

**Request for City Council Committee Action from the Department of Community Planning and Economic Development - CPED**

Date: November 17, 2008

To: Council Member Paul Ostrow, Chair Ways and Means/Budget Committee

Referral to: Council Member Lisa Goodman, Chair Community Development Committee

**Subject: Confidentiality Agreements: Delegation of Contracting Authority**

**Recommendation: Adopt the attached resolution delegating authority to the CPED Director or designees to enter into standard form Confidentiality and Non-Disclosure Agreements and direct appropriate City staff to prepare a Procedure Document consistent with the Minneapolis Contract Monitoring Procedures Manual prior to any execution of the subject agreement.**

**Previous Directives:**

In March 2004, the City Council approved a charter change 13-0 regarding simplification of contract signatures. The change eliminated the signatures of the Mayor and City Clerk on contracts and allowed for delegation of contracting authority subject to Council-approved dollar and time limitations and City Attorney approval of forms.

In June 2004, the charter change went into effect and City ordinances were updated to reflect the simplification of contract signatures.

On April 1, 2005 the City Council approved a resolution delegating authority to department heads or designees to enter into various form agreement contracts.

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| Prepared by: Jim Forsyth, Senior Project Coordinator: (612) 673-5179 _____ |
| Approved by: Charles T. Lutz, Deputy CPED Director _____                   |
| Catherine A. Polasky, Director Economic Policy and Development _____       |
| Presenters in Committee: Jim Forsyth                                       |

**Financial Impact**

No financial impact

**Community Impact**

Neighborhood Notification: NA

City Goals: NA

Sustainability Targets: NA

Comprehensive Plan: NA

Zoning Code: NA

Living Wage/Business Subsidy Agreement      Yes \_\_\_\_\_      No  \_\_\_\_\_

Job Linkage      Yes \_\_\_\_\_      No  \_\_\_\_\_

**Supporting Information**

CPED managers and staff have on several recent occasions been asked to guarantee confidentiality when discussing development proposals with prospective developers and with representatives of the University of Minnesota and Minnesota's Department of Employment and Economic Development (DEED). An inability to guarantee confidentiality at the early stages of development planning limits the City's ability to participate in project formulation. It is at this point that plans could be most easily influenced and resources could be most efficiently allocated.

In order to resolve this problem staff asked the City Attorney's Office to prepare a standard format confidentiality and non-disclosure agreement. The proposed agreement recognizes that certain business information is "Not Public Data" under the Minnesota Government Data Practices Act Chapter 13. Such information includes credit reports; financial statements; net worth calculations; business plans; income and expense projections; balance sheets; customer lists; income tax returns; and design, market and feasibility studies not paid for with public funds. If public financial assistance is provided or the business receives a benefit from the government entity, however, some of the business information becomes public. This delegation request is consistent with City Council authorization in 2005 establishing a protocol for delegating contracting authority to various departments to enter into standard format contracts.

The requisite information for the Confidentiality and Non-Disclosure Agreement follows:

- Title: Confidentiality and Non-Disclosure Agreement.
- Usage: Make and execute confidentiality and non-disclosure agreements with prospective developers.
- Required Signatures: CPED Director or Designee.
- Dollar Limits: Not applicable.
- Maximum Term: Twelve months.

Procedures:

The agreement will be used on a case by case basis when deemed appropriate by the CPED Director. The company submitting the information is responsible for identifying the materials as Confidential. No additional training is necessary because responsible staff currently receives and deals with classified information under the Minnesota Data Practices Act. A procedures document that is consistent with the City of Minneapolis Professional Services Procurement and Contract Monitoring Procedures Manual will be prepared by appropriate staff prior to execution of the standard form agreement. The CPED Director will be notified when the document is completed and the standard form agreement and procedures will be posted on the City intranet.

**Resolution Delegating authority to make and execute Confidentiality and Non-Disclosure agreement form contracts.**

Now, Therefore, Be It Resolved by The City Council of The City of Minneapolis:

Pursuant to City Charter chapter 4, section 25, the City Council hereby delegates authority to the CPED department head or designees to make and execute Confidentiality and Non-Disclosure agreements with prospective developers regarding business plan and similar data protected by the Minnesota Government Data Practices Act at no cost for a term not to exceed twelve months using a form approved by the City Attorney.