

**CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
JANUARY 20, 2026 AGENDA**

Subject:	Type:	Submitted By:
PROVIDE FOR CONTINUATION OF AN ECONOMIC DEVELOPMENT PROGRAM IN CITY	◆ RESOLUTION ORDINANCE RECEIVE/FILE	RITA RAMIREZ INTERIM CITY ADMINISTRATOR

SYNOPSIS

A public hearing has been scheduled, and a resolution has been prepared to provide for continuation of an Economic Development Program (EDP) in the City for an additional 25 years, to adopt a proposed plan for an EDP, to order the Program to be presented to the voters on May 12, 2026 and to specify ballot language.

FISCAL IMPACT

The City has seen significant returns on investments made through the existing EDP. The program has been a valuable economic development tool. Continuing to provide for an EDP in the City is an important component of helping to sustain economic stability and vitality into the future.

RECOMMENDATION

Approval.

BACKGROUND

In 1990, the voters of Nebraska approved an amendment to the Nebraska Constitution to authorize the Nebraska Legislature to pass enabling legislation granting cities and villages the power to use local sources of revenue for economic and industrial development projects or programs subject to local voter approval. The Nebraska State Legislature during the 1991 session authorized cities and villages through the passage of LB 840, which was entitled the “Local Option Municipal Economic Development Act”, to collect and appropriate local sources of revenues for economic development programs, with voter approval.

At a special election on September 30, 2003, La Vista voters approved a 25-year economic development program having a term of October 1, 2004 through September 30, 2029. The City of La Vista has received an approximate \$43 million dollar return on project investments through the initial program to date.

The Nebraska Constitution and Local Option Municipal Economic Development Act have been amended since La Vista’s program was created to expand eligible types and amounts of local sources of revenue to be used for economic development programs. A proposed plan for an Economic Development Program has been prepared to incorporate certain statutory and other changes and provide for an economic development program in the City for an additional 25 years beginning October 1, 2029 and ending September 30, 2054.

Continuing to have an Economic Development Program is an important tool to help ensure the economic stability and vitality of the City.

RESOLUTION NO.

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA TO PROVIDE FOR CONTINUATION OF AN ECONOMIC DEVELOPMENT PROGRAM IN THE CITY FOR AN ADDITIONAL 25 YEARS, TO ADOPT A PROPOSED PLAN FOR AN ECONOMIC DEVELOPMENT PROGRAM, TO ORDER SUCH PROGRAM TO BE PRESENTED TO THE VOTERS OF LA VISTA FOR APPROVAL ON MAY 12, 2026, AND TO SPECIFY LANGUAGE OF THE BALLOT QUESTION

WHEREAS, the voters of Nebraska at the General Election held in November 1990 approved an amendment to the Nebraska Constitution to authorize the Nebraska Legislature to pass enabling legislation granting cities and villages the power to use local sources of revenue for economic and industrial projects or programs subject to local voter approval. Voters again amended the Nebraska Constitution in 2010, expanding the sources of revenue that could be used for such projects or programs; and

WHEREAS, the Nebraska State Legislature authorized cities and villages through the passage of LB840 during the 1991 session, which was entitled the "Local Option Municipal Economic Development Act" and codified in Neb. Rev. Stat. Sections 18-2701 through 18-2739, to collect and appropriate local sources of revenues for economic development programs; and

WHEREAS, La Vista voters approved a 25-year economic development program, having a term of October 1, 2004 through September 30, 2029 ("Initial Program") at a special election on September 30, 2003; and

WHEREAS, the City has received approximately \$43 million return on project investments through the Initial Program to date; and

WHEREAS the Local Option Municipal Economic Development Act, as subsequently amended among other things to expand eligible types and amounts of local sources of revenue for economic development programs, provides an opportunity for the citizens of the City of La Vista, Nebraska to influence their economic future; and

WHEREAS, to facilitate the continued success of La Vista's economic future, a viable proposed plan for an Economic Development Program has been prepared to continue providing for an economic development program in the City for an additional 25 years, and to incorporate certain statutory and other changes; and

WHEREAS, this proposed plan for an Economic Development Program calls for the use of funds from various local sources of revenue for projects or programs to provide direct or indirect financial assistance to qualifying businesses or payment of related costs and expenses pursuant to the Act, as amended from time to time; and

WHEREAS, notice was published and a public hearing was held at this meeting at which the proposed plan for the Economic Development Program was

presented for public comment and discussion. The Mayor and City Council desire to adopt the proposed plan.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of La Vista, Nebraska that the preparation of the proposed plan for the Economic Development Program, notice of public hearing for public comment and discussion of such proposed plan, publication of such notice, and holding of such public hearing are hereby ratified, affirmed and approved.

BE IT FURTHER RESOLVED that the proposed plan for the Economic Development Program of the City of La Vista, Nebraska, effective beginning on October 1, 2029 and ending on September 30, 2054, marked as Exhibit "A" and attached hereto and incorporated herein by this reference, is hereby adopted.

BE IT FURTHER RESOLVED that the Economic Development Program of the City of La Vista will be presented to the voters of the City for approval pursuant to Neb. Rev. Stat. section 18-2713 on May 12, 2026 at the statewide primary election. The following question shall appear on the ballot:

**"ECONOMIC DEVELOPMENT PROGRAM
PROPOSAL**

Shall the City of La Vista establish an Economic Development Program as described here by appropriating annually from local sources of revenue a maximum of \$4,000,000 for a period of 25 years?

_____ YES

_____ NO

Terms, Conditions and Goals

The Mayor and City Council of the City of La Vista propose to continue providing for an Economic Development Program in the City for an additional 25 years after the September 30, 2029 expiration date of the City's current Program. Terms, conditions and goals of the proposed Economic Development Program include the following:

- a. Length of time the program will be in existence. The length of time the Economic Development Program will be in existence is 25 years beginning on October 1, 2029 and ending on September 30, 2054.
- b. The years that funds from local sources of revenue are to be collected. Collection of the funds from local sources of revenue for the Economic Development Program shall be established each year in the municipal budget for a 25-year period beginning October 1, 2029 and ending September 30, 2054.
- c. Sources from which funds are to be collected. The sources from which funds are to be collected will be a combination of funds from various local sources of revenue, limited to the existing 1% local option sales tax and any other general tax levied by the city, except property tax, or generated from municipally owned

utilities and grants, donations, or state and federal funds received by the city, subject to any restrictions of the grantor, donor, or state or federal law.

- d. Total amount to be collected for the program from local sources of revenue. The total amount to be collected from local sources of revenue for the Economic Development Program will not over the 25 years of the Program exceed \$100 million. The Mayor and City Council will determine the portion of total collections of local sources of revenue that actually will be allocated for the Economic Development Program each fiscal year as part of the City's budgeting process.
- e. Proposal to issue bonds to provide funds to carry out the Economic Development Program. The City of La Vista proposes to have authority to issue bonds pursuant to the Local Option Municipal Economic Development Act to provide funds to carry out the Economic Development Program.
- f. Additional funds to be sought from other non-city sources. Additional funds from other non-city sources will be sought beyond those derived from local sources of revenue.
- g. Goals of the Economic Development Program. Goals of the Economic Development Program are to increase the overall community tax valuation within the La Vista area, attract new investment capital to the community, create jobs and generate employment opportunities, develop tourism opportunities, broaden the tax base, support or capitalize on La Vista's existing or future commercial developments, rehabilitate residential neighborhoods, expand industrial development, and increase economic stability, diversification and vitality for La Vista, Nebraska and the surrounding area."

BE IT FURTHER RESOLVED that a copy of this resolution and the proposed plan for the Economic Development Program of the City of La Vista, Nebraska shall be filed with the City Clerk who shall make it available for public review at City Hall, 8116 Park View Boulevard, La Vista, Nebraska during regular business hours.

BE IT FURTHER RESOLVED that the City Clerk, on behalf of the Governing Body of the City, is hereby ordered to submit the question of adoption of the Economic Development Program to the registered voters at the statewide primary election to be held May 12, 2026 by filing a certified copy of this Resolution with the Election Commissioner or Sarpy County Clerk within the time required by law, but in any event not later than March 1 prior to the statewide primary election, and to prepare and provide any notices as required of the City by law regarding such election.

BE IT FURTHER RESOLVED that recitals at the beginning of this Resolution are incorporated into this Resolution by reference and the Mayor or his designee is authorized to take all actions as he determines necessary or appropriate to carry out this Resolution.

PASSED AND APPROVED THIS 20TH DAY OF JANUARY 2026.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Rachel D. Carl, CMC
City Clerk

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EXHIBIT A
PROPOSED PLAN

ARTICLE I. Chapter 117 of La Vista Municipal Code shall be amended by inserting the following Sections 117.31 through 117.51 after Section 117.20, to continue providing for an Economic Development Program in the City for an additional 25 years after the September 30, 2029 end of the initial Economic Development Program set forth in La Vista Municipal Code Sections 117.01 through 117.20:

“ECONOMIC DEVELOPMENT PROGRAM

SECTION 117.31. ESTABLISHMENT OF ECONOMIC DEVELOPMENT PROGRAM (October 1, 2029 through September 30, 2054).

An Economic Development Program (“Economic Development Program” or “Program”) is hereby established for the City of La Vista, Nebraska beginning October 1, 2029 and ending September 30, 2054, as authorized by the Local Option Municipal Economic Development Act, Neb. Rev. Stat. §18-2701 through 18-2739. (“Act”).

SECTION 117.32. LA VISTA COMMUNITY AND ECONOMIC DEVELOPMENT STRATEGY.

The Mayor and City Council of La Vista find and determine as follows: Community and economic development is essential to the vitality, strength and economic wellbeing of the City. There is a high degree of competition among states and municipalities to provide incentives for businesses or services to locate or expand in or near their respective jurisdictions. The community and economic development strategy of La Vista is to be positioned to quickly and effectively compete for quality community or economic development opportunities that meet the needs of the City. The strategy further includes lowering the property tax burden by the expansion of the property and sales tax bases through public investment in the local economy as a result of the Economic Development Program.

SECTION 117.33. PURPOSE, GENERAL INTENT AND GOALS OF ECONOMIC DEVELOPMENT PROGRAM.

The purpose of this Economic Development Program is to give the City the resources and flexibility to quickly respond to desirable opportunities for community or economic development using funds raised from local sources of revenue to provide incentives or investment in the La Vista community or its infrastructure for the location or expansion of services or businesses or rehabilitation of residential neighborhoods in or near the City. The general intent and goals of the City in establishing this Economic Development Program are to ultimately increase the overall community tax valuation, create jobs and generate employment opportunities within the La Vista area, attract new investment capital to the community, develop tourism opportunities, broaden the tax base, support or capitalize on La Vista’s existing or future commercial developments, rehabilitate residential neighborhoods, expand industrial development and/or increase economic diversification, stability and vitality for the City of La Vista and the surrounding area.

SECTION 117.34. DURATION OF PROGRAM.

The Economic Development Program established by Sections 117-31 through 117-51 shall be in existence for a period of twenty-five years beginning on October 1, 2029 and ending on September 30, 2054. The Economic Development Program set forth in Sections 117.01 through 117.20 shall continue in effect and govern before October 1, 2029. Provided, the Mayor, City Council, Plan Administrator, or Citizens Advisory Review Committee or Application Review Committee, before October 1, 2029, shall be authorized to plan and prepare for economic development opportunities and activities pursuant to the Economic Development Program under these Sections 117.31 through 117.51, so long as any economic development incentive, assistance, collection or appropriation or funds raised from local sources of revenue pursuant to Sections 117.31 through 117.51 does not commence earlier than October 1, 2029.

Revenue and expenditures under this Economic Development Program shall be established during the Program by the Mayor and City Council as part of the City budget, subject to the Annual Appropriation Limitation and Aggregate Collections Limit specified in Section 117.37. The Mayor and City Council may allocate funding for the Program from among the existing 1% local option sales tax and any other general tax levied by the city, except property tax, or generated from municipally owned utilities and grants, donations, or state and federal funds received by the city, subject to any restrictions of the grantor, donor, or state or federal law. If permitted under the Act, the Mayor and City Council shall have authority to extend the Program beyond September 30, 2054 for one or more years as they determine in their sole discretion advisable to appropriate any unexpended funds that were collected from local sources of revenue and deposited in the Economic Development Fund before October 1, 2054 or earnings thereon.

SECTION 117.35. DEFINITION OF TERMS.

For purposes of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning

- (a) City shall mean the City of La Vista, Nebraska.
- (b) Economic Development Program shall have the meaning specified in the Act and include without limitation 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 cost 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.
- (c) Election shall mean any general election, primary election, or special election called by the City as provided by law.
- (d) Financial institution shall mean a state or federally chartered bank, a capital stock state building and loan association, a capital stock federal savings and loan association, a capital stock federal savings bank, a federally insured capital stock industrial loan and investment company, and a capital stock state savings bank.

- (e) Local sources of revenue shall mean the City's existing 1% local option sales tax and any other general tax levied by the city, except property tax, or generated from municipally owned utilities and grants, donations, or state and federal funds received by the city, subject to any restrictions of the grantor, donor, or state or federal law.
- (f) Program Administrator has the meaning specified in Section 117.48.
- (g) Qualifying business is any business described in Section 117.36.

SECTION 117.36. TYPES OF BUSINESSES ELIGIBLE FOR CITY ASSISTANCE UNDER THE PROGRAM.

A business shall be eligible for City assistance under the Program if it is a qualifying business under the Act. A qualifying business is any corporation, partnership, limited liability company or sole proprietorship which derives its principal source of income from any of the following: the manufacture of articles of commerce; the conduct of research and development; the processing storage, transport, or sale of goods or commodities which are sold or traded in interstate commerce; the sale of services in interstate commerce; headquarters facilities relating to activities as listed in this Section; telecommunications activities, including services providing advanced telecommunications capability; tourism-related activities; the production of films, including feature, independent, and documentary films, commercials, and television programs; construction or rehabilitation of housing; early childhood care and education programs; and retail trade, meaning a business which is principally engaged in the sale of goods or commodities to ultimate consumers for their own use or consumption and not for resale; and any other business from time to time included as a qualifying business through future amendment of the Act, which shall be deemed incorporated into this Program upon the effective date of such amendment. A qualifying business need not be located within the territorial boundaries of the City. If a business which would otherwise be a qualifying business employs people and carries on activities in more than one city in Nebraska or will do so at any time during the first year following its application for participation in the City's Economic Development Program, the requirement of Neb. Rev. Stat. Section 18-2709(3) also must be satisfied.

SECTION 117.37. FUNDING OF PROGRAM.

The City of La Vista Economic Development Program will be funded annually from October 1, 2029 through September 30, 2054 by various local sources of revenue. Appropriations of funds directly from local sources of revenue for the Program, in any year during which the Program is in existence, shall not exceed \$4,000,000 ("Annual Appropriation Limitation"). The Mayor and City Council may appropriate such funds from the existing 1% local option sales tax and any other general tax levied by the city, except property tax, or generated from municipally owned utilities and grants, donations, or state and federal funds received by the city, subject to any restrictions of the grantor, donor, or state or federal law. As part of the annual municipal budget process the Mayor and City Council shall establish the actual amount of funding, subject to the Annual Appropriation Limitation above and Aggregate Collections Limit below. The Annual Appropriation Limitation only applies to appropriation of funds derived directly from local sources of revenue. The Annual Appropriation Limitation shall not apply to

reappropriation of funds which were appropriated but not expended during previous fiscal years.

Total Amount of Money to be Directly Collected from Local Sources of Revenue.

The total amount of money to be directly collected from local sources of revenue by the City to finance the Program will be the portion of the total collections of the existing 1% local option sales tax and any other general tax levied by the city, except property tax, or generated from municipally owned utilities and grants, donations, or state and federal funds received by the city, subject to any restrictions of the grantor, donor, or state or federal law that the Mayor and City Council actually allocates for the Economic Development Program in the City's budget each fiscal year the Program is in existence, up to the Aggregate Collections Limit specified below over the 25 year duration of the Program.

Time Period for Collection of Funds from Local Sources of Revenue and that the Program will be in Existence. The time period within which funds from local sources of revenue are to be collected begins October 1, 2029 and ends September 30, 2054, which also shall be the time period that the Program will be in existence, except as otherwise provided by Section 117.40 or the Act.

Basic Preliminary Proposed Budget for the Program. Below is a basic preliminary proposed budget for the Program. The total amount of money to be directly collected from local sources of revenue to finance the Program over its 25 year duration may be up to, but not exceed, the total "Preliminary Projected Collections From Local Sources of Revenue" of \$100 million as specified in the following preliminary budget ("Aggregate Collections Limit").

Fiscal Year	Preliminary Projected Collection From Local Sources of Revenue	Preliminary Projected Expenditures for Awards, Costs and Expenses Under the Program
FY 2030	\$4,000,000	\$4,000,000
FY 2031	4,000,000	4,000,000
FY 2032	4,000,000	4,000,000
FY 2033	4,000,000	4,000,000
FY 2034	4,000,000	4,000,000
FY 2035	4,000,000	4,000,000
FY 2036	4,000,000	4,000,000
FY 2037	4,000,000	4,000,000
FY 2038	4,000,000	4,000,000
FY 2039	4,000,000	4,000,000
FY 2040	4,000,000	4,000,000
FY 2041	4,000,000	4,000,000
FY 2042	4,000,000	4,000,000
FY 2043	4,000,000	4,000,000
FY 2044	4,000,000	4,000,000
FY 2045	4,000,000	4,000,000
FY 2046	4,000,000	4,000,000
FY 2047	4,000,000	4,000,000

FY 2048	4,000,000	4,000,000
FY 2049	4,000,000	4,000,000
FY 2050	4,000,000	4,000,000
FY 2051	4,000,000	4,000,000
FY 2052	4,000,000	4,000,000
FY 2053	4,000,000	4,000,000
FY 2054	<u>4,000,000</u>	<u>4,000,000</u>
Total	\$100,000,000	\$100,000,000

It is expected that less than 5% of amounts allocated for the Economic Development Program may be used for administration, with at least 95% of amounts allocated for the Program to be used for eligible activities under the Program. Any allocated funds not used for administration activities in a fiscal year shall be allocated to be available for eligible activities under the Program.

City Authority to Issue Bonds. The City of La Vista shall have the authority to issue bonds pursuant to the Local Option Municipal Economic Development Act to provide funds to carry out the Economic Development Program. Also, additional funds from other non-city sources may be sought beyond those derived from local sources of revenue.

SECTION 117.38. ESTABLISH SEPARATE DEVELOPMENT FUND

The City shall establish a separate Economic Development Fund pursuant to Neb. Rev. Stat. Section 18-2718. Any funds derived from local sources of revenue for the Program, earnings from the investment of such funds, including without limitation interest earnings, loan payments and any proceeds from the sale or rental by the City of assets purchased by the City under the Economic Development Program, or any other money received by the City by reason of the Economic Development Program, shall be deposited into the Economic Development Fund. Any proceeds from the issuance and sale of bonds pursuant to the Local Option Municipal Economic Development Act to provide funds to carry out the Economic Development Program, except for refunding bonds in Neb. Rev. Stat. Section 18-2732, shall also be deposited into the Economic Development Fund. Except as otherwise provided by the Act, funds in the Economic Development Fund shall not be deposited in the general fund of the City and the City shall not transfer or remove funds from the Economic Development Fund, other than for the purposes prescribed in the Act, nor shall such funds be comingled with any other City funds.

SECTION 117.39. INVESTMENT OF FUNDS

Any money in the Economic Development Fund, not currently required or committed for purposes of the Economic Development Program, shall be invested as provided in Section 77-2341 of the Revised Statutes of Nebraska.

SECTION 117.40. DISPOSITION OF FUNDS ON TERMINATION

In the event the City's Economic Development Program is terminated, the balance of the money in the Economic Development Fund not otherwise committed by contract under the Program shall be deposited in the general fund of the City. Any funds received by the City by reason of the Economic Development Program after the termination of such Program, shall be transferred from the Economic Development Fund to the general fund of the City as such funds are received. The Economic Development Fund shall not be terminated until such time as all projects and contracts related to the Program have been finally completed and all funds related to them fully accounted for, with no further City action required, and after completion of the final audit.

SECTION 117.41. TERMINATION OF PROGRAM

When the Economic Development Program is terminated, the governing body of the City shall, by Resolution certify the amount of money to be transferred from the Economic Development Fund to the general fund of the City and the amount that is anticipated will be received by the City between such time and final audit of the Economic Development Fund pursuant to Neb. Rev. Stat. Section 18-2718.

SECTION 117.42. CONTINUATION OF PROGRAM

If, after five full budget years, following initiation of the approved development program, less than fifty per cent of money collected from local sources of revenue is spent or committed by contract for the Economic Development Program, the governing body of the City shall place the question of the continuation of the City's Economic Development Program on the ballot at the next regular election.

SECTION 117.43. AUDIT OF FUNDS

The City shall provide for an annual, outside, independent audit of the Economic Development Program, by a qualified auditing business. The auditing 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 any qualifying business receiving funds or assistance under the Economic Development Program, or any financial institution directly involved with a qualifying business receiving funds or assistance under the Economic Development Program. The results of such audit shall be filed with the City Clerk and made available for public review during normal business hours. Every applicant or recipient under the Economic Development Program agrees by submitting an application under the Program to provide at its cost such financial statements, audits and access to books, records and statements as the City from time to time requests or requires.

SECTION 117.44. ELIGIBLE ECONOMIC ACTIVITIES.

The eligible economic activities under the Program are those activities of qualifying businesses described in Section 117.36 above, and direct or indirect financial assistance to them or payment of related costs and expenses from time to time from local sources of revenue under the Program as authorized by the Mayor and City Council, including, but not limited to, the following: direct loans or grants to qualifying businesses, including loans and grants for fixed assets or working capital or both; loan guarantees for

qualifying businesses; expenditures or grants for public works improvements, site development, and infrastructure improvements which are essential to the location or expansion of, or the provision of new services by, qualifying businesses, the construction of buildings to be leased or sold to said businesses, or the development of public facilities; the purchase of, or obtaining, renewing or extending options to purchase, real estate, including commercial, industrial and public sites; grants or loans for job training; the issuance of bonds as provided for in the Act; payments for salaries and support of City staff to implement the Economic Development Program or develop an affordable housing action plan, or for contracting the same to an outside entity; and grants, loans or funds for the construction or rehabilitation for sale or lease of housing for persons of low or moderate income. Land to be purchased either directly or through options, may be within or without the corporate limits of La Vista.

- (a) Purchase of Land: As a part of the Program, the City may purchase real property or options on real property when such property is located within the corporate limits of the City or the City's extraterritorial zoning jurisdiction or future growth and development area. The Program Administrator shall be responsible for identifying and recommending real property purchases or options to the Mayor and City Council following review of available real property which meets the goals and strategies of this Economic Development Program and reporting the same to the Mayor and City Council. The City shall comply will all statutory requirements when purchasing real property and the City may use the proceeds from any future sale of the property for additional real property purchases.
- (b) Housing: As a part of the Program, the City may make grants or loans for the construction or rehabilitation for sale or lease of housing for persons of low or moderate income. The income level standards which will qualify persons as low or moderate income for participation in the Program shall be based upon federal government guidelines or standards for qualifying for any federal housing assistance program, as may be modified by the City based on information from the Nebraska Department of Health and Human Services, Nebraska Department of Economic Development or other sources the City determines are relevant in consideration of local and regional economic conditions and income levels. The City shall consider the following criteria to determine whether any adjustments to income of persons would be appropriate for assessing their qualification for participation in the Program:
 - i. Amount of income of the person available for housing needs;
 - ii. Size of family to reside in each housing unit;
 - iii. Cost and condition of housing available in the City;
 - iv. Whether the person or any member of the person's family who will be residing in the housing unit is elderly, infirm or disabled;
 - v. Ability of the person to compete successfully in the private housing market and pay the amounts the private enterprise market requires for safe, sanitary and uncrowded housing; and
 - vi. Such other factors as the City from time to time determines which are particularly relevant to the conditions facing persons seeking new or rehabilitated housing in the City.
- (c) Loan Fund: The City may establish a loan fund under the Economic Development Program. The loan fund shall be organized and operated in a

similar manner as the loan fund created pursuant to Sections 117.01 through 117.20 ("Initial Economic Development Program Loan Fund") and Ordinance No. 1022, except as otherwise determined by the Mayor, City Council or Program Administrator necessary or appropriate based on loans or financing from time to time offered business ventures by the Small Business Administration (or other federal government agency identified by the City in the event the Small Business Administration ceases to exist, be known by that name, or provide relevant loan or financing programs) ("SBA"), the State of Nebraska, or commercial lenders in the State of Nebraska. The particular requirements, conditions, standards and criteria (together "Loan Terms and Conditions") of any loan or financing provided by the City under the loan fund shall be consistent with any relevant requirements, conditions, standards and criteria of the Initial Economic Development Program Loan Fund or relevant SBA, State of Nebraska or commercial loan or financing on which the particular loan or financing provided by the City is based, which requirements, conditions, standards and criteria are incorporated herein by reference and will be the minimum applicable to the City loan fund with respect to the matters listed in (i) through (iv) below. Provided, however, the City can in any case impose additional, greater or different requirements, standards, criteria or conditions as the Mayor and City Council determine under the circumstances necessary or appropriate.

- (i) Types of financial assistance available, the maximum proportion of financial assistance that will be provided to any single qualifying business and the criteria used to determine the appropriate level of assistance;
- (ii) The criteria and procedures that will be used to determine the necessity and appropriateness of permitting a qualifying business to participate in the loan fund;
- (iii) The criteria for determining the time within which a qualifying business must meet the goals set for it under its participation agreement; and
- (iv) Standards for loan delinquency, declaration of default, and actions to be taken upon default (consistent with Neb. Rev. Stat. section 18-2520).

At the time a qualifying business applies to the City to participate in the loan fund, the business shall provide to the City 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 total financing which will not be provided by the City.

The investment strategies that the City will pursue to promote the growth of the loan fund while assuring its security and liquidity will be determined and carried out by the Finance Director in accordance with applicable law. The Finance Director will have primary responsibility for administration of the loan fund, including loan servicing, unless otherwise specified by the Mayor and City Council.

The loan fund will be administered in accordance with applicable law, including Neb. Rev. Stat. section 18-2720. The City does not at this time expect that any personnel or other assistance beyond regular City employees will be needed to assist in the administration of the loan fund. However, if the City Administrator at any time determines that additional personnel or assistance is needed, payment or reimbursement for the same shall be provided from the loan fund unless otherwise approved by the City.

The loan fund will be audited and verified annually in conjunction with the audit of the Economic Development Program pursuant to Neb. Rev. Stat. section 18-2721 so assistance given is used in an appropriate manner and as protection of the City against fraud or deceit in the conduct or administration of the economic development program. In addition, any applicant or recipient of lending or other financing from the loan fund is required to provide at its cost such financial statements, audits and access to books, records and statements as the City from time to time requests or requires. All applicants and recipients are deemed to agree to this condition by the submittal of an application under this Economic Development Program.

SECTION 117.45. CITIZEN ADVISORY REVIEW COMMITTEE.

There is hereby created a Citizen Advisory Review Committee, which shall review the functioning and progress of the Economic Development Program and shall advise the Mayor and City Council of La Vista, Nebraska, with regard to the Program. The committee shall consist of five (5) registered voters of the City of La Vista, Nebraska. Said members shall be appointed by the Mayor, subject to approval by the City Council. The members of the committee shall serve for five-year terms. Any member of the committee may be removed from office by the Mayor, with the approval of the governing body of the City.

- (a) At least one member of the committee shall have expertise or experience in the field of business finance and accounting.
- (b) The Program Administrator specified below shall have responsibility for the administration of the Economic Development Program and serve as an ex officio member of the committee with responsibility for assisting the committee and providing it with necessary information and advice on the Economic Development Program.
- (c) A representative from the Sarpy County Economic Development Corporation or any other person, if designated by the Mayor with the approval of the City Council, may also serve as an ex-officio member of the Citizen Advisory Review Committee and may also provide the committee with necessary information and advise the committee on the Economic Development Program.
- (d) No member of the Citizen Advisory Review Committee shall be an elected or appointed City official, a member of any planning commission created under Neb. RS 19-925, an employee of the City, a member of the Application Review Committee or otherwise 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 Economic Development Program.
- (e) The Citizen Advisory Review Committee shall elect a chairperson from its membership and shall create and fill such other offices as it may determine. The term of the chairperson shall be one (1) year and such person shall be eligible for re-election.
- (f) The Citizen Advisory Review Committee shall hold regular meetings once per quarter to review the functioning and progress of the Economic Development Program and shall advise the governing body of the City with regard to the

Program. Special meetings of the Citizen Advisory Review Committee shall be held whenever called by the Mayor or the chairperson for the committee.

- (g) At least once in every six-month period after the effective date of the Ordinance establishing the Program, the committee shall report to the governing body on its findings and suggestions at a public hearing called for that purpose.

SECTION 117.46. APPLICATION PROCESS AND SELECTION OF PARTICIPANTS

Type of Information Required From the Business. 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. Applications shall be signed, dated and submitted in the manner, on such forms, in the number of originals and duplicates, and with such person(s) specified from time to time by the Program Administrator. The application shall contain information as required below and any additional information, assurances, certifications, requirements or guarantees as may be specified by the Mayor, City Council, Citizen Advisory Review Committee Application Review Committee, or Program Administrator.

- (a) Applications for assistance from a qualifying business shall include the following information:
 - (i) SBA Form 4 or such other form of application as the Mayor, City Council or Program Administrator determines appropriate, with such modifications as the Mayor, City Council or Program Administrator authorize;
 - (ii) Business plan which includes financial projections for the next three years or such other period of time as the Mayor, City Council or Program Administrator determines appropriate;
 - (iii) Signed copies of the following or such other information as the Mayor, City Council or Program Administrator determines appropriate:
 - a. Two most recent fiscal years or all fiscal years where the applicant has been in existence for less than two years;
 - b. 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;
 - c. Where the applicant is a closely held entity, balance sheets from the holders or beneficial owners of more than 25% of the ownership interests in the entity;
 - (iv) The certification required by Neb. Rev. Stat. Section 18-2710.03; and
 - (v) Any other information as requested by the Mayor, City Council, Program Administrator, Citizen Advisory Review Committee or Application Review Committee.
- (b) The Mayor, City Council or Program Administrator may waive the furnishing of all or any portion of the above items or any other requirement where the Mayor, City Council or Program Administrator is able to obtain reasonable assurance as to the stability of the qualifying business from other reliable sources or information, to include without limitation audited financial statements, filings with regulatory agencies (i.e. SEC filings), or independent analysis, advisors or subject matter experts.

- (c) The Mayor, City Council or 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 or for the benefit of the qualifying business until the qualifying business has performed according to agreed upon criteria.

Verification of Information. The Program Administrator may use any method he or she determines appropriate to verify the information provided by the applicant, including, but not limited to, the following: credit checks, Dun & Bradstreet reports, examination of internal records, audit reports, filings with regulatory agencies (i.e. SEC filings), securing the assistance of advisors or subject matter experts, and any other reasonable methods as determined by the Program Administrator.

Upon receipt of an application, the Program Administrator shall make a preliminary determination as to whether the application appears to be viable, based on whether (1) the applicant is eligible; (2) the proposed activities are eligible; (3) the applicant has any actual or potential legal actions or other risks that may significantly impact its ability to perform; and (4) the applicant has complied with application requirements.

Once the Program Administrator makes a determination that the application appears to be viable, the application is referred to the Application Review Committee appointed by the Mayor with City Council approval. The Application Review Committee shall be separate and apart from the Citizen Advisory Review Committee and no member of the Application Review Committee shall at the same time be a member of the Citizen Advisory Review Committee. The Application Review Committee shall review the application and any supplemental financial or other information furnished and provide recommendations to the Program Administrator concerning negotiations with the applicant and whether any further information, assurances, certifications, requirements or guarantees from the applicant are desired.

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 denied, or (3) the committee is not able to make a recommendation due to lack of information or other factors that may be cited by the committee.

The committee's recommendations in connection with any application shall be subject to any conditions the committee determines appropriate. Such recommendations will be based on the committee's review of the application and other information provided and a determination whether the applicant has demonstrated to the satisfaction of the Committee (1) the applicant's eligibility for funding, (2) that the type and amount of assistance is appropriate and desirable for the City, (3) a desirable level, type and quality of public benefit to the City or its residents from the applicant's proposed use of the funding, and (4) that the timing, type, magnitude and probability of public benefit that the Committee determines is likely to be achieved from the funding is reasonable and efficient in relation to the cost of funding provided. If the recommendation is that the application be denied or the Committee is unable to make a recommendation, a summary of the reasons may be given.

All recommendations of the Application Review Committee with respect to an application shall be submitted by the Program Administrator to the Citizen Advisory Review Committee for review and advice to the City Council. The application, funding proposal

and Committee recommendations and advice shall be provided to the City Council for consideration. The City Council shall approve or reject the application and funding proposal, or refer them back to the Committees for further consideration, recommendation or advice, subject to any conditions the City Council determines appropriate. In making its determination, 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.

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 applications shall be approved or Program benefits shall be granted on applications is at the sole discretion of the City Council and is final and binding on all parties. The City Council may modify the application and selection process provided in this Section from time to time as determined necessary or appropriate.

SECTION 117.47. CONFIDENTIAL INFORMATION

The Program Administrator, members of the Citizen Advisory Review Committee or members of the Application Review Committee may be permitted access to business or other information received by the City in the course of its administration of the Economic Development Program, which information would otherwise be privileged, private, proprietary or confidential (a) under Section 84-712.05 R.R.S., Nebraska, (b) by agreement with a qualifying business submitting an application under or participating in the Economic Development Program, or (c) under any ordinance of the City providing access to such records to the Program Administrator or members of either committee and guaranteeing the confidentiality of business information received by reason of its administration of the Economic Development Program. Neither the Program Administrator nor any member of a committee shall divulge any such confidential information to any other person or entity, except as required by law.

SECTION 117.48. ECONOMIC DEVELOPMENT PROGRAM ADMINISTRATIVE SYSTEM

It is important to have a clearly defined administrative system for the Program. It is the intent of the Program that the majority of the funds be used for eligible activities and a relatively smaller portion on administration of the Program. A description of the administration of the Program is below. The City is authorized to provide for any additional responsibilities or positions from time to time as may be needed to carry out the Program.

Program Administrator: The City Administrator shall be the Program Administrator. The duties of the Program Administrator include:

- (a) Administration of the Program, provided the Loan Fund will be administered by the Finance Director.
- (b) Serve as an ex-officio but non-voting member of the Citizen Advisory Review Committee.

- (c) Assist the Citizen Advisory Review Committee and provide it with necessary information and advice on the Program.
- (d) Track employment figures for participating businesses for two years if businesses employ persons in other Nebraska communities.
- (e) On a regular basis review whether qualifying businesses are carrying out their responsibilities under the Program and following the applicable agreements, laws and regulations.

The Program Administrator may from time to time designate such individuals or, with approval of the Mayor and City Council if required, contract with outside entities, and delegate such responsibilities, duties or tasks to said individuals or entities that she determines necessary or appropriate to administer the Economic Development Program.

SECTION 117.49. SATISFACTION OF LEGAL REQUIREMENTS

The City will endeavor to comply, and for the compliance of any qualifying business receiving financial assistance under the Program, with applicable laws, regulations and requirements, which will be facilitated through the checks and balances built into the Program pursuant to Nebraska statute, including:

- (a) The Citizens Advisory Review Committee is responsible for periodically meeting, reviewing the functioning of the Program and advising the governing body of the City with regard to the Program. At least one of the members of the committee will have expertise or experience in business finance or accounting. It is anticipated that others on the committee will have expertise or experience that will assist the City comply with applicable requirements. The makeup of the committee pursuant to Nebraska statute Section 18-2715 decreases the likelihood of conflicts of interest on the committee with others related to the Program and increases the opportunity for objectivity in carrying out committee duties.
- (b) The Program Administrator and Finance Director will provide ongoing oversight in the administration of the Program and Loan Fund, respectively.
- (c) The City will have the Program annually audited by an outside, independent private auditing business, the results of which will be filed with the City Clerk and made available for public review during normal business hours. The City also will have access to applicant and recipient books and records.
- (d) Funding awards and annual appropriations for the Program require City Council approval.
- (e) The City Attorney will provide desired consultation to the City upon request regarding significant changes to the Local Option Municipal Economic Development Act.

SECTION 117.50. AMENDMENT.

The Mayor and Council may amend Sections 117.31 through 117.51 in the manner specified by Neb. Rev. Stat. Section 18-2714.

SECTION 117.51. SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this Program is, for any reason, held to be unconstitutional, unenforceable or invalid, such unconstitutionality, unenforceability or invalidity shall not affect the constitutionality, enforceability or validity of the remaining portions of this ordinance. The Mayor and City Council of the City of La Vista hereby declare that they would have passed this Program and each section, subsection, sentence, clause and phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional, unenforceable or invalid.