

**CITY OF MCCOOK**

**ECONOMIC DEVELOPMENT PLAN**

**MARCH 2008**

**AMENDED FEBRUARY 2011**

Adopted by Ordinance No. 2008-2808 of the City of McCook on March 17, 2008  
Amended by Ordinance No. 2011-2852 of the City of McCook on February 21, 2011  
Pursuant to the Local Option Municipal Economic Development Act  
Neb. Rev. Stat. §§18-2701 to 18-2738

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***NOTE: No where in this manual or in the City of McCook's Economic Development Plan should this document supercede the State of Nebraska Statue 18-2701 - 18-2738. Laws 1991, LB 840, §2: Laws 2001, LB 827, §10.***

## **ORDINANCE NO. 2008-2808**

AN ORDINANCE OF THE CITY OF MCCOOK, NEBRASKA, TO ADOPT AN ECONOMIC DEVELOPMENT PROGRAM PURSUANT TO THE PROVISIONS OF THE LOCAL OPTION MUNICIPAL ECONOMIC DEVELOPMENT ACT, AS AMENDED; TO CREATE A CITIZENS ADVISORY REVIEW COMMITTEE AS PROVIDED IN THE ACT; AND TO REPEAL ALL ORDINANCES INCONSISTENT HEREWITH.

NOW, THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MCCOOK, NEBRASKA:

SECTION 1. The Economic Development Program as approved by the electors of the City of McCook, Nebraska, at the special election held on November 13, 2007, pursuant to the provisions of the Local Option Municipal Economic Development Act is hereby adopted. The Economic Development Program is published in pamphlet form and incorporated herein by reference as though printed in full. At least one (1) copy of the economic development plan shall be kept on file with the Municipal Clerk and made available for inspection by any member of the public during office hours.

The City shall provide funding for the economic development program equal to fifty percent (50%) of the tax collected under the one half cent city sales tax. Funding for the economic development program, from time to time amended shall remain in effect for a ten-year period ending June 30, 2018.

SECTION 2. There is hereby created a Citizens Advisory Review Committee consisting of five registered voters of the City of McCook to review the functions and progress of the economic development program and to advise the City Council with regard to the program. At least one individual shall have expertise or experience in the field of business, finance, or accounting. The Citizens Advisory Committee shall establish a regular meeting schedule but shall meet no less frequently than quarterly. The Committee shall at least once in every three month period report to the city council on its findings and suggestions at a public hearing called for that purpose. The Economic Development Plan Program Administrator shall 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.

SECTION 3. Any other ordinance or section passed and approved prior to the passage, approval, and publication or posting of this ordinance and in conflict with its provisions, is hereby repealed.

SECTION 4. This ordinance shall take effect and be in full force from and after its passage, approval, and publication in pamphlet form as required by law.

PASSED AND APPROVED this 17<sup>th</sup> day of March, 2008.

-s- Dennis Berry, Mayor

ATTEST:

-s- Lea Ann Doak, City Clerk

## **CITY OF MCCOOK, NEBRASKA**

### **ECONOMIC DEVELOPMENT PLAN**

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Nebraska voters enacted a constitutional amendment in November 1990, granting cities and villages the power to use local sources of revenue for economic or industrial projects and programs. In 1991, the Unicameral implemented this amendment with the passage of Legislative Bill 840, the Local Option Municipal Economic Development Act.

The Local Option Municipal Economic Development Act is based on the premise that communities should use their own tax dollars in ways that best meet local needs. While ongoing planning processes in many towns have identified development, job creation, and increased economic opportunity as their highest priority for the future, a variety of constitutional and legislative prohibitions kept them from investing local public funds in development programs. The removal of these limitations gives municipalities greater latitude in determining and acting upon local needs.

As towns have witnessed population declines and a loss of younger people, they have thought about their future and the types of actions and investments needed to reverse these past trends. At the same time smaller towns and cities began to realize a period of significant opportunity. In a period of uncertainty, complexity, and growing concern about the problems and quality of urban life, including cost and relative safety, the advantages offered by smaller cities have become uniquely attractive. At the same time, the revolution in information and communication technology, as well as goods distribution, has reduced the isolation of small towns. As a result, it is increasingly possible to operate a significant business in growth areas outside of major urban centers.

#### **1. GENERAL COMMUNITY AND ECONOMIC DEVELOPMENT STRATEGY**

McCook's Community and Economic Development Strategy involves building on our strengths to promote existing industries and the retention of jobs, to recruit new industries and jobs to the community and to facilitate the development and expansion of new entrepreneurial businesses. The principle strategy is directed at maintaining a good quality of life for our citizens, reversing population decline and maintaining a strong workforce by developing community resources, attracting new capital investment, broadening the community's tax base, building economic diversity and ensuring economic stability and viability for the area.

Economic diversification will continue to be a critical priority for McCook's Economic Development Program. The recruitment of new business from outside and development of new businesses from inside the area will strengthen diversification. A small business development program can establish the city as a nurturing environment for small business and as a center for economic opportunity. This atmosphere, in turn can encourage people with skills and ideas to move or return to the area to make a start in business.

In addition to recruitment, the city can create job opportunities by helping existing businesses in the city to expand their markets and compete more successfully. The successful marketing of McCook as a center for opportunity is important to the city's effort to expand its labor force and attract new residents.

The City of McCook recognizes that the attraction of new business and industry to a community, starting a new business or the recruitment of a skilled, creative workforce all takes place in a very competitive market place. In order to keep McCook, Nebraska as competitive as possible in that market place, the community will strive to use all financial and human resources available in a partnership with federal, state, municipal, and private entities.

## **2. STATEMENT OF PURPOSE, GENERAL INTENT AND GOALS**

It is the general intent of the City of McCook, Nebraska to implement an Economic Development Program, the purpose and goals that will be: to create jobs; to expand labor markets of McCook and Red Willow County; to attract new capital investment to the community; to broaden the tax base; to retain existing jobs, to create new businesses and make existing businesses more competitive and profitable; to improve the retention of youth and young adults; and to provide economic diversification to ensure economic stability and vitality for the City of McCook and surrounding areas. The plan will be consistent with other comprehensive development and redevelopment plans for the City.

## **3. ELIGIBILITY**

### **3.1 Eligible Activities**

Eligible activities under the Economic Development Program may include, but shall not be limited to, the following:

1. Job credits for full-time jobs created (full-time jobs defined as 2000 hours) to include grants, which are subject to job credit performance.
2. Direct loans or grants to qualifying businesses for fixed assets or working capital or both.
3. Equity investment or loan guarantees in a qualifying business.
4. Grants or loan agreements for job training.
5. Grants or loans for public works improvements essential to the location or expansion of a qualifying business.
6. The construction or rehabilitation of affordable housing.
7. The purchase of real estate, options for such purchases, and the renewal or extension of such options.
8. Rehabilitation of commercial buildings or potential commercial buildings.
9. Purchase of existing buildings or construction of new buildings.
10. Small business development including expansion of existing businesses.
11. Tourism related activities.

12. The provisions of technical assistance to businesses such as marketing assistance, management counseling, preparing financial packages, engineering assistance, etc.
13. Expenses for business recruitment activities.
14. Expenses for locating a qualifying business into the area.
15. Contracting with an outside entity to implement any part of the program, as necessary.
16. The authority to issue bonds pursuant to the Act.
17. The eligible activities described above are considered priority activities for the use of funds generated under the Local Option Municipal Economic Development Act. The City of McCook recognizes that the attraction of new business to a community or the expansion of existing businesses takes place in a very competitive market place. In order to stay as competitive as possible in that market place, and in the creation of new jobs in the area, the City retains the right to include as eligible activities those additional activities allowable by law.
18. The Local Option Municipal Economic Development Act has been changed in several legislative sessions since it was signed into law on June 3, 1991. It is reasonable to presume the law will change during the course of McCook's Economic Development Program. In order to stay current with Nebraska Statutes, the City of McCook retains the right to amend this Economic Development Program when such amendment pertains to changes made to the Local Option Municipal Economic Development Act or to other statutes that affect McCook's Program. Such amendments can only be made after a public hearing and a majority vote of McCook's City Council.

### **3.2 Types of Businesses That Will Be Eligible**

A qualifying business shall mean any corporation, partnership, limited liability company or sole proprietorship, which derives its principle sources of income from any of the following:

1. The manufacture of articles of commerce.
2. The conduct of research and development.
3. The processing, storage, transport or sale of goods or commodities that are sold or traded in interstate commerce.
4. The sale of services in interstate commerce.
5. Headquarter facilities relating to eligible activities as listed in this section.
6. Telecommunications activities.
7. Development, sale and support of technology, hardware and software for information technology and telecommunications.
8. Tourism-related activities.
9. Retail business (up to 20% within a 5 year period or up to 40% in any one year).
10. Any other business deemed as a qualifying business through action of the legislature.

If a business that 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 application for participation in the Program, it shall be a qualifying business only if, in each such city, it maintains employment for the first two years following the date on which such business begins operations in the city as a participant in its Program at a level not less than its average employment in such city over the twelve-month period preceding participation.

A qualifying business need not be located within the territorial boundaries of the city if the Program Administrator determines that there is a clear economic benefit to the city. Eligible qualifying businesses may apply more than once and receive program benefits more than once, if approved by the MEDC Board.

#### **4. BUDGET**

This section describes a preliminary source of funds and budget for McCook's Economic Development Program. It is important to note that this budget must be developed annually and may be modified from time to time by the City Council. In the field of economic development, it is impossible to anticipate every condition or requirement. The city should maintain the flexibility to respond to specific requirements and opportunities on a short-term basis.

##### **4.1 Time Period for Collection of Funds and Proposed Total Collections**

The Program tax collection will be in effect from July, 2008 to June, 2018, a ten-year period. Fifty percent (50%) of the tax collected under the one half cent sales and use tax will be allocated to this Economic Development Program. The total amount to be collected for this Economic Development Program is estimated to be \$325,000 for fiscal year 2008-2009 and shall increase or decrease each year based upon sales and use tax revenues collected. The Economic Development Plan, for use of these funds, will be in effect from July, 2008 to June, 2018, a ten-year period of time. However, uncommitted funds and revenues including but not limited to repayment of loans, return on investments, fees for activities such as loan guarantees and sales proceeds from properties, may continue to be used for activities contained within the Economic Development Program as such shall be available. The amount of funds to be collected will not exceed the maximum amount allowable by law.

##### **4.2 Preliminary Annual Budget for the Program**

Annual Estimated Funds Collected 2008-2009:	\$325,000.00
Expenditures	
Loans and Grant Programs	100,000.00
Project and Program Fund	130,000.00
Program Administrative Staff	<u>95,000.00</u>
Total Expenditures	<u><u>\$325,000.00</u></u>

##### **4.3 Bond Authority**

McCook may have a business opportunity or other economic development project that requires initial funds that exceed the single year proceeds of the local option sales tax. In order to take advantage of such an opportunity, McCook should have the ability to issue bonds. Future sales tax receipts would then retire the debt. The City Council may authorize the issuance of bonds to carry out the Economic Development Program following a public hearing.

## **5. APPLICATION PROCESS**

The intent of the City of McCook is to administer the Economic Development Program by contracting with McCook Economic Development Corporation (MEDC) herein referred to as "Program Administrator."

Submission of applications and selection of participants involves a two-phase process.

### Phase I

Phase I determines the potential of financing for proposed project or activity.

To be considered for direct financial assistance under this program, an applicant must provide the following unless waived by the Program Administrator:

1. A detailed description of the proposed project.
2. A business plan, including employment and financial projections, current financial statements, financing requirements for the project, and total project costs.
3. A completed City of McCook Local Option Municipal Economic Development Program Application for Financial Assistance.

Additional information, as necessary, to determine the eligibility and economic viability of the proposed project(s), may be requested by the Program Administrator and/or by the City Council.

The Program Administrator will review applications and requests for direct financial assistance in the order in which the Program Administrator receives them. Application review and approval or disapproval by the Program Administrator will be based on project feasibility as determined by review of the applicant's business plan and other requested information. The potential future economic benefits to the community of McCook and the surrounding area will also be evaluated.

The Program Administrator will be responsible for verification of information in the applications from those eligible businesses, which receive a recommendation for financial assistance before recommendation is made to the City Council.

In the event that MEDC no longer desires to act as Program Administrator, the above described responsibilities may be carried out by a contracted entity, by an economic development specialist hired by the city, or other existing city staff.

### Phase II

Phase II is the approval and execution portion of the process.

The Program Administrator and applicant will negotiate the terms and conditions of assistance for the project. The Program Administrator will then determine whether the project is approved. Once the project receives approval from the Program Administrator only those projects containing the purchase or sale of land or buildings need be submitted to the City Council for approval. During the



annual budget process, the City Council may request that projects of a particular size also be submitted for approval. Once approved, the Program Administrator will take the necessary actions to execute the agreements.

## **6. ADMINISTRATION OF ECONOMIC DEVELOPMENT PROGRAM**

It is the intent of the program that the majority of the funds be used for supporting eligible activities and only the minimum required amount be spent to assist in the administration of the program. The following groups share the administration of the program. These are:

1. Program Administrator:
  - Will be responsible for the day-to-day activities of administering the program.
  - Assist applicants and conduct active recruiting for potential applicants.
  - Oversees Loan Fund Program Administrator
  - Provides someone to serve as an ex-officio, nonvoting member of the Citizen Advisory Review Committee who will provide that committee with necessary advice and information.
2. Loan Fund Administrator:
  - Overseen by the Program Administrator.
  - Provide to the City an account of the status of each loan outstanding, program income, and current investments of unexpended funds on a monthly basis.
  - Keep records on accounts and make reports to include name of the borrower, purpose of the loan, date the loan was made, amount of the loan, basic terms of the loan, and payments made to date and the current balance due.
  - Monitor the status of each loan and, with the cooperation of the governing body and the primary lender(s), take appropriate action when a loan becomes delinquent.
3. Citizen Advisory Review Committee:
  - A group of citizens who are registered voters of the City, appointed by the Mayor and subject to approval by the City Council, who will review the functioning and progress of the Economic Development Program and advise the City Council with regard to the program.
  - Committee organization will consist of
    - \* Not less than five or more than ten members
    - \* At least one individual with expertise or experience in the field of business, finance or accounting.
    - \* A city official or employee responsible for the administration of the Economic Development Program who will serve as ex-officio member.
  - No member of the committee shall be an elected or appointed city official, an employee of the city, 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.
  - The Citizen Advisory Committee will meet regularly as required to review the program and will report to the City Council at least once every six months on its findings and suggestions at a public hearing called for that purpose.

4. City Council:
  - Will have final authority on the expenditure of funds in support of the Economic Development Program.
  - Will approve the membership of the Citizens Advisory Committee.
  - Will have ultimate responsibility for the Economic Development Program.
5. Loan Committee:<sup>1</sup>
  - The City Council will ratify all selections to the Loan Committee, with said Loan Committee to consist of five members with three being selected by the City Council and two being selected by the MEDC. Terms shall be for 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 of the City of McCook, employee of the City of McCook, nor anyone who is 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 City of McCook residents.

## **7. PROCESS TO ENSURE CONFIDENTIALITY OF BUSINESS INFORMATION RECEIVED**

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

To protect the business applying for funds and to encourage them to make full and frank disclosure of business information relevant to their application, the city may take the following steps to ensure the confidentiality of the information it receives:

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

Any information provided to the City Council on the Loan Recommendation form, is considered public information. This information includes the following information: business entity, project description, borrower(s), loan amount, length of loan, interest rate, security, repayment, loan closing date and any other pertinent information.

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<sup>1</sup>Revised February 21, 2011 - Ordinance No. 2011-2852

All members of the Loan Committee and Citizen's Advisory Committee and Economic Development Board will sign a confidentiality statement for the Economic Development Program. The confidentiality statements will be renewed each January. The Confidentiality Statement will have attached the corresponding statute, which outlines that disclosure of confidential business information is a Class III misdemeanor. All loan applications will be referred to with their assigned loan number. Loan numbers will be issued with the year and number of application in that year. 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". After the final meeting for a particular application, all loan committee members are required to return all loan forms and copies to the Program Administrator office for shredding.

## **8. OPERATION OF THE REVOLVING LOAN FUND<sup>1</sup>**

This section will describe details of the operation of the Revolving Loan Fund. The size and special features of this fund, combined with the requirement of LB 840, requires that its operation be outlined. The Program Administrator may contract with a financial institution for loan document preparation and loan servicing. The Program Administrator shall provide the City of McCook an account of the status of each loan outstanding, program income, and current investments of unexpended funds on a monthly basis.

### **8.1 General Guidelines**

1. The amount of funds available for any 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 fifty percent (50%) of applicant's total project costs. An applicant must provide participation and evidence of participation through private funding as distinguished from Federal, State, or local funding in the minimum amount of ten percent (10%) equity investment. The right is reserved to negotiate the terms and conditions of the loan with each applicant, which terms and conditions may differ substantially from applicant to applicant.
2. The interest rate shall be fixed and negotiated on an individual basis; usually one-half of the lending rate for the project at a traditional banking source. The term shall not exceed ten (10) years for loans used for capital assets and seven (7) years for loans involving any other asset category. Security for loans will include, but will 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.
3. If the loan is approved as performance based, a qualifying business may be approved to recapture a portion of the loan amount. The recaptured amount will be determined by the Program Administrator, based upon job creation or retention and economic impact on the project to the community.

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<sup>1</sup>Revised February 21, 2011 - Ordinance No. 2011-2852

4. A loan repayment schedule providing for monthly, quarterly, or annual payments will be approved in conjunction with project approval. Repayment will be held in the revolving loan fund for future projects when approved.
5. The Program Administrator is responsible for auditing and verifying job creation and retention and determining grant credits toward any loans made. No grant credits are available unless pre-approved in the initial application and project approval.
6. It is anticipated that the Program can be fully administered by the Program Administrator. Administration costs for the loan fund will be defrayed by loan fees and the portion of sales tax revenue directed to administration expenses as outlined in the Plan Budget.

## **8.2 Eligible Applicants**

The revolving loan fund can provide loans or loan guarantees to any business eligible for assistance under LB 840. While not meant to restrict the scope or flexibility of the fund, evaluation of applications should give special priority to businesses which meet one or more of the following criteria:

1. Businesses which create one job for each \$25,000 or less in public financing assistance.
2. Applications which provide for the expansion or enhancement of existing businesses in McCook or its surroundings.
3. New business starts.
4. Businesses that in the opinion of the loan committee have unusual potential for growth.
5. Businesses that are relocating from outside Nebraska.
6. Businesses that provide for important local or regional needs.
7. Businesses that bring revenue into McCook from outside Nebraska.

## **8.3 Application Requirements**

1. Complete an application that may be obtained from the office of the McCook Economic Development Corporation, P.O. Box 626 McCook NE 69001, or contracted Program Administrator.
2. Submit the completed application together with all information as set out below to the office of the McCook Economic Development Corporation. The application will then be reviewed by the Program Administrator and the loan committee, and upon completion of the review the committee will make a final decision on the project.
3. The Program Administrator will notify any applicant of the decision of the committee.

4. A non-refundable \$100 application fee to help with administration costs, including a Criminal History Check, is to be submitted with the completed application.

#### **8.4 Information Required**

The qualifying business shall provide the following information before the Program Administrator and the Loan Committee considers any application:

1. Submit a City of McCook LB 840 Economic Development Revolving Loan Program application.
2. Business plan.
3. Two years complete individual federal tax returns, if over 25% ownership (signed).
4. Two years complete corporate tax returns (signed).
5. Current year to date profit and loss statement (signed).
6. Recent balance sheet (signed).
7. Articles of Incorporation, By-Laws, and Minutes of last meeting.
8. Corporate Resolution authorizing loan application and execution of required documents.
9. Credit Bureau Report (CBR) for Shareholders with over 25% ownership.
10. Other information as requested by the Program Administrator, Loan Committee or by the City Council

#### **8.5 Required Timeline to Meet Goals**

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 sales tax application on file.

#### **8.6 Loan Default**

The Loan Fund Administrator 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 Loan Fund Administrator to the borrower and the primary lender requesting immediate payment. If payment is not made within 10 days of the letter, a committee composed of the City Attorney, City Clerk, City Manager, Program Administrator, Loan Fund Administrator, and the President of the MEDC will meet to determine appropriate action.

## **9. PURCHASE OF REAL ESTATE OR OPTION TO PURCHASE**

Eligible activities include the purchase directly or indirectly through McCook Economic Development Corporation of commercial or industrial site(s) and obtaining options for the purchase of such real estate. Land to be purchased or optioned may be within or outside the corporate limits of the City of McCook.

In addition, the funds may be used to provide the infrastructure to these sites or other sites to make them attractive to new or expanding businesses. Eligible infrastructure improvements will include, but not be limited to, street, storm drainage, water, sewer, gas, electric, or railroad extension. Infrastructure improvements and costs may extend beyond the corporate limits of the City of McCook.

The funds may also be used to construct facilities, structures, and/or appurtenances for new or proposed development or to attract new business or industry. These facilities, structures and appurtenances are not required to be within the corporate limits of McCook, Nebraska.

These sites and facilities will improve the attractiveness of McCook, Nebraska, as a location for new business and industry and may be used as an incentive to aid in the location, relocation or expansion of a business. These sites and facilities may be sold or leased at a price at or below current market value. The proceeds from the sale or lease of land purchased and developed with funds generated by Local Option Municipal Economic Development Act may be used for the purchase and development of additional land and may be used for all other eligible activities.

## **10. INVESTMENT OF ECONOMIC DEVELOPMENT FUNDS**

The City of McCook will establish a separate Economic Development Fund.

1. The money from the Economic Development Fund shall not be commingled with any other City or MEDC fund.
2. Any money in the Economic Development Fund not currently required or committed for the purposes of Economic Development shall be invested by the City of McCook.
3. In the event that the Economic Development Program is terminated, any funds not committed will be transferred as provided by the statute to the General Fund of the City and will be used on an installment basis to reduce the property tax levy of the City as provided by the Act.
4. If there is a conflict between this plan and State Statute, the State Statute will control.

## **11. LEGAL AND REGULATORY COMPLIANCE**

In order to ensure that all laws and regulations are being complied with, the City Attorney will review the Economic Development Program and all laws and regulations pertaining to it annually. The City Attorney will review all contracts, official documents, land transactions and other official actions related to the Economic Development Program to ensure compliance with existing law to ensure compliance.

## **12. AUDIT**

The City shall provide for an audit on an annual basis to insure that the assistance given through loans is used appropriately and that the City is protected against fraud or deceit in the conduct or administration of the program. The City shall provide for an annual, outside, independent audit of its Economic Development Program by a qualified private auditing business. The audit maybe included as part of the City's annual audit. The auditing business shall not at the time of the audit or any period during the term subject to the audit, have an contractual or business relation 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.

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