

FINANCE COMMITTEE

10-018-0

ORDINANCE NO. _____

AN ORDINANCE CLARIFYING THE COMMUNITY ARTS SET-ASIDE TO APPLY ONLY TO FUNDS GENERATED BY THE CITY, AMENDING SECTION 20-19 OF THE CODE.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Section 20-19 of the Duluth City Code, 1959, as amended, is hereby amended to read as follows:

Sec. 20-19. Community arts set-aside.

(a) That there is hereby established a community arts set-aside of one percent of the cost of all new building construction projects costing in excess of the city's current capitalization level for buildings and structures, funded in whole or in part by city funds for the furtherance of arts projects in the city. Upon the approval of any such project, an amount equal to the set-aside shall be transferred by the city auditor from the fund accounting for the building construction project to the municipal arts fund; provided, however, in the event that the project is funded in part by another entity, the city shall make every effort to secure an additional one percent of such entity's contribution to the project for the municipal arts fund; provided further, however, that the city's contribution to the municipal arts fund shall be limited to the set-aside on its share of the project costs;

(b) For the purposes of this Section, the phrase, "city funds" shall mean all funds coming from or passing through the city's treasury for which the city is required to account under the generally accepted accounting principals except funds received by the city from governmental, public or private sources for the purpose of defraying all or a portion of the cost of the new building construction project or the proceeds of bonds to be repaid

solely from pledging the revenues from the new building construction project.

Section 2. That this ordinance shall take effect 30 days after its passage and publication.

Approved:

Approved for presentation to council:

Department Director

Chief Administrative Officer

Approved as to form:

Approved:

Attorney

Auditor

ADM/ATTY REA: jkw 3/15/2010

STATEMENT OF PURPOSE: The purpose of this ordinance is to clarify the reach of the requirement that one percent of the cost of various projects must be used for the establishment of public art.

The ordinance was originally intended to insure that the design of new building projects funded by the city would not be esthetically sterile and driving only by functionality. It requires that an amount equal to one percent of the cost would be set aside for the design and implementation of public art associated with those structures.

However, the ordinance is imposed on the portion of the project that is funded with "city funds" but that term was not defined, leading to confusion where the source of the funds was one "outside" of the city budget but where the funds of necessity passed through the city's books. A current example of this situation is the state of Minnesota bond funding for the new airport terminal. Because of state law, those funds must be granted to the city and therefore the funds pass through the city's books. However, the city had no part in raising the funds (except to request that the state grant them to the city) and the city has little discretion as to how they are spent. Yet, arguably, because the funds come to the city as a pass-through on their way to the airport construction project, the one percent rule applies to these funds.

The purpose of this amendment is to clarify that the set-aside commitment applies only to funds over which the city has discretion. Thus, if the city chooses to utilize general fund money to support the terminal project, the set-aside would apply to those funds. But it would not apply to grants from federal, state or other governmental or private sources.

The amendment would make this rationale apply to the funding for all city new building projects.