

RESOLUTION 14D-10

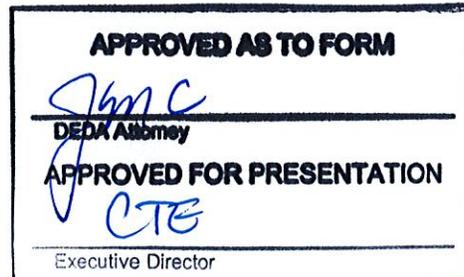
**RESOLUTION APPROVING CHANGES TO THE POLICIES OF THE WEST DULUTH
STOREFRONT LOAN PROGRAM**

BE IT RESOLVED, by the Duluth Economic Development Authority (DEDA) that the policies of the West Duluth Storefront Loan Program be amended and approved.

Approved by the Duluth Economic Development Authority this 26th day of March, 2014.

ATTEST:

Executive Director



STATEMENT OF PURPOSE: The purpose of this resolution is to change the policies of the West Duluth Storefront Loan Program to make it easier and more appealing for qualifying businesses to use.

**WEST DULUTH STOREFRONT AND INFILL
CONDITIONAL GRANT PROGRAM
AMENDED OPERATIONAL GUIDELINES**

(Adopted by DEDA December 1, 2008, Amended October 23, 2013 & March 26, 2014)

I. PURPOSE

1.01 The purpose of this program is to spur economic revitalization of the West Duluth Business District through elimination of visual blight. This will be achieved by: 1) renovation of the storefronts in the area in a manner sensitive to the character of the district, and 2) infill of certain vacant properties with new buildings to replace structures which have been removed.

II. PROGRAM SUMMARY

2.01 DEDA Conditional Grant: DEDA will make conditional grants to Recipients for the Eligible cost portion of the Work (See Paragraph 6.01) consisting of Fifty percent (50%) of the cost of ~~s~~Storefront ~~r~~Renovations- Projects and up to fifty percent (50%) of the cost of Infill Storefront Pprojects as described in Section 6.01 (c) below.

2.02 Maximum DEDA Conditional Grant: The maximum amount of any DEDA Conditional Grant to be extended to a Recipient under this program for Public-Eligible Costs shall not exceed ~~Twenty Five~~One-Hundred Thousand and no/100 Dollars (\$~~25~~100,000) for ~~S~~storefront ~~r~~Renovation ~~p~~Projects and ~~Fifty~~One-Hundred Thousand and no/100 Dollars (\$~~50~~100,000) for Infill Storefront Pprojects.

2.03 Recipients: Recipients under this program are any owner of a building or the long-term lessee with the authority to make the modifications to the building described herein or owner of the underlying fee interest in land upon which such a building or business is located in combination with said ~~owner-lessee~~ or operator, wishing to make improvements in property in the West Duluth TIF Development District No. 3.

2.04 Prevailing Wage: Unless a waiver, in whole or in part, is specifically granted by the Project Administrator, prevailing wage shall be paid on all work done in or on the building between the time of Closing of the Project pursuant to Paragraph 7.10 and completion of the Project.

III. AGENCY AGREEMENTS

3.01 Approved Agreement Form: DEDA may enter into an agency agreement with one or more lending agencies (Agency).

IV. PERSONNEL/AUTHORIZATION

For implementation of the foregoing operational guidelines, the officials designated below shall be given the following authority:

4.01 Project Administrator: The Project Administrator for West Duluth TIF Development District No. 3 shall be the Project Administrator for the West Duluth District Conditional Grant Program. The Project Administrator may, at his or her discretion designate a DEDA staff person as Program Coordinator or DEDA may at its discretion contract with an outside entity to act as Program Coordinator through a professional services agreement. In addition, the Project Administrator will appoint the members of the Design Review Committee. Said persons or entities shall perform the services as provided for in these guidelines. In the absence of a Program Coordinator, the Project Administrator shall assume the responsibilities of the Program Coordinator outlined herein.

4.02 Program Coordinator: A Program Coordinator shall be responsible for the following tasks; in addition an entity contracted to act as Program Coordinator shall perform any tasks outlined in the professional services agreement:

- a) Distribute approved Conditional Grant application forms to potential Recipients under the program.
- b) Explain program requirements, eligibility, eligibility of costs, and other factors relating to the program to potential Recipients.

- c) Receive applications and supporting documentation from potential Recipients.
- d) Conduct an initial review of the application and supporting materials for sufficiency, as set forth below, for submission to other reviewing entities.
- e) Coordinate where applicable with the project architect to ensure that the architectural plans will meet the requirements for the district.
- f) Transmit a copy of the application and supporting documentation to the Design Review Committee, City Building Official, and City Fire Marshall for review.
- g) Review the applicant's financial statements to determine credit worthiness or review and, if appropriate, approve the determination of credit worthiness provided by Recipient's lender.
- h) Coordinate with the Recipient's lending agency, if any, to determine the financial viability of the project.
- i) Submit to the Program Administrator draw-down requests as provided for in the terms of the various Conditional Grant Agreements and Notes evidencing said Conditional Grants if said draw-down is approved and if lien waivers for the work in question have been provided.

4.03 Program Architect(s): One or more Architects may be contracted by the Project Administrator to perform the following functions:

- a) Review plans and specifications for sufficiency of description of the work to be performed on the subject property and review the estimates for the cost of each element of said work for accuracy.
- b) Monitor the construction performed pursuant to any Conditional Grant extended under the Program for conformance of the approved plans cited in DEDA's Conditional Grant Agreement and Note.

- 4.04 Design Review Committee: The Project Administrator shall appoint a Design Review Committee which shall review the work proposed by the Recipient for conformance with a design plan established for the district.
- 4.05 Lending Agency: A lender or the Program Coordinator shall review the work proposed by the Recipient and provide a written statement to the Project Administrator that the Recipient has the financial capacity to complete the project.
- 4.06 DEDA Treasurer: The DEDA Treasurer or his/her authorized designee shall have the authority to disburse funds from the West Duluth Storefront and Infill Fund upon authorization of the Program Coordinator, and to withdraw funds at his or her.

V. THE PROGRAM

In addition to the basic program summarized in Paragraph 1.01, the following requirements shall apply:

- 5.01 Conditional Grant Interest Rate: The interest rate for the Conditional Grant shall be three percent (3%).
- 5.02 Conditional Grant Repayment: Repayment of principal and interest shall be forgiven each year that the Recipient continues to own/lease and maintain the property. In the event the Recipient sells or no longer leases the property for which the Conditional Grant was made, the following percentage of principal plus all accrued interest shall become due and payable. Repayment Schedule:

...before the 1 st anniversary of the Conditional Grant:	100%
<u>After-On or after</u> the 1 st anniversary and before the 2 nd :	80%
<u>After-On or after</u> the 2 nd anniversary and before the 3 rd :	60%
<u>After-On or after</u> the 3 rd anniversary and before the 4 th :	40%

~~After~~ On or after the 4th anniversary and before the 5th:

20%

On and after the 5th anniversary. 0%

5.04 Agreement to Maintain Improvements: As a condition of ~~C~~gconditional ~~G~~gGranting of money to Recipient under the Program for the above work, the Recipient shall agree to maintain the above improvements in accordance with the design approved as set forth above for a period of at least five (5) years unless modification thereof is approved by Project Administrator. The foregoing commitment shall be in writing, signed by those parties, and in recordable form.

VI. PROGRAM ELIGIBILITY OF WORK

6.01 Program Eligibility of Work Public-Eligible Costs:

- a) Conditional Grant-Eligible Costs of Work: Costs incurred in performing the following work which shall be for capital improvements or administrative costs of a nature permitted by Minnesota Statutes, Chapter 469, shall be deemed Public-Eligible Costs for which the DEDA may offer assistance in the form of a Conditional Grant ~~money~~ to the Recipient under the Program.
- b) For Storefront Renovation Projects:
 - ~~1) Work:~~ Storefront Renovation Work includes:
 - i4) Improvements on commercial buildings which are visible from public streets and walkways. Such improvements shall only be on the building walls, but shall include the entire wall from the exterior to the interior surface where the exterior wall is renovated in accordance with the approved plans.
 - ii2) Reconstruction and remodeling of exterior surfaces, including paint removal and chemical cleaning.
 - iii3) Masonry replacement and repairs for cosmetic purposes.

4iv) Repairing, replacing, or constructing of cornices, entrances, doors, windows, decorative detail, and awnings.

v) Sign removal, repair, replacement or construction.

vi) Other items that are deemed by the Design Review Committee as necessary to complement the above exterior renovation and reconstruction, including the costs of professional design services related thereto.

The costs of the above work shall be deemed Conditional Grant-Eligible work only if the design thereof has been approved by the Design Review Committee referred to above.

ε2) Building, Fire and Life Safety Code Improvements: The cost of improvements to buildings which are reasonably necessary to ameliorate deficiencies which constitute violations of applicable building codes and fire and life safety codes shall be deemed Public-Eligible Costs under the Program if the City Building Inspector or Fire Marshall, as shall be applicable in each case, shall certify that the improvements are necessary for the continued operation and occupancy of the building.

3) Building Exterior Rehabilitation and Improvements: Costs of exterior rehabilitation and improvements which protect the structural integrity of buildings and prevent deterioration thereof extending the useful life of the building shall be considered to be Public-Eligible Costs of the Recipient if Recipient, and the building owner or lessee if not the same as Recipient, agree to maintain these improvements intact for a period of ten (10) years unless modification is approved by the Project Administrator. Allowable costs shall include paint removal, chemical cleaning, ceiling tuck-pointing and related masonry repairs.

- c) For Infill Storefront ~~Work~~Projects: Where new “infill” buildings (commercial, mixed use commercial and industrial) are to be constructed on Grand and Central Avenues within TIF District No. 3, the storefront consisting of the wall facing the avenue from the interior surface to the exterior surface is an eligible cost.
- d) Related Costs: The Project Administrator may include as Eligible Costs cost items related to the work referred to in Subparagraph (b) through (d) above, such as registered architectural and engineering fees, permits, and other usual and customary costs associated with such improvements.

6.02 Limitations on Eligible Costs: The following conditions shall be placed on the funding of a Conditional Grant:

- a) DEDA may provide a Conditional Grant of fifty percent (50%) of the ~~total~~ Eligible Costs for ~~sStorefront~~ ~~rRenovations~~ Projects, and up to fifty percent (50%) of the total Eligible Costs for Infill Storefront ~~p~~Projects on Grand Avenue and Central Avenue, subject to the limitations of Paragraph 2.02 above.
- b) No Storefront Renovation Project on any building shall be approved unless the cost of work described in Paragraph 6.01(b)(1) is at least 50 percent of the total Public-Eligible Costs of the Storefront Renovation Project described in Paragraph 6.01(b).

6.03 Private-Eligible Costs: The costs of doing the following work shall be deemed Private-Eligible Costs which shall be considered eligible to “match” the Public-Eligible Costs in determining the amount of DEDA’s Conditional Grant as provided in Paragraph 6.02(a) above~~The costs of doing fifty percent (50%) of the Eligible Costs for storefront renovations and fifty percent (50%) of the Eligible Costs for Infill Storefront projects shall be deemed Private-Eligible Costs which shall be considered eligible to “match” the Public-Eligible Costs in determining the amount of the DEDA’s Conditional Grant as provided in Paragraph 6.02 above.~~

- a) Public-Eligible Costs not being financed by DEDA.

- b) Leasehold Improvements
- c) Fixturing
- d) Purchase of equipment related to the business of the Recipient.
- e) Additions to the buildings or other similar structural improvements
- f) Other building renovations and maintenance improvements similar in type and character to those referred to in (a) through (e) above.

The cost of the above work shall be deemed Private-Eligible costs only if approved as such by the Project Administrator.

6.04 Non-Eligible Costs: The following items shall be deemed Non-Eligible Costs which shall not be eligible to “match” the amount of a DEDA Conditional Grant.

- a) Refinancing of existing debts.
- b) Provision of working capital.
- c) Inventory acquisition, ~~fixturing, purchase of equipment,~~ or refinancing.
- d) Allowance for “Sweat Equity.”
- e) Purchase of real property and acquisition or extension of leasehold, and any costs related thereto.
- f) Loans in any way involving, directly or indirectly, the maintenance of improvements previously paid for.
- g) Loans for improvement of publicly-owned buildings.
- h) Work completed prior to ~~approval and completion of all documents~~ signature by the Project Administrator of the Preliminary Application.
- ~~i) Work other than that described in Paragraph 6.01(b)(1-4).~~

VII. PROCEDURES

The process for obtaining a West Duluth Storefront Conditional Grant under this Program is as follows:

- 7.01 Submission of Application: A potential Recipient shall submit his or her application to the Program Coordinator.
- 7.02 Preliminary Design: A preliminary design shall be provided to the Program Coordinator who shall review program requirements to ensure adherence to the Program.
- 7.03 Contents of Application: The application for DEDA extension of a Conditional Grant under the Program shall be on a form provided by DEDA and shall contain at least the following information and attachments:
- a) The name, address, and business of the Recipient, including evidence of title interest in the subject property.
 - b) The name and address of any other parties of interest in the building or real estate constituting the Subject Property together with a description of any such parties' interests.
 - c) A completed credit application on a form provided by Recipient's lending agency, if applicable.
 - d) Drawings at least at the design development stage and specifications for all of the work to be performed upon the Subject Property except where the Design Review Committee or Program Coordinator determines that such drawings and specifications are not appropriate.
 - e) Firm estimates or bids for all of the work to be performed.
- 7.04 Building Inspection and Fire Marshal Review: All applications shall be transmitted by Program Coordinator to the City's Building Official and Fire Marshal for review of the proposed work; said officials shall send a report of their recommendations to the Program Coordinator.
- 7.05 Design Review: All completed applications shall be transmitted to the Design Review Committee by the Program Coordinator for review and approval of the work proposed ~~on the exterior~~ of the Subject Property or for their independent review and recommendation of work which should be done on ~~the exterior of~~ the Subject Property. Upon approval of the design

by the Design Review Committee, the application shall be transmitted to the Project Administrator.

- 7.06 Design Review Guidelines: The Design Review Committee will establish guidelines to promote sStorefront rRenovations Projects and Infill Storefront pProjects consistent with the West Duluth Business District Streetscape Master Plan. Historic properties contributing to or supporting the character of the district should be targeted for preservation. Where possible, the historic character of other buildings willshould be restored or enhanced. The Committee will seek to promote a theme or character for the neighborhood which enhances its economic vitality.
- 7.07 Project Administrator Review: The Project Administrator shall examine the application as submitted or modified, receive and review the reports of the lending agency, if applicable, Design Review Committee, the Building Official, the Fire Marshal, and the Program Coordinator and shall determine that all items are in compliance with the program.
- 7.08 Appeals: In the event that the Project Administrator declines to approve a Conditional Grant for any Recipient or limits or conditions the DEDA Conditional Grant and the Recipient deems the refusal, limitations, or conditions to be arbitrary and capricious, Recipient may appeal the decision of the Project Administrator to the DEDA Board of Commissioners who may approve or modify the decision of the Project Administrator or refuse to extend the Conditional Grant to Recipient, all within the context of these Guidelines. In such event, the decision of the DEDA Board of Commissioners shall be final.
- 7.09 Conditional Grant Agreement: Upon authorization from the Project Administrator, the Program Coordinator may at the request of the Recipient issue a Conditional Grant Agreement which shall contain at least the following items:
- a) A statement identifying the elements of the proposed work which are Eligible Costs together with a statement of the costs of performing each such element.

- b) A statement of the maximum amount of the DEDA Conditional Grant.
- c) A statement of the mandatory elements of work to be included in the overall program of work upon which the DEDA Conditional Grant will be conditioned, if any.
- d) A statement that the DEDA Conditional Grant will be conditioned upon the performance by Recipient of elements of the work set forth in Subparagraph (a) above, which are not being financed by DEDA and which have costs as set forth in Paragraph 6.02 and/or 6.03 above.
- e) A statement that the DEDA Conditional Grant is conditioned upon the receipt by Recipient of an Agency-L loan or equity sufficient to finance the work to be performed in Subparagraph (d) above.
- f) A statement that the actual amount of the DEDA's Conditional Grant will be subject to the final costs of performing the work and, where determinable, the costs which are Public-Eligible Costs.
- g) Such other conditions as the Program Administrator shall deem appropriate including, but not limited to, exterior maintenance as referred to in Paragraph 7-055.04 above, and where appropriate the written concurrence of the owner of the Subject Property or the underlying fee therein to the terms and conditions of the Conditional Agreement to Grant.

7.10 Closing: Upon the agreement of DEDA to extend a Conditional Grant to Recipient sufficient in amount, when taken together with any loan or private equity of Recipient, to pay all project costs incurred by the renovation plan work in Paragraph 6.01 (b) above, the parties shall meet to close the transactions at a time and place agreed upon among Recipient and DEDA, at which time Recipient shall execute the DEDA's Note and Conditional Grant Agreement, and such other documentation as DEDA or Agency, if any, shall reasonably require.

- 7.11 Contents of DEDA Conditional Grant Agreement and Note: The DEDA Note shall be in the standard form for such document setting forth standard terms and conditions for extending the Conditional Grant to Recipients; in addition there shall be executed a Conditional Grant Agreement which shall contain the following provisions and statements:
- a) A description of all work to be performed on the Subject Property.
 - b) An agreement by Recipient to complete the work described in Subparagraph (a) above within a specified time period together with provisions permitting the DEDA to revoke the DEDA Conditional Grant, seek injunctive relief to require Recipient to perform said work within said time frame, and to allow the DEDA to seek such other legal and equitable relief in addition thereto as is allowed by law.
 - c) A statement that the actual amount of the DEDA Conditional Grant to be extended will be subject to the actual costs of the work on the Subject Property and, where determinable, the Eligible Costs of the work.
 - d) A provision allowing but not requiring DEDA to call the DEDA Conditional Grant in the event that Agency shall call the Agency Loan or exercise its rights pursuant to the Security Instrument or Instruments, if applicable.
 - e) Provisions requiring the maintenance of building exterior where relevant as set forth above.
 - f) A provision providing that the failure of the DEDA to declare Recipient in default, to revoke the DEDA Conditional Grant, or to exercise its rights under the Security Instrument or Instruments, if applicable, shall not be deemed to be a waiver of said rights by DEDA.
 - h) Where appropriate, a requirement for a Payment and Performance Bond as required by Minnesota Statutes, Chapter 474.

- i) A provision allowing no more than one (1) partial payment and one (1) final payment to Recipient and then only upon certification of the Program Coordinator that the work for which payment is requested has been performed together with lien waivers for said work provided by all material persons and contractors.
- j) Such other provisions or conditions as the Program Administrator shall deem reasonable and appropriate.
- k) Recipient shall provide personal and corporate guarantees, if applicable.

7.12 Conditional Grant Disbursements: The following shall be the mechanism for disbursing the DEDA Conditional Grant to Recipient:

- a) Recipient may draw-down on the amount of the DEDA Conditional Grant up to but no more than two (2) times as the work is fifty percent (50%) completed d and one-hundred percent (100%) completed.
- b) Upon reaching the aforesaid stages of completion, Recipient may transmit a request for partial or final payment to the Program Coordinator which request shall include signed lien waivers by all material persons and contractors supplying material or labor for the work.
- c) The Program Coordinator shall review the work for percentage of completion and for conformance with the work to be performed as described in the Conditional Grant Agreement, and certify that the necessary work has been performed in accordance with those documents.
- d) Upon receipt of the Program Coordinator's certification and the lien waivers, both as referred to above, Program Coordinator shall approve the disbursement of the appropriate amount of Conditional Grant funds to Recipient.
- e) Upon receipt of the Program Coordinator's approval, the DEDA Treasurer shall disburse the approved sums to Recipient.

7.13 Recipient Failure: In the event that Recipient shall fail to complete the work or shall fail to complete it within the time frames specified, all as set forth in the Conditional Agreement referred to in Paragraph 7.09 and 7.11 above, the Program Coordinator shall have the following options:

- a) Revoke the DEDA Conditional Grant.
- b) Seek, on behalf of the DEDA, injunctive relief requiring Recipient to immediately complete the work on the Subject Property.
- c) Seek such other legal or equitable remedies as may be appropriate and available under law.

WEST DULUTH STOREFRONT Amended Operational Guidelines ~~10-23-2013~~03-26-2014

**WEST DULUTH STOREFRONT AND INFILL
CONDITIONAL GRANT PROGRAM
AMENDED OPERATIONAL GUIDELINES**

(Adopted by DEDA December 1, 2008, Amended October 23, 2013 & March 26, 2014)

I. PURPOSE

1.01 The purpose of this program is to spur economic revitalization of the West Duluth Business District through elimination of visual blight. This will be achieved by: 1) renovation of the storefronts in the area in a manner sensitive to the character of the district, and 2) infill of certain vacant properties with new buildings to replace structures which have been removed.

II. PROGRAM SUMMARY

2.01 DEDA Conditional Grant: DEDA will make conditional grants to Recipients for the Eligible cost portion of the Work (See Paragraph 6.01) consisting of Fifty percent (50%) of the cost of Storefront Renovation Projects and up to fifty percent (50%) of the cost of Infill Storefront Projects as described in Section 6.01 (c) below.

2.02 Maximum DEDA Conditional Grant: The maximum amount of any DEDA Conditional Grant to be extended to a Recipient under this program for Public-Eligible Costs shall not exceed One-Hundred Thousand and no/100 Dollars (\$100,000) for Storefront Renovation Projects and One-Hundred Thousand and no/100 Dollars (\$100,000) for Infill Storefront Projects.

2.03 Recipients: Recipients under this program are any owner of a building or the long-term lessee with the authority to make the modifications to the building described herein or owner of the underlying fee interest in land upon which such a building or business is located in combination with said lessee or operator, wishing to make improvements in property in the West Duluth TIF Development District No. 3.

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work done in or on the building between the time of Closing of the Project pursuant to Paragraph 7.10 and completion of the Project.

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- c) Receive applications and supporting documentation from potential Recipients.

- d) Conduct an initial review of the application and supporting materials for sufficiency, as set forth below, for submission to other reviewing entities.
- e) Coordinate where applicable with the project architect to ensure that the architectural plans will meet the requirements for the district.
- f) Transmit a copy of the application and supporting documentation to the Design Review Committee, City Building Official, and City Fire Marshall for review.
- g) Review the applicant's financial statements to determine credit worthiness or review and, if appropriate, approve the determination of credit worthiness provided by Recipient's lender.
- h) Coordinate with the Recipient's lending agency, if any, to determine the financial viability of the project.
- i) Submit to the Program Administrator draw-down requests as provided for in the terms of the various Conditional Grant Agreements and Notes evidencing said Conditional Grants if said draw-down is approved and if lien waivers for the work in question have been provided.

4.03 Program Architect(s): One or more Architects may be contracted by the Project Administrator to perform the following functions:

- a) Review plans and specifications for sufficiency of description of the work to be performed on the subject property and review the estimates for the cost of each element of said work for accuracy.
- b) Monitor the construction performed pursuant to any Conditional Grant extended under the Program for conformance of the approved plans cited in DEDA's Conditional Grant Agreement and Note.

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- 4.06 DEDA Treasurer: The DEDA Treasurer or his/her authorized designee shall have the authority to disburse funds from the West Duluth Storefront and Infill Fund upon authorization of the Program Coordinator, and to withdraw funds at his or her.

V. THE PROGRAM

In addition to the basic program summarized in Paragraph 1.01, the following requirements shall apply:

- 5.01 Conditional Grant Interest Rate: The interest rate for the Conditional Grant shall be three percent (3%).
- 5.02 Conditional Grant Repayment: Repayment of principal and interest shall be forgiven each year that the Recipient continues to own/lease and maintain the property. In the event the Recipient sells or no longer leases the property for which the Conditional Grant was made, the following percentage of principal plus all accrued interest shall become due and payable. Repayment Schedule:

...before the 1 st anniversary of the Conditional Grant:	100%
On or after the 1 st anniversary and before the 2 nd :	80%
On or after the 2 nd anniversary and before the 3 rd :	60%
On or after the 3 rd anniversary and before the 4 th :	40%
On or after the 4 th anniversary and before the 5 th :	20%
On and after the 5 th anniversary.	0%
- 5.04 Agreement to Maintain Improvements: As a condition of conditional granting of money to Recipient under the Program for the above work, the Recipient shall agree to maintain the above improvements in accordance with the design approved as set forth above for a period of at least five (5) years unless modification thereof is approved by Project Administrator.

The foregoing commitment shall be in writing, signed by those parties, and in recordable form.

VI. PROGRAM ELIGIBILITY OF WORK

6.01 Public-Eligible Costs:

- a) **Conditional Grant-Eligible Costs of Work:** Costs incurred in performing the following work which shall be for capital improvements or administrative costs of a nature permitted by Minnesota Statutes, Chapter 469, shall be deemed Public-Eligible Costs for which the DEDA may offer assistance in the form of a Conditional Grant to the Recipient under the Program.
- b) **For Storefront Renovation Projects:**
 - 1) **Storefront Renovation Work includes:**
 - i) Improvements on commercial buildings which are visible from public streets and walkways. Such improvements shall only be on the building walls, but shall include the entire wall from the exterior to the interior surface where the exterior wall is renovated in accordance with the approved plans.
 - ii) Reconstruction and remodeling of exterior surfaces, including paint removal and chemical cleaning.
 - iii) Masonry replacement and repairs for cosmetic purposes.
 - iv) Repairing, replacing, or constructing of cornices, entrances, doors, windows, decorative detail, and awnings.
 - v) Sign removal, repair, replacement or construction.
 - vi) Other items that are deemed by the Design Review Committee as necessary to complement the above exterior renovation and reconstruction, including the costs of professional design services related thereto.

The costs of the above work shall be deemed Conditional Grant-Eligible work only if the design thereof has been approved by the Design Review Committee referred to above.

- 2) **Building, Fire and Life Safety Code Improvements:** The cost of improvements to buildings which are reasonably necessary to ameliorate deficiencies which constitute violations of applicable building codes and fire and life safety codes shall be deemed Public-Eligible Costs under the Program if the City Building Inspector or Fire Marshall, as shall be applicable in each case, shall certify that the improvements are necessary for the continued operation and occupancy of the building.
- 3) **Building Exterior Rehabilitation and Improvements:** Costs of exterior rehabilitation and improvements which protect the structural integrity of buildings and prevent deterioration thereof extending the useful life of the building shall be considered to be Public-Eligible Costs of the Recipient if Recipient, and the building owner or lessee if not the same as Recipient, agree to maintain these improvements intact for a period of ten (10) years unless modification is approved by the Project Administrator. Allowable costs shall include paint removal, chemical cleaning, ceiling tuck-pointing and related masonry repairs.
- c) **For Infill Storefront Projects:** Where new "infill" buildings (commercial, mixed use commercial and industrial) are to be constructed on Grand and Central Avenues within TIF District No. 3, the storefront consisting of the wall facing the avenue from the interior surface to the exterior surface is an eligible cost.
- d) **Related Costs:** The Project Administrator may include as Eligible Costs cost items related to the work referred to in Subparagraph (b) through (d) above, such as registered architectural and engineering

fees, permits, and other usual and customary costs associated with such improvements.

6.02 Limitations on Eligible Costs: The following conditions shall be placed on the funding of a Conditional Grant:

- a) DEDA may provide a Conditional Grant of fifty percent (50%) of the total Eligible Costs for Storefront Renovation Projects, and up to fifty percent (50%) of the total Eligible Costs for Infill Storefront Projects on Grand Avenue and Central Avenue, subject to the limitations of Paragraph 2.02 above.
- b) No Storefront Renovation Project on any building shall be approved unless the cost of work described in Paragraph 6.01(b)(1) is at least 50 percent of the total Public-Eligible Costs of the Storefront Renovation Project described in Paragraph 6.01(b).

6.03 Private-Eligible Costs: The costs of doing the following work shall be deemed Private-Eligible Costs which shall be considered eligible to “match” the Public-Eligible Costs in determining the amount of DEDA’s Conditional Grant as provided in Paragraph 6.02(a) above.

- a) Public-Eligible Costs not being financed by DEDA.
- b) Leasehold Improvements
- c) Fixturing
- d) Purchase of equipment related to the business of the Recipient.
- e) Additions to the buildings or other similar structural improvements
- f) Other building renovations and maintenance improvements similar in type and character to those referred to in (a) through (e) above.

The cost of the above work shall be deemed Private-Eligible costs only if approved as such by the Project Administrator.

6.04 Non-Eligible Costs: The following items shall be deemed Non-Eligible Costs which shall not be eligible to “match” the amount of a DEDA Conditional Grant.

- a) Refinancing of existing debts.

- b) Provision of working capital.
- c) Inventory acquisition or refinancing.
- d) Allowance for "Sweat Equity."
- e) Purchase of real property and acquisition or extension of leasehold, and any costs related thereto.
- f) Loans in any way involving, directly or indirectly, the maintenance of improvements previously paid for.
- g) Loans for improvement of publicly-owned buildings.
- h) Work completed prior to signature by the Project Administrator of the Preliminary Application.

VII. PROCEDURES

The process for obtaining a West Duluth Storefront Conditional Grant under this Program is as follows:

- 7.01 Submission of Application: A potential Recipient shall submit his or her application to the Program Coordinator.
- 7.02 Preliminary Design: A preliminary design shall be provided to the Program Coordinator who shall review program requirements to ensure adherence to the Program.
- 7.03 Contents of Application: The application for DEDA extension of a Conditional Grant under the Program shall be on a form provided by DEDA and shall contain at least the following information and attachments:
 - a) The name, address, and business of the Recipient, including evidence of title interest in the subject property.
 - b) The name and address of any other parties of interest in the building or real estate constituting the Subject Property together with a description of any such parties' interests.
 - c) A completed credit application on a form provided by Recipient's lending agency, if applicable.

- d) Drawings at least at the design development stage and specifications for all of the work to be performed upon the Subject Property except where the Design Review Committee or Program Coordinator determines that such drawings and specifications are not appropriate.
 - e) Firm estimates or bids for all of the work to be performed.
- 7.04 Building Inspection and Fire Marshal Review: All applications shall be transmitted by Program Coordinator to the City's Building Official and Fire Marshal for review of the proposed work; said officials shall send a report of their recommendations to the Program Coordinator.
- 7.05 Design Review: All completed applications shall be transmitted to the Design Review Committee by the Program Coordinator for review and approval of the work proposed of the Subject Property or for their independent review and recommendation of work which should be done on the Subject Property. Upon approval of the design by the Design Review Committee, the application shall be transmitted to the Project Administrator.
- 7.06 Design Review Guidelines: The Design Review Committee will establish guidelines to promote Storefront Renovation Projects and Infill Storefront Projects consistent with the West Duluth Business District Streetscape Master Plan. Historic properties contributing to or supporting the character of the district should be targeted for preservation. Where possible, the historic character of other buildings should be restored or enhanced. The Committee will seek to promote a theme or character for the neighborhood which enhances its economic vitality.
- 7.07 Project Administrator Review: The Project Administrator shall examine the application as submitted or modified, receive and review the reports of the lending agency, if applicable, Design Review Committee, the Building Official, the Fire Marshal, and the Program Coordinator and shall determine that all items are in compliance with the program.

7.08 Appeals: In the event that the Project Administrator declines to approve a Conditional Grant for any Recipient or limits or conditions the DEDA Conditional Grant and the Recipient deems the refusal, limitations, or conditions to be arbitrary and capricious, Recipient may appeal the decision of the Project Administrator to the DEDA Board of Commissioners who may approve or modify the decision of the Project Administrator or refuse to extend the Conditional Grant to Recipient, all within the context of these Guidelines. In such event, the decision of the DEDA Board of Commissioners shall be final.

7.09 Conditional Grant Agreement: Upon authorization from the Project Administrator, the Program Coordinator may at the request of the Recipient issue a Conditional Grant Agreement which shall contain at least the following items:

- a) A statement identifying the elements of the proposed work which are Eligible Costs together with a statement of the costs of performing each such element.
- b) A statement of the maximum amount of the DEDA Conditional Grant.
- c) A statement of the mandatory elements of work to be included in the overall program of work upon which the DEDA Conditional Grant will be conditioned, if any.
- d) A statement that the DEDA Conditional Grant will be conditioned upon the performance by Recipient of elements of the work set forth in Subparagraph (a) above, which are not being financed by DEDA and which have costs as set forth in Paragraph 6.02 and/or 6.03 above.
- e) A statement that the DEDA Conditional Grant is conditioned upon the receipt by Recipient of an loan or equity sufficient to finance the work to be performed in Subparagraph (d) above.

- f) A statement that the actual amount of the DEDA's Conditional Grant will be subject to the final costs of performing the work and, where determinable, the costs which are Public-Eligible Costs.
- g) Such other conditions as the Program Administrator shall deem appropriate including, but not limited to, exterior maintenance as referred to in Paragraph 5.04 above, and where appropriate the written concurrence of the owner of the Subject Property or the underlying fee therein to the terms and conditions of the Conditional Agreement to Grant.

7.10 Closing: Upon the agreement of DEDA to extend a Conditional Grant to Recipient sufficient in amount, when taken together with any loan or private equity of Recipient, to pay all project costs incurred by the renovation plan work in Paragraph 6.01 above, the parties shall meet to close the transactions at a time and place agreed upon among Recipient and DEDA, at which time Recipient shall execute the DEDA's Note and Conditional Grant Agreement, and such other documentation as DEDA or Agency, if any, shall reasonably require.

7.11 Contents of DEDA Conditional Grant Agreement and Note: The DEDA Note shall be in the standard form for such document setting forth standard terms and conditions for extending the Conditional Grant to Recipients; in addition there shall be executed a Conditional Grant Agreement which shall contain the following provisions and statements:

- a) A description of all work to be performed on the Subject Property.
- b) An agreement by Recipient to complete the work described in Subparagraph (a) above within a specified time period together with provisions permitting the DEDA to revoke the DEDA Conditional Grant, seek injunctive relief to require Recipient to perform said work within said time frame, and to allow the DEDA to seek such other legal and equitable relief in addition thereto as is allowed by law.

- c) A statement that the actual amount of the DEDA Conditional Grant to be extended will be subject to the actual costs of the work on the Subject Property and, where determinable, the Eligible Costs of the work.
- d) A provision allowing but not requiring DEDA to call the DEDA Conditional Grant in the event that Agency shall call the Agency Loan or exercise its rights pursuant to the Security Instrument or Instruments, if applicable.
- e) Provisions requiring the maintenance of building exterior where relevant as set forth above.
- f) A provision providing that the failure of the DEDA to declare Recipient in default, to revoke the DEDA Conditional Grant, or to exercise its rights under the Security Instrument or Instruments, if applicable, shall not be deemed to be a waiver of said rights by DEDA.
- h) Where appropriate, a requirement for a Payment and Performance Bond as required by Minnesota Statutes, Chapter 474.
- i) A provision allowing no more than one (1) partial payment and one (1) final payment to Recipient and then only upon certification of the Program Coordinator that the work for which payment is requested has been performed together with lien waivers for said work provided by all material persons and contractors.
- j) Such other provisions or conditions as the Program Administrator shall deem reasonable and appropriate.
- k) Recipient shall provide personal and corporate guarantees, if applicable.

7.12 Conditional Grant Disbursements: The following shall be the mechanism for disbursing the DEDA Conditional Grant to Recipient:

- a) Recipient may draw-down on the amount of the DEDA Conditional Grant up to but no more than two (2) times as the work is fifty

percent (50%) completed and one-hundred percent (100%) completed.

- b) Upon reaching the aforesaid stages of completion, Recipient may transmit a request for partial or final payment to the Program Coordinator which request shall include signed lien waivers by all material persons and contractors supplying material or labor for the work.
- c) The Program Coordinator shall review the work for percentage of completion and for conformance with the work to be performed as described in the Conditional Grant Agreement, and certify that the necessary work has been performed in accordance with those documents.
- d) Upon receipt of the Program Coordinator's certification and the lien waivers, both as referred to above, Program Coordinator shall approve the disbursement of the appropriate amount of Conditional Grant funds to Recipient.
- e) Upon receipt of the Program Coordinator's approval, the DEDA Treasurer shall disburse the approved sums to Recipient.

7.13 Recipient Failure: In the event that Recipient shall fail to complete the work or shall fail to complete it within the time frames specified, all as set forth in the Conditional Agreement referred to in Paragraph 7.09 and 7.11above, the Program Coordinator shall have the following options:

- a) Revoke the DEDA Conditional Grant.
- b) Seek, on behalf of the DEDA, injunctive relief requiring Recipient to immediately complete the work on the Subject Property.
- c) Seek such other legal or equitable remedies as may be appropriate and available under law.