

PLANNING & ECONOMIC DEVELOPMENT COMMITTEE

11-0155R

REPLACEMENT

RESOLUTION APPROVING THE BUILDING IN DULUTH 2011
SPENDING PLAN.

CITY PROPOSAL:

BE IT RESOLVED, by the city council (the "council") of the city of Duluth, Minnesota (the "city"), as follows:

Section 1. Pursuant to the authority contained in Minnesota Statutes, Section 469.176 Subd. 4m (the "act"), the Duluth Economic Development Authority ("DEDA") is authorized to use certain existing tax increment cash balances for purposes set out in a spending plan approved by the City after a public hearing on the matter.

Section 2. The city council held a public hearing on April 11, 2011, on the Building in Duluth 2011 spending plan on file in the office of the City Clerk as Public Document No. _____ (the "spending plan"). All persons who desired to speak at the public hearing were heard and written comments were accepted.

Section 3. The city council hereby approves the spending plan providing for the use of certain existing tax increment cash balances for the purposes set out in the spending plan.

Approved:


Department Director

Approved for presentation to council:


Chief Administrative Officer

Approved as to form:


Attorney

Approved:


Auditor

BD:ATTY JC:bel 03/18/2011

STATEMENT OF PURPOSE: This resolution approves the Building in Duluth 2011 Spending Plan. Pursuant to temporary authorization under Minnesota Statute 469.176, subd. 4m, DEDA may use certain uncommitted tax increment cash balances for any private development in the City consisting of the construction or substantial rehabilitation of buildings and ancillary facilities, if doing so will create or retain jobs (including construction jobs) in the State, if the construction commences before July 1 2011, and if the construction would not have commenced before that date without the financial assistance. The plan requires City Council approval after a public hearing on the matter.

The Building in Duluth 2011 Spending Plan authorizes DEDA to use uncommitted tax increment proceeds in an amount not to exceed \$350,000 per development. Uncommitted tax increment proceeds anticipated through December 2011 are in excess of \$5,000,000 from the following TIF Districts: 3, 4, 7, 10, 16, 20 and 21. Each development agreement will identify the source and amount of the funding and will require DEDA and City Council approval. Preference under the spending plan is for developments which leverage public investment by at least 4 to 1, with preference for higher leverage; have a total investment in excess of \$500,000; have a clearly articulated business plan and strategy; are consistent with the City Comprehensive Plan and the Uniform Development Chapter to include sustainable development principles; and contribute to the overall public benefit. DEDA approved the spending plan at its March 23, 2011 meeting.

BUILDING IN DULUTH 2011 SPENDING PLAN

**TEMPORARY TIF AUTHORITY UNDER
MINN. STATUTES, SECTION 469.176, SUBD. 4M**

DULUTH ECONOMIC DEVELOPMENT AUTHORITY APPROVAL MARCH 23, 2011

DULUTH CITY COUNCIL APPROVAL APRIL 11, 2011

BUILDING IN DULUTH 2011 SPENDING PLAN
FOR TAX INCREMENT FINANCING DISTRICTS

I. PURPOSE

The City of Duluth (the "City") and the Duluth Economic Development Authority (the "Authority") propose to adopt a Building in Duluth 2011 spending plan (the "Spending Plan") in accordance with 2010 Minnesota Law, Chapter 216, Section 32 (codified as Minnesota Statutes, Section 469.176 Subd. 4m, and referred to as the "Temporary TIF Authority Act").

Under the Temporary TIF Authority Act, the Authority is authorized to spend available tax increment from any existing tax increment financing district, notwithstanding any other law to the contrary, to provide improvements, loans, interest rate subsidies, or assistance in any form to private development consisting of construction or substantial rehabilitation of buildings and ancillary facilities, if the following conditions exist:

- (1) Such assistance will create or retain jobs in the State of Minnesota, including construction jobs;
- (2) Construction commences before July 1, 2011;
- (3) The construction would not have commenced before that date without the assistance; and
- (4) The City Council approves a written spending plan (after a duly noticed public hearing) that specifically authorizes the Authority to take such actions.

The City and Authority have determined to authorize expenditures of tax increment under the Temporary TIF Authority Act as further described in this Spending Plan.

II. SPENDING PLAN

The Authority is authorized as follows:

- (a) The Authority may use any available tax increments on hand at the time of approval of this Spending Plan and received through December 31, 2011, and not otherwise pledged to any outstanding contract or obligation (referred to as "Available Spending Plan Increment") to provide improvements, loans, interest rate subsidies, or assistance in any form to private development occurring anywhere within the City consisting of the construction or substantial rehabilitation of buildings and ancillary facilities that meet the requirements of the Temporary TIF Authority Act described above. The Available Spending Plan Increment provided by Authority to any one development will not exceed \$350,000.

- (b) Preference for financing assistance will be given to developments which:
- (1) Leverage public investment by at least 4 to 1, with preference for higher leverage;
 - (2) Have a total investment in excess of \$500,000;
 - (3) Have a clearly articulated business plan and strategy;
 - (4) Are consistent with the City Comprehensive Plan and the Uniform Development Chapter to include sustainable development principles; and
 - (5) Contribute to the overall public benefit.

(c) The Authority is authorized to spend Available Spending Plan Increment for any private development in the City for which the Authority finds that the private development will create or retain jobs in the State (including construction jobs); that the private development will commence before July 1, 2011; and that such construction would not have commenced before that date without the assistance under this Spending Plan. The Authority must document its findings under this section at the time of approval of assistance to each development.

(d) This Spending Plan authorizes, but does not obligate, the Authority to spend Available Spending Plan Increment. Any obligation to provide assistance under this Spending Plan must be evidenced by a development agreement approved by the Authority's board, entered into with a private party who otherwise meets the requirements of both this Spending Plan and the Temporary TIF Authority Act.

(e) In accordance with the Temporary TIF Authority Act, the authority to spend Available Spending Plan Increment under this Spending Plan expires on December 31, 2011. No Available Spending Plan Increment may be spent under this Spending Plan after December 31, 2011.

(f) The City and Authority acknowledge that assistance provided pursuant to this Spending Plan will be subject to Minnesota Statutes, Sections 116J.993 to 116J.995 (the "Business Subsidy Act"), if applicable.

(g) The Authority and City may amend this Spending Plan at any time in accordance with the procedures for approval of the Spending Plan under the Temporary TIF Authority Act.

(h) Authority staff are authorized and directed to maintain a copy of this Spending Plan with the Authority's records for the pertinent tax increment district, and to file a copy of the Spending Plan with the Office of the State Auditor (as requested by the State Auditor in the August, 2010 TIF Division Newsletter).