

# VILLAGE OF CLEARWATER, NEBRASKA ECONOMIC DEVELOPMENT PLAN

**A. Description.** The Village of Clearwater and surrounding area is a rural/agricultural-based community which relies on its businessmen and women and local farmers for its continued existence and growth. This Economic Development Plan was developed to assist in fostering a climate for economic growth and prosperity.

**B. Purposes.** The purposes of the Clearwater Economic Development Program are to create jobs and generate employment opportunities; to expand labor markets of Clearwater and Antelope County, Nebraska; to attract new capital investment to the community; to broaden the tax base; to retain jobs; to assist existing businesses to be more competitive and profitable; and to provide economic diversification to ensure economic stability and vitality for the community of Clearwater and the surrounding area.

## **C. Eligible Businesses and Economic Activities.**

1. *Program Activities:* The Villages' economic development program may include, but shall not be limited to, the following activities: Direct loans or grants to qualifying businesses for fixed assets or working capital or both; loan guarantees for qualifying business; grants for public works improvements which are essential to the location or expansion of, or the provision of new services by, a qualifying business; grants or loans for job training; recruitment to bring a qualifying business into the area; the purchase of real estate, options for such purchases, and the renewal or extension of such options; the issuance of bonds as provided for in the Local Option Municipal Economic Development Act; and payments for salaries and support of village staff to implement the economic development program or the contracting of such to an outside entity. The economic development program may also include grants or loans for the construction or rehabilitation for sale or lease of housing for persons of low or moderate income.

2. *Qualifying Business and Eligible Applicants* (§18-2709). So long as the Village of Clearwater has a population of 2,500 or less a "qualifying business" shall mean any corporation, partnership, limited liability company or sole proprietorship in Clearwater or surrounding area regardless of their principal source of income and which derives its principal source of income from any of the following:

- a. The manufacture of articles of commerce.
- b. The conduct of research and development.
- c. The processing, storage, transport or sale of goods or commodities which are sold or traded in interstate commerce.
- d. The sale of services in interstate commerce.
- e. Headquarters facilities relating to eligible activities as listed in this section.
- f. Telecommunications activities.
- g. Tourism-related activities.

- h. Any business that derives its principal source of income from the construction or rehabilitation of housing.
- i. Retail or any other business deemed as a qualifying business through future action of the Legislature.

3. *Program Administration.* The loan program will be primarily administered by the program administrator and the Loan Review Committee and may provide loans or loan guarantees to any business eligible for assistance under the Act. While not meant to restrict the scope or flexibility of the fund, evaluation of applications should give special priority to businesses that meet one or more of the following criteria:

- a. Businesses that create one quality job for every \$25,000 or less in public financing assistance in order to create quality job opportunities for area residents.
- b. Applications which provide for the expansion or enhancement of existing businesses in Clearwater and the surrounding area.
- c. New business startups.
- d. Businesses which in the opinion of the loan review committee have unusual potential for growth.
- e. Businesses that are relocating from outside Nebraska.
- f. Businesses that provide for important or regional needs.
- g. Businesses located within Antelope County, Nebraska.

**D. Land Purchase (§18-2711).** The program may involve the purchase or option to purchase land for economic development purposes. In this event, the land purchase or option to purchase shall be identified by the Economic Development Board as desirable for economic development purposes and such recommendation shall be submitted to the Loan Committee for consideration and action. In the event that such land is purchased for economic development and later resold, the proceeds may be used for future land purchases.

**E. Sources of Funding.** Sources of funding for the Economic Development Plan shall be as follows:

1. All funds derived from the collection of .5% local option sales taxes collected within the corporate limits of the Village;
2. Any earnings from the investment of such funds;
3. Any loan payments;
4. Any proceeds from the sale of assets purchased by the Village under its Economic Development Program; and
5. Any other money received by the Village by reason of the Economic Development Program.

**F. Issuance and Sale of Bonds.** The Village desires the authority to issue bonds to provide funds to carry out the Economic Development Program.

**G. Duration of Program.** The Village's local option sales tax continues until the residents of the Village vote to discontinue its collection. This Economic Development Program shall continue so long as the Village local option sales tax is collected and until the residents of the Village vote to discontinue the said sales tax. If and when the local option sales tax is repealed by the citizens of Clearwater, then this Economic Development Program will also terminate subject to outstanding loans and commitments as set forth in Nebraska law.

**H. Program Procedures and Administration (§18-2711).** The Economic Development Program involves the creation of a loan fund. Therefore, the Village shall contract with qualified individuals or organizations to provide administration of the loan fund program. The economic development director will submit a quarterly detailed statement to the Village Board for time spent on economic development activities. The Village clerk will also submit a quarterly statement to the Board for time spent on economic development business. Such time may be reimbursed from the economic development funds based on such officials' regular salary base.

## **I. Revolving Loans**

### 1. Conditions

- a. *Loan Amount:* Funds for a single project shall not exceed the amount of funds available under the Economic Development Program during the project term nor shall it provide for more than 50% of applicant's total project costs.
- b. *Equity:* Applicant must have 10% equity investment.
- c. *Interest Rate:* Interest rate is fixed and negotiated case by case and shall not be less than one-half of prime rate in the *Wall Street Journal* and never less than 2%.
- d. *Collateral:* Security for the loan will include but not be limited to promissory notes, mortgages or deeds of trust and personal and/or corporate guarantees as appropriate and may be in a subordinate position to the primary lender.
- e. *Terms:* Ten years for capital assets, five years for loans involving any other asset category and up to ten years for equipment and fixtures may be possible for transition projects.
- f. *Period of Payment:* A loan repayment schedule providing for monthly, quar-

terly, or annual payments will be approved in conjunction with project approval. Repayments will be held in the revolving loan fund for future projects.

- g. *Business Transition*: In cases of business transition projects, the Loan Committee may choose to modify loan terms listed in the Economic Development policy manual. These changes may include but are not limited to interest-only payments for a period of the loan or other modifications which the committee feels are justifiable under the current policies of the sales tax program.

## 2. Loan Inquiries

- a. At the time a qualifying business makes an application, the said business shall provide the appropriate documentation evidencing its negotiations with one or more primary lenders and the terms upon which it has received or will receive the portion of the total financing for its activities which will not be provided by the Village. (§18-2719)
- b. All inquiries regarding Clearwater Economic Development Program funds will be treated the same. Those inquiring will be given a guidelines packet which will include the loan guidelines, loan application form, certification and authorization form, application checklist and a blank financial statement form. The applicant shall complete the necessary authorization forms for a criminal history check and a child registry check. A copy of the applicant's driver's license will also be required.
- c. When someone applies for economic development funds, all required forms, as indicated in the guidelines, are to be turned in to the economic development office along with a non-refundable application fee which fee shall be established, from time to time, by the Economic Development Board. These forms must be complete and legible. Once all required forms are completed and turned in and the economic development director deems them to be complete, a written declaration of completion will be provided to the applicant. In the event the forms are not complete, the applicant will be informed in writing of the deficiencies. Once the forms are complete as determined by the director, a meeting will be scheduled with the Loan Committee. The applicant is welcome to meet with the Loan Committee at the scheduled meeting time.

**J. Budget (§18-2716).** The Economic Development Board will develop an annual budget for the expenditure of sales tax funds. The budget will coincide with the Village's fiscal year. The budget will include projected revenues for the coming fiscal year, loan payments received during the year and carryover funds from previous years. The Village Board will review and approve the budget at the time it approves the Village's annual budget.

## **K. Administrative Procedure.**

### **1. Loan Review**

- a. The five-member Loan Committee will meet to review the loan application and supporting documents. The economic development director will also attend the meeting to take minutes and to provide information, especially in the absence of the applicant.
- b. The Loan Committee will evaluate each application according to the following criteria:
  - i. Eligibility under LB 840.
  - ii. Soundness and credibility of the business proposal.
  - iii. Whether the business fits into one of the priority categories established by the plan for assistance.
  - iv. Track record, credibility, and creditworthiness of applicant.
  - v. Ability to leverage significant private financing.
  - vi. Probability that the business assistance will be repaid.
  - vii. Other criteria that the Loan Committee may establish for application review.
- c. The Loan Committee will have a checklist of the forms and documents that were reviewed during loan review. A member of the committee will sign off on the form after the review is complete.
- d. The Loan Committee may recommend the loan for approval to the Village Board, not recommend the request, or request additional information from the applicant. If the Loan Committee does not recommend a loan application, its decision is final. The applicant may apply again at a later date.
- e. The Loan Committee members do not speak on behalf of the entire committee. Any applicant is welcome to discuss his/her application with one or more members of the committee. Each Loan Committee member must remind the applicant that his/her opinion is only one of three and that the entire committee must make the recommendation to the Village Board. The committee will abide by the majority vote of the members.
- f. If there is a conflict of interest of any member of the Loan Committee due to a business relationship involving the sales tax application or immediate relation by family or marriage, such member(s) will abstain from voting on that specific loan application. In the event that one of the committee has a conflict of interest and the remaining two are divided in their vote to approve or disapprove, the mayor of Clearwater shall act as ex officio member and vote to break the tie.

## 2. Loan Closing and Loan Payments

- a. Upon approval of a loan by the Village Board, the procedure will be as follows:
  - i. Loan Committee will recommend to the Village Board (1) the loan terms and (2) the performance standards that must be met before the loan is closed and loan check is issued (building size, type, timeline, jobs created, etc.)
  - ii. If a loan recommendation is approved by the Village Board, the Village attorney will provide the primary lender with a take out commitment letter so the lender will be assured that economic development funds are committed for the project.
  - iii. Primary lender will finance project until completion.
  - iv. Primary lender will request disbursement.
  - v. Loan Committee and primary lender will make a joint decision on project completion according to predetermined specs (building size, type, renovations, etc.).
  - vi. Loan closing between Village and applicant will occur when the project is deemed completed according to specifications. The Village attorney will prepare all necessary loan closing documents.
  - vii. Village will issue a joint party check made payable to both the primary lender and the borrower. Borrower will endorse the check and allow the bank to apply it to the loan.
  - viii. Bank has the first lien on all collateral. When the Village makes loan payment, the collateral will be reassigned so the Village is covered.
  - ix. Loan repayment will begin one month after closing.
- b. Applicants can have access to their funds within two weeks of approval by the Loan Committee and primary lender, provided all documentation has been received by the Village attorney and all collateral is in place. The applicant will work with the Village attorney to determine the desired loan closing date. The program administrator (Economic Development Board) will send a letter of approval to the applicant with the Village attorney's contact information. The Village clerk will prepare the loan check.
- c. If the loan was not approved, the program administrator will send a letter to the applicant with an explanation of the decision. If the application is approved and the applicant rejects the decision, for whatever reason, and wishes to negotiate terms, the Loan Committee will meet with the applicant to review the application. If the applicant fails to appear at the loan closing and does not respond to inquiries by the Village attorney, the loan instruments will be canceled.
- d. Once the Village attorney has all the loan documents signed, he/she will

notify the Village clerk, who will then transfer funds from the sales tax savings account to the sales tax checking account and issue disbursement. When the first payment is received by the Village, a separate savings account is opened to deposit the loan payments into. Once the account is open, all transactions are then included on the Village clerk's monthly treasurer's report to the Village Board.

- e. Applicants will make payments payable to the Village of Clearwater at P.O. Box 116, Clearwater, NE 68756. These payments will be monthly, quarterly, semi-annually or annually as previously determined.

3. A business receiving a loan shall have 18 months from the date of loan approval to meet the employment and/or expansion goals as indicated in the application on file. (§18-2711)

4. The Village clerk will be responsible for contacting the borrower if a payment is in default. If a payment is more than 30 days in default, a letter will be sent by the clerk to the borrower and the primary lender requesting immediate payment. If payment is not made within ten days of the letter, a committee composed of the Village attorney, Village clerk, mayor, economic development director, chairperson of the Loan Committee and the president of the Economic Development Board will meet to determine appropriate action. (§18-2720)

## **L. Non-Loan Expenditures**

1. Non-loan project requests need to be submitted to the program administrator. The Economic Development Board will review the request to determine its eligibility in accordance with the plan and budget. If the request is recommended by the Economic Development Board Finance Committee, it will be forwarded to the Village Board for final approval. Whenever feasible, approval must be obtained *BEFORE* any non-loan project is started. (There may be situations where studies must be started prior to approval by the Village Board; however, efforts must be made to get consensus that the expenditures will be approved.)

2. Such non-loan expenditures could include but are not limited to infrastructure, administration expenses, research, studies, industrial and tourism promotion and legal fees. Sales tax funds can also be used as a match for grant applications, as long as the project application meets the Economic Development Plan.

3. If the project requires supervision of work such as engineering, road paving, etc., a project coordinator will be assigned at the time of project approval. The project coordinator will oversee the progress and review all invoices for recommendation of payment to the Village Board. If a project coordinator is assigned, the Economic Development Finance Committee will not be involved in reviewing the invoices.

## **M. Loan Forgiveness**

1. Loan forgiveness is an option in the Economic Development Plan. No thresholds have been developed for loan forgiveness, although it is an option to be negotiated between the applicant and Loan Committee. Any negotiation of loan forgiveness must be approved by the Village Board. The applicant must submit a written request for loan forgiveness that outlines the reasons for the request to the economic development director. This must be negotiated prior to loan closing.

2. Forgivable, performance-based loans will be considered by the Economic Development Board with one or all of the following criteria taken into consideration:

- a. The levels of job creation/job retention and the duration of those job commitments being proposed as job performance requirements to be met by the benefited business.
- b. Level of economic impact to the community.
- c. The overall wage levels being paid by the benefited business.
- d. Benefited business' commitment to providing a minimum annual wage increase for all employees through a period of time.
- e. The level of equity investment by owners.
- f. An assessment of the ability of the benefited business to repay the loan if job performance requirements are not met.

#### **N. Confidentiality (§18-2715)**

1. Any information provided to the Village Board on the loan recommendation form is considered public information and includes the following: Business entity, project description, borrower(s), loan amount, length of loan, interest rate, security, repayment, loan closing date and any other pertinent information.

2. All members of the Loan Committee, Citizens' Advisory Committee and Economic Development Board will sign confidentiality statements for the Economic Development Program. The confidentiality statements will be renewed each January and will have attached the corresponding statute stating that disclosure of confidential business information is a Class III misdemeanor.

3. All loan applications will be referred to by their assigned loan number. Loan numbers will consist of the year and number of application in that year, for example #2011-01.

4. Loan Committee members will receive a copy of the application materials prior to the loan review meeting. These materials will be in sealed envelopes addressed to each committee member and stamped "Confidential".

5. After the final meeting for a particular application, all Loan Committee members are required to return all loan forms and copies to the economic development office for shredding.

**O. Conflict of Interest.** Any person involved in the decision-making process of an economic development loan or forgivable loan shall abstain from voting if he/she has a conflict of interest with the applicant. This conflict could result from a business relationship or immediate family relationship (parents, grandparents, children, spouse or siblings). If such a conflict occurs, the member of the loan committee or Village Board with the conflict shall abstain from voting on the application.

**P. Duties of Those Involved**

1. Program Administrator:

- a. Will be responsible for the day-to-day activities of administering the program. (§18-2709)
- b. Assists applicants and conducts active recruiting for potential applicants.
- c. Provides someone to serve as an ex-officio, non-voting member of the Citizens' Advisory Review Committee who will provide the committee with necessary advice and information. (§18-2715)
- d. Tracks employment figures for participating businesses for two years if such businesses employ persons in other Nebraska communities. (§18-2709)
- e. Ensures loan files are complete with application materials, checklists and loan closing documents.
- f. Recommends all non-loan projects for approval to the Village Board.
- g. Creates an annual budget for approval by the Village Board.
- h. Conducts criminal history and child registry check on each applicant.
- i. Works with contractor to monitor project.
- j. Ensures project is completed as specified.
- k. Reviews all invoices related to the project status and compares with contract price or estimate. If there are extra charges, investigates and takes appropriate action. Signs, dates and forwards approved invoices to the Village Board for final approval and payment.

2. Loan Committee:

- a. Shall consist of five members with two being appointed by the Village Board, two by the Economic Development Board, and one by the Chamber of Commerce. Terms shall be four years, except that initial terms shall be established on a staggered basis to provide continuity on the committee. No member may be an elected or appointed official, employee of the Village nor an applicant, employee, agent, shareholder, or officer of an applicant for program funds. All members on the committee must have experience in the field of business, finance, or accounting. All members of the Loan Committee shall be Antelope County residents.
- b. Sets terms of the loan and recommends them to the Clearwater Village

Board.

- c. Ensures that all procedures are followed regarding loan applications and paperwork.

3. Citizens' Advisory Review Committee (§18-2715) shall consist of citizens who are registered voters of the Village, will review the function and progress of the Economic Development Program and will advise the Village Board with regard to the program. Committee organization:

- a. Will consist of five members. The Economic Development Board shall recommend two members, Clearwater Chamber of Commerce shall recommend one member and the Village Board after consideration of the recommendations shall approve such appointments and shall appoint two additional members. If the recommended members are not approved by the Village Board substitute members shall be recommend for the Village Boards consideration. Terms shall be four years except that initial terms shall be established on a staggered basis to provide continuity on the committee.
- b. All committee members shall be resident taxpayers of the Village.
- c. At least one individual on the committee must have expertise or experience in the field of business, finance or accounting.
- d. The economic development director will serve as an ex-officio member.
- e. No member of the Citizens' Advisory Review Committee shall be an elected or appointed Village official, a Village employee, a participant in a decision-making position regarding expenditures of program funds, or an official or employee of any qualifying business receiving financial assistance under the Economic Development Program or of any financial institution participating directly in the program.
- f. The Citizens' Advisory Review Committee will meet regularly as required to review the program and will report to the Village Board at least once in every six-month period on its findings and suggestions at a public hearing called for that purpose.
- g. Members of the committee, in their capacity as members and consistent with their responsibilities as members, may be permitted access to business information received by the Village in the course of its administration of the Economic Development Program that would otherwise be confidential. Any Village ordinance that provides access to such records to members of the committee and guarantees the confidentiality of business information received by reason of its administration of the program may provide that unauthorized disclosure of any business information that is confidential under Neb. Rev. Stat. §84-712.05 shall be a Class III misdemeanor.

4. Village Board:

- a. Has final authority on expenditure of funds in support of the Economic De-

velopment Program. These decisions should be made after considering the recommendations of the Loan Committee (loan recommendations) and the Economic Development Board (non-loan projects).

- b. Contracts with the other parties or organizations to act as program administrator.
- c. Has ultimate responsibility for the Economic Development Program.

5. Village clerk or contracted institution (§18-2720):

- a. Provides the Village Board an account of the status of each loan outstanding, program income, and current investments of unexpended funds on a monthly basis.
- b. Establishes a separate account in a financial institution for each loan made from the loan fund.
- c. Keeps records on accounts and reports made to the Village Board which shall include but not be limited to the name of the borrower, the purpose of the loan, the date the loan was made, the amount of the loan, the basic terms of the loan including the interest rate, maturity date and frequency of payments, payments made to date and current balance due.
- d. Monitors status of each loan and, with the cooperation of the Village and primary lender, take appropriate action when a loan becomes delinquent.
- e. Works with the program administrator and Citizens' Advisory Committee to develop financial reports to include revenue (receipts and interest) and expenses from sales tax fund and sales tax re-use funds, status of loans outstanding and status of any investments from the sales tax fund.
- f. Accounts for all receipts and disbursements from the sales tax fund(s).
- g. Collects all loan payments and tracks status of all outstanding loans.
- h. Issues checks for all approved loans and other disbursements after loan closing date (loans) or approval by the Village Board (other disbursements).
- i. Transfers of the sales tax revenues collected to the Economic Development Fund.
- j. Responds to requests from approved loan applicants and, with proper pre-authorization by approved loan applicants, their accountant and bank representatives, regarding the terms of the loan, current balance, and any failure to make payments. Responses to requests will be authorized by the applicant on the certification and authorization form provided with the loan application documents. The form will authorize the Village clerk to talk with the accountant, loan officer and attorney of the lender/applicant.

6. Village attorney:

- a. Prepares all loan closing documents as approved by the Village Board.
- b. Prepares amortization of loans based on information provided by the Loan Committee.
- c. Conducts lien searches/check of UCC filings before closing a loan that in-

volves personal property (chattels).

- d. If loan is secured with personal property (chattels), obtains a signed security agreement from the lender and files a UCC immediately upon loan closure. Lien must be perfected by this recording.
- e. Provides program administrator with copies of all loan closing documents and amortization schedules upon loan closure.

7. Project coordinator:

- a. Works with contractor to monitor project.
- b. Ensures project is completed as specified.
- c. Reviews all invoices related to the project status and compares with contract price or estimate. If there are extra charges, investigates and takes appropriate action. Signs, dates and forwards approved invoices to the Village Board for final approval and payment.

**Q. Audit (§18-2721)**

1. The Village shall provide for an audit on an annual basis to insure that the assistance given through loans is used appropriately and that it is protected against fraud or deceit in the conduct or administration of the program.

2. The Village shall provide for an annual, outside, independent audit of its Economic Development Program by a qualified private auditing business. Such business shall not, at the time of the audit or any period during the term subject to the audit, have any contractual or business relationship with:

- a. Any qualifying business receiving funds or assistance under the Economic Development Program.
- b. Any financial institution directly involved with a qualifying business receiving funds or assistance under the Economic Development Program.

3. The results of the audit shall be filed with the Village clerk and made available for public review during normal business hours.

**R. Investment Strategy.** The investment strategy of the sales tax fund should be to promote the growth of the fund at a competitive rate while assuring its security and liquidity.