

## **SECTION I. GENERAL COMMUNITY AND ECONOMIC DEVELOPMENT STRATEGY**

In 2003, the voters of the City of Gering approved an Economic Development Plan (the "Plan") pursuant to the Nebraska Local Option Municipal Economic Development Act, Sections 18-2701, et. seq. (the "Act"). The Program has been funded primarily by allocating a portion of the City's Sales and Use Tax to the Program.

The intent of the Plan is to create jobs and enhance investment in the Gering area through direct and indirect assistance. Until the original passage of the 1/2 cent sales tax, Gering had been hampered in its efforts to effectively compete. Until passage of the 1/2 cent sales tax, Gering was unable under Nebraska law to respond quickly to opportunities or to raise sufficient capital from local sources to provide incentives for business location or expansion decisions tailored to meet the needs of Gering's local community. Gering's ability to encourage business location and expansion has a direct impact, not only upon the economic well-being of the community and its residents, but on the state as a whole. Due to the success of the Plan and the program to date, the City now desires to extend the funding of the Plan and to amend the Plan as provided for in this Amendment. Reference to the Plan in the remainder of this document shall include the Plan as amended by the terms of this document.

There is a need to provide Nebraska cities with the opportunity to provide assistance to business enterprises in their communities, whether for expansion of existing operations or the creation of new businesses, by the use of funds raised by local taxation when the voters in the municipality determine that it is in the best interest of the community to do so.

On June 3, 1991, Governor Ben Nelson signed into law the Local Option Municipal Economic Development Act; Laws 1991, LB 840; codified in the Nebraska Statutes as Section 18-2701, et seq. This important piece of legislation authorizes incorporated cities and villages to appropriate and spend local sales tax and property tax revenues for certain economic development purposes. An economic development plan formulated by the City implementing this legislation is subject to a vote of the people on a local level.

The core of the Act's process involves the formulation of a proposed plan (the Plan) for a local economic development program. The Plan forms the foundation for the collection and expenditure of local tax revenues for economic development, with voter approval, and the provisions of the Plan become the basis under which the municipality's program operates.

## **SECTION II. STATEMENT OF PURPOSE DESCRIBING GENERAL INTENT AND GOALS**

A goal of the Gering Economic Development Program, (the "Program") is to provide jobs, above minimum wage, to the citizens of Gering and the Gering area. The funds from the Program will be used to encourage and assist existing local and new qualifying businesses in the creation and retention of jobs. The success of the Program will be measured by the number of jobs created and retained as well as a positive economic impact to the community.

### **SECTION III. TYPES OF ECONOMIC ACTIVITIES THAT WILL BE ELIGIBLE**

#### **A. Definition of Program**

*Economic Development* shall mean any project or program utilizing funds derived from local sources of revenue for the purpose of providing direct or indirect financial assistance to a qualifying business or the payment of related costs and expenses or both, without regard to whether that business is identified at the time the project or program is initiated or is to be determined by specified means at some time in the future.

#### **B. Activities Eligible**

The funds allocated to the Program shall be expended primarily for the purpose of providing direct or indirect financial assistance to qualifying businesses or qualifying projects. Activities for the Program may include, but shall not be limited to, the following:

- 1) Expenses to retain and/or expand a local qualifying business.
- 2) Direct loans or grants to qualifying businesses for fixed assets or working capital or both.
- 3) Grants for public works improvements which are essential to the location or expansion of, or the provision of new services by, a qualifying business.
- 4) Grants or loans for job training.
- 5) The purchase of real estate, options for such purchases, and the renewal or extension of such options.
- 6) The authority to issue bonds pursuant to the Act.
- 7) Contracting with an outside entity to implement the Program.
- 8) The provisions of technical assistance to businesses, such as marketing assistance, management counseling, preparing financial packages, engineering assistance, etc.
- 9) Expenses for the conduct of business recruitment activities.
- 10) The Program shall not be used to build City-owned buildings.
- 11) Expenses for locating a qualifying business into the area, and
- 12) Equity investment in a qualifying business.

#### **SECTION IV. DESCRIPTION OF THE TYPES OF BUSINESSES THAT WILL BE ELIGIBLE**

- A. A qualifying business shall be defined under the Act, as amended (Section 18- 2709 of the Nebraska Statutes), including any other business deemed as a qualifying business through future action of the legislature.
- B. The purpose of this section is an attempt to ensure a business already doing business in Nebraska doesn't close its operation in one community simply to take advantage of the provisions of this Program. If a qualifying business employs people and carries on business activities in another community in Nebraska, or will do so at any time during the first year following the application for participation in the Program, said business will remain eligible only if employment at all locations is maintained for two years from the date the business begins operations as a participant in the Program. The levels of employment in the other communities will not be less than the average employment in each location for the twelve months preceding the date participation in the Program began.
- C. A qualifying business need not be located within the territorial boundaries of the city from which it is or will be receiving financial assistance. However, a qualifying business located outside the territorial boundaries of the City of Gering should demonstrate that assistance from the Program to the qualifying business will benefit the economy of the City of Gering.

#### **SECTION V. SOURCE OF FUNDING**

The Program will be funded by a portion of the City of Gering Sales Tax. A proposition will be placed on a municipal election ballot which proposes the implementation of a 1/2% City sales tax. One hundred percent (100%) of this 1/2% City Sales Tax would be allocated to the Program if the separate ballot measure concerning the Program also passes.

The ballot question with reference to the 1/2% City Sales Tax will be in addition to the 1% Sales and Use Tax currently being imposed for property tax relief, downtown redevelopment, and tourism. The 1/2% City Sales Tax will have no effect on and is not a part of the 1% Sales Tax currently being imposed.

The Program shall be subject to the restrictions on appropriations (Section 18-2717 of the Nebraska Statutes) set forth in the Act, as amended. The restrictions on the appropriation of funds from local sources of revenue shall not apply to the reappropriation of funds which were appropriated but not expended during the previous fiscal years.

##### **A. Time Period for Collection of Funds**

The sales tax to fund the Program will be in effect from April 1, 2009 to March 31, 2019 (ten years).

##### **B. Time Period for Existence of the Program**

The Program was started April 1, 2003, and will be in effect until March 31, 2030 (twenty-seven years).

C. Proposed Total Collections from Local Sources

Fiscal Year	Estimated Collections
2009-2010 (partial)	\$100,000
2010-2011	\$300,000
2011-2012	\$300,000
2012-2013	\$300,000
2013-2014	\$300,000
2014-2015	\$300,000
2015-2016	\$300,000
2016-2017	\$300,000
2017-2018	\$300,000
2018-2019 (partial)	\$200,000
Total	\$2,700,000

D. Basic Preliminary Proposed Budget

It is expected that less than 5% of amounts allocated for the Program may be used for administration (legal fees, audit fees, etc.) with at least 95% of amounts allocated for the Program to be used for eligible activities under the Program. Any funds allocated funds not used for administration activities in a fiscal year shall be reallocated to be used for eligible activities under the Program in the following fiscal year.

**SECTION VI. APPLICATION PROCESS FOR FINANCIAL ASSISTANCE TO BUSINESSES**

A. Application Process and Selection of Participants

- 1) In order for a qualifying business to be considered for Program benefits, the qualifying business shall first become an applicant by applying to the City for assistance. The application shall contain information as required by this Plan and any additional information as may be requested by the Program Administrator and/or the Application Review Committee (as provided for below).
- 2) Upon receipt of an application, the Program Administrator shall make a preliminary determination as to whether (1) the Applicant is eligible; (2) the proposed activities are eligible; (3) the Applicant has no legal actions underway that may significantly impact its capacity; and (4) the business complies with the provisions of the application guidelines.

- 3) Once the Program Administrator makes a determination that the application appears to be viable, the application is referred to the Application Review Committee. The Application Review Committee shall review the application to include any financial information furnished and provide recommendations to the Program Administrator concerning negotiations with the Applicant.

Once the Application Review Committee has completed its review, and following any additional negotiations conducted by the Program Administrator, the Committee shall make a recommendation that (1) the application be approved, (2) the application be disapproved, or (3) the Committee is not able to make a recommendation due to lack of information or other factors to be cited by the Committee.

Approval or disapproval will be based on whether the applicant is able to show (1) eligibility for funding, and (2) that the type and level of assistance will not unduly enrich the business or be unreasonable in relation to the public benefit to be achieved from the funding. If the recommendation is disapproval or the Committee is unable to make a recommendation, reasons will be cited.

- 4) All recommendations of the Application Review Committee for approval of an application shall be submitted to the City Council for consideration of funding. The City Council shall approve, disapprove, or refer back to the Committee for further consideration, the Application Review Committee's recommendation. In making its determination as to funding, the City Council shall generally not be presented with any information which has been determined by the Program Administrator or the Application Review Committee as confidential. An Applicant which has been awarded funding under the Program shall be referred to as a Funded Business.
- 5) There shall be no limit on the number of times that a Qualifying Business may apply for assistance. Applications shall be received until all funds anticipated for the Program have been committed. The decision as to whether or not Program benefits shall be granted to include the timing and amount, and allocation of funds where there are not sufficient funds to fulfill the requests of all qualified applicants is at the sole discretion of the City.

#### B. Information Required

- 1) Applications for assistance from a qualifying business shall include the following information:
  - a) Application form as provided by the Administrator;
  - b) Business plan which includes financial projections for the next three years where appropriate;
  - c) Signed copies of the most recent two years' federal tax returns or all years where the applicant has been in existence for less than two years;
  - d) Signed copies of financial statements of the applicant for the two most recent

- fiscal years or all fiscal years where the applicant has been in existence for less than two years;
- e) Where the applicant is a closely held entity, signed balance sheets from the holders of more than 25% of the ownership interests in the entity; and
  - f) Other information as requested by the Program Administrator or the Application Review Committee.
- 2) The Program Administrator may waive the furnishing of all or any portion of the above items where the Program Administrator is able to obtain reasonable assurance as to the stability of the qualifying business from other reliable sources or information to include audited financial statements and filings with regulatory agencies (i.e. SEC filings).
  - 3) The Program Administrator may also waive the furnishing of all or any portion of the above items where the qualifying business agrees that no funds shall be paid to the qualifying business until the qualifying business has performed according to agreed upon criteria.
  - 4) The Program Administrator may use any or all of the following methods to verify the information provided by the applicant: credit checks, Dun & Bradstreet reports, examination of internal records and audit reports, and any other reasonable methods as determined by the Program Administrator.

## **Section VII. PROCESS TO INSURE CONFIDENTIALITY OF BUSINESS INFORMATION RECEIVED**

In the process of gathering information about a qualifying business, the City may receive information about the business which is confidential and, if released, could cause harm to the business or give unfair advantage to competitors. State law authorizes cities and other public entities to maintain the confidentiality of business records which come into their possession.

To protect the businesses applying for assistance, and to encourage them to make full and frank disclosures of business information relevant to their application, the City will take the following steps to ensure the confidentiality of the information it receives:

- 1) The adoption of an ordinance which makes such information confidential and punishes disclosure.
- 2) A restriction on the number of people with access to the files with the Program Administrator primarily responsible for their safe keeping, and
- 3) Requiring personnel that are involved in the program review to sign statements of confidentiality regarding all personal and private submittals by qualified businesses.

## **Section VIII. ADMINISTRATION SYSTEM OF ECONOMIC DEVELOPMENT PROGRAM**

It is important to have a clearly defined administration system for the Program. It is the intent of the Program that the majority of the funds be used for eligible activities and only a small portion to assist in the administration of the Program. A description of the administration of the plan is below. Additional responsibilities as well as positions may be needed to carry out the program during the course of the Program as dictated by economic conditions.

### **A. Program Administrator**

The City may designate a Program Administrator or contract with an organization to administer the Economic Development Plan. Those duties of the contracting organization or Program Administrator would include:

- 1) Administration of the Program.
- 2) Serve as an ex-officio but non-voting member of the Citizen Advisory Review Committee.
- 3) Provide the Citizen Advisory Review Committee with necessary information and advise the Committee on the Program.
- 4) Track employment figures for participating businesses for two years if businesses employ persons in other Nebraska communities.
- 5) The Program Administrator will review on a regular basis to ensure that qualifying businesses are following the appropriate laws and regulations.

In addition, the City of Gering City Council shall designate one municipal employee with the responsibility for the administration of the Program and that designee will also serve as an ex-officio, but non-voting, member of the Citizen Advisory Review Committee. The responsibility of that individual is to provide the committee with necessary information and advice concerning the Program. The City designate will be called the "Program Liaison Officer. If the Program Administrator is a municipal employee, that employee will act as Program Liaison Officer.

## **Section IX. PROCESS TO ASSURE LAWS AND REGULATIONS ARE BEING MET BY THE CITY AND PARTICIPATING BUSINESSES**

The City will assure that all applicable laws, and requirements are met by the City and the qualifying businesses which receive assistance by the following process:

### **A. Program Review/Citizens Advisory Committee.**

A Citizens Advisory Committee shall be established, which shall:

- 1) Review the functioning and progress of the economic development program at regular meetings, as set forth in the ordinance, and advise the governing body of the municipality with regard to the Program; and
- 2) Report to the City Council on its findings and suggestions at a public hearing called for that purpose, at least once in every six-month period after the effective date of the ordinance.

The Citizen Advisory Committee will consist of professionals in the field of accounting, banking, and finance, as well as business owners from the community. At least one member of the committee shall have expertise or experience in business finance or accounting. All members shall be registered voters of the City. The members shall be appointed by the mayor and approved by the City Council, and consist of five to ten members. No voting member shall be an elected or appointed City official, an employee of the City, a participant in a decision-making position regarding expenditures of the Program funds, an official or employee of any qualifying business receiving financial assistance under the Program, or an official or employee of any financial institution participating directly in the Program.

#### B. Monitor Participating Businesses

The Program Administrator will conduct reviews on a regular basis to ensure that qualifying businesses are following the appropriate laws and regulations.

#### C. Monitor Regulatory Changes

The City Attorney will be responsible for keeping the City informed of any relevant changes in the law that could affect the Program.

### **Section X. PURCHASE OF REAL ESTATE OR OPTION TO PURCHASE**

If and when land or real estate is to be purchased or optioned by the City under the Program, it should meet the following general criteria:

- 1) Be properly zoned with no excessive easements, covenants, or other encumbrances, and
- 2) Should also conform or be able to be rezoned to the City's or County's comprehensive plan.

The proceeds from the future sale of such land would be returned to the City's Economic Development Fund for reuse for any activities eligible in the program or for additional land purchases.

### **Section XI. INVESTMENT OF PROGRAM FUNDS**

- A. The City will establish a separate Economic Development Fund in accordance with the Act.



- B. All funds derived from local fund sources of revenue for the Program, any earnings from the investment of such funds, any loan payments, and any other funds received by the City by reason of the Program shall be deposited into the Economic Development Fund.
- C. No funds in the Economic Development Fund shall be deposited in the General Fund of the City, in accordance with the Act, as amended.
- D. The City shall not transfer or remove funds from the Economic Development Fund other than for purposes prescribed in the Act and this Plan.
- E. The funds from the Economic Development Fund shall not be commingled with any other City funds.
- F. Funds in the Economic Development Fund shall be invested in accordance with Section 77-2341 of the Nebraska Statutes. The first priority for investing these funds will be in local financial institutions.
- G. In the event that the Program is terminated, any funds remaining in the Economic Development Fund will be transferred as provided by the Act to the General Fund of the City and will be used on an installment basis to reduce the property tax levy of the City.

## **Section XII. Amendment**

This Plan shall be amended only to (i) conform to the provisions of any existing or future state or federal law, or (ii) when necessary to accomplish the purposes of this amended Plan as presented to the voters. Any amendments shall first require notice and a public hearing and shall be approved by 2/3 vote of the members of the City Council. No amendment shall fundamentally alter the Plan's basic structure or goals, either with regard to the eligible Qualifying businesses, the use of the funds collected, or the basic terms set out in this amended Plan as presented to the voters, without submitting the proposed changes to a new vote of the registered voters of the City.