

ECONOMIC DEVELOPMENT AUTHORITY HANDBOOK

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In an ever more complex and changing marketplace, it is more important than ever for communities to develop and implement sound economic development procedures and practices.

This handbook has been prepared as a guide to assist local economic development leaders to utilize their limited resources in the best practical manner. Furthermore, this handbook seeks to ascertain methods in which one can better set up a community's economic development infrastructure to make it more efficient and effective in utilizing scarce resources. The key to successful economic development is communication with local businesses to learn of their needs and concerns and to determine how to best use the community's resources to address those concerns.

Economic development tools – such as Economic Development Authorities (EDAs), Housing and Redevelopment Authorities (HRAs) and Port Authorities -- can be vital for a community working to build a vibrant business climate and generate significant employment and housing opportunities.

This handbook is intended as a helpful resource to provide you with a better understanding of economic development organizations and the powers they bring to assist a community with development. While the handbook may serve as a resource and a guide, we recommend you work with your legal counsel when creating an economic development organization and enter into related agreements.

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NOTICE

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INTRODUCTION TO LOCAL ECONOMIC DEVELOPMENT ORGANIZATIONS

There are several types of organizational structures available for community economic development programs. The type of organization that a community decides to establish is dependent on the special activities that are targeted. In some communities, business development and job creation are the primary goals, while others have housing development as a priority. Many communities have existing community economic development groups. There are several different kinds of organizations available that focus on economic growth. The type of growth that a community wishes to achieve will dictate what type of group will be formed. In addition, the purpose and creation of the organization will impact the statutory powers available to the entity. Each of these organizations may focus on different issues such as housing development, creation of jobs, and business development. The majority of community groups focus on economic growth opposed to housing growth.

Outlined below is a brief description of each type of development organization.

Business Organizations

Commercial Club: Usually an incorporated 501(c)(4) or (6) organization whose purpose is to promote community and retail events. This group is usually made up of local retail owners and owners of local businesses. This is an unpaid organization consisting of volunteers and has no staff.

Chamber of Commerce: A chamber is an incorporated non-profit 501(c)(4) or (6) that is generally affiliated with the state and national chamber of commerce. The chamber consists of local business professionals of the community who meet together to promote local businesses and the community. Generally, they have an elected board with limited staff. Larger chambers often deal with tourism and overall business development of the community. They sometimes are politically active and can be a powerful lobbying force when dealing with policy that affects the community's economic strategy. Chambers are generally active and can hold educational and other events for local businesses.

Development Corporations

For-Profit: A corporation formed to develop and sell industrial land and/or provide financing for business development within the community. Local investors can buy shares that can be paid in dividends from profits made on projects. Money invested in corporations can be repaid to the stockholders. The board is made up of shareholders and may or may not have staff. The corporation is subject to federal and state income tax.

Non-Profit: A corporation formed to develop and sell industrial land and/or provide financing for business development in the community. Shares are sold or funds may be raised in other ways. No dividends are paid on shares. The non-profit corporation must obtain either 501(c)(3) or 501(c)(4) status from the IRS. Donations made to a 501(c)(3) by both individuals and businesses are tax deductible. Obtaining 501(c)(3) status can be difficult, expensive and time-consuming and many communities are not willing to go through the lengthy process. Although 501(c)(4) status

is less difficult to obtain than 501(c)(3) status, only a business may make contributions that are tax deductible, individual contributions are not eligible for the tax deduction. Also, organizations with 501(c)(3) are prohibited from directly or indirectly participating in, or intervening in, any political campaign on behalf of or against any candidate for elective public office.

Government Organizations

Economic Development Commission: A board used to advise a City Council, appointed by the Mayor and/or City Council. It has limited or no decision making authority and is used as a sounding board or a first point of contact for the City Council on development projects. The commission is used to draft strategies and policies for ratification and implementation of local plans on a volunteer basis.

Housing Redevelopment Authority (HRA): An HRA is a public corporation with power to undertake certain types of housing and redevelopment or renewal activities. While state legislation conveys authority for housing and redevelopment in each City, it is up to the City Council to formally establish an HRA before it can do business and use its powers. Once a council legally establishes an HRA, it may undertake certain types of planning and community development activities on its own with council approval.

Port Authority: This is a legal entity created by the State Legislature to promote the general welfare of a City's port district, increase the volume of commerce in the port and provide facilities for handling, storage and shipment of freight. The Port Authority actively develops commerce within the City and can enable business location and expansion. The powers of a Port Authority are more expansive than those of an HRA or an EDA. The State Legislature authorizes the creation of Port Authorities. A Port Authority is a separate political entity with the right to sue and be sued in its own name and is generally organized to increase commerce in a City. Unlike EDAs and HRAs, a Port Authority may issue general obligation bonds without holding an election.

Joint Powers Board: This is a board created by multiple Cities, Townships or Counties for a certain purpose, such as economic development. The agreement between the units of government would specifically describe activities and powers that the board exercises in carrying out its duties.

Economic Development Authority (EDA): An EDA is a legal entity created by a City or a County to facilitate a well-rounded development program by taking advantage of some of the port authority powers and all of the HRA powers. By combining and utilizing HRA, EDA and City powers, community leaders are able to create flexible business assistance and development programs. EDAs for example, are allowed, to buy and sell property; make loans and grants to businesses; provide guarantees or other credit enhancements; and to sell bonds.

All Cities have authority from the State Legislature to create an EDA. The City may consolidate the EDA with an existing HRA or the City may establish the EDA as a separate entity. The City Council may create an EDA by passing an enabling resolution. Before adopting the enabling resolution, the City must first conduct a public hearing. The enabling resolution establishes a Board of Commissioners for the EDA. The City Council can choose to serve as the EDA Board of Commissioners or create a board composed of council members and community members. The Mayor, with approval of the Council, appoints the Commissioners. The Board may consist of

three, five or seven members who serve six-year terms. The Board is subject to the open meeting law.

Rural Development Finance Authority (RFDA). A nonprofit corporation established by a County or group of Counties through special legislation. RFDA's are designed to facilitate the production and processing of agricultural products and promote jobs in agriculture and natural resources industries. The board is appointed by the County Board of Commissioners.

Note: Please see appendix for a table comparing selected development laws.

FORMATION AND OPERATION OF AN ECONOMIC DEVELOPMENT AUTHORITY

Reasons for Forming an EDA

The Minnesota Legislature granted Cities the power to create economic development authorities in 1987. Giving Cities this ability promotes economic growth. EDAs were created to work in conjunction with and to facilitate other economic development organizations such as Port Authorities and Housing Redevelopment Authorities (HRA). This allows Cities to create a better approach to economic development allowing them to create flexible business assistance and development programs.

In addition to HRA powers, EDAs were authorized to exercise the powers of Cities in connection with City development districts and the powers of municipalities or development agencies in connection with municipal industrial development. By consolidating the powers of economic and housing development into one body, City officials are not only able to focus development on blighted areas but also to create programs that will prevent blight from occurring elsewhere within the community.

The primary powers of an EDA:

- Serve to promote business and to recruit new businesses
- Issue revenue bonds.
- Acquiring property.
- Purchase and sell land.
- Serve as a limited partner.
- Make or guarantee or other credit enhancements.
- Issue general obligation bonds (approved by election).

Procedures for Establishing an EDA

In order for a City to create an EDA, the City Council must adopt a written resolution called an enabling resolution. A County can also create an EDA, but this handbook describes the process for a City to establish an EDA. Through the enabling resolution, EDAs are granted all of the powers described in Minnesota Statutes, 469.090-1082, subject to any limitation on those powers as specified by the City. EDAs are also granted the powers given to HRAs in the HRA law, powers almost identical to Port Authorities under the Port Authority Law and all of the development powers granted to a City under the municipal development district law and the industrial development act.

Before adopting an enabling resolution, the City Council must hold a public hearing. (Minn. Stat. § 469.093, Subd. 1). The notice of the public hearing must identify the place and time of the hearing, provide a brief statement of the purpose of the hearing, and contain a summary of the resolution. (Minn. Stat. § 469.093, Subd. 1). The notice of public hearing must be published in a newspaper of general circulation within the city once a week for two consecutive weeks prior to the meeting. (Minn. Stat. § 469.093, Subd. 1). The first publication must appear not more than 30 days from the date of the public hearing. (Minn. Stat. § 469.093, Subd. 1). The enabling

resolution must indicate whether three, five, or seven commissioners will constitute the EDA. (Minn. Stat. § 469.095, Subd. 1).

Without limiting the right of the EDA to petition the City Council at any time, each year, within 60 days of the anniversary date of the first adoption of the enabling resolution, the EDA shall submit to the City Council a report stating whether and how the enabling resolution should be modified. Within 30 days of receiving the recommendation, the City Council shall review the enabling resolution, consider the recommendations of the EDA, and make any modifications it considers appropriate. (Minn. Stat. § 469.092, Subd. 3).

All modifications to the enabling resolution must be by written resolution and must be adopted after notice is given and a public hearing is conducted as required for the original adoption of the enabling resolution. (Minn. Stat. § 469.093, Subd. 2).

An EDA is a public body corporate and politic as well as a political subdivision of the State of Minnesota with the right to sue or be sued in its own name. An EDA carries out an essential governmental function when it exercises its powers, but it is not immune from liability because of this. (Minn. Stat. § 469.091, Subd. 2).

Enabling Resolution, Bylaws, Transfer Resolution and Ordinance Checklist

_____ **Board Size (Optional)**

- _____ 3 - Minimum of 1 City Council member
- _____ 5 - Minimum of 2 City Council members
- _____ 7 - Minimum of 2 City Council members

_____ **Officers/Staff Powers and Duties**

- _____ - President
- _____ - Vice President
- _____ - Treasurer
- _____ - Assistant Treasurer
- _____ - Executive Director
- _____ - Engineers
- _____ - Technical/Support Staff
- _____ - Secretary

_____ **Procedures**

- _____ - Board Compensation
- _____ - Budget
- _____ - Fiscal Year
- _____ - Corporate Seal
- _____ - Annual/Monthly/Special Meetings
- _____ - Depositories
- _____ - Quorum
- _____ - Treasurer's Bond
- _____ - Reports/Financials/Audits
- _____ - Professional/Technical Services
- _____ - Amendments to By-Laws
- _____ - Conflict of Interest

_____ **Committee Structure (optional)**

- _____ - Local Publicity
- _____ - Planning and Zoning
- _____ - Sites and Buildings
- _____ - Business Retention and Expansion
- _____ - Marketing
- _____ - Advisory

_____ **Transfer of Authority and Programs**

_____ **Economic Development Powers**

- _____ - Economic Development Districts
- _____ - Acquisition of Property
- _____ - Eminent Domain
- _____ - Limited Partnerships
- _____ - Acceptance of Public Land
- _____ - Public Facilities
- _____ - Studies/Analysis/Research
- _____ - Loans
- _____ - Mined Underground Space
- _____ - Advances
- _____ - Redevelopment Districts
- _____ - Options
- _____ - Contracts
- _____ - Rights and Easements
- _____ - Foreign Trade Zone
- _____ - Government Agent
- _____ - Public Relations
- _____ - Use of Proceeds
- _____ - Levy of Taxes
- _____ - Issuance of Bonds

_____ **Housing and Redevelopment Powers**

- _____ - Acquisition of Open Land
- _____ - Sale of Real/Personal Property
- _____ - Comprehensive Plans
- _____ - Joint Powers Agreements
- _____ - Bonding Authority
- _____ - Property Tax Exemption
- _____ - Rehabilitation Loan/Grants
- _____ - Acquisition of Unused Land
- _____ - Studies
- _____ - Inventory of Land/Buildings
- _____ - Parking Facilities
- _____ - Special Benefit Tax
- _____ - Borrowing/Acceptance of Funds
- _____ - Interest Reduction Program

_____ **Limitations on Powers**

- _____ - Limitations on All Powers
- _____ - Limitations on Individual Powers

Board of Commissioners of EDA

Board Size

The City Council must determine the size and makeup of a Board of Commissioners. The City Council may serve as the Board of Commissioners or it can create a board that includes members of the community. The EDA commissioners shall be appointed after the enabling resolution becomes effective. The resolution must indicate the number of commissioners constituting the EDA. (Minn. Stat. § 469.095, Subd. 1).

The Board shall be appointed as follows:

- A. Three-member EDA: the Commissioners constituting a three-member EDA, one of whom must be a member of the City Council, shall be appointed by the Mayor with the approval of the City Council. Those initially appointed shall be appointed for terms of two, four, and six years, respectively. Thereafter all Commissioners shall be appointed for six-year terms. (Minn. Stat. § 469.095, Subd. 2(a)).
- B. Five-member EDA: the Commissioners constituting a five-member EDA, two of whom must be members of the City Council, shall be appointed by the Mayor with the approval of the City Council. Those initially appointed shall be appointed for terms of two, three, four, five and six years respectively. Thereafter all Commissioners shall be appointed for six-year terms. (Minn. Stat. § 469.095, Subd. 2(b)).
- C. Seven-member EDA: the Commissioners constituting a seven-member EDA, two of whom must be members of the City Council, shall be appointed by the Mayor with the approval of the City Council. Those initially appointed shall be appointed for terms of one, two, three, four, and five years respectively and two members for six years. Thereafter all Commissioners shall be appointed for six-year terms. (Minn. Stat. § 469.095, Subd. 2(c)).

An EDA may be increased from three to five or seven members or from five to seven members by a resolution adopted by the City Council following the procedures provided for modifying the enabling resolution. (Minn. Stat. § 469.095, Subd. 3).

Cause for Removal

A Commissioner may be removed by the City Council for inefficiency, neglect of duty, or misconduct in office. A Commissioner shall be removed only after a hearing. A copy of the charges must be given to the Commissioner at least ten days before the hearing. The Commissioner must be given an opportunity to be heard in person or by counsel at the hearing. When written charges have been submitted against a Commissioner, the City Council may temporarily suspend the Commissioner. If the City Council finds that those charges have not been substantiated, the Commissioner shall be immediately reinstated. If a Commissioner is removed, a record of the proceedings, together with the charges and findings, shall be filed in the office of the City clerk. (Minn. Stat. § 469.095, Subd. 5).

Vacancy

A vacancy is created in the membership of an EDA when a City Council member of the EDA ends council membership. A vacancy for this or another reason must be filled for the balance of the unexpired term, in the manner in which the original appointment was made. The City Council may set the term of the commissioners who are members of the City Council to coincide with their term of office as members of the City Council. (Minn. Stat. § 469.095, Subd. 2(f)).

Committees

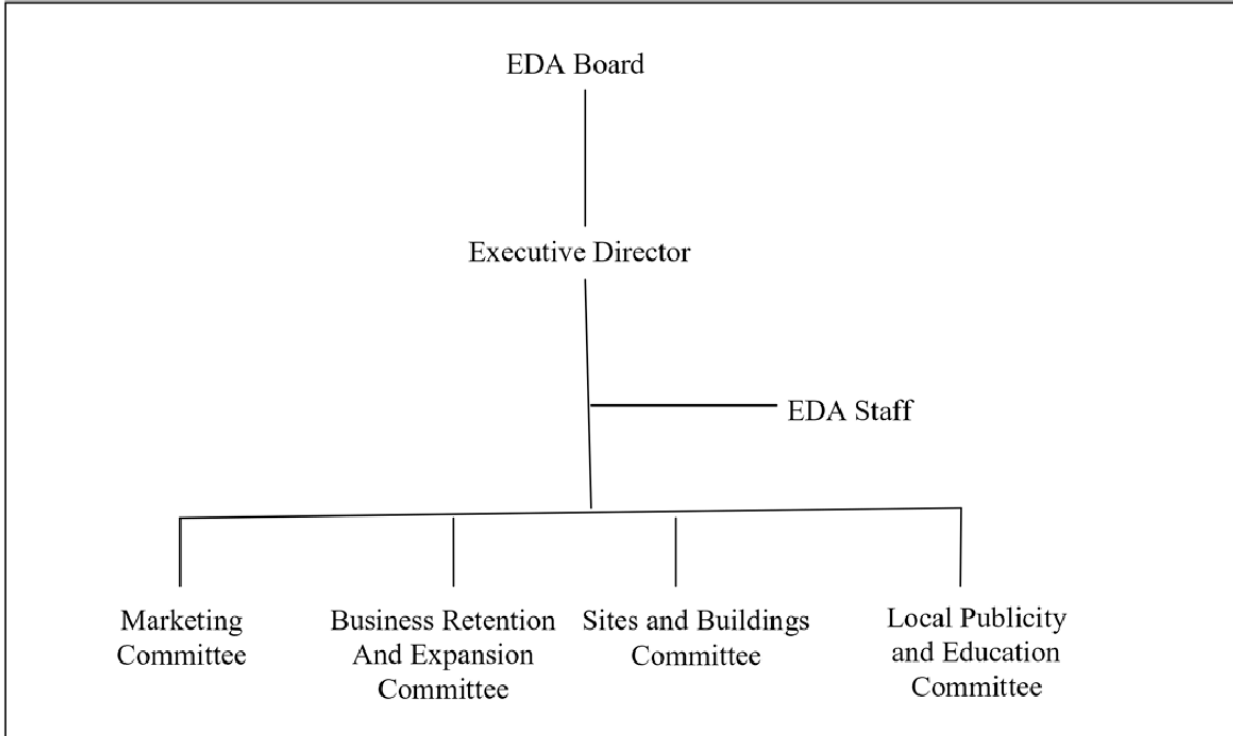
The EDA Board of Commissioners is responsible for the decision making process for the EDA. Many Cities have found it helpful to develop a committee structure to assist in reaching the economic development goals of the community on or ongoing or ad hoc depending on upon the workload and particular issues that may arise. Possible committees could include:

Local Publicity and Education Committee

Sites and Buildings Committee

Business Retention and Expansion (BRE)

Marketing Committee



Officers, Duties and Organizational Issues

The EDA may adopt bylaws and rules of procedure and shall adopt an official seal. (Minn. Stat. § 469.096, Subd. 1).

Officers

An EDA shall elect a president, a vice-president, a treasurer, a secretary, and an assistant treasurer. The Authority shall elect the president, treasurer, and secretary annually. A Commissioner must not serve as president and vice-president at the same time. The other offices may be held by the same Commissioner. The offices of secretary and assistant treasurer need not be held by a Commissioner. At a minimum, there must be three officers on the board. (Minn. Stat. § 469.096, Subd. 2).

Duties and Powers of Officers

The president and vice-president have the usual duties and powers of their offices. They may be given other duties and powers by the EDA. (Minn. Stat. § 496.096, Subd. 3).

The treasurer is responsible for receiving, disbursing and monitoring all funds of the EDA. When disbursing funds, the transaction must be by check only. The treasurer must also keep an account of the source of all receipts, as well as the nature, purpose and authority of all expenditures. The treasurer is responsible for filing a detailed financial statement with the secretary at least once a year at times set by the EDA. Quarterly reports may also be filed. The treasurer is also responsible for the acts of the assistant treasurer. (Minn. Stat. § 469.096, Subd. 4). The assistant treasurer has the powers and duties if the treasurer is absent or disabled. (Minn. Stat. § 469.096, Subd. 5).

The EDA must obtain a treasurer's bond conditioned for the faithful discharge of official duties. The bond must be approved as a form and surety by the EDA and filed with the secretary. The bond must be for twice the amount of money likely to be on hand at one time, as determined at least annually by the EDA provided that the bond may not exceed \$300,000. (Minn. Stat. § 469.096, Subd. 6).

The EDA may choose to have the secretary and the assistant treasurer position filled by a non-board member. (Minn. Stat. § 469.096, Subd. 2).

Public Money

EDA money is public money. (Minn. Stat. § 469.096, Subd. 7).

Checks

An EDA check must be signed by the treasurer and one other officer named by the EDA in a resolution. The check must state the name of the payee and the nature of the claim that the check is issued for. (Minn. Stat. § 469.096, Subd. 8).

Financial Statement

The EDA's detailed financial statement must show all receipts and disbursements, their nature, the money on hand, the purposes to which the money on hand is to be applied, the EDA's credits and assets, and its outstanding liabilities in a form required for the City's financial statements. The EDA shall examine the statement together with the treasurer's vouchers. If the EDA finds that the statement and vouchers are correct, it shall approve them by resolution and enter the resolution in its records. (Minn. Stat. § 469.096, Subd. 9).

Compensation and Reimbursement

A Commissioner, including the president, shall be paid for attending each regular or special meetings in an amount to be determined by the City Council. In addition to receiving pay for meetings, the Commissioners may be reimbursed for actual expenses incurred in doing official business of the EDA. All money paid for compensation or reimbursement must be paid out of the EDA's budget. (Minn. Stat. § 469.095, Subd. 4).

Conflict of Interest

A Commissioner or employee of an EDA shall not acquire any financial interest, direct or indirect, in any project or in any property included or planned to be included in any project sponsored by the EDA. EDA Commissioners or employees who knowingly takes part in any manner in making any sale, lease, or contract in the Commissioner's or employee's capacity in which the Commissioner or the employee has a personal financial interest will be criminally liable. (Minn. Stat. § 469.098, Subd. 3).

The following is a list of exceptions when an EDA may contract for goods or services with a Commissioner or officer of the EDA who has a financial interest in a project. Approval of this

action must be passed by a unanimous vote of the EDA with the affected Commissioner abstaining from the vote on the resolution. (Minn. Stat., § 471.88, Subd. 1).

1. In the designation of a bank or savings association in which the officer is interested as an authorized depository for public funds and as a source of borrowing, no restriction shall apply to the deposit or borrowing of any funds or the designation of a depository by such authority or governmental unit in any bank or savings association in which a member of an authority or officer of a governmental unit shall have an interest if such deposited funds are protected in accordance with chapter 118A; provided, however, that any member or officer having such an interest shall disclose that the member is a director or employee of the bank or savings association, which disclosure shall be entered upon the minutes of the authority or governmental unit, such disclosure shall be made when such bank or savings association is first designated as a depository or as a source of borrowing, or when such member or officer is elected whichever is later, and such disclosure shall serve as notice of such interest and need not be made with each successive transaction. (Minn. Stat. § 471.88, Subd. 2).
2. When a Commissioner of the EDA is employed by a bank that is engaged in making loans or performing trust services involving real or personal property affected by any plan of the EDA, no restriction applies to the loans made or trust services performed by the bank if he or she discloses the nature of the loans or trust services of which he or she has personal knowledge. This disclosure must be entered in the minutes of the EDA. (Minn. Stat. § 471.88, Subd. 11).
3. If the EDA has designated an official newspaper, or publication where it publishes its public notices and minutes, and a Commissioner has an interest in the paper. (Minn. Stat. § 471.88, Subd. 3).
4. If the EDA enters into a contract with a cooperative association where a Commissioner is a shareholder or stockholder, but not an officer or manager. (Minn. Stat. § 471.88, Subd. 4).
5. A contract for which competitive bids are not required by law. (Minn. Stat. § 471.88, Subd. 5).
6. Contracts for goods or services when the sealed bid process is used and the contracting governmental unit has a population of 1,000 or less. (Minn. Stat. § 471.88, Subd. 12).
7. When an EDA Commissioner is engaged in or employed by a firm that is in the business of importing or exporting or general trade, the EDA may enter into business transactions with the Commissioner or the Commissioner's employer provided that the Commissioner abstains from voting on any resolution that sets rates affecting shippers or users of an EDA-owned facility. (Minn. Stat. § 471.88, Subd. 9).

Ethics Law

Changes made in the 1994 Ethics in Government Act not only affect state legislators but also local officials. The definition of a local official is “a person who holds elective office in a political

subdivision or who is appointed to or employed in a public position in a political subdivision in which the person has authority to make, to recommend, or to vote on as a member of the governing body, major decisions regarding the expenditure or investment of public money.” (Minn. Stat. § 10A.01, Subd. 22). Based on these definitions, EDA executive directors and commission members are subject to the gift restrictions of the Ethics in Government Act.

A local official is prohibited from accepting gifts from a lobbyist or lobbyist principal including

- Money,
- Real or personal property,
- A service,
- A loan,
- A forbearance or forgiveness of indebtedness, or
- A promise of future employment

unless the lobbyist or lobbyist principal receives consideration of equal or greater value in return. (Minn. Stat. § 10A.071, Subd. 1(b)).

Employees, Services, and Supplies

The EDA may employ an executive director, a chief engineer, other technical experts and agents, and other employees as it may require and may determine their duties, qualifications and compensation. (Minn. Stat. § 469.097, Subd. 1). The EDA may contract for the services of consultants, agents, public accountants, and other persons needed to perform its duties and exercise its powers. (Minn. Stat. § 469.097, Subd. 2). The EDA may use the services of the City Attorney or hire a general counsel for its legal needs (Minn. Stat. § 469.097, Subd. 3). (See appendix for sample job description).

The EDA may utilize the City/County’s purchasing department in connection with construction work and to purchase equipment, supplies and materials. (Minn. Stat. § 469.097, Subd. 5). The City/County may furnish offices, structures and space, stenographic, clerical, engineering and other assistance to the EDA in order for it to perform its duties and to carry out its powers. (Minn. Stat. § 469.097, Subd. 6).

The EDA may also delegate to one or more of its agents or employees powers or duties it may deem proper. (Minn. Stat. § 469.097, Subd. 7).

Depositories; Default; Collateral

Every two years the EDA shall name national or state banks within Minnesota as depositories for its funds. Before acting as a depository, the bank must give the EDA a bond approved as to form and surety by the EDA. The bond must be conditioned for the safekeeping and the prompt repayment of deposits. The amount of the bond must be at least equal to the maximum amount expected to be deposited at any one time. (Minn. Stat. § 469.099, Subd. 1). An EDA may deposit all its money from any source in one bank account. (Minn. Stat. § 469.099, Subd. 2).

When the EDA funds are deposited by the treasurer in a bonded depository, the treasurer and the surety on the treasurer's official bond are exempt from liability for the loss of the deposits because of the failure, bankruptcy or other act or default of the depository bank. However, an EDA may accept assignments of collateral from the depository bank to secure the deposits just as assignments of collateral are permitted by law to secure deposit of the EDA's City. (Minn. Stat. § 469.099, Subd. 3).

Budget, Fiscal Year, Taxes, Audits and Reports

EDAs have the ability to receive funding from virtually any source, public or private, including the general funds of the underlying City. In addition, EDAs utilize administrative fees from loan or grant agreements, guarantees or other credit enhancements or contributions from local businesses or organizations. The fiscal year of the EDA must be the same as that of its governing City. (Minn. Stat. § 469.100, Subd. 3). Annually, the EDA is required to submit its budget to the City Council, and it must include a detailed written estimate of the amount of money that the EDA expects to need from the City to do authority business during the next fiscal year. The EDA's needed amount is what is needed in excess of any expected receipts from other sources. (Minn. Stat. § 469.100, Subd. 2).

One of the fringe benefits of City general fund monies lies in the fact that their use may not be as restricted as monies from other funding sources. This enables an EDA to use them for virtually any economic development purpose, as long as appropriate findings are made and safeguards imposed to demonstrate that the use will promote economic development in the City. Such uses include write downs, grants or loans, working-capital loans and the purchase of limited partnership interests. For example, one EDA received funding using dollars remaining in a City's bond fund after all bonds were retired, and it used these dollars to capitalize a revolving loan fund.

In addition to the annual budget, the EDA must submit a detailed annual report to the City Council outlining its activities, receipts and expenditures during the preceding calendar year. The report may also include other matters and recommendations that the EDA deems advisable for the economic development of the City. (Minn. Stat. § 469.100, Subd. 4).

On an annual basis, the financial statements of the EDA must be prepared, audited, filed and published or posted in the manner required for the financial statements of the City. The financial statements must permit a comparison and reconciliation with the City's accounts and financial reports. The report must be filed with the State Auditor by June 30th of each year. The auditor will review the report and may accept it or audit the books of the EDA for cause. (Minn. Stat. § 469.100, Subd. 5).

City Levy of Taxes for EDA Activities

The City may, at the request of the EDA, levy a tax in any year for the benefit of the EDA in an amount not more than 0.01813 percent of estimated taxable market value. The amount levied must be paid by the City treasurer to the treasurer of the EDA, to be spent by the EDA. (Minn. Stat. § 469.107, Subd. 1). A City may increase its levy for economic development authority purposes under Minnesota Statutes 469.107, Subdivision 1 in the following way. The City Council must first pass a resolution stating the proposed amount of levy increase. The City must then publish

the resolution together with a notice of public hearing on the resolution for two successive weeks in its official newspaper or if none exists in a newspaper of general circulation in the City. The hearing must be held two to four weeks after the first publication. After the hearing, the City Council may decide to take no action or may adopt a resolution authorizing the proposed increase or a lesser increase. A resolution authorizing an increase must be published in the City's official newspaper or if none exists in a newspaper of general circulation in the City. The resolution is not effective if a petition requesting a referendum on the resolution is filed with the City Clerk within 30 days of publication of the resolution. The petition must be signed by voters equaling five percent of the votes cast in the City in the last general election. The election must be held at a general or special election. Notice of the election must be given in the manner required by law. The notice must state the purpose and amount of the levy. (Minn. Stat. § 469.107, Subd. 2).

Levy of Taxes for HRA Activities

Subject to the approval by resolution of the governing body of the City, the EDA may levy a tax for HRA purposes upon all taxable property within that taxing district. The levy cannot exceed an amount equal to 0.0185 percent of taxable market value, and must be spent for purposes authorized under the HRA statutes. These levies must be included in the EDAs annual budget. (Minn. Stat. § 469.033, Subd. 6).

Transfer of Authority

The City may, by ordinance, divide the economic development, housing and redevelopment powers granted under the EDA and HRA sections in Minnesota Statutes, Chapter 469 between the EDA and any other authority or commission established under statute or City charter for economic development, housing or redevelopment. (Minn. Stat. § 469.094, Subd. 1).

The City may, by resolution, transfer the control, authority and operation of any project or program located within the City from another governmental agency or subdivision that established the project or program to the EDA. The City may also require the EDA to accept control, authority and operation of the project or program. If a project or program is transferred to the EDA, it may exercise all of the powers that the governmental unit establishing the project or program could have exercised with respect to the project or program. (Minn. Stat. § 469.094, Subd. 2).

When a project or program is transferred to the EDA, the EDA must pledge in writing to perform the terms, conditions and covenants of the bond indenture or other agreements executed for the security of any bonds that were issued by the governmental subdivision that initiated the project or program. The EDA may exercise all of the powers necessary to perform the terms, conditions and contracts of any indenture or other agreements executed for the security of the bonds and will become obligated for the bonds when the project or program is transferred. (Minn. Stat. § 469.094, Subd. 2).

If the City transfers a housing project or a housing development project to the EDA, the City must transfer all housing development and management powers relating to that specific project or program. (Minn. Stat. § 469.094, Subd. 2).

Transfer of Personnel

The City may also, by resolution, place any employees of the HRA under the direction, supervision or control of the EDA. The transfer of employees does not affect the employee rights existing under a collective bargaining agreement or fringe benefit plan. Upon transfer, the employees will become employees of the EDA. (Minn. Stat. § 469.094, Subd. 3).

POWERS OF EDAS

General Powers and Purposes

The primary benefit of an EDA rests in its ability to easily and flexibly accomplish a wide range of development and redevelopment objectives. An EDA is granted a remarkably full complement of development powers. These include (subject to any limitation in the enabling resolution) the powers enumerated by its enabling legislation, but also those powers granted by cross-reference to housing and redevelopment authorities (HRAs), to Cities in connection with projects and development districts, of municipalities and redevelopment agencies in connection with Municipal Industrial Development. These development powers allow an EDA great latitude, flexibility and efficiency in pursuing economic development objectives. (Minn. Stat. § 469.101, Subd. 12).

An EDA “may carry out the law on economic development districts to develop and improve the lands in an economic development district to make it suitable and available for economic development uses and purposes.” (Minn. Stat. § 469.101, Subd. 18). Also, through incorporating the purposes of HRAs, EDAs also can provide adequate housing in addition to clearing and developing blighted areas. And, by incorporation of the broad purposes of Municipal Industrial Development, EDAs may actively promote, attract and encourage the development of economically sound industry and commerce for the purpose of preventing the emergence of blighted and marginal lands and areas of chronic unemployment. (Minn. Stat. § 469.101, Subd. 12).

Certain EDA Powers must be exercised only within the boundaries of an “Economic Development District.” The EDA may create and define the boundaries of economic development districts at any place or places within the City, but the district boundaries must be contiguous. An EDA must hold a public hearing on the establishment and at least 10 days before the hearing the EDA shall publish notice of the hearing in a newspaper of general circulation in the City. The EDA must find that an economic development district is proper and desirable to establish and develop within the City. (Minn. Stat. § 469.101, Subd. 1).

Redevelopment Project

When an EDA exercises many of the powers of an HRA, it must do so within the boundaries of a Redevelopment Project established under the HRA law.

When establishing a Redevelopment Project, the EDA must develop a redevelopment plan, which provides an outline for the development or redevelopment of the area. The EDA must obtain the written opinion of the City’s planning agency, if there is one.

The City Council must approve or disapprove the plan within 30 days after holding a public hearing on the Redevelopment Project. (Minn. Stat. § 469.028, Subd. 1). The council must make the following findings in connection with its approval:

1. The land in the project area would not be made available for redevelopment without the financial aid to be sought from the EDA. (Minn. Stat. § 469.028, Subd. 2).

2. The redevelopment plans for the redevelopment areas in the locality will afford maximum opportunity consistent with needs of the locality as a whole for the redevelopment of the areas by private enterprise (Minn. Stat. § 469.028, Subd. 2).
3. The redevelopment plan conforms to the general comprehensive plan for the development of the locality as a whole. (Minn. Stat. § 469.028, Subd. 2).

Municipal Development District

When the EDA exercises certain powers of cities identified in the City Development District law (Minn. Stat. §§ 469.124-469.143), it must do so within the boundaries of a Municipal Development District. A development district may be designated anywhere within the boundaries of a City, and the City must adopt a Development Program for the development district. A Development Program is a statement of objectives for the development district which contains the information set forth in Minn. Stat. § 469.125, Subd. 3. The City may develop a program for improving the district to encourage commercial development, increase employment, protect pedestrians, provide open space relief, and or pursue other public purposes. (Minn. Stat. § 469.125, Subd. 3 and Subd. 4). Prior to designation, the City must consult with its planning agency or department, publish notice, and hold a public hearing. (Minn. Stat. § 469.126, Subd. 1).

Specific Powers

Because EDAs derive powers both directly from EDA law and indirectly by cross reference with other development statutes, there is often considerable overlap in the statutes authorizing a given power.

For example, the power to acquire and develop property under EDA law must be exercised within the boundaries of an “economic development district.” Since the definition of an economic development district is very restrictive, the EDA power to acquire land cannot be exercised in many circumstances. However, the comparable HRA power to acquire and develop property is far more general and can be exercised in a broad range of development circumstances. By picking and choosing the particular statutory authority best suited to a given proposed action, an EDA can optimize its authority.

Many EDA powers are listed below, including powers derived from EDA law, HRA law, and municipal authorities. When considering the exercise of any specific power cited, you should always review the available legislation and consult with your legal and development advisors.

Acquisition of Property

An EDA “may acquire by lease, purchase, gift, devise, or condemnation proceedings the needed right, title, and interest in property to create economic development districts. It shall pay for the property out of money it receives under sections 469.090 to 469.108. It may hold and dispose of the property subject to the limits and conditions in sections 469.090 to 469.108. The title to property acquired by condemnation or purchase must be in fee simple, absolute. The authority may accept an interest in property acquired in another way subject to any condition of the grantor or donor. The condition must be consistent with the proper use of the property under sections 469.090

to 469.108. Property acquired, owned, leased, controlled, used, or occupied by the authority for any of the purposes of this section is for public governmental and municipal purposes and is exempt from taxation by the state or by its political subdivisions, except to the extent that the property is subject to the sales and use tax under chapter 297A. The exemption applies only while the authority holds property for its own purpose. The exemption is subject to the provisions of section 272.02, subdivision 39. When the property is sold it becomes subject to taxation.” (Minn. Stat. § 469.101, Subd. 2).

Options

The EDA may sign options to purchase, sell or lease property. (Minn. Stat. § 469.101, Subd. 3).

Eminent Domain

An EDA “may exercise the power of eminent domain under chapter 117, or under its city’s charter to acquire property it is authorized to acquire by condemnation. The authority may acquire in this way property acquired by its owner by eminent domain or property already devoted to a public use only if its city’s council approves. The authority may take possession of property to be condemned after it files a petition in condemnation proceedings describing the property. The authority may abandon the condemnation before taking possession.” (Minn. Stat. § 469.101, Subd. 4).

An EDA may make loans to businesses, for-profit or nonprofit organizations, or to individuals to carry out the purposes outlined in the EDA law. (Minn. Stat. § 469.192).

Contracts

An EDA “may make contracts for the purpose of economic development within the powers given it in sections 469.090 to 469.108. The authority may contract or arrange with the federal government, or any of its departments, with persons, public corporations, the state, or any of its political subdivisions, commissions, or agencies, for separate or joint action, on any matter related to using the authority’s powers or performing its duties. The authority may contract to purchase and sell real and personal property. An obligation or expense must not be incurred unless existing appropriations together with the reasonably expected revenue of the authority from other sources are sufficient to discharge the obligation or pay the expense when due. The state and its municipal subdivisions are not liable on the obligations.” (Minn. Stat. § 469.101, Subd. 5).

Construction Contracts

“For all contracts for construction, alteration, repair, or maintenance work, the authority may award contracts to the vendor offering the best value, and “best value” shall be defined and applied as set forth in section 16C.28, subdivisions 1, paragraph (a), clause (2), and paragraph (c), and 1b. Alternatively, the authority may award all contracts for construction, alteration, repair, or maintenance work to the lowest responsible bidder, reserving the right to reject any or all bids.” (Minn. Stat. § 469.101, Subd. 5a).

Limited Partnership

An EDA may be a limited partner in a partnership whose purpose is consistent with the EDA's purpose. (Minn. Stat. § 469.101, Subd. 6).

If a City is participating in a project as a limited partner, it may wish to stipulate in the equity agreement a limit on its current and future liability. This stipulation will serve as a safeguard for the City if legal action is brought against the firm as a result of its operation or inequities in its services or products.

Rights and Easements

"The EDA may acquire rights or an easement for a term of years or perpetually for development of an economic development district." (Minn. Stat. § 469.101, Subd. 7). It may be necessary for an EDA to utilize these powers when extending public infrastructure to a project area.

Supplies and Materials

"The EDA may buy the supplies and materials it needs to carry out [its powers]." (Minn. Stat. § 469.101, Subd. 8).

Acceptance of Public Land and Property

"The EDA may accept land, money, or other assistance, whether by gift, loan or otherwise, in any form from the federal or state government, or an agency of either, or a local subdivision of state government to carry out sections 469.090 to 469.108 and to acquire and develop an economic development district and its facilities under this section." (Minn. Stat. § 469.101, Subd. 9).

"An EDA may accept conveyances of land from all other public agencies, commissions, or other units of government, if the land can be properly used by the EDA in an economic development district." (Minn. Stat. § 469.101, Subd. 17).

Foreign Trade Zone

Minnesota Statute 469.101, Subdivision 11 authorizes EDAs to operate and manage Foreign Trade Zones. Foreign or "Free" Trade Zones (FTZ) were established to facilitate international trade by serving as "safe havens" and can increase a company's cash flow by reducing costs associated with import restrictions and duties. FTZs can be warehouses, storage tanks or fenced-in areas near harbors, airports or industrial parks. Foreign and domestic goods are brought into a zone where they can be stored, sold, exhibited, broken up, repacked, assembled, distributed, sorted, graded, cleaned and mixed with foreign and domestic products or used in a manufacturing process.

There are two types of foreign trade zones; general zones and subzones. A general zone is located at or adjacent to a U.S. Customs Port of Entry (i.e. Minneapolis-St. Paul International Airport or Duluth Port). A subzone, though physically removed from its associated general zone, is part of a general zone. General zones typically have multiple users occupying a facility or warehouse site, while "subzones" are special-purpose facilities operated by individual firms that cannot be accommodated within a general zone and are engaged in large-scale manufacturing. The major

goods being produced in subzones are automobiles, trucks, motorcycles, tractors, women's garments, and refined oil.

Although a zone is operated as a public utility and can be managed by either a public or private corporation, it is treated as foreign territory and considered to be in foreign commerce. The usual formal Customs entry procedure and payment of duties is not required on the foreign merchandise unless and until it enters Customs territory for domestic consumption, in which case the importer ordinarily has a choice of paying duties either on the original foreign material or on the finished product. In addition, quota restrictions do not normally apply to foreign goods stored in zones. Domestic goods moved into a zone for export may, for purposes of excise tax rebates and drawback, be considered exported upon entry of the zone. In some cases, companies can avoid both import duties on an item and state and local ad valorem taxes when goods are exported from the zone. In most cases, Federal taxes and excise taxes can be deferred on the goods until they enter the U.S. marketplace.

Public Facilities

The EDA may operate and maintain a public parking facility or other public facility to promote development in an economic development district. (Minn. Stat. § 469.101, Subd. 13). Frequently, these powers are exercised in cooperation with other units of government, including cities, counties and school districts. Projects may include city halls, fire stations, libraries, community centers, administration buildings, and many others.

For example, a city may want a community center for its residents. In order for the project to occur, the EDA sells revenue bonds, constructs the community center, and leases the community center to the city. The lease is paid by an annual appropriation from the city's general fund to the EDA, and the EDA uses the lease payments to pay the principal and interest due on the revenue bonds. When the revenue bonds are retired, title to the new community center will be transferred to the city.

Government Agent

An EDA may cooperate with or act as an agent for the federal or state government, or a state public body, or an agency or instrument of a government, or a public body to carry out its mission. (Minn. Stat. § 469.101, Subd. 14).

Studies, Analysis, Research

An EDA may study and analyze economic development needs in the City, and ways to meet those needs. An EDA may study the desirable patterns for land use for economic development and community growth and other factors affecting local economic development in the City. It may make the results of the studies available to the public and to business/industry in general. An EDA may engage in research and disseminate information on economic development within the City. (Minn. Stat. § 469.101, Subd. 15).

Public Relations

To further its economic development efforts, an EDA may join an official, industrial, commercial, or trade association, or other organization. It may also have a reception of officials who may contribute to advancing the City and its economic development activities. It may also carry out other public relations activities, as it deems appropriate, to promote the City and its economic development projects. (Minn. Stat. § 469.101, Subd. 16).

Joint Powers Agreements

An EDA may join another EDA or a HRA and may exercise, jointly or otherwise, any or all of their powers. This joint powers agreement may be used for the purpose of financing, including the issuance of bonds and giving security, planning, undertaking, owning, constructing, operating, or contracting a housing project located within the area of operation of any one or more of the EDAs or HRAs. The EDA may, by resolution, authorize any other housing authority or EDA utilizing HRA powers to act on its behalf with respect to any or all powers, as its agent or otherwise, even if the authorizing EDA continues to exercise the same powers in the same area.

Tax Increment Financing

There are many benefits afforded to a City utilizing Tax Increment Financing (TIF) to facilitate economic development. Some of these are: the City can realize new development, which would not otherwise occur without the use of TIF; the City may realize broader economic gains of new development in terms of employment, tax base enhancement and secondary spin-off effects; the City can facilitate the construction of related public improvements it wishes to achieve by coordinating a TIF project with more general public improvement projects; the City may have better control over the nature of the development; the City may be able to fund administrative and/or community development costs with revenue from the TIF district and; in some cases, the qualifying of new development is enhanced by the TIF financing.

An EDA may act as an Authority for the purposes of creating and administering tax increment financing districts and plans. These powers must be exercised within a Redevelopment Project, when acting under HRA powers, or within a Municipal Development District, when exercising City powers. In general, an EDA must receive approval from the City Council prior to adoption of a Tax Increment Financing plan, and comply in all respects with the requirements of Minnesota Statutes 469.174 - 469.1794.

There are a variety of TIF districts allowed by statute. The following is a brief description and comparison of each:

District Type	Duration Limit (after receipt of first increment)	Geographic Areas That Qualify	Permitted Uses of Increments
Economic Development	8 years	No restrictions	Manufacturing; Warehousing; R&D facilities; Telemarketing; Tourism in qualifying counties; Commercial developments in small cities; Workforce housing outside seven-county metro area
Housing	25 years	No restrictions	Housing for low- or moderate-income renters or homeowners
Hazardous Substance Subdistricts	25 years	Parcels in a TIF district containing polluted sites and contiguous parcels	Site acquisition and cleanup
Redevelopment	25 years	70% occupied by buildings, 50% of which are substandard or certain railyards tank facilities	Correction of conditions justifying creating district
Renewal and Renovation	15 years	70% occupied by buildings, 20% of which are substandard and another 30% require renovation	Correction of conditions justifying creating district
Soils Condition	20 years	Site contains pollution and cost of cleanup exceeds lesser of \$2/sq. ft. or the fair market value of the land	Site acquisition and cleanup

Economic Development District:

- May be used only for manufacturing, production, processing, warehousing, storage, distribution (excluding retail sales), research and development, telemarketing, certain tourism and border City retail facilities and uses are directly related to or in support of such qualifying activities. Prohibits establishment if more than 15 percent of the square footage of such facilities are used for other purposes. Additionally, can be used for the facilitation of workforce housing projects under certain circumstances.
- Must demonstrate retention of local businesses, increased employment or preservation or enhancement of the state tax base, etc.
- Maximum duration of TIF district is 8 years from receipt of the first tax increment.
- May be used for commercial facilities not exceeding 15,000 square feet in Cities with populations of 5,000 or less located at least 10 miles outside of a City with a population of 10,000 or more. Other than administrative expenses, all increments must be spent within the TIF district.

Housing District

- Provides housing opportunities for persons and families of low and moderate income.
- Cost of related public improvements (roads, pipes, public spaces, etc.) and administrative expenses may be included in the cost of a housing project.
- Maximum duration of TIF district is 25 years from receipt of the first tax increment.

Hazardous Substance Subdistricts

- Used the cost of clean-up of pollution and contamination.
- Not technically a separate type of district, but rather are a subpart of another TIF district, the host or overlying district.
- Subdistricts also allow extension of a TIF district's duration to permit recovery of pollution clean-up costs for the subdistrict area.
- A subdistrict requires state approval before certification.

Redevelopment District:

- Generally a blighted area containing substandard buildings.
- Allowed to implement urban renewal projects, which entail any work for purpose of preventing the spread or rehabilitation of existing blighted areas.
- Requires documentation to evaluate occupied land area and analysis of substandard buildings.
- Maximum duration of TIF district is 25 years from receipt of the first increment.
-

Renewal and Renovation District:

- Blight and obsolescence tests must be met.
- Maximum duration of TIF district is 15 years from receipt of the first tax increment.

Soils Condition District:

- Provides for the removal or remediation of hazardous substances or contaminants as specified in a development action response plan.
- Such costs must exceed (a) the fair market value of the land before completion of the preparation or (b) \$2 per square foot of the area of each parcel.
- Maximum duration of the TIF district is 20 years from receipt of the first tax increment.

In order to establish a TIF district, a specific process must be followed including the following:

1. A Development Program or Redevelopment Plan (depending on statutory authority used) must be prepared. This sets forth the general goals for the development or redevelopment project area.
2. A Tax Increment Financing Plan must be prepared. This sets forth the specific project(s) to be undertaken, costs involved, and revenues projected, and is the guiding document for the proposed project.
3. A public hearing on the TIF Plan and district must be conducted. Notification of the public hearing must be published 10-30 days prior to the hearing.
4. A TIF district "fiscal and economic impact" letter must be received by the County and school district at least 30 days prior to the public hearing.
5. The City planning commission must review the TIF Plan and Development Program prior to City approval.
6. At the public hearing, all interested parties are invited to express their opinion(s).
7. Subsequent to the public hearing, the City must approve or reject the TIF Plan and district.
8. Upon approval, the City must request County certification of the original value of the TIF district which will begin the tax increment collection process.
9. Actual project expenditures may not be made until the TIF Plan is adopted and the TIF district is established.

Along with this specific process there are a variety of conditions and restrictions that regulate the implementation and continuation of a TIF district, including (but not limited to) the below:

But-For Test: The "but-for" test is a finding requirement. Before creating a TIF district or subdistrict, a local government or authority establishing the TIF District must find that in its opinion the TIF-subsidized development would not have happened *but for* the use of TIF.

Five-Year Rule. The five-year rule essentially requires development activity for a TIF district to be finished within a five-year period that begins with certification of the district's original tax capacity. After this five-year period has expired, increments may only be spent to pay off obligations that were incurred to fund work done during the five-year period or to the extent permitted under the pooling rules. When these obligations are paid (or enough money has been collected to pay them), the district must be decertified.

Pooling Restrictions. The term "pooling" refers to the use of tax increments for activities located outside of the boundaries of the district from which they were collected or outside of the five-year rule period. Minnesota law permits increments to be "pooled" or spent outside of the district (or, in some instances, outside the requirements set forth in the Five-Year Rule) on other activities. The amount that may be pooled is, however, subject to certain percentage limits based on the TIF District type.

Financing and Bonding Powers

Issuing General Obligation Bonds

“An economic development authority may issue general obligation bonds in the principal amount authorized by two-thirds majority vote of its city’s council. The bonds may be issued in anticipation of income from any source. The bonds may be issued: (1) to secure funds needed by the authority to pay for acquired property or (2) for other purposes in sections 469.090 to 469.108. The bonds must be in the amount and form and bear interest at the rate set by the city council. Except as otherwise provided in sections 469.090 to 469.108, the issuance of the bonds is governed by chapter 475. The authority when issuing the bonds is a municipal corporation under chapter 475.” (Minn. Stat. § 469.102, Subd. 1).

Issuing Revenue Bonds

“An economic development authority may decide by resolution to issue its revenue bonds either at one time or in series from time to time. The revenue bonds may be issued to provide money to pay to acquire land needed to operate the authority, to purchase or construct facilities, to purchase, construct, install, or furnish capital equipment to operate a facility for economic development of any kind within the city, or to pay to extend, enlarge, or improve a project under its control. The issued bonds may include the amount the authority considers necessary to establish an initial reserve to pay principal and interest on the bonds. The authority shall state in a resolution how the bonds and their attached interest coupons are to be executed.” (Minn. Stat. § 469.103, Subd. 1).

Because the credit strength of an EDA is usually very limited, the feasibility of a revenue bond offering is highly dependent upon the project to be financed. For example, if an EDA were to issue a revenue bond to finance the construction of a building to be leased to a manufacturing firm, the interest rate and security terms of the revenue bond would depend primarily on the creditworthiness of the manufacturer. For weaker projects and tenants, issuance may not be feasible.

Advances

As noted earlier in this handbook, there is independent authority for an EDA to make a loan. An EDA may advance (loan) its general fund money or credit without interest. The advances must be repaid from the sale or lease of land. If the money advanced for the development or redevelopment project was obtained from the sale of the EDAs general obligation bonds, then the interest rate on the advances must not be lower than the average annual interest rate on the EDAs general obligation bonds that are outstanding at the time the advances are made. Advances made to acquire land and to construct facilities for recreational purposes do not need to be reimbursed. (Minn. Stat. § 469.106).

Secondary Market

An EDA “may sell, at private or public sale, at the price or prices determined by the authority, any note, mortgage, lease, sublease, lease purchase, or other instrument or obligation evidencing or securing a loan made for the purpose of economic development, job creation, redevelopment, or community revitalization by a public agency to a business, for-profit or nonprofit organization, or an individual.” (Minn. Stat. § 469.101, Subd. 22). An EDA operating a revolving loan fund may choose to sell a loan on the secondary market if it needs to recapitalize the loan fund in order to finance additional projects.

Borrowing in Anticipation of Bonds

After authorizing a bond issue, an EDA may borrow funds to provide money immediately required for the project, but the loan must not exceed the amount of the bonds. The EDA must approve a resolution stating the terms of the loan. The due date for the loan may not be for more than 12 months from the date of the loan origination and may be repaid with interest from the proceeds of the bonds when the bonds are issued and delivered to the bond purchasers. The loan must not be obtained from any Commissioner of the EDA or from any corporation, association, or other institution of which a Commissioner is a stockholder or officer. (Minn. Stat. § 469.101, Subd. 19).

Revolving Loan Funds

Small business growth provides the greatest opportunity for new investment and job development in most communities. However, due to constraints on capital markets, financial institutions may be unable or unwilling to provide a complete financing package, and many good companies end up with marginal long-term financing.

Businesses and financial institutions invest dollars in projects to make a profit and to earn a return on that investment. Unless the project offers the promise of a positive return, it is difficult to sell a prospective investor on locating or expanding a business. Stimulating investment requires impacting a business and a bank’s spending decisions. An EDA can impact business spending decisions by providing an opportunity where rates of return on investment are attractive and competitive. Many EDAs do this by operating a local Revolving Loan Fund (RLF) designed to facilitate small business investment.

The typical goal of a local RLF is to leverage private sector investment by filling the capital market gap for financing long-term assets.

Most RLFs provide a cost advantage to businesses to lessen their financial constraints and meet the community's goal of increasing productivity and creating new, permanent jobs. The RLF can provide lower interest payments, more flexible equity requirements, longer terms, deferred principle payments and a subordinate collateral position to the bank.

The type of businesses that are eligible for loan funds will depend on the loan guidelines established by the particular EDA.

An RLF can be structured in several different ways. The most common type of RLFs structure is the direct loan to the business. Direct loans are made to the business with a separate set of loan documents and collateral to secure the loan. These loans are typically made to fill the gap in a development project.

The second type of funding structure is a loan guarantee. The EDA provides a partial guarantee to the private lender to ensure repayment of the loan and to limit the risk to the private lender. This type of activity provides several advantages to the EDA—notably, smaller capitalization requirements, increased leverage of funds, and limited administrative activity

A third type of RLF is a linked deposit program. With a linked deposit program, the EDA works with other government agencies and large non-profit institutions to place a certificate of deposit with the lending institution at below the market rate. This allows the bank to increase its liquidity of funds, gain a higher return on a riskier project, and improve collateral coverage.

The most fundamental issue in the development of a revolving loan program is the development of policies and procedures for operating, marketing, financing, and dealing with delinquencies and defaults. It is important to consider working with development counsel and/or financial advisor to discuss the intricacies and mechanics of a RLF program.

The source of capitalization for local loan funds varies by community. Communities are utilizing general fund or municipal utility reserves, Tax Increment Financing reserves, and partnerships with banks or utilities to capitalize local revolving loan funds.

Limitation of Powers

The City Council may place limits on the activities of the EDA in the enabling resolution. These restrictions may limit the power to issue general obligation or revenue bonds, the power to grant or loan EDA funds, the power to enter into limited partnerships, or other specific powers over which the governing body wishes to exercise control. The following is a list of specific areas where the governing body may exercise control (Minn. Stat. § 469.092, Subd. 1):

1. that the EDA may not exercise any specified power contained in Minn. Stat. §§ 469.001 to 469.047, 469.090 to 469.108, and 469.124 to 469.133 or that the EDA must not exercise any powers without the prior approval of the City Council (Minn. Stat. § 469.092, Subd. 1);
2. that, except when previously pledged by the EDA, the City Council may by resolution require the EDA to transfer any portion of the reserves generated by activities of the EDA that the City Council determines is not necessary for the successful operation of the

authority to the debt service fund of the City, to be used solely to reduce tax levies for bonded indebtedness of the City (Minn. Stat. § 469.092, Subd. 2);

3. that the sale of all bonds or obligations issued by the EDA be approved by the City Council before issuance (Minn. Stat. § 469.092, Subd. 3);
4. that the EDA follows the budget process for City departments as provided by the City and as implemented by the City Council and Mayor (Minn. Stat. § 469.092, Subd. 4);
5. that all official actions of the EDA must be consistent with the adopted comprehensive plan of the City, and any official controls implementing the comprehensive plan (Minn. Stat. § 469.092, Subd. 5);
6. that the EDA submit all planned activities for influencing the action of any other governmental agency, subdivision, or body to the City Council for approval (Minn. Stat. § 469.092, Subd. 6);
7. that the EDA to submit its administrative structure and management practices to the City Council for approval (Minn. Stat. § 469.092, Subd. 7);
8. any other limitation or control established by the City Council by the enabling resolution (Minn. Stat. § 469.092, Subd. 8).

GLOSSARY

Cash Flow: An important consideration is whether a business can repay a loan out of its operating cash flow.

Collateral: A tangible asset like land, building, inventory, machinery and equipment, etc., offered as security on a loan. Typically, the value of the offering is greater than the amount loaned.

Commercial Club: Usually an incorporated 501(c)(4) or (6) organization whose purpose is to promote community and retail events. The membership is usually made up of retail business owners or owners of businesses in the central or downtown business district.

Chamber of Commerce: A chamber is an incorporated, non-profit 501(c)(4) or (6) that is generally affiliated with the state and national chamber of commerce. The chamber consists of local business professionals of the community who meet together to promote local businesses and the community. Generally, they have an elected board with and most have limited staff. Larger chambers often deal with tourism and overall business development of the community. They sometimes are politically active and can be a powerful lobbying force when dealing with policy that affects the community's economic strategy. Chambers are generally active and can hold educational and other events for local businesses.

Development Commission: A board used to advise City Council, appointed by the Mayor and/or City Council. It has limited or no decision making authority and is used as a sounding board or a first point of contact for the City Council for development projects. The commission will draft strategies and policies for ratification and implementation of local plans on a volunteer basis.

Economic Development District: A type of tax increment financing district which consists of any project, or portions of a project, but which the authority finds to be in the public interest because: it will discourage commerce, industry, or manufacturing from moving their operations to another state or municipality; or it will result in increased employment in the state; or it will result in preservation and enhancement of the tax base of the state.

Excess Increments: Tax increments that exceed the amount needed to pay the costs authorized under the tax increment financing plan. Increments are not excess increments if the TIF plan has been amended or modified to permit additional spending. The law requires that excess increments be used to prepay outstanding bonds or deposited in an escrow account for bond payments or returned to the City, County, and school district(s) in proportion to their local tax rates.

For-Profit Development Corporation: A corporation formed to develop and sell industrial land and/or provide financing for business development within the community. Local investors can buy shares that can be paid dividends for profits made on projects. Money invested in corporations can be repaid to the stockholders. The board is made up of shareholders and may or may not have staff. The corporation is subject to federal and state income tax.

Guarantee Fee: Money paid by a borrower to a government agency, company, or individual to guarantee repayment of a loan. The fee is usually a percentage of the amount of the guarantee.

Housing District: A type of tax increment financing district which consists of a project, or a portion of a project, intended for occupancy, in part, by persons or families of low and moderate income, as defined in chapter A, Title II of the National Housing Act of 1934, the National Housing Act of 1959, the United States Housing Act of 1937, as amended, Title V of the Housing Act of 1949, as amended, any other similar present or future federal, state, or municipal legislation, or the regulations promulgated under any of those acts. A project does not qualify under this subdivision if the fair market value of the improvements which are constructed for commercial use or for uses other than low and moderate income housing consists of more than 20 percent of the total fair market value of the planned improvements in the development plan or agreement. The fair market value of the improvements may be determined using the cost of construction, capitalized income, or other appropriate method of estimating market value.

Housing Redevelopment Authority: An HRA is a public corporation with power to undertake certain types of housing and redevelopment of renewal activities. While state legislation conveys authority for housing and redevelopment in each City, it is up to the City Council to formally establish an HRA before it can do business and use its powers. Once a council legally establishes an HRA, it may undertake certain types of planning and community development activities on its own with council approval

Joint Powers Board: This is a board created by two or more Cities, townships, or counties for a specific purpose, such as economic development. The agreement between the units of government would specifically describe activities and powers that the board exercises in carrying out its duties.

Limited Partnership: A form of group ownership with at least one general partner and one limited partner, the general partner has unlimited liability. Limited partners can only lose their initial investment.

Port Authority: This is a legal entity created by the State Legislature to promote the general welfare of a City's port district, increase the volume of commerce in the port and provide facilities for handling, storage and shipment of freight. The Port Authority actively develops commerce within the City and can enable business location and expansion. The powers of the Port Authority are more expansive than the HRA or EDA. Port Authorities can issue General Obligation bonds without an election.

Redevelopment District: A type of tax increment financing district consisting of a project , or portions of a project, within which the authority finds by resolution that one of the following conditions, reasonably distributed throughout the district, exists: parcels consisting of 70 percent of the area of the district are occupied by buildings, streets, utilities, paved or gravel parking lots, or other similar structures and more than 50 percent of the buildings, not including outbuildings, are structurally substandard to a degree requiring substantial renovation or clearance; or the property consists of vacant, used, under used, inappropriately used, or infrequently used rail yards, rail storage facilities, or excessive or vacated railroad rights-of-way.

Renewal and Renovation district: A type of tax increment financing district consisting of a project, or portions of a project, within which the authority finds by resolution that one of the following conditions exist: parcels consisting of 70 percent of the area of the district are occupied by buildings, streets, utilities, or other improvements; 20 percent of the buildings are structurally

substandard; and 30 percent of the other buildings require substantial renovation or clearance to remove existing conditions such as: inadequate street layout, incompatible uses or land use relationships, overcrowding of buildings on the land, excessive dwelling unit density, obsolete buildings not suitable for improvement or conversion, or identified hazards to the health, safety, and general well-being of the community; and the conditions are reasonably distributed throughout the geographic area of the district.

Rural Development Finance Authority (RFDA): A non-profit corporation established by a County or group of counties through special legislation. RFDAs are designed to facilitate the production and processing of agricultural products and promote jobs in agriculture and natural resource industries. The board of directors is appointed by the County board of commissioners.

Structurally Substandard: A building that contains defects in structural elements or a combination of deficiencies in essential utilities and facilities, light and ventilation, fire protection including adequate egress, layout and condition of the interior partitions, or similar factors. which defects or deficiencies are of sufficient total significance to justify substantial renovation or clearance.

A building is not structurally substandard if it is in compliance with the City's building code applicable to new buildings or it could be modified to satisfy the building code at a cost of less than 15% of the cost of constructing a new structure of the same square footage and type on the site.

Tax Increment District: A district consists of the geographic area for which tax increments are collected. The development authority defines the area in the tax increment plan. A district may be contiguous or non-contiguous area within a project area.

TABLES

COMPARISON OF SELECTED DEVELOPMENT LAWS

<u>Rural Development Finance Authority</u>	<u>Municipal Industrial Development Act:</u>	<u>Housing Redevelopment Development Authorities</u>	<u>Economic Authorities</u>
<p>Purpose:</p> <p>An RDFA may be established by a County or group of counties to bring about the production of agricultural products and to encourage increased employment in agriculture. A RDFA is a non-profit corporation.</p> <p>Governing Body:</p> <p>An RDFA is controlled by a Board of Directors who are either elected or appointed by the County Board. If more than one County is involved, then all counties involved must be represented on the board.</p> <p>The board must have a minimum of five members.</p> <p>All projects and activities of the RDFA must have approval of the Commissioner of the Department of Employment and Economic Development.</p>	<p>Purpose:</p> <p>The main focus of Minn. Stat., §§ 469.152 to 469.1651 includes the following: expansion and economic growth in blighted land areas; retention of industry within the district; overall strengthening of community tax base; and the general enhancement of the economy in the district.</p> <p>Governing Body:</p> <p>Consists of the representing governmental unit--e.g. City Council/County Commissioners for Cities, County Board for counties, etc.</p> <p>All rights of a municipality are granted to bondholders.</p> <p>When beginning a project, each municipality must provide the Commissioner of the Department of Employment and Economic Development with specified information regarding the details of the contracting agreement.</p> <p>All projects must be approved by the state Commissioner (except County jails).</p>	<p>Purpose:</p> <p>An HRA is responsible for determining blighted land areas, and for preventing the spread of blight, including substandard building structures. A blighted area is one with buildings and areas that are detrimental to the health, safety and welfare of the community. The HRA may then provide for improvements or redevelopment of these areas through a redevelopment plan. An HRAs main area of operation is housing program development. HRAs are primarily concerned with family rehabilitation, housing redevelopment, public housing, and rent assistance.</p> <p>Governing Body:</p> <p>Approval for any project through the approval of a redevelopment plan, must be granted by the appropriate City Council.</p> <p>Activities are controlled by a board of commissioners.</p> <p>An HRA is independent of the local government. Approval of the redevelopment plan for the proposed project is needed, however, by the governmental unit in order to proceed.</p>	<p>Purpose:</p> <p>The overall purpose of an EDA is to promote economic development within a district. EDAs may exercise their own powers which are similar to port authority powers, powers of a HRA, and the powers of Cities in connection with development districts and municipal industrial development activities.</p> <p>Governing Body:</p> <p>EDA is created through an enabling resolution written and approved by City Council.</p> <p>EDAs have a board consisting of 3, 5, or 7 commissioners appointed by the Mayor with the approval of City Council. The board may also consist entirely of City Council members.</p> <p>The City Council may control the activities of the EDA by limiting its powers under the enabling resolution and through the annual approval of the EDA budget.</p>

Rural Development Finance Authority:
(continued)

Activities:

1. Build, obtain and operate projects designed for the production of agricultural products.
2. Perform agricultural research.
3. Seek aid from additional sources to promote employment.
4. Undertake projects authorized under the agricultural resource loan guarantee program.
5. May enter contracts and employ financial specialists for assistance.
6. Issue bonds or notes for financing purposes.

Municipal Industrial Development Act:
(continued)

Activities:

1. Build, acquire, and retain all lands, structures, and equipment relating to a project.
2. Enter into contracts with other municipalities and agencies in connection with projects.
3. Assign revenues from projects to the holders of bonds.
4. Sell property associated with projects.
5. Exempt from property taxes on nonresidential structures built for sale or rent until the building is sold or rented; maximum time is 4 years.
6. May contractually limit its ability to exercise authority, allowing a municipality to enter into a contract with bondholders.
7. Make all necessary contracts in order to secure payments of its bonds.

Housing Redevelopment Development Authorities
(continued)

Activities:

1. May establish a redevelopment project (Minn. Stat. 469.002) for the elimination/and prevention of blighted areas.
2. Carry out projects designed to improve blighted areas.
3. Acquire real or personal property for activities related to projects.
4. May provide for the administration of a commercial building loan program to preserve small sized buildings in its district.
5. May sell real or personal property for project related purposes.
6. May sell its lands and properties to private or public parties. Sale is dependent on these parties' responsibility to continue with the redevelopment plan specified by the HRA.
7. May act as federal government agent in carrying out provisions of Municipal Housing and Redevelopment Act.
8. May exercise the powers granted to redevelopment agencies under Minn. Stat. §§ 469.152 to 469.1651.
9. Provide relocation payments and assistance in accordance with federal guidelines.

Economic Authorities
(continued)

Activities:

EDAs are granted powers within their own district, outside their development district, and, by cross-reference, the powers of HRAs, development districts in connection with the City, and agencies in connection with Municipal Industrial Development.

Powers:

1. Acquire property for creation of development district that is tax exempt.
2. Sell or lease land either by private or public means.
3. Carry out EDA law to develop and improve land within the district. The EDA may make any necessary arrangements to make land suitable for development.
4. Exercise Eminent Domain.
5. Enter into contracts for the purpose of economic development.
6. Purchase all materials needed to carry out development.
7. Engage in research to determine factors of specified development projects.
8. Act as a limited partner in contracts with additional parties.

Cross reference powers:

1. Exercise Industrial Development powers for HRA and EDA powers for industrial development activities.

Port Authorities:

Purpose:

Originally, the purpose behind port authorities was to acquire and promote development of harbors and ports. Currently, the only operating port in this regard is that of the Duluth Port Authority. The additional 25 port authorities in Minnesota exist to promote economic development, including increased commerce and acquisition of facilities within the specified port district of the City.

Governing Body:

A port authority is a governmental subdivision of the state. Direct authority is handled by a board of commissioners (usually 3-7 members) appointed by the City Council. Ports are a statutorily created municipal body.

General Port Activities:

1. Adopt plans for improvement and development of port districts.
2. Oversee the activities of privately owned port facilities.
3. Acquire and construct various facilities and charge for the use of these facilities.
4. Acquire, lease, own and operate real or personal property.
5. Sell or exchange property (real or personal) owned by the port.
6. Determine legislation to improve development and commerce within the district.
7. Apply to the federal Foreign Trade Board for authorization to exercise the powers relating to foreign trade zones.
8. Act as agent for the federal government to carry out the provisions of sections 469.090 to 469.108.
9. Issue Revenue Bonds and with the approval of the City Council, given by ordinance, General Obligation Bonds secured by a pledge of the "Full Faith and Credit" of the City.

Municipal Development Districts:

Purpose:

The purpose of an MDD is to improve the general economy of a community by increasing employment and enhancing the tax base.

Governing Body:

The MDD falls under control of the City Council/County Commissioners. The council then designates a board to administer the districts. In first class Cities, an advisory board must be created to aid with district activities. A majority of members on the board must be real property owners on lands within the district. In St. Paul and Minneapolis the board must be elected, in other Cities the members may be appointed.

Activities:

1. An MDD may obtain land through eminent domain or negotiation.
2. The MDD may design a development program within the district.
3. The MDD may further develop the facilities, transportation, or overall quality of life in a district through building acquisition, construction or reconstruction.
4. The municipality may be given ordinances regulating traffic in parking facilities or pedestrian skyway systems.
5. A municipality may lease all or portions of the basement, 1st or 2nd floors of buildings within the district.
6. The MDD may accept grants from private institutions or other sources for public facilities and general improvements.
7. The municipality may use private developers to construct buildings/facilities under the development plan. The City will reimburse the developers from MDD funds.
8. A municipality has the authorization to: install lighting systems, street signs, construct special landscaping, install snow removal systems, and build public parking ramps.

City Council

Purpose:

The main purpose of any City Council regarding the development units in this report, is to act as a control mechanism for operations. The power of the City Council and the controls it has over each of these units varies from City to City.

For Port Authority:

The City Council/County Commissioners of any port has indirect control over a port's use of general obligations bonds used for industrial projects. City Council/County Commissioners has the authority to approve the board of commissioners for any port. If a seven-member board is developed, two members must be from the City Council/County Commissioners.

For Municipal Development District:

City Council has the power to designate an existing department, agency, HRA, or other to administrate the district.

City Council may adopt ordinances designed to aid specific MDD projects.

The City has the power to create an MDD advisory board.

The City Council may defer property taxes on improved property (within the district) where a private developer constructs the improvement upon request of the economic developer.

Port Authorities:

(continued)

10. Contract with outside parties for the port.
11. Employ a director or additional staff as it deems necessary.
12. Allow membership in organizations to advance port activities and provide funds for public relations assistance.

These powers granted to a port are connected with powers of industrial development districts:

1. Develop and improve property within an industrial district and make them adequate for industrial use.
2. Exercise the power of a City regarding mined underground development.
3. Obtain rights and easements connected with industrial districts.
4. Exercise the powers specified under Minn. Stat. §§ 469.152 to 469.1651 to further improve the purposes of sections 469.090 to 469.108 (port authorities and industrial development districts).
5. Enter into a partnership agreement where the port serves as a limited partner only.
6. Receive for one dollar, tax forfeited land.
7. Use the power of eminent domain.
8. A port authority may create industrial development districts within the port district.
9. A port may obtain lands and facilities required for industrial development purposes.
10. Cooperate, and become an agent to the federal government in carrying out legislation concerned with operations in harbor and industrial districts.
11. Operate and maintain various parking systems and facilities to improve economic development.

City Council:

(continued)

For Municipal Industrial Development Act:

City Council acts as the overall Governing Body with direct and indirect control over municipal activities.

For Rural Development Finance Authority Act:

Inapplicable--County related.

For an HRA: City Council approves appointees to the HRA Board of Directors.

City Council has certain powers of restrictions that may be enforced on the HRA. Generally, projects and activities must be approved by the City Council.

For an EDA:

The City Council may establish an EDA by way of enabling resolution. It may also determine the specific powers the EDA is to have in that resolution.

City Council must have membership on the EDA Board of Commissioners. It may serve as the EDA Board of Commissioners in entirety or choose a portion of members from the business community or general public.

City Council approves the Mayor's appointments to the EDA Board of Directors.

SAMPLE JOB DESCRIPTION

POSITION TITLE: Economic Development Director

DEPARTMENT: Economic Development

ACCOUNTABLE TO: City Administrator

PRIMARY OBJECTIVE OF POSITION:

Serves as chief staff to the Economic Development Authority, planning, directing, and implementing the economic development efforts of the City under the direction of the Authority. Performs highly skilled, managerial, coordinative and technical tasks. Generates business leads, promotes business retention and expansion, creates a positive attitude for development and raises supportive public awareness for strategic economic planning and development.

DUTIES AND RESPONSIBILITIES:

1. Prepares, organizes and implements a coordinated target marketing program to generate leads for specific business and industry.
2. Researches, designs, recommends and implements programs to encourage location of new businesses and expansion of existing businesses within the City. Coordinates resources of public and private sectors - i.e. Federal and State Grants, Industrial Development Bonds and SPA Loans, Tax Increment Financing, banks, mortgage companies, etc.
3. Develops strategies and programs for allocation and delivery of City/Authority financial assistance resources.
4. Maintains contacts with Minnesota Department of Employment and Economic Development, area Development Corporations, and area commercial and industrial real estate brokers and developers.
5. Maintains current inventory of potential business location sites within the City - both building and vacant land, including contact persons.
6. Maintains updated demographic data, promotional materials and existing building lists for economic development programs.
7. Works with prospective businesses to tailor a proposal suited to their specific needs, including alternative locations and financing packages.
8. May negotiate economic incentive packages with prospective businesses. Analyzes financial needs of specific companies to insure that public/Authority resources are applied judiciously.
9. Maintains contact with current businesses to stay abreast of their future business plans and needs.

10. Identifies and contacts prospective clients for location and expansion within the City.
11. Assists locating or expanding businesses in understanding and anticipating comprehensive plan locations, zoning districts, standards and processes. Works closely with City Planning, Building Inspections, and Engineering Divisions to help facilitate a smooth review process.
12. Periodically reviews all economic development programs for effectiveness, making recommendations to Authority and City officials for changes as deemed appropriate.
13. Participates in exhibitions, seminars, media events and the like to attract businesses to the City.
14. Limited travel may be required to attend conferences, meet with prospective clients, research potential problems, financing, etc.
15. Prepare annual budget and work program for submission to the Authority and City Council.
16. Provide quarterly and annual report to the Authority and City Council regarding status of work program, future program potentials and activities of the staff.
17. Serves as chief staff support to Economic Development Authority. Prepares agendas and background information reports for Authority meetings. Attends meetings of the Authority, Chamber of Commerce, City Council, etc. and follows up staff responsibilities as assigned.
18. Completes other duties as assigned by the Economic Development Authority.

KNOWLEDGE, SKILLS AND ABILITIES

1. Thorough working knowledge of the principles, practices and procedures of economic development.
2. Ability to organize and coordinate support from professional and technical City staff, legal consultants, other government agencies, private business, and the financial services industry.
3. Ability to analyze the economics of a particular business location or expansion project, so as to make independent judgments about the effectiveness of financial assistance or inducements.
4. Ability to establish and maintain contacts and effective working relationships with potential business clients.

QUALIFICATIONS

1. Bachelor's Degree in Public Administration, Business Administration, or a closely related field highly desirable.

2. Minimum of three years of experience working in economic development, preferably at the local government level.
3. A demonstrated record of ongoing continuing education in economic development.

Upon request, this information can be made available in alternative formats.
For more information, email economic.development@state.mn.us or call 651-259-7432.

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