RESOLUTION 14D-47

RESOLUTION AUTHORIZING A SECOND AMENDMENT TO THE DEVELOPMENT AGREEMENT WITH PIER B HOLDING, LLC

RESOLVED, by the Duluth Economic Development Authority ("DEDA") that the proper DEDA officials are hereby authorized to enter into a Second Amendment to the Development Agreement, substantially in the form of that attached hereto (DEDA Contract No. 14 860 749²) with Pier B Holding, LLC.

BE IT FURTHER RESOLVED by DEDA that the President and Secretary are authorized and directed to execute and deliver to Pier B Holding, LLC, the Tax Increment Revenue Note (Pier B Holding, LLC Project) upon satisfaction of the conditions set forth in the Development Agreement.

Approved by the Duluth Economic Development Authority this 17th day of December, 2014.

ATTEST:

APPROVED AS TO FORM

DEDA Attorney

APPROVED FOR PRESENTATION

Executive Director

_____

Executive Director

STATEMENT OF PURPOSE: The purpose of this resolution is to authorize a Second Amendment to the Development Agreement with Pier B Holding LLC for the development of a destination resort hotel project on the Bayfront property located between Slips 2 and 3. The original Development Agreement provides for tax increment eligible costs to be reimbursed to the Developer pursuant to the terms of the Development Agreement. The Developer and its lender have requested that DEDA issue a tax increment revenue note to evidence the payment obligation. Article VIII of the Development Agreement is restated to provide for the TIF Note, the form of which is attached as Exhibit H. In addition, this amendment will add and/or revise several definitions to conform to the TIF Note. Additionally, this amendment will revise the project completion date in Articles 6(A), 7 and 15(A)(1)(e) to more accurately reflect the project's time line.

DEVELOPMENT AGREEMENT
DULUTH ECONOMIC DEVELOPMENT AUTHORITY
PIER B HOLDING, LLC
THE SILOS AT PIER B PROJECT
SECOND AMENDMENT

THIS SECOND AMENDMENT entered into this _____ day of December, 2014, by and between the DULUTH ECONOMIC DEVELOPMENT AUTHORITY, an economic development authority created and existing under Minnesota Statutes (1989) Chapter 469, hereinafter referred to as "DEDA", and PIER B HOLDING, LLC, a limited liability company under the laws of the State of Minnesota, hereinafter referred to as "Developer".

WHEREAS, on August 14, 2014, DEDA and Developer entered into a Development Agreement for The Silos at Pier B Project bearing DEDA Contract No. 14 860 749 ; and

WHEREAS, on October 31, 2014, DEDA and Developer entered into a First Amendment to the Development Agreement which clarified the application of certain remedies in the event of default under the Development Agreement (the Development Agreement and First Amendment thereto are hereinafter referred to as the "Agreement"); and

WHEREAS, the parties desire to further amend the Agreement as hereinafter provided.

NOW, THEREFORE, the parties do mutually agree as follows:

1. Paragraph C of ARTICLE I, Definitions, is hereby amended in its entirety as follows:

   C. Eligible Costs: shall mean those costs as referenced in the TIF Plan which may be legally funded with the use of Tax Increment proceeds under Minnesota Statutes and case law but excludes the costs for the DEDA Project.

2. Paragraph G of ARTICLE I, Definitions, is hereby amended in its entirety as follows:

   G. Eligible Tax Increment: shall mean 90% of the Captured Tax Increment received by DEDA from St. Louis County with respect to the Property and improvements thereon from Duluth Tax Increment Financing District No. 27 during the six months preceding any Payment Date, as defined in the TIF Note.

3. Paragraph O of ARTICLE I, Definitions, is hereby amended in its entirety as follows:

   O. Original Captured Tax Increment or Captured Tax Increment: shall mean that portion of the real property taxes which are paid with respect to Property and the improvements thereon and which are remitted to DEDA as tax increment under Duluth Tax Increment Financing District No. 27.

4. Insert new Paragraphs R and S to ARTICLE I, Definitions, as follows:

R. TIF Note: shall mean the Tax Increment Revenue Note (Pier B Holding, LLC Project) described in Article VIII, the form of which is set forth on Exhibit H.

S. DEDA Project: shall mean the DEDA-related work described in Paragraph I of Article III.

5. Paragraph A of ARTICLE VI, Construction, is hereby amended as follows:

A. Construction of Developer Project

Upon the fulfillment of the Preconditions to Construction provided for in Article IV above and subject to the provisions of Article IV above but in no event later than August 1, 2014, Developer shall promptly commence construction of the Project in conformance with the plans developed pursuant to Article V above. Construction of the Project as herein defined shall be completed no later than December 31, 2016, except as hereinafter set forth in this Agreement. Provided, that the Executive Director may, in the exercise of his or her discretion, extend the time for completion of the Project for up to nine (9) months, which extension shall be in writing.

6. ARTICLE VII, DEDA Project Construction, is hereby amended in its entirety as follows:

Upon conveyance of the DEDA Property to Developer and the commencement of construction of the Project by Developer in conformance with the provisions of Articles III, V and VI above, Developer agrees that it will undertake the construction on behalf of DEDA of the DEDA Project in conformance with the plans therefor and will cause such construction to be completed no later than December 31, 2016, unless the Executive Director shall have granted an extension to Developer for completion of the Project in which case the time for completion of the

DEDA Project set forth above shall be extended for a similar time or unless the Developer shall have agreed in writing to extend the time for completion of the DEDA Project.

7. ARTICLE VIII, DEDA Payment to Developer, is hereby amended in its entirety as follows:

ARTICLE VIII

DEDA Payment to Developer

A. Developer certifies that the Eligible Costs will not be less than $3,460,605 and are expected to be approximately $4,427,818, as set forth on Exhibit G hereto. Accordingly, and in consideration of Developer's obligations and performance under this Agreement, and in order to defray a portion of such Eligible Costs over time, DEDA shall execute and deliver to Developer the Tax Increment Revenue Note (Pier B Holding, LLC Project) (the "TIF Note") in the form attached to this Agreement as Exhibit H. The TIF Note shall be executed and delivered by DEDA to Developer upon fulfillment of Developer's obligations pursuant to Article III above and in connection with the sale of the DEDA Property pursuant to Article IV. Interest payable on the TIF Note shall accrue as Developer incurs and documents Eligible Costs as follows: (i) not more than once per month Developer may submit to DEDA documentation (invoices, receipts, cancelled checks, mechanic's lien waivers, etc.) satisfactory to the Executive Director; and (ii) as of the date of acceptance by the Executive Director of the documented Eligible Costs, the amount so accepted shall commence to accrue interest on such accepted amount on such date. The amount of Eligible Costs accepted by the Executive Director shall be set out in a writing from the Executive Director. Notwithstanding the commencement of accrual of interest on the TIF Note, DEDA is not obligated to make any payments on the TIF Note until the later of (i) the

date that the required documents under Paragraph B a)(i) of this Article VIII are provided; and (ii) the date of the issuance of the Certificate of Completion for the Project. There shall be no accrual of interest on unpaid interest accrued after August 1, 2017.

B. Developer acknowledges and agrees, as provided in the TIF Note, that payments under the TIF Note are to be made only as and to the extent that DEDA shall receive and be able to retain Eligible Tax Increment on the Payment Dates specified in the TIF Note. If there is insufficient Eligible Tax Increment on any Payment Date, the Eligible Tax Increment shall be applied to interest first and thereafter to principal. DEDA shall not be obligated to make any payment or any further payment or payments as provided in the TIF Note:

a) until

(i) Developer has provided DEDA with documentation satisfactory to the Executive Director (invoices, receipts, canceled checks, mechanic's lien waivers, etc.) showing payment of at least $3,460,605 in Eligible Costs authorized under the TIF Plan, including those cost items shown on the attached Exhibit G, or such lesser amount as may be approved by the Executive Director, in which case the TIF Note shall be reissued to reflect a lesser amount as the maximum principal amount equal to the Eligible Costs approved herein; and

(ii) DEDA has issued the Certificate of Completion for the Project; or

b) if, subject to the limitations in Subparagraph 3 of Paragraph A of Article XV, there is an Event of Default by Developer under this Agreement that has not been cured as of the Payment Date.

C. The TIF Note will be issued as a pay-as-you-go note, without registration under the State or federal securities laws pursuant to an exemption for such issuance; and, accordingly, the TIF Note may not be assigned, transferred or pledged, in whole or in part, nor may a participation interest in the TIF Note be given pursuant to any participation agreement, except (a) with the written consent of DEDA (which consent may be conditioned on the assignee or transferee owning the Project, assuming the obligations of Developer under the Development Agreement and in all events the TIF Note shall remain subject to the terms of the Development Agreement), or (b) without the written consent of DEDA if the pledge of the TIF Note is to a lender as collateral for a loan; and in each case the assignee, transferee or pledgee (but not including participants) shall provide investment letters substantially in the forms of the investment letters provided by Developer and the initial lender receiving a pledge of the TIF Note on the initial delivery of the TIF Note, forms of which are attached as Exhibits I and J hereto.

D. DEDA and its representatives shall have the right at all reasonable times after reasonable notice to inspect, examine and copy all books and records of Developer relating to the Eligible Costs and the Project. Developer shall require the contractor or contractors, all subcontractors and their agents and lenders to make their books and records relating to the Eligible Costs available to DEDA, upon reasonable notice, for inspection, examination and audit. Such records shall be kept and maintained by Developer for a period of four years following completion of construction of the Project.

E. DEDA's financial commitment for payment of the TIF Note under this Agreement is a revenue obligation only and will be paid by DEDA only out of Eligible Tax Increment for the TIF Note. DEDA makes no representations or warranties that the Eligible Tax Increment will be sufficient to pay Developer on the TIF Note. Developer acknowledges that Eligible Tax Increment is subject to calculation by St. Louis County and changes in state law and that some or all of the TIF Note may not be paid prior to the final payment set forth in the TIF Note. Developer acknowledges that the estimates of Eligible Tax Increment which may have been made by DEDA or its agents, officers or employees are estimates only, are made for the sole use and benefit of DEDA and are not intended for Developer's reliance.

8. Paragraph A. 1. E. of ARTICLE XV, Defaults and Remedies, is hereby amended as follows:

A. Developer Defaults and Remedies

1. General Events of Default

e. Developer fails to complete its obligations under Articles IV or V as set forth above on or before December 31, 2016.

9. Upon execution of this Second Amendment, Developer shall promptly file the Development Agreement, the First Amendment and this Second Amendment in the Office of the Saint Louis County Recorder and shall pay all costs associated with recording the Development Agreement, the First Amendment and this Second Amendment. Upon recordation, Developer shall immediately submit to DEDA an executed original of the Development Agreement, the First Amendment and this Second Amendment showing the dates and document numbers of record, or fully-conformed copies of the filed originals showing the dates and document numbers of record.

10. Except as provided in this Second Amendment, all terms and provisions of the Agreement shall remain in force and effect.

IN WITNESS WHEREAS, the parties have hereunto set their hands the day and date first above shown.

DULUTH ECONOMIC DEVELOPMENT AUTHORITY

_____
Its President

_____
its Secretary

PIER B HOLDING, LLC

_____
Its Chief Member

STATE OF MINNESOTA)
) ss.
COUNTY OF ST. LOUIS)

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by _____, the Chief Member of PIER B HOLDING, LLC, a Minnesota limited liability company, on behalf of the company.

_____
Notary Public

STATE OF MINNESOTA)
) ss.
COUNTY OF ST. LOUIS)

The foregoing instrument was acknowledged before me this _____ day of _____, 2014, by Nancy Norr and Emily Larson, the President and Secretary, respectively, of the Duluth Economic Development Authority, an economic development authority created and existing under the Laws of the State of Minnesota, on behalf of the Authority.

_____
Notary Public

This instrument was drafted by:

Joan M. Christensen
Attorney for the Duluth Economic
Development Authority
410 City Hall
Duluth, MN 55802
(218) 730-5490

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EXHIBIT H

FORM OF PAY-AS-YOU-GO
TAX INCREMENT NOTE

No. R-1

UNITED STATES OF AMERICA
STATE OF MINNESOTA
COUNTY OF ST. LOUIS

DULUTH ECONOMIC DEVELOPMENT AUTHORITY

TAX INCREMENT REVENUE NOTE
(PIER B HOLDING, LLC PROJECT)

Principal Amount	Annual Rate
$3,460,605	5.0%

THIS NOTE HAS NOT BEEN REGISTERED UNDER ANY FEDERAL OR STATE SECURITIES LAWS AND MAY NOT BE SOLD, ASSIGNED OR OTHERWISE DISPOSED OF OR TRANSFERRED WITHOUT THE WRITTEN CONSENT OF THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY OR IN LIMITED CIRCUMSTANCES, UPON SATISFYING CERTAIN CONDITIONS IN THE DEVELOPMENT AGREEMENT.

The Duluth Economic Development Authority, an economic development authority created and existing pursuant to Minnesota Statues Chapter 469 ("DEDA"), hereby acknowledges itself to be indebted and, for value received, hereby promises to pay Pier B Holding, LLC, a Minnesota limited liability company (the "Developer"), or its registered assigns (the "Registered Owner"), the principal amount of Three Million Four Hundred Sixty Thousand Six Hundred Five Dollars ($3,460,605), or such lesser amount as the Developer has documented as Eligible Costs, pursuant to Paragraph A and Paragraph B of Article VIII of that certain Development Agreement between DEDA and the Developer dated August 14, 2014, and bearing DEDA contract No. 14860749, as amended on October 31, 2014, and December ___, 2014, and as further amended from time to time (the "Development Agreement"), but only in the manner, at the times, from the sources of revenue, and to the extent hereinafter provided.

This Note is issued pursuant to the Development Agreement. Terms are defined in this Note or the Development Agreement. The principal amount of this Note, as adjusted above, shall bear interest at the annual rate specified above and interest shall accrue as Developer incurs and documents Eligible Costs, as accepted by DEDA in Paragraph A of Article VIII of the Development Agreement. Notwithstanding the commencement of accrual of interest on this Note, DEDA is not obligated to make any payment on this Note until the later of (i) the date that the required documents are provided to DEDA to establish the amount of Eligible Costs expended by Developer under Paragraph B a)(i) of Article VIII of the Development Agreement; and (ii) the date of issuance of the Certificate of Completion for the Project. There shall be no

accrual of interest on unpaid interest after August 1, 2017. Interest shall be computed on the basis of a 360-day year of twelve 30-day months.

This Note is issued and payable solely from Eligible Tax Increment, as defined in the Development Agreement, actually received by DEDA.

Subject to satisfying the conditions precedent as set forth above to commence interest accruing on this Note, the amounts due under this Note shall be payable on February 1 and August 1 of each year, commencing on August 1, 2017, to and including February 1, 2043 (the "Final Payment Date"), or such earlier date on which it has been paid in full, or, if the 1st should not be a business day the next succeeding business day (the "Payment Dates"). On each Payment Date, DEDA shall pay, by check or wire transfer as directed by and to the Registered Owner of the Note at the close of the last business day preceding such Payment Date, Eligible Tax Increment received by DEDA during the six months preceding such Payment Date. Eligible Tax Increment shall first be applied to accrued interest and then to principal. If Eligible Tax Increment paid to the Registered Owner of this Note is insufficient to pay any accrued interest due on this Note after August 1, 2017, such unpaid interest shall be carried forward without accruing additional interest.

This Note shall terminate and be of no further force and effect following (a) the Final Payment Date; (b) any date upon which the Development Agreement or this Note has terminated under said Development Agreement; or (c) on the date that all principal and interest payable hereunder shall have been paid in full, whichever occurs earliest. This Note may be prepaid in whole or in part at any time without penalty.

DEDA makes no representation or covenant, express or implied, that the Eligible Tax Increment will be sufficient to pay, in whole or in part, the amounts which are or may become due and payable hereunder.

Except as otherwise provided in Subparagraph 3 of Paragraph A of Article XV of the Development Agreement, DEDA's payment obligations hereunder shall be further conditioned on the fact that no Developer's Event of Default under the Development Agreement shall have occurred and be continuing, but such unpaid amounts shall become payable, without interest accruing thereon in the meantime, if said Event of Default shall thereafter have been cured; and, further, if pursuant to the occurrence of an Event of Default under the Development Agreement DEDA elects to cancel and rescind the Development Agreement or this Note, DEDA shall have no further debt or obligation under this Note whatsoever. Reference is hereby made to all of the provisions of the Development Agreement, for a fuller statement of the rights and obligations of DEDA to pay the principal of this Note and the interest thereon, and said provisions are hereby incorporated into this Note as though set out in full herein.

THIS NOTE IS A SPECIAL, LIMITED REVENUE OBLIGATION AND NOT A GENERAL OBLIGATION OF DEDA OR THE CITY OF DULUTH AND IS PAYABLE BY DEDA ONLY FROM THE SOURCES AND SUBJECT TO THE QUALIFICATIONS STATED OR REFERENCED HEREIN. THIS NOTE IS NOT A GENERAL OBLIGATION OF DEDA OR THE CITY OF DULUTH, AND NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWERS OF DEDA OR THE CITY OF

DULUTH ARE PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THIS NOTE AND NO PROPERTY OR OTHER ASSET OF DEDA OR THE CITY OF DULUTH, SAVE AND EXCEPT THE ABOVE REFERENCED PLEDGED TAX INCREMENTS, IS OR SHALL BE A SOURCE OF PAYMENT OF DEDA'S OBLIGATIONS HEREUNDER.

The Registered Owner shall never have or be deemed to have the right to compel any exercise of any taxing power of DEDA, the City of Duluth (the "City") or of any other public body, and neither DEDA, the City nor any person executing or registering this Note shall be liable personally hereon by reason of the issuance or registration thereof or otherwise.

This Note is issued by DEDA in aid of financing a project pursuant to and in full conformity with the Constitution and laws of the State of Minnesota, including Minnesota Statutes, Sections 469.174 to 469.179, the Minnesota Tax Increment Act.

Except as hereinafter qualified and subject to Paragraph C of Article VIII of the Development Agreement, this Note may not be assigned but, upon such assignment, the assignor shall promptly notify DEDA at the office of the Executive Director by registered mail, and the assignee shall surrender the same to the Executive Director either in exchange for a new fully registered note or for transfer of this Note on the registration records for the Note maintained by DEDA. Each permitted assignee shall take this Note subject to the foregoing conditions and subject to all provisions stated or referenced herein.

IT IS HEREBY CERTIFIED AND RECITED that all acts, conditions, and things required by the Constitution and laws of the State of Minnesota to be done, to have happened, and to be performed precedent to and in the issuance of this Note have been done, have happened, and have been performed in regular and due form, time, and manner as required by law; and that this Note, together with all other indebtedness of DEDA outstanding on the date hereof and on the date of its actual issuance and delivery, does not cause the indebtedness of DEDA to exceed any constitutional or statutory limitation thereon.

IN WITNESS WHEREOF, the Duluth Economic Development Authority, by its Board of Commissioners, has caused this Note to be executed by the manual signatures of its President and the Secretary of DEDA and has caused this Note to be issued on and dated December ____, 2014.

DULUTH ECONOMIC DEVELOPMENT AUTHORITY

By _____
Its President

By _____
Its Secretary

_____
Approved as to form
Assistant City Attorney

CERTIFICATION OF REGISTRATION

It is hereby certified that the foregoing Note, as originally issued on December ___, 2014, was on said date registered in the name of Pier B Holding, LLC, a Minnesota Limited Liability Company, and that, at the request of the Registered Owner of this Note, the undersigned has this day registered the Note in the name of such Registered Owner, as indicated in the registration blank below, on the books kept by the undersigned for such purposes.

Name and Address of Registered Owner	**Date of Registration**	**Signature of Secretary**
Pier B Holding, LLC	December ___, 2014	
_____		_____
_____		

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto _____ _____ the within Note and all rights thereunder, and does hereby irrevocably constitute and appoint _____ attorney to transfer the said Note on the books kept for registration of the within Note, with full power of substitution in the premises.

Dated: _____ _____

Notice: The assignor's signature to this assignment must correspond with the name as it appears upon the face of the within Note in every particular, without alteration or any change whatsoever.

The Executive Director will not effect transfer of this Note unless the information concerning the assignee requested below is provided.

Name and Address: _____

_____

_____

Taxpayer Identification Number: _____

THIS NOTE HAS NOT BEEN REGISTERED UNDER ANY FEDERAL OR STATE SECURITIES LAWS AND MAY NOT BE SOLD, ASSIGNED OR OTHERWISE DISPOSED OF OR TRANSFERRED WITHOUT THE WRITTEN CONSENT OF THE DULUTH ECONOMIC DEVELOPMENT AUTHORITY OR IN LIMITED CIRCUMSTANCES, UPON SATISFYING CERTAIN CONDITIONS IN THE DEVELOPMENT AGREEMENT.

EXHIBIT I

PIER B HOLDING, LLC
INVESTMENT LETTER

To: Duluth Economic Development Authority
c/o Executive Director
Room 410 City Hall
411 West First Street
Duluth, MN 55802

RE: $3,460,605 Tax Increment Revenue Note (Pier B Holding, LLC Project)

The Duluth Economic Development Authority ("DEDA") executed and delivered to Pier B Holding, LLC (the "Registered Owner") the above-referenced Tax Increment Revenue Note (the "TIF Note"), pursuant to that certain Development Agreement between DEDA and the Registered Owner dated as of August 14, 2014, as amended (the "Development Agreement"). All capitalized terms used herein, but not defined herein, shall have the respective meanings set forth in the Development Agreement. The undersigned, an authorized representative of the Registered Owner, hereby represents to you, as follows:

1. The Registered Owner understands and acknowledges that the TIF Note is delivered to the Registered Owner as of this date pursuant to the Development Agreement.

2. The Registered Owner understands that the TIF Note is payable as to principal and interest solely from Eligible Tax Increment, as defined in the Development Agreement. It has been advised by DEDA that the TIF Note is <u>not</u> a general obligation of DEDA or the City of Duluth and that neither DEDA nor the City of Duluth has pledged its full faith and credit, its taxing powers or its general fund monies to pay the TIF Note.

3. The Registered Owner further acknowledges and understands (i) that any estimates of Eligible Tax Increment prepared by DEDA or its financial advisors in connection with the TIF District are for the benefit of DEDA, and are not intended as representations on which the Registered Owner may rely; (ii) tax increment receipts may be lower than anticipated due to a variety of factors outside the control of DEDA including variations in local tax rates and calculations of tax increment by the county auditor; and (iii) the State of Minnesota legislature frequently revises the property tax system generally and Minnesota Statutes, Sections 469.174 to 469.179 (the "TIF Act") more specifically, which may (and has in the past) significantly reduce tax increment on development projects.

4. The Registered Owner acknowledges that the Eligible Tax Increment may not be sufficient to pay all the debt service on the TIF Note, and DEDA makes no representation that there will be sufficient Eligible Tax Increment to make the payment of principal of and interest on the TIF Note.

5. The Registered Owner acknowledges that the receipt of interest on the TIF Note is subject to federal and state income taxes, and neither DEDA nor its counsel has given the Registered Owner any opinion on the tax-exempt nature of the TIF Note.

6. The Registered Owner has sufficient knowledge and experience in financial and business matters, including the ownership of municipal obligations, to be able to evaluate the risks and merits of the investment represented by the TIF Note in the above-stated principal amount.

7. The Registered Owner acknowledges that no offering statement, prospectus, offering circular or other comprehensive offering statement containing material information with respect to the TIF Note has been issued or prepared by DEDA, and that, in due diligence, the Registered Owner has made its own inquiry and analysis with respect to DEDA, the TIF Note and the security therefor, and other material factors affecting the payment and security of the TIF Note.

8. The Registered Owner acknowledges that its representatives have either been supplied with or have access to information, including the Project, the real property tax system and TIF Act and other financial information, to which a reasonable investor would attach significance in making investment decisions, and the Registered Owner has had the opportunity to ask questions and review answers from knowledgeable individuals concerning DEDA, the TIF Note and the security therefor, and that as a reasonable investor its representatives have been able to make its decision to accept the TIF Note in the principal amount stated above.

9. The Registered Owner has been informed that the TIF Note (i) is not being registered or otherwise qualified for sale under the "Blue Sky" laws and regulations of any state or under federal securities laws or regulations, (ii) will not be listed on any stock or other securities exchange and (iii) will carry no rating from any rating service.

10. The Registered Owner represents that it is obtaining the TIF Note for its own account and not for resale or other distribution thereof, and the Registered Owner will not sell or transfer the TIF Note, except as specifically otherwise permitted in the TIF Note and/or the Development Agreement, and the Registered Owner agrees that any sale, transfer or pledge of the TIF Note shall be only to an entity that executes an investment letter substantially in the form of this letter.

11. The Registered Owner understands that it may not pledge the TIF Note or any interest therein, except as specifically otherwise permitted in the TIF Note and/or the Development Agreement, and the Registered Owner agrees that any pledge of the TIF Note shall be only to a lender that executes an investment letter substantially in the form of this letter.

12. The Registered Owner acknowledges receipt of the TIF Note as of the date hereof.

Dated: December _____, 2014

PIER B HOLDING, LLC

By _____
Its _____

EXHIBIT J

FINANCIAL INSTITUTION
INVESTMENT LETTER

To: Duluth Economic Development Authority
c/o Executive Director
Room 410 City Hall
411 West First Street
Duluth, MN 55802

RE: $3,460,605 Tax Increment Revenue Note (Pier B Holding, LLC Project)

The Duluth Economic Development Authority ("DEDA") executed and delivered to Pier B Holding, LLC (the "Registered Owner") the above-referenced Tax Increment Revenue Note (the "TIF Note"), pursuant to that certain Development Agreement between DEDA and the Registered Owner dated as of August 14, 2014, as amended (the "Development Agreement"). All capitalized terms used herein, but not defined herein, shall have the respective meanings set forth in the Development Agreement. Dougherty Funding LLC (the "Financial Institution") is the lender for a loan to be secured by a pledge of the TIF Note, the purpose of which is to fund a portion of the costs of the project being developed by the Registered Owner. The undersigned, an authorized representative of the Financial Institution, hereby represents to you, as follows:

1. The Financial Institution understands and acknowledges that the TIF Note has been delivered to the Registered Owner pursuant to the Development Agreement.

2. The Financial Institution understands that the TIF Note is payable as to principal and interest solely from Eligible Tax Increment, as defined in the Development Agreement. It has been advised that the TIF Note is <u>not</u> a general obligation of DEDA or the City of Duluth and that neither DEDA nor the City of Duluth has pledged its full faith and credit, its taxing powers or its general fund monies to pay the TIF Note.

3. The Financial Institution further acknowledges and understands (i) that any estimates of Eligible Tax Increment prepared by DEDA or its financial advisors in connection with the TIF District are for the benefit of DEDA, and are not intended as representations on which the Financial Institution may rely; (ii) tax increment receipts may be lower than anticipated due to a variety of factors outside the control of DEDA including variations in local tax rates and calculations of tax increment by the county auditor; and (iii) the State of Minnesota legislature frequently revises the property tax system generally and Minnesota Statutes, Sections 469.174 to 469.179 (the "TIF Act") more specifically, which may (and has in the past) significantly reduce tax increment on development projects.

4. The Financial Institution acknowledges that the Eligible Tax Increment may not be sufficient to pay all the debt service on the TIF Note, and DEDA makes no representation that there will be sufficient Eligible Tax Increment to make the payment of principal of and interest on the TIF Note.

5. The Financial Institution acknowledges that the receipt of interest on the TIF Note is subject to federal and state income taxes, and neither DEDA nor its counsel has given the Registered Owner or the Financial Institution any opinion on the tax-exempt nature of the TIF Note.

6. The Financial Institution has sufficient knowledge and experience in financial and business matters, including the ownership of municipal obligations, to be able to evaluate the risks and merits of the investment represented by the TIF Note in the above-stated principal amount.

7. The Financial Institution acknowledges that no offering statement, prospectus, offering circular or other comprehensive offering statement containing material information with respect to the TIF Note has been issued or prepared by DEDA, and that, in due diligence, the Financial Institution has made its own inquiry and analysis with respect to DEDA, the TIF Note and the security therefor, and other material factors affecting the payment and security of the TIF Note.

8. The Financial Institution acknowledges that its representatives have either been supplied with or have access to information, including the Project, the real property tax system and TIF Act and other financial information, to which a reasonable investor would attach significance in making investment decisions, and the Financial Institution has had the opportunity to ask questions and review answers from knowledgeable individuals concerning DEDA, the TIF Note and the security therefor, and that as a reasonable investor its representatives have been able to make its decision to obtain a pledge of the TIF Note.

9. The Financial Institution has been informed that the TIF Note (i) is not being registered or otherwise qualified for sale under the "Blue Sky" laws and regulations of any state or under federal securities laws or regulations, (ii) will not be listed on any stock or other securities exchange and (iii) will carry no rating from any rating service.

10. The Financial Institution agrees that any participation of the loan secured by the pledge of the TIF Note shall be only to a financial institution that (i) is in the regular business of making loans such as the subject loan; (ii) is in the lending business which is subject to regulations by state or federal regulatory authorities; and (iii) has received disclosure of the limits on the obligations, liabilities and representations of DEDA and the City of Duluth and the risks associated with tax increment generally and the tax increment generated by the Project in particular, all substantially to the effect as set forth in this letter. As the Financial Institution has elected not to obtain investment letters from any participant of such loan, the Financial Institution will to the fullest extent permitted by law, protect, indemnify and save DEDA and the City of Duluth and their officers, agents, servants and employees harmless from and against all liabilities, losses, damages, costs and expenses, including attorneys' fees and expenses, causes of action, suits, claims, demands and judgments of any nature whatsoever arising out of a participation of the loan which is secured by the pledge of the TIF Note.

Dated: _____, 20__

_____

By _____
Its _____