The Grantee will sign an agreement with DHCD reflecting these commitments and reflecting the Grantee's level of financial involvement.

All industries which will benefit from the proposed CDBG improvements and will create jobs must be included in the project and execute an Industry Agreement.

Industry Commitment to Create a Specific Number of Jobs

The Industry must commit to the creation or retention of a specific number of jobs as indicated in the Community Development Block Grant proposal submitted to DHCD, subject to any revisions during Contract Negotiations. This commitment is made through the execution of the Industry Agreement. The determination of how these jobs are counted falls under DHCD and HUD regulations. The following summarizes the requirements:

- **New Jobs**—Defined as those positions that are created as a result of:
 - The expansion of an existing industry resulting in an increase of jobs at that industry; or
 - The location of a new industry into the locality resulting in the creation of new jobs provided by said industry in that locality.
 - None of the new jobs may be transferred from another Virginia jurisdiction.
- **Retained jobs**—The total number of existing permanent, full-time equivalent positions that would be lost if the proposed CDBG funded project did not take place.

- **Part-time jobs**—Any job without full benefits afforded all employees and/or provides less than 40 hours/week of employment. Two part-time positions equal one full-time equivalent. One full-time equivalent position equals full benefits afforded to all employees and provides a minimum of 40 hours per week employment.
- **Employment Assessment**—The Grantee, in coordination with the assisted Industry, must supply to DHCD:
 - A categorical breakdown of the jobs to be retained or created as a result of the CDBG funded improvement including the categories as defined by the Economic Development Administration (EDA). A breakdown of these categories can be found in Appendix 21 herein of the Grant Management Manual.
 - DHCD, Grantee and Industry will agree upon a baseline breakdown of existing jobs during Contract Negotiations for purposes of determining success in achieving commitment of retention of existing jobs and/or creation of new jobs; and
 - Any other industries that utilize CDBG funded project improvements prior to administrative closeout of this CDBG contract must also adhere to CDBG guidelines related to meeting the job creation requirement of at least 51% LMI persons.
- All jobs must be created within two (2) years of the date of completion of the private investment. Private investment must be completed within two (2) years of the commencement date of the CDBG Grant Agreement.
- The industry must provide a post-probationary wage of at least 1.5 times the minimum wage for no less than 90% of all new employees.
- The Industry must also provide an employment benefits package that includes, at a minimum, basic medical health insurance to all employees with no less than fifty percent of the premiums paid by the industry.
- The probationary period must not exceed six months.

Industry Investment Requirements

CDBG economic development projects require that the assisted industry make a financial investment. This investment is inextricably tied to the number of positions to be created. Therefore, only investment in facilities and equipment contributing toward the employment goals for which the project was funded will be counted. The investment must be completed within two years of the commencement date of the CDBG Grant Agreement.

The type and scope of the private investment must justify the need for the type and scope of the CDBG financed improvements.

The following investments are typically accepted by DHCD as private leverage in CDBG Economic Development Projects:

- Land: site for new or expanded facilities where jobs will be located;
- Expansion of facility or construction of new facility;
- Production equipment; and
- Privately funded infrastructure improvements.

The following items are not recognized by DHCD as private investment that will count towards the total required leverage amount:

- Inventory;
- Supplies;
- Personnel; and
- Working Capital.

Documentation of Investment

All private expenditures must be documented by one of two methods as agreed to at Contract Negotiations by the Industry, Grantee and DHCD. Those are:

1. An Independent Certified Public Accountant's signed statement attesting that all agreed upon private expenditures have been made on the project for eligible activities; OR
2. Submission by Grantee of copies of source documents in the form of contracts, invoices, and cancelled checks documenting that full investment was made on the project for approved activities.

MODEL AGREEMENT FOR INDUSTRIAL DEVELOPMENT PROJECTS

(For Industries using the Held-By Method)

This AGREEMENT, made this ____ day of _____, 20__, between the (Grantee), a (Town/City/County) existing under the laws of the Commonwealth of Virginia, hereinafter referred to as "GRANTEE" and (Industry's Name), a corporation existing under the laws of the Commonwealth of Virginia, hereinafter referred to as "(Industry)" and assigned the Data Universal Numbering System (DUNS) # (Industry's DUNS ##).

WITNESSETH:

THAT for and in consideration of the mutual covenants and agreements herein contained, the said parties do agree as follows:

1. The parties recognize that this AGREEMENT is contingent upon the continued existence of a CDBG grant offer of \$(*Amount of Grant Offer*) to (Grantee). Using these grant funds, the Grantee will provide the following, to be made available to (*Industry*) at (*Location*), hereinafter referred to as "Site:"
 - a. _____
 - b. _____
 - c. _____
2. (*Industry*) certifies that there are no legal or financial impediments which would prevent or delay the investment and job creation and attaches as a part of this agreement a summary setting forth the following information:
 - a. (*Industry*) currently employs _____ persons at the _____ project site to be assisted by CDBG funds.
 - b. (*Industry*) currently employs a total of _____ persons at the (*Name*) manufacturing facilities located at (*insert physical address*) Virginia (also reference any other facilities located in Virginia) a breakdown of these jobs by type (number and classification) is included herein as Attachment 1.
 - c. (*Industry*) intends to create a total of _____ full-time jobs at the _____ project site. Of these _____ will be considered _____ full-time jobs _____ will be part-time jobs. A breakdown of these jobs by type (classification) and time frame for creation is included herein as Attachment 2.

3. (*Industry*) will locate upon the premises a (*type of facility*) facility creating or retaining approximately (*number*) jobs on or before (*insert date*). At least fifty-one percent (51%) of all jobs created will be LMI jobs, as defined herein. Employment created will not duplicate existing employment and job creation will occur within two years of the date of completion of the private investment.
4. The documentation of job creation, including jobs to LMI persons, must adhere to the following:
 - a. All jobs must be physically located at the industry (*insert Industry site location*);
 - b. All jobs at that site must be included in the tracking;
 - c. Jobs are counted – not people;
 - d. A job is considered closed once it is filled upon the first hire;
 - e. Job counting must continue until the CDBG project is completed and the CDBG contract with the Grantee is administratively closed out; and
 - f. If at the time of (4e) Industry has not fulfilled its job creation commitment, counting must continue until such time that it is met.
5. (*Industry*) will take affirmative steps to employ low- and moderate-income persons, (defined as persons whose annual household income prior to employment is lower than 80% of the median income for the area). Both the household size and income of the entire household will be considered. The U.S. Department of Housing and Urban Development's Section 8 Income Limits by household size will be used to determine whether the LMI standard has been met.
6. In accepting applications for employment, (*Industry*) agrees to the following:
 - a. All applications for employment will be made through a single point of entry.
 - b. The single point of entry for this project will be (*fill in what it will be*).
 - c. Special skills that can only be acquired with substantial training or work experience or education beyond high school are not a prerequisite to fill such jobs.
 - d. For jobs that require education beyond high school or skills not commonly possessed by high school graduates (*Industry*) agrees to consider unqualified persons and provide training to them at no cost to the employee.
7. The Grantee is responsible for maintaining documentation on the persons who are employed by the following characteristics: a) LMI status, b) female headed households (must have at least one child under the age of 18 years), c) elderly, d) handicapped, e) racial/ ethnic status (Hispanic, White, Black/African American, Asian, American Indian/Alaskan Native, Native Hawaiian/Other Pacific Islander, American Indian/Alaskan Native and White, Asian and White, Black/African American and White, American Indian/Alaskan Native and Black/African

American and Other Multi-Racial), and f) employment status at time of application

8. *(Industry)* will submit to the *(Grantee)* documentation of the number and names of all of those employed their EDA job classification and whether the employees are provided with employer sponsored health care. This documentation will be provided at least every three (3) months from the start of the CDBG project for a period of two (2) years from the date of the completion of the private investment or until the *(Grantee)* has received written approval from the Virginia Department of Housing & Community Development to terminate submission of documentation.
9. *(Industry)* will invest not less than *(Amount)* for machinery, equipment and other physical improvements at THE SITE. This investment will be verified by an audit provided by *(Industry)* and prepared by an Independent Certified Public Accountant *or (by submission of copies of source documents in the form of contracts, invoices, and cancelled checks documenting that the full investment was made on the project for approved activities) (insert appropriate option as determined at contract negotiations)*. The investment will occur within two (2) years of the commencement date of the CDBG agreement *(fill in exact date)*.
10. *(Industry)* will, in conformance with Virginia Department of Housing and Community Development guidelines, pay at least 90% of all employees a post-probationary wage equal to 1.5 times the federal minimum wage. At the signing of this agreement, the current minimum wage is \$_____/hour.
11. The probationary period may not exceed six months.
12. *(Industry)* will provide comprehensive benefits, including basic health insurance coverage whereby the industry pays at least 50% of the monthly premium.
13. *(Industry)* agrees to provide to *(Grantee)*, and to officials of the Virginia Department of Housing and Community Development and the U. S. Department of Housing and Urban Development, reasonable access to its facilities to substantiate the employment and investment committed by this agreement and to provide access to pertinent records documenting jobs held by or made available to low- and moderate-income persons.

S A N C T I O N S

14. Upon signing of this AGREEMENT, *(insert Industry or Grantee name)* agrees that upon failure to honor its commitment at any time to locate on THE SITE, once local or CDBG funds have been expended on project improvements agreed to herein, the *(insert Industry or Grantee name)* will be subject to repay in full all local or CDBG funds already expended.

15. Should the Industry fail to achieve the performance regarding jobs and investment outlined herein after location at THE SITE, the industry is required to provide detailed documentation proving that a good faith effort has been made to achieve specified benefits. (Grantee) and the Virginia Department of Housing & Community Development reserve the right in such case to require repayment of all or a portion of the grant funds. Notwithstanding a good faith effort on the part of the industry, failure to employ at least 51% low- and moderate-income persons or make jobs available to at least 51% low- and moderate-income persons will result in the repayment of the entire amount of Grantee CDBG funds expended.
16. The (insert Industry or Grantee) has secured the CDBG investment of (insert amount) through the provision of a (insert method – irrevocable letter of credit, or other) that is held at (insert location) and subject to be called by DHCD for non-performance as defined herein.

WITNESS the following signature and seals.
(Signatures must be notarized.)

(Grantee)

(Seal)

Commonwealth of Virginia, County/City/Town of _____. This day personally appeared before me (Grantee's Representative) and acknowledged his/her signature to the foregoing agreement. Given under my hand this _____ day of _____, 20____.

SIGNATURE: _____

Notary Public

My commission expires: ____/____/____ Registration number: _____

(Industry) (Seal)

Commonwealth of Virginia, County/City/Town of _____. This day personally appeared before me (*Industry's Representative*) and acknowledged his/her signature to the foregoing agreement. Given under my hand this _____ day of _____, 20_____.

SIGNATURE: _____
Notary Public

My commission expires: ____/____/____ Registration number: _____

MODEL AGREEMENT FOR INDUSTRIAL DEVELOPMENT PROJECTS

(For Industries Using the Made-Available-To Method)

This AGREEMENT, made this ____ day of _____, 20__, between the (Grantee), a (Town/City/County) existing under the laws of the Commonwealth of Virginia, hereinafter referred to as "(Grantee)" and (Industry), a corporation existing under the laws of the Commonwealth of Virginia, hereinafter referred to as "(Industry)" and assigned the Data Universal Numbering System (DUNS) # (insert Industry's DUNS ##).

WITNESSETH:

THAT for and in consideration of the mutual covenants and agreements herein contained, the said parties do agree as follows:

1. The parties recognize that this AGREEMENT is contingent upon the continued existence of a CDBG grant offer of \$(*Amount of Grant Offer*) to (Grantee). Using these grant funds, the Grantee will provide the following, to be made available to (Industry) at (Location), hereinafter referred to as "Site":
 - a. _____
 - b. _____
 - c. _____
2. (Industry) certifies that there are no legal or financial impediments which would prevent or delay the investment and job creation and attaches as a part of this agreement a summary setting forth the following information:
 - a. (Industry) currently employs persons at the project site to be assisted by CDBG funds.
 - b. (Industry) currently employs a total of _____ persons at the (Name) manufacturing facilities in Virginia (also reference any other facilities located in Virginia) a breakdown of these jobs by type (number and classification) is included herein as Attachment 1.
 - c. (Industry) intends to create a total of _____ full-time jobs at the _____ project site. Of these _____ will be considered _____ full-time jobs _____ will be part-time jobs. A breakdown of these jobs by type (classification) and time frame for creation is included here in as Attachment 2.
 - d. (Industry) plans concerning for transfer and or relocation of jobs from (named) facilities located within the Commonwealth of Virginia are set forth herein in the attached Business Plan as Attachment 3.
3. (Industry) will locate upon the premises a (type of facility) facility creating or retaining approximately (number) jobs. At least fifty-one percent (51%) of all

jobs created will be LMI jobs, as defined herein. Employment created will not duplicate existing employment and job creation will occur within two years of the date of completion of the private investment.

4. The documentation of job creation, including jobs to LMI persons, must adhere to the following:
 - a. All jobs must be physically located at the industry (*insert physical address*);
 - b. All jobs at that site must be included in the tracking;
 - c. Jobs are counted – not people;
 - d. A job is considered closed once it is filled upon the first hire;
 - e. Job counting must continue until the CDBG project is completed and the CDBG contract with the Grantee is administratively closed out.
 - f. If at the time of (4e) Industry has not fulfilled its job creation commitment, counting must continue until such time that it is met.
5. (*Industry*) will take affirmative steps to employ low- and moderate-income persons, (defined as persons whose annual household income prior to employment is lower than 80% of the median income for the area). Both the household size and income of the entire household will be considered. The U.S. Department of Housing and Urban Development's Section 8 Income Limits by household size will be used to determine whether the LMI standard has been met.
6. In order to meet the Made-Available-To test for job creation, (*Industry*) agrees to the following:
 - a. All applications for employment will be made through a single point of entry.
 - b. The single point of entry for this project will be (*fill in referring agency – usually VEC*).
 - c. Special skills that can only be acquired with substantial training or work experience or education beyond high school are not a prerequisite to fill such jobs.
 - d. For jobs that require education beyond high school or skills not commonly possessed by high school graduates (*Industry*) agrees to consider unqualified persons and provide training to them at no cost to the employee.
 - e. (*Grantee*) and (*Industry*) agree that LMI persons will receive first consideration for filling of jobs. First consideration means that (*Industry*) will give objective consideration to the employment of LMI persons. To demonstrate that first consideration is given, (*Industry*) will hire from pools of qualified applicants provided to it by (*fill in referring agency – usually VEC*) without knowledge of the income status of any employee. (*fill in referring agency – usually VEC*) will verify that the overall pool of applicants provided to (*Industry*) includes no less than 51% LMI persons

based on HUD's Section 8 Income Limits and considering both household and income size. *(fill in referring agency – usually VEC)* MUST MAINTAIN THE DOCUMENTATION IT USED FOR VERIFICATION. In addition, any person referred from the JOB TRAINING PARTNERSHIP WORKFORCE INVESTMENT ACT OF 1998 programs will be accepted as LMI because of known income restrictions of that program, except for the Dislocated Workers Program.

- f. Any training programs specified in *(Grantee's)* grant proposal must be initiated prior to or concurrent with start-up of production. Documentation of training efforts and information concerning individuals enrolled in training programs MUST be kept by *(Grantee)* and *(Industry)*.
7. The *(fill in referring agency – usually VEC)* is responsible for maintaining documentation on the persons who are employed by the following characteristics: a) LMI status, b) female headed households(must have at least one child under the age of 18 years), c) elderly, d) handicapped, e) racial/ ethnic status (Hispanic, White, Black/African American, Asian, American Indian/Alaskan Native, Native Hawaiian/Other Pacific Islander, American Indian/Alaskan Native and White, Asian and White, Black/African American and White, American Indian/Alaskan Native and Black/African American and Other Multi-Racial), and f) employment status at time of application
8. *(Fill in referring agency – usually VEC)* will submit to the *(Grantee)* documentation of the number and names of all of those employed, their EDA job classification and whether the employees are provided with employer sponsored health care. This documentation will be provided at least every three (3) months from the start of the CDBG project for a period of two (2) years from the date of completion of the private investment or until the *(Grantee)* has received written approval from the Virginia Department of Housing & Community Development to terminate submission of documentation.
9. *(Industry)* will invest not less than (Amount) for machinery, equipment and other physical improvements at THE SITE. This investment will be verified by an audit provided by *(Industry)* and prepared by an Independent Certified Public Accountant or by submission of copies of source documents in the form of contracts, invoices, and cancelled checks documenting that the full investment was made on the project for approved activities. This investment will occur within two (2) years of the commencement date of the CDBG Grant Agreement.
10. *(Industry)* will, in conformance with Virginia Department of Housing and Community Development guidelines, pay at least 90% of all employees a post-probationary wage equal to 1.5 times the federal minimum wage and provide comprehensive benefits, including basic medical coverage and insurance affordable to every employee. The probationary period may not exceed six months. At the signing of this agreement, the current minimum wage is \$_____/hour. (IF THE PROJECT IS FUNDED THROUGH THE

COMMUNITY ECONOMIC DEVELOPMENT FUND, MODIFY OR DELETE THIS PARAGRAPH AS DIRECTED BY DHCD).

11. The probationary period may not exceed six months
12. (*Industry*) will provide comprehensive benefits, including basic health insurance coverage whereby the industry pays at least 50% of the monthly premium.
13. (*Industry*) agrees to provide to (*Grantee*), and to officials of the Virginia Department of Housing and Community Development and the U. S. Department of Housing and Urban Development, reasonable access to its facilities to substantiate the employment and investment committed by this agreement and to provide access to pertinent records documenting jobs made available to low- and moderate-income persons.

S A N C T I O N S

14. Upon signing of this AGREEMENT (*insert Industry or Grantee name*) agrees that upon failure to honor its commitment at any time to locate on THE SITE, once local or grant funds have been expended on project improvements agreed to herein, the (*insert Industry or Grantee name*) is will be subject to repay in full all local or grant funds already expended to DHCD.
15. Should the Industry fail to achieve the performance regarding jobs and investment outlined herein after location at THE SITE, the industry is required to provide detailed documentation proving that a good faith effort has been made to achieve specified benefits. (*Grantee*) and the Virginia Department of Housing & Community Development reserve the right in such case to require repayment of all or a portion of the grant funds. Notwithstanding a good faith effort on the part of the industry, failure to make jobs available to at least 51% low- and moderate-income persons will result in the repayment of the entire amount of grant assistance provided by the Grantee and the Virginia Department of Housing & Community Development.
16. The (*insert Industry or Grantee*) has secured the CDBG investment of (*insert amount*) through the provision of a (*insert method – irrevocable letter of credit, bond or other*) that is held at (*insert location*) and subject to be called by DHCD for non-performance as defined herein.

WITNESS the following signature and seals.
(Signatures must be notarized.)

(Grantee) (Seal)

Commonwealth of Virginia, County/City/Town of _____. This day personally appeared before me (Grantee Representative) and acknowledged his/her signature to the foregoing agreement. Given under my hand this _____ day of _____, 20__.

SIGNATURE: _____
Notary Public

My commission expires: ____/____/____ Registration number: _____

(Industry) (Seal)

Commonwealth of Virginia, County/City/Town of _____. This day personally appeared before me (Industry Representative) and acknowledged his/her signature to the foregoing agreement. Given under my hand this _____ day of _____, 20__.

SIGNATURE: _____
Notary Public

My commission expires: ____/____/____ Registration number: _____

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