

City of Milford, Nebraska

Economic Development Plan

A. Description

The city of Milford recognizes that retention and expansion, along with attraction of new businesses, is occurring in a very competitive market place. In order to make the city of Milford and the surrounding areas as competitive as possible, the community would like to capitalize on all financial and human resources available by using Federal, State, municipal, and private sources. The community seeks to provide viable and unique financing opportunities for expansion, retention, and new business ventures.

B. Purposes

Milford voters passed the Local Option Municipal Economic Development Act in 1998. It is the intent of the City of Milford to continue the economic development program with expanded utilization due to Milford's participation in the county wide economic development effort of the Seward County Economic Development Corporation.

The purpose of the Milford Economic Development program will be to:

- Create and retain jobs and generate employment opportunities within the area labor market;
- Attract new capital investment;
- Attract new residents and ensure adequate housing opportunities for the workforce;
- Broaden the tax base;
- Provide economic diversification to ensure economic stability and vitality for the City of Milford and surrounding area;
- Update and develop appropriate online resources including existing or future community and City of Milford economic development related websites.

C. Eligible Businesses and Economic Activities

1. *Qualifying Business:* So long as the City of Milford has a population of 2,500 or less, a qualifying business shall mean any corporation, partnership, limited liability company, or sole proprietorship locating a business in the City of Milford's Zoning Jurisdiction regardless of its principal source of income.
2. *Program Activities:* The Cities' economic development program may include, but shall not be limited to, the following activities: Direct loans 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 city 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.

3. *Eligible Applicants* (§18-2709). A “qualifying business” shall mean any corporation, partnership, limited liability company or sole proprietorship 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 that 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.

4. *Program Administration*. The loan program will be primarily administered by the program administrator who shall be selected by the City Council. The Citizens Advisory Review Committee shall recommend to the City Council and administrator that the program 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.
 - b. Applications that provide for the expansion or enhancement of existing businesses in Milford and the surrounding area.
 - c. New business startups.
 - d. Businesses, which in the opinion of the Citizens Advisory 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 Seward County, Nebraska.

D. LAND PURCHASE AND SALE. (§18-2711)

PURCHASE. The program may involve the purchase or option to purchase land for economic development purposes. In this event, the land to be purchased or the option to purchase shall be identified by the Citizens Advisory Review Committee as desirable for economic development purposes and the committee shall submit its recommendations for said purchase to the City Council for final consideration and action. In the event that such land is purchased for economic development and later resold, the proceeds may be used for future economic development uses or future land purchases.

SALE. Land which has been purchased or is under an option to purchase by the municipality, which has been acquired with economic development funds, may be sold to a “qualifying business” for economic development purposes.

- (1) Any proposed purchase by a qualifying business shall be reviewed by the Citizens Advisory Committee which shall recommend to the City Council the price and terms of said sale. The City Council may approve the sale as presented, or modify the terms thereof, and approve the sale by Ordinance. The real estate shall be conveyed to the qualifying purchaser by a municipal deed and may include restrictions for the use of said property.
- (2) Any proposed purchase by a non-qualifying person or business shall be sold pursuant to the provisions of Section 17-503 or 17-503.01.
- (3) The proceeds of any sale under sub-paragraph (1) or (2) above shall remain economic development funds and shall be placed in the economic development account for use by the economic development program (which may include the purchase of additional land for economic development purposes.)

E. Sources of Funding

The Milford Economic Development Program will receive funding from 1/10 (one-tenth) of a 1 (one) percent local sales and use tax for a period of 10 years. Additional income, beyond the sales tax, may result from account interest, sale of property and loan repayments.

F. Future Funding/Bonding Authority

The City of Milford may have a business opportunity or other economic development projects that require initial funds that exceed funds on hand. In order to take advantage of such an opportunity, the City shall have the authority to issue bonds pursuant to the local Option Municipal Economic Development Act to provide funds to carry out the program, following a public hearing. The City shall also have the authority to commit future funding through contracting and other methods available to the City to respond to opportunities in which time is of the essence.

G. Duration of Program

The program will be in existence from November 1, 2008 to November 30, 2022. A sales tax will be collected from November 1, 2008 to November 31, 2018. The program will continue until November 30, 2022 so that unused funds, if any, can continue to be spent on the programs activities.

H. **Program Procedures and Administration** (§18-2711)

The Economic Development Program involves the creation of a loan fund. Therefore, the City shall contract with qualified individuals or organizations to provide administration of the loan fund program. The program administrator will submit a quarterly detailed statement to the City Council for time spent on economic development activities. The city clerk will also submit a quarterly statement to the council 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** -- Unless otherwise agreed upon:

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:* All loans will be evidenced by a promissory note. Security for the loan will include but not be limited to mortgages or deeds of trust, surety agreements, and personal and/or corporate guarantees as appropriate which may be in a subordinated position to a primary lender. Shareholders, members of LLC's, officers and/or owners of any entity borrowing funds, and the spouses of such persons, may be required to guarantee loans.
- 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, quarterly, 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 Citizens Advisory Review 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 City. (§18-2719)
- b. All inquiries regarding Milford 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 Milford City Hall along with a non-refundable application fee, which shall be established, from time to time, by the Citizens Advisory Review Committee. These forms must be complete and legible. Once all required forms are completed and turned in and the program administrator 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 program administrator, a meeting will be scheduled with the Citizens Advisory Review Committee. The applicant is welcome to meet with the Citizens Advisory Review Committee at the scheduled meeting time. The Citizens Advisory Review Committee shall comply with all of the requirements of the open meeting law and shall maintain minutes of each meeting.

J. Budget (§18-2716)

The Citizens Advisory Review Committee will develop an annual budget for the expenditure of sales tax funds. The budget will coincide with the City'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 City Council will review and approve the budget at the time it approves the City's annual budget.

K. Administrative Procedure

1. Loan Review

- a. The Citizens Advisory Review Committee will meet to review the loan application and supporting documents. The program administrator will also attend the meeting to take minutes and to provide information, especially in the absence of the applicant.
- b. The Citizens Advisory Review 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. Availability of other funding for the proposed project and financial need of participants and owners.
 - viii. Other criteria that the Citizens Advisory Review Committee may establish for application review.
- c. The Citizens Advisory Review 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 Citizens Advisory Review Committee shall recommend the loan for approval to the City Council, make no recommendation upon the application, or recommend denial of the application, whereupon the loan application will be forward to the City Council for further review. The Citizens Advisory Review Committee may also defer recommendation until receipt of any additional information that may be requested by the committee from the Applicant.
 - e. The Citizens Advisory Review 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 Citizens Advisory Review Committee member must remind the applicant that his/her opinion is only one of five and that the entire committee must make the recommendation to the City Council. The committee will abide by the majority vote of the members.
 - f. If there is a conflict of interest of any member of the Citizens Advisory Review Committee due to a business relationship involving the applicant or immediate relation by family or marriage, such member(s) will abstain from voting on that specific loan application.
2. Loan Closing and Loan Payments – Unless otherwise agreed:
- a. Upon approval of a loan by the City Council, the procedure will be as follows:
 - i. The Citizens Advisory Review Committee will recommend to the City Council (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 City Council, the city attorney will provide Applicant's primary lender (if any) with a commitment letter so the lender will be assured that economic development funds are committed for the project, and will establish conditions for payout of the City's portion of the loan funds. .
 - iii. Primary lender may finance project until completion.
 - iv. The Program Administrator and the Citizens Advisory Review Committee, in consultation with any primary lender will make a joint decision on project completion according to predetermined specs (building size, type, renovations, etc.).

- v. Loan closing between City and applicant will occur after applicant has complied with all loan closing requirements. The city attorney will prepare all necessary loan-closing documents.
 - vi. The City's loan funds will be disbursed as set forth in the loan approval by the City Council, and as agreed between the City, the Program Administrator and the Applicant's primary lender.
 - vii. The Applicants primary lender may have a first lien on Applicant's collateral if provided in the loan approval documents. .
 - viii. Unless otherwise agreed, Loan repayment will begin one month after closing.
- b. Unless otherwise provided in the loan agreement and loan approval documentation, funds shall be available for disbursement in accordance with the loan agreement within two weeks of approval by the City Council and primary lender, and on condition that all loan documents and collateral have been reviewed by the City attorney and executed by the appropriate parties. The applicant will work with the city attorney to determine the desired loan closing date. The program administrator will send a letter of approval to the applicant with the city attorney's contact information. The city clerk will prepare the loan check.
 - c. The Program Administrator will notify the Applicant of approval or denial of any application, and any modifications or conditions of the loan. If the application is approved with modifications, the Applicant may request additional meetings with the City Advisory Committee or the City Council relative to the modifications or additional conditions imposed. If the applicant fails to agree to any modifications or additional conditions of said loan, or fails to appear at the loan closing and does not respond to inquiries by the Program Administrator or City Attorney, the loan approval shall be rescinded and the application rejected..
 - d. Once the city attorney has all the loan documents signed, he/she will notify the city clerk, who will then transfer funds from the sales tax savings account to the sales tax checking account and issue disbursement. When the first loan payment is received by the City, it shall be deposited into a loan repayment account established by the City. All loan advances and payments shall be included on the city clerk's monthly treasurer's report to the City Council.
 - e. Applicants will make payments payable to the City of Milford at 505 1st Street, Milford, NE 68405. These payments will be monthly, quarterly, semi-annually or annually as previously determined.
- 1. Unless otherwise provided in the loan approval documentation, the Applicant 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, a committee composed of the city attorney, city clerk, mayor, and City Council Representative on the Citizens Advisory Review Committee will meet to determine appropriate action, and may recommend acceleration of the loan balance to the City Council. (§18-2711)

2. The city 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 city attorney, city clerk, mayor, and City Council Representative on the Citizens Advisory Review Committee will meet to determine appropriate action, and may recommend acceleration of the of the loan balance to the City Council.. (§18-2720)

L. Non-Loan Expenditures

1. Non-loan project requests need to be submitted to the program administrator. The Citizens Advisory Review Committee will review the request to determine its eligibility in accordance with the plan and budget. If the request is recommended by the Citizens Advisory Review Committee Finance Committee, it will be forwarded to the City Council 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 City Council; 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 City Council. If a project coordinator is assigned, the Economic Development Finance Committee will not be involved in reviewing the invoices.

M. Confidentiality (§18-2715)

1. Any information provided to the City Council 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 Citizens Advisory Review Committee, Citizens Advisory Committee and Citizens Advisory Review Committee 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. Citizens Advisory Review 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 Citizens Advisory Review Committee members are required to return all loan forms and copies to the economic development office for shredding.

N. 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 Citizens Advisory Review Committee or City Council with the conflict shall abstain from voting on the application.

O. Duties of Those Involved

1. Program Administrator(s)
 - 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) Tracks employment figures for participating businesses for two years. (§18-2709)
 - d) Ensures loan files are complete with application materials, checklists and loan closing documents.
 - e) Recommends all non-loan projects for approval to the City Council.
 - f) Creates an annual budget for approval by the City Council.
 - g) Completes a criminal history and child registry check on each applicant.
2. Citizens' Advisory Review Committee (§18-2715)
 - a) Will consist of eight members appointed by the Mayor with approval of the City Council.
 - b) All committee members shall be resident taxpayers of the City
 - c) At least one individual on the committee must have expertise or experience in the field of business, finance or accounting.
 - d) No member of the Citizens Advisory Committee shall be an elected or appointed city official, a city employee, or an official or employee of any qualifying business receiving financial assistance under the Economic Development Program. However, the Mayor with approval of the City Council shall appoint one of its members to serve as liaison to the Citizens' Advisory

Committee and the appointee will attend meetings and participate in discussion when called upon.

- e) The Citizens Advisory Review Committee will meet regularly as required to review the program and will report to the City Council at least once in every six-month period on its findings and suggestions at a public hearing called for that purpose.
 - f) 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 City in the course of its administration of the Economic Development Program that would otherwise be confidential. Any city ordinance that provides access to such records to members of the committee and guarantees the confidentiality of the 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.
3. City Council
- a) Has final authority on expenditure of funds in support of the Economic Development Program. These decisions should be made after considering the recommendations of the Citizen's Advisory Review Committee.
 - b) Contracts with other parties or organizations to acts as program administrator.
 - c) Has ultimate responsibility and overall approval of all expenditures of the Economic Development Program.
 - d) Shall establish an economic development bank account (or accounts), for loan repayment purposes
4. City Clerk or contracted institution (§18-2720)
- a) Provides the City Council an account of the status of each loan outstanding, program income, and current investments of unexpended funds on a monthly basis.
 - b) Receive loan payments for deposit in City's loan repayment account.
 - c) Keeps records on accounts and reports made to the City Council which shall include but not be limited to the name of the borrower, the purpose of the loan, the date 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 City and primary lender, take the 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 reuse 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 track status of all outstanding loans.

- h) Issues checks for all approved loans and other disbursements after loan closing date (loans) or approval by the City Council (other disbursements).
- i) Transfers 10% of the City's share of the 1% of the sales tax revenues collected to the Economic Development Fund.
- j) Responds to requests from approved loan applicants and, with proper preauthorization 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 for the certification and authorization form provided with the loan application documents. The form will authorize the city clerk to talk with the accountant loan officer and attorney of the lendee/applicant.

5. City Attorney

- a) Prepares all loan closing documents as approved by the City Council.
- b) Prepares amortization of loans based on information provided by the Citizen's Advisory Review Committee
- c) Conducts lien searches/check of UCC filings before closing a loan that involves 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.

P. Audit (§18-2721)

- 1. The City shall provide for an audit on an annual basis to insure that the assistance given through loans is used to appropriately and that it is protected against fraud or deceit in the conduct or administration of the program.
- 2. The City shall provide 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 the qualifying business receiving funds or assistance under the Economic Development Program
- 3. The results of the audit shall be filed with the City Clerk and made available for public review during normal business hours.

Q. Investment Strategy

- 1. 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.