

**ORDINANCE NO: 9983**

AN ORDINANCE TO ADOPT A GOOD LIFE DISTRICT ECONOMIC DEVELOPMENT PROGRAM, TO REORGANIZE AND RETITLE CHAPTER 38 OF THE GRAND ISLAND CITY CODE, TO ADD ARTICLE II "GOOD LIFE DISTRICT ECONOMIC DEVELOPMENT PROGRAM" TO CHAPTER 38, ALONG WITH CODE SECTIONS 38-12 TO 38-22 TO AUTHORIZE ANY OTHER ACTIONS NECESSARY TO IMPLEMENT THE PROGRAM, AND TO PROVIDE FOR PUBLICATION AND AN EFFECTIVE DATE OF THIS ORDINANCE.

**SECTION 1. Findings**

THE CITY COUNCIL OF THE CITY OF GRAND ISLAND HEREBY FINDS THAT:

The Nebraska Legislature has authorized the Good Life District Economic Development Act (the "Act") which allows the citizens of a city in which a Good Life District has been authorized to vote on whether a Good Life District Economic Development Program should be adopted by the city.

The State of Nebraska, Department of Economic Development, approved an application of Woodsonia Real Estate Inc. for the creation of a Good Life District within the boundaries of the City of Grand Island on June 5<sup>th</sup>, 2024 (the "District"), as authorized by the Good Life Transformational Projects Act. This approval will cause the State sales tax assessed within the portion of the District located in the City to be reduced from 5.5% to 2.75% effective at the beginning of the fourth calendar quarter of 2024 pursuant to Neb. Rev. Stat. §77-2701.03.

§77-4409 of the Good Life District Economic Development Act finds that "local sources of revenue must be established which are tailored to meet the needs of the local community and benefit the state, if the voters in the municipality determine that it is in the best interest of their community to do so."

On June 18, 2024, the City Council called for a special election to be held August 13, 2024, (the "Election") on whether a program should be created pursuant to the Act and funds duly appropriated to promote local economic development within the District.

At the Election, the voters authorized the establishment of a Good Life District Economic Development Program and empowered the City with the responsibility to develop and adopt a Good Life District Economic Development Program.

The City Council of the City of Grand Island is therefore authorized by its voters to develop and implement a Good Life District Economic Development Program Ordinance, the first of its kind in the State of Nebraska.

In fulfilment of this obligation, the Grand Island City Council hereby adopts this Ordinance (the "Program Ordinance") to establish the terms and provisions of the City's Good Life District Economic Development Program (the "Program").

**SECTION 2. Retitling of Chapter 38**

BE IT THEREFORE ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND NEBRASKA THAT Chapter 38 of Grand Island City Code be retitled "Economic Development Programs."

**SECTION 3. Reorganization of Chapter 38**

BE IT FURTHER ORDAINED THAT Article I “Local Option Municipal Economic Development Program” be created, and that City Code provisions 38-1 through 38-11 be moved so as to be contained within the newly created Article I.

**SECTION 4. Creation of Chapter 38, Article II “Good Life District Economic Development Program”**

BE IT FURTHER ORDAINED THAT Article II “Good Life District Economic Development Program” be created within Chapter 38 and that the following sections 38-12 through 38-22 be codified in Chapter 38, Article II.

**38-12: Purpose and Acknowledgments**

The Mayor and City Council having been so authorized by the voters of the City of Grand Island hereby establish a Good Life District Economic Development Program as authorized by the Good Life District Economic Development Act.

The purpose of this chapter is to effectuate and implement the voter authorized program which will fulfil the purposes set forth in the Good Life District Economic Development Act (“Act”) within the boundaries of any approved Good Life District in the City of Grand Island.

The Program shall leverage the authorities contained in the Act to promote and develop the general and economic welfare of the City of Grand Island and the State of Nebraska by providing support for unique and transformational projects that will strengthen our community, grow our economy, and strengthen our retail, entertainment, and tourism industries.

The Program recognizes the ability to use transformational development to improve the economic well-being of our citizens and our community through job creation, infrastructure, and other improvements that attract and retain tourists and college graduates from around the state.

The Program will focus on transformational and unique projects that generate new economic activity, expand the tax base and generate additional state and local taxes, create new economic opportunities, housing and jobs for residents, and promote retail, entertainment, and dining attractions.

This Program shall remain in effect until June 5, 2054, or until terminated by the City as permitted by Section 77-4412(7) of the Act, whichever occurs first.

The City of Grand Island, by passage of this Ordinance and establishment of the Program, recognizes the promises made by the Nebraska Legislature in LB1317, as codified in Neb. Rev. Stat. §77-4429, that the State of Nebraska has pledged that the State will not alter, impair, or limit the rights vested in the Act until such time as any authorized bond, together with applicable interest, are fully met and discharged and such contracts are fully performed in accordance with the Act, and the City acts in reliance on this assurance in so establishing the Program.

**38-13 Boundaries**

The initial boundaries of the Good Life District Program Area are as follows:

BEGINNING AT THE INTERSECTION OF THE SOUTH RIGHT-OF-WAY LING OF AIRPORT ROAD/ U.S. HIGHWAY 281, AND THE WEST RIGHT-OF-WAY LINE OF BROADWELL AVENUE; THENCE SOUTH, ALONG SAID WEST RIGHT-OF-WAY LINE OF BROADWELL AVENUE, TO THE INTERSECTION OF THE WEST RIGHT- OF-WAY LINE OF BROADWELL AVENUE, AND THE SOUTH RIGHT-OF-WAY LINE OF THE BNSF RAILWAY COMPANY, ALSO BEING THE NORTH RIGHT-OF-WAY LINE OF OLD HIGHWAY 2; THENCE NORTHWESTERLY, ALONG THE NORTH RIGHT-OF-WAY LINE OF OLD HIGHWAY 2, TO THE INTERSECTION OF THE NORTH RIGHT-OF-WAY LINE OF OLD HIGHWAY 2, AND THE NORTHERLY EXTENSION OF THE EAST LINE OF VETERANS LEGACY SOUTH SUBDIVISION; THENCE SOUTH TO THE NORTHEAST CORNER OF LOT 5, VETERANS LEGACY SOUTH SUBDIVISION, SAID POINT ALSO BEING ON THE SOUTH

RIGHT OF WAY LINE OF OLD HIGHWAY 2; THENCE SOUTH, ALONG THE EAST LINE OF THE VETERANS LEGACY SOUTH SUBDIVISION, TO THE SOUTHEAST CORNER OF LOT 4, VETERANS LEGACY SOUTH SUBDIVISION, ALSO BEING A POINT ON THE NORTHEASTERLY RIGHT-OF-WAY LINE OF CUSTER AVENUE; THENCE SOUTH, TO AN EASTERLY CORNER OF LOT 3, VETERANS LEGACY SECOND SUBDIVISION, SAID POINT ALSO BEING ON THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF CUSTER AVENUE; THENCE NORTHWESTERLY, ALONG THE NORTHEASTERLY LINE OF LOT 3, VETERANS LEGACY SECOND SUBDIVISION, ALSO BEING THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF CUSTER AVENUE, TO THE NORTHEAST CORNER OF LOT 3, VETERANS LEGACY SOUTH SUBDIVISION, ALSO BEING THE INTERSECTION OF THE WEST RIGHT-OF-WAY LINE OF CUSTER AVENUE AND THE SOUTH RIGHT-OF-WAY LINE OF SHERIDAN AVENUE; THENCE SOUTHWESTERLY ALONG THE NORTH AND WEST LINES OF LOT 3, VETERANS LEGACY SOUTH SUBDIVISION, ALSO BEING THE SOUTHEAST RIGHT-OF-WAY LINE OF SHERIDAN AVENUE, TO THE SOUTHWEST CORNER OF SAID LOT 3, VETERANS LEGACY SOUTH SUBDIVISION, ALSO BEING THE INTERSECTION OF THE NORTH RIGHT-OF-WAY LINE OF CAPITAL AVENUE AND THE EAST RIGHT-OF-WAY LINE OF SHERIDAN AVENUE; THENCE WEST, ALONG THE NORTH RIGHT-OF-WAY LINE OF CAPITAL AVENUE, TO THE INTERSECTION OF THE WEST RIGHT-OF-WAY LINE OF WEBB ROAD AND THE NORTH RIGHT-OF-WAY LINE OF CAPITAL AVENUE; THENCE SOUTH, ALONG THE WEST RIGHT-OF-WAY LINE OF WEBB ROAD, TO THE INTERSECTION OF THE NORTH RIGHT-OF-WAY LINE OF 13TH STREET AND THE WEST RIGHT-OF-WAY LINE OF WEBB ROAD; THENCE WEST, ALONG THE NORTH RIGHT-OF-WAY LINE OF 13TH STREET, TO THE INTERSECTION OF THE NORTH RIGHT-OF-WAY LINE OF 13TH STREET AND THE WEST LINE OF THE EAST HALF OF SECTION 12, TOWNSHIP 11 NORTH, RANGE 10 WEST; THENCE NORTH, ALONG SAID WEST LINE OF THE EAST HALF OF SECTION 12, TOWNSHIP 11 NORTH, RANGE 10 WEST, TO THE INTERSECTION OF THE SOUTH RIGHT-OF-WAY LINE OF CAPITAL AVENUE AND SAID WEST LINE OF THE EAST HALF OF SECTION 12, TOWNSHIP 11 NORTH, RANGE 10 WEST; THENCE EAST, ALONG THE SOUTH RIGHT-OF-WAY LINE OF CAPITAL AVENUE, TO THE INTERSECTION OF THE WEST RIGHT-OF-WAY LINE OF WEBB ROAD AND THE SOUTH RIGHT-OF-WAY LINE OF CAPITAL AVENUE; THENCE NORTH, ALONG THE WEST RIGHT-OF-WAY LINE OF WEBB ROAD, TO THE SOUTHEAST CORNER OF LOT 6, TIMBERLINE SECOND SUBDIVISION; THENCE EAST, TO THE SOUTHEAST CORNER OF LOT 1, SCHUMANN SUBDIVISION; THENCE NORTH, ALONG THE EAST LINE OF SCHUMANN SUBDIVISION TO THE SOUTHEAST CORNER OF LOT 8, SCHUMANN SUBDIVISION; THENCE WEST, ALONG THE SOUTH LINE OF SAID LOT 8, TO THE SOUTHWEST CORNER OF SAID LOT 8, SAID CORNER ALSO BEING ON THE EAST RIGHT-OF-WAY LINE OF WEBB ROAD; THENCE NORTH, ALONG THE WEST LINE OF SAID LOT 8, LINE ALSO BEING THE EAST RIGHT-OF-WAY LINE OF WEBB ROAD, TO THE NORTHWEST CORNER OF SAID LOT 8; THENCE EAST, ALONG THE NORTH LINE OF SAID LOT 8, TO THE SOUTHEAST CORNER OF SAID LOT 8; THENCE NORTH, ALONG THE EAST LINE OF SAID SCHUMANN SUBDIVISION, TO THE NORTHEAST CORNER OF LOT 11, SCHUMANN SUBDIVISION, POINT ALSO BEING THE SOUTHEAST CORNER OF LOT 6, LAWTON SUBDIVISION; THENCE NORTH, ALONG THE EAST LINE OF SAID LAWTON SUBDIVISION, TO NORTHEAST CORNER OF LOT 1, LAWTON SUBDIVISION, ALSO BEING ON THE SOUTH RIGHT-OF-WAY LINE OF AIRPORT ROAD/U.S. HIGHWAY 281; THENCE EAST ALONG THE SOUTH RIGHT-OF-WAY LINE OF AIRPORT ROAD/U.S. HIGHWAY 281, TO THE POINT OF BEGINNING.

The boundaries of the Good Life District Program Area shall be expanded to include any area annexed by the City which is within the established Good Life District and any land within the boundaries of any District, or District expansion, approved by the State of Nebraska Department of Economic Development.

### **38-14 Definitions**

The following terms shall have the following meanings when used in Chapter 38, Article II (Sections 38-12 through 38-22):

- *Act* shall have the same meaning as the *Good Life District Economic Development Act*
- *Applicant* shall mean any applicant for Program Funds
- *Bond* has the same meaning as Neb. Rev. Stat. §10-134
- *City* shall mean the City of Grand Island
- *District* shall have the same meaning as *Good Life District*
- *Eligible Costs* shall mean: payment and reimbursement of (a) the costs of acquisition, planning, engineering, designing, financing, construction, improvement, rehabilitation, renewal, replacement, repair, landscaping, irrigation, and maintenance of privately and publicly owned real estate, buildings, improvements, fixtures, equipment, and other physical assets within the Good Life District and debt service on such real estate, buildings, improvements, fixtures, equipment, and other physical assets, (b) the costs of construction and acquisition of publicly owned infrastructure and publicly owned property rights within or related to the Good Life District, (c) the costs of development, acquisition, maintenance,

and enhancement of technology assets to include hardware, software, and related intellectual property, if the initial exclusive use of such property is in or related to the Good Life District Program Area, (d) the costs of marketing, tenant improvement allowances, and tenant and customer acquisition and retention, and (e) city costs related to implementing, operating, and funding the Program.

- *Fund* shall have the same definition as Good Life District Program Fund.
- *Good Life District Applicant* shall mean the person who applied for the Good Life District as approved by the Department of Economic Development.
- *Good Life District Economic Development Act* shall mean the Act as in effect on August 13, 2024.
- *Good Life District Economic Development Program* means the good life district economic development program established pursuant to Ordinance No. 9983 of the City pursuant to the Act, and codified in Chapter 38, Article II, of the City Code, to utilize funds derived from local sources of revenue for the purpose of paying eligible costs, and for paying the principal of and interest on bonds issued pursuant to the Act.
- *Good Life District Occupation Tax* means the occupation tax as described in Section 38-16 of the City Code.
- *Good Life District Program Area* means the area provided in Section 38-13 of the City Code, established pursuant to the Act for the Program which shall include all property within the Good Life District, and expanded as provided in such Section 38-13.
- *Good Life District Program Fund* means the fund established and described in Section 38-18 of the City Code.
- *Good Life District* shall mean the District established by the State of Nebraska within the City pursuant to the Good Life Transformational Projects Act and shall include any land added to the District by the State of Nebraska after its initial approval, as authorized by the Act.
- *Legislative Findings* shall incorporate the findings made in Neb. Rev. Stat. §77-4409 as in place on August 13, 2024, and shall include the findings of Council contained in Ordinance No: 9983.
- *Local Sources of Revenue* means the sources of revenue established for the Program, revenue generated by and through the powers of the Act, and any revenue generated from grants, donations, or state and federal funds received by the City for the Program, subject to any restrictions of the grantor, donor, or state or federal law. Excepting that no property tax revenue generated within the District shall be considered a Local Source of Revenue eligible for appropriation into the Program.
- *Occupation Tax* shall mean a Good Life District Occupation Tax as established by the City of Grand Island.
- *Program Area* shall have the same meaning as Good Life District Program Area
- *Program* shall have the same definition as Good Life District Economic Development Program.
- *Project(s)* shall mean any project within the boundaries of the District which is in compliance with the Act and this Program except that project shall also include publicly owned infrastructure necessary to support economic development within the boundaries of any approved District and shall not include any ineligible project or project funded with resources which make it ineligible for Program funding.
- *Qualifying Business* shall mean for purposes of making application for Program funds, any person, entity, corporation, nonprofit corporation, partnership, limited liability company, or sole proprietorship which owns or leases property or operates its business within the boundaries of the District; any person or entity who, as part of their application, demonstrates a plan to own or lease property or operate its business within the District; the person, corporation, or entity, who made an approved application within the District; and the City of Grand Island; and any political subdivision, state agency, or other governmental entity which includes any portion of an approved Good Life District within its territorial boundaries. If a municipal, state, or federal license is required for the operation of a business, a business

shall only be considered a qualifying business if they have the required license and maintain that license in good standing.

- *Replacement Tax* shall mean any tax imposed by the City designed to replace the portion of the State Sales and Use Tax reduced by the Act within the boundaries of the District.
- *Sales and Use Tax* shall mean the Sales and Use Tax imposed by the State of Nebraska pursuant to the Nebraska Revenue Act of 1967, as amended from time to time.
- *State Sales Tax* shall have the same meaning as *Sales and Use Tax*
- *Termination* shall mean termination of the Good Life District if the conditions set forth in Neb. Rev. Stat. §77-4406, as in effect on August 13, 2024, are not demonstrated by the applicant, the City of Grand Island, or any other person or if, through the passage of time, the District shall have ceased to exist by operation of law.

### **38-15 Taxation & Revenue, General**

All Local Sources of Revenue established for or received for the Program, shall be deposited into the Good Life District Economic Development Fund and may be appropriated and spent for eligible costs of the Good Life District Economic Development Program in any amount and at any time at the discretion and direction of the City Council.

Pursuant to Neb. Rev. Stat. 77-4412(2)(b), the City intends to exercise the right to use all available Local Sources of Revenue available except that no property tax dollars shall be appropriated to the Program Fund. All Local Sources of Revenue shall be appropriated by the City solely for Program purposes until the Termination of the District.

The Nebraska Budget Act shall not apply this Program, any future Program, or any Local Sources of Revenue dedicated to such Program.

The City of Grand Island is authorized to establish all sources of revenue authorized in the Act within the Program Area, including, but not limited to, a Good Life District Occupation Tax, the future option to levy a local option sales and use tax of up to the greater of (i) the difference between the state sales tax rate levied in general and the state sales tax rate levied on transactions occurring within a good life district or (ii) two and three-quarters percent upon the same transactions that are sourced under the provisions of Neb. Rev. Stat. §77-2703.01 to 77-2703.04 within the District on which the State of Nebraska is authorized to impose a tax pursuant to the Nebraska Revenue Act of 1967, as amended from time to time and/or any future options for taxation which may become available within the Program Area.

The City may issue bonds as provided in Neb. Rev. Stat. §77-4418 to 77-4426 as it deems necessary from time to time. Such bonds may be issued in such principal amounts as the City Council determines are necessary to provide sufficient funds to carry out the Program or for any of the purposes of and powers granted pursuant to the Act, including the payment of eligible costs and all other costs or expenses of the City incident to and necessary or convenient to carry out the Program. Principal of and interest on such bonds shall be payable from the Local Sources of Revenue dedicated to the Program and/or deposited into the Fund.

Bonds issued or delivered under the Act shall be authorized by resolution of City Council and may be issued and secured under a resolution, trust indenture, or other security instrument in one or more series, and shall bear such date or dates, mature at such time or times prior to the expiration of the Program, bear interest at such rate or rates, be in such denomination or denominations, bear such title and designation, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment and at such place or places,

and be subject to such terms of redemption, with or without premium, as such resolution, trust indenture, or other security instrument may provide and without limitation by any other law limiting amounts, maturities, interest rates, or redemption provisions. Any officer of the City authorized or designated to sign, countersign, execute, or attest any bond may utilize a facsimile signature in lieu of his or her manual signature. The bonds may be sold at public or private sale as provided by the City Council and at such price or prices as determined or directed by the City Council.

Bonds issued or delivered under the Act may be issued for such combination of eligible costs and redevelopment projects and other Program purposes and may be payable from Local Sources of Revenue or such other sources as permitted under the Act, as may be provided in the resolution, trust indenture, or other security instrument related to the bonds. The City may make any allocation or designation with respect to the application of proceeds of such bonds, and any allocation or designation of Local Sources of Revenue and other sources permitted under the Act to the repayment of such bonds, as determined in or pursuant to such resolution, trust indenture, other security instrument, or other measure of the City Council.

In the event any officer whose signatures appear on any bonds issued under the Act cease to be officers before the delivery of such obligations, such signatures shall nevertheless be valid and sufficient for all purposes to the same extent as if such officers had remained in office until such delivery.

The City reserves all rights incidental to the issuance of its bonds. Specifically, the City reserves all rights enumerated in Neb. Rev. Stat. §77-4402 to 77-4429 as operative on August 13, 2024, including the right to issue refunding bonds or to issue additional bonds for Program purposes as part of the same series of bonds. All Bonds of the City issued pursuant the Act are declared to be issued for an essential public and governmental purpose and, together with interest thereon and income therefrom, shall be exempt from all taxes as provided in Neb. Rev. Stat. §77-4428.

Any tax or revenue authorized or imposed as part of the Good Life District Program, including the Good Life District Occupation Tax, shall be in addition to all other forms of tax and shall be separate and apart from any tax imposed pursuant to the Local Option Revenue Act. No Program tax shall be subject to deduction for any refunds made pursuant to Neb. Rev. Stat. §77-4105, 77-4106, 77-5725 or 77-5726 and shall not be affected by or included in the tax incentives available under the Employment and Investment Growth Act, the Nebraska Advantage Act, the ImagiNE Nebraska Act, the Nebraska Advantage Transformational Tourism and Redevelopment Act, the Urban Redevelopment Act, or any other tax incentive act which affects the local option tax imposed by a city pursuant to the Local Option Revenue Act.

All Local Sources of Revenue shall remain in effect and shall not end or terminate until this Good Life District Economic Development Program terminates except that the City reserves the right to limit the duration of any imposed Good Life District Occupation Tax or portion of any local option sales and use tax established pursuant to Neb. Rev. Stat. §77-27,142 as set forth in any authorizing ordinance.

The obligations of the City with respect to the Program, including any bonds issued or contracts of the City entered into under the Act, shall not be a general obligation of the city or a pledge of its credit or taxing power, nor in any event shall bonds or contracts be payable out of any funds or properties of the city, other than the Local Sources of Revenue appropriated by the City and dedicated to the Program pursuant to the Act and any other taxes pledged for payment of bonds pursuant to the Act.

Bonds issued under the act shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction. In no event should members of the City Council or any other City

employee or official involved in executing bonds issued under the Act, be liable personally on such bonds by reason of the issuance thereof.

The City reserves the exclusive right to all revenue obtained from the Program and shall be authorized to collect any available Local Source of Revenue through June 5, 2054, or until terminated by the City as permitted by Section 77-4412(7) of the Act, whichever occurs first.

### **38-16 Good Life District Occupation Tax**

From October 1, 2024 to May 31, 2054 the City shall impose a Good Life District Occupation Tax in the amount of 2.75% on all establishments located within the Good Life District Program Area (38-13). Council hereby finds, determines, and declares it is appropriate a tax be imposed and said tax is authorized by the Good Life District Economic Development Act, the Program Ordinance adopted by the City of Grand Island, and furthers the purposes required within the Act and Program.

Said Good Life District Occupation Tax shall be imposed on all items which are subject to the Nebraska State Sales and Use Tax ("State Sales Tax") as defined in the Nebraska Revenue Act of 1967 as amended from time to time.

All revenue derived from this Good Life District Occupation Tax shall be deposited into the Program Fund established as part of the Good Life District Program Ordinance and shall be used for the purposes allowed by that Fund.

All persons or entities engaged in any sales which would be subject to State Sales Tax shall collect this occupation tax at a rate of 2.75% on sales subject to State Sales Tax. Itemization of this tax may be made, but is not required, on the bill, receipt, or other invoice to the purchaser, but each person or entity engaged in taxable sales shall remain liable for the tax imposed by this section.

Each and every person or entity operating any establishment within the Program Area shall, starting October 1, 2024, and continuing until May 31, 2054 impose said tax. They shall also make, every calendar month thereafter, a return on a form prescribed by the Finance Director, a return for the taxable calendar month preceding and shall, at the same time, pay to the Finance Director the tax herein imposed. All returns shall be made no later than the 25<sup>th</sup> day of each month. Returns remitted via the United States Postal Service shall be postmarked by the 25<sup>th</sup> day of the month to be considered an on-time filing.

The Finance Director shall, for purposes of this occupation tax, and other duties contained in Chapter 38, Article II, have the same authorities and responsibilities as set forth in Grand Island City Code Chapter 23, Section 72.

If any person or entity neglects or refuses to make a return of payment of the taxes as required by this article, the Finance Director shall follow the provisions of Grand Island City Code Chapter 23, Sections 70, 71, 73, 74, and 76 for the collection of any taxes authorized herein. The Finance Director shall not have authority to waive any penalties or interest which shall accrue due to failure to remit any owed tax or to make prompt return.

### **38-17 RESERVED**

RESERVED

### **38-18 Good Life District Program Fund**

All revenue generated by any Local Source of Revenue which is appropriated or collected for this Program, and any earnings from the investment of such funds, shall be deposited into the Good Life District Program Fund which shall be a restricted fund.

The City is authorized to establish subaccounts in the Good Life District Program Fund as determined appropriate.

Any funds in the Fund may only be appropriated and spent for eligible costs of the Program in any amount and at any time at the discretion and direction of City Council, subject to any restrictions which may be established in connection with the authorization and issuance of bonds or pursuant to other contractual obligations as permitted by the Act.

All amounts deposited in the Fund which are not currently required or committed for purposes of the Program shall be invested as provided for in Neb. Rev. Stat. §77-2341.

The City may pledge, grant, loan, or otherwise utilize any Local Sources of Revenue deposited into the Fund for the payment of any bond indebtedness incurred by the City for purposes of the Program. The City may disburse these funds, once appropriated or collected, only for Program purposes as set forth in Chapter 38, Article II of Grand Island City Code including the payment or reimbursement of Eligible Costs made pursuant to any supplemental terms and conditions contained in a duly awarded contract. Disbursements may be made to a qualifying business only upon receipt of evidence that such distribution is for the direct payment or reimbursement of an Eligible Cost for work which has been completed in the Program Area pursuant to an approved Application.

The City of Grand Island shall charge a quarterly administrative fee to the Good Life District Program Fund equivalent to 3% of the Local Sources of Revenue deposited with the Fund in the quarter preceding any disbursement. Each quarterly fee shall be charged by the City to the Program Fund within 45 days of the close of each fiscal quarter, and shall be paid prior to payment of any other Eligible Costs or debt service on bonds which may be payable from the Fund. This quarterly fee shall be used to cover the City's internal administrative, financial, and legal expenses related to the administration of this Program including the cost of publication of any requests for proposals, meeting notices, or public hearings, and the cost of routine financial management of the Program Fund by employed City personnel. This administrative fee will not cover, and the City shall impose additional administrative charges against the Fund, for the cost of required independent audits, infrastructure expenses, or outside professional services related to a particular project or application, or any necessary contracted professional services or bond related expenses.

Any proceeds from the issuance and sale of bonds pursuant to the Act which provide funds to carry out the Program shall be deposited into the Fund or with a bond trustee pursuant to any resolution, trust indenture, or other security instrument entered into in connection with the issuance of such bonds or as otherwise provided in Neb. Rev. Stat. §77-4423.

When the Program terminates by expiration of time, or in the event the Program is repealed by Council, the balance of money remaining in the Fund which are not otherwise pledged for the payment of bonds or otherwise committed by contract under the Program, shall be deposited into the general fund of the City. Any funds received by the City by reason of the Program, after the termination of the Program, shall be transferred from the Fund to the general fund as such funds are received.

Notwithstanding anything to the contrary in the Act, any bonds, contracts, or other obligations which remain outstanding or unpaid upon expiration of the Program on June 5, 2054, shall be deemed canceled and extinguished after all remaining amounts held in the Fund have been depleted to pay such bonds, contracts,



or other obligations, and the City shall have no continued liability, express or implied, with respect to such bonds, contracts, or other obligations.

The Fund shall remain open after termination of the Program until such time as all bonds, contracts, and other obligations payable from such Fund are no longer outstanding or are extinguished as provided in Neb. Rev. Stat. §77-4418, and such funds related to them fully accounted for, with no further City action required, and after the completion of a final audit pursuant to Neb. Rev. Stat. §77-4416.

The Fund shall be audited, annually, as required in Neb. Rev. Stat. 77-4416. Such audit shall be conducted by a qualified independent accounting firm who does not have any current or prior contractual business relationship with any qualifying business receiving funds or assistance under the Program. The costs of said audit shall be paid from the Fund. The results of such audit shall be filed with the City Clerk and made available for public review.

### **38-19 Applications to the Program Fund**

#### Generally

Applications for assistance from the Good Life District Economic Development Program by Applicants other than the City of Grand Island may occur by:

- (1) Qualified Response to any City issued Request for Proposals seeking development proposals within the District, or
- (2) Direct Application for Program Funds made by a Qualified Business,

#### Direct Application Process

Direct Applications shall be made on a form to be developed by the City of Grand Island and will include all contents, qualifications, and materials required herein.

Each submitted application shall be accompanied by a non-refundable application fee. These fees shall be codified in the City's adopted Fee Schedule. Fees shall be based on the amount of Program Funds requested. Should an applicant amend their request after making the initial application fee, they shall remit any increased fee due and owing prior to their application being placed on the Council agenda. No refunds shall be made for reduced requests.

<b>Amount of Program Funds Requested</b>	<b>Application Fee</b>
Under \$500,000	\$2500
\$500,000 to \$1,500,000	\$5000
\$1,500,000 to \$3,000,000	\$7500
\$3,000,000 to \$5,000,000	\$10,000
\$5,000,000 to \$10,000,000	\$20,000
Over \$10,000,000	\$50,000

The City Administrator, or their designee, shall be tasked with developing and implementing the necessary documentation and schedule for initial application review. This process, and any required forms, will be made available and public on the City's website when developed.

Application materials shall be held in confidence as permitted by Neb. Rev. Stat. §77-4412(d) and shall not be considered public records until such time as a final application packet is prepared for Council consideration by the City Administrator. Once an applicant has authorized submission of their reviewed

application to City Council, the contents of the application packet presented to Council shall no longer be held in confidence. In the event an applicant chooses to withdraw their application prior to submission to City Council, all application materials provided by the applicant will be disregarded and will remain confidential and shall not be a public record. Application materials provided by the applicant during preliminary review, but not forwarded to Council by the City Administrator, shall remain confidential and shall not be a public record.

The Application process will include at least the following steps, procedures, and requirements:

- (1) A completed written application and required supporting materials shall be submitted to the City Administrator.
- (2) The City Administrator, or their designee, shall review the application to ensure it is complete and includes all supporting materials.
- (3) The application will undergo a preliminary, confidential, review by the Administrative Review Team which shall include the following officials or their designee(s): City Administrator, the Finance Director, the Community Development Director, the Public Works Director, the City Attorney, and any other department heads the City Administrator deems necessary.
  - a. During the preliminary review, each member of the Administrative Review Team may:
    - i. Request supplemental materials or information from the Applicant.
    - ii. Make investigatory findings as to eligibility of the applicant and/or project.
    - iii. Make written recommendations to be forwarded to Council to include suggestions as to schedules, restrictions, conditions, compliance procedures or modifications necessary.
- (4) Upon the conclusion of the preliminary review by the Administrative Review Team the City Administrator will meet in consultation with the application to provide the applicant with the opportunity to:
  - a. Review the Application Packet prepared by the City Administration for forwarding to City Council for their approval, and/or
  - b. Present the Applicant with suggested modifications or changes recommended by the Administrative Review Team and permit the Applicant the ability to modify their proposal for no additional application fee, and/or
  - c. To notify the Applicant that the Administrative Review Team intends to recommend denial of the application and to provide the Applicant the opportunity to withdraw their application, and/or
  - d. To provide an opportunity for the Applicant to Withdraw their application from consideration by Council for any reason, or no reason at all.
- (5) Once Administrative review has been completed, the City Administrator shall cause a packet to be prepared for Council's consideration which shall include all application materials submitted, recommendations by the Administrative Review Team, and any other materials members of the Administrative Review Team or Applicant deem necessary.
- (6) The Applicant shall be entitled to notice that the Administrative Review Process has been completed, notice of the date and time of the City Council meeting at which their application will be considered, and notice that upon submission of their application to City Council all contents of their application shall become public record except for redactions necessary to shield confidential information such as dates of birth, social security numbers, banking/routing information, or items which include information that may jeopardize public safety like the location of critical infrastructure, security features of buildings, or other safety items which serve no public purpose by their release.

- (7) City Council shall consider all applications submitted by City Administration during their regular meetings or a special meeting called for the purpose of application review.
- (8) After consideration of a properly presented application Council shall pass a resolution reflecting required findings and a determination that an application be approved as submitted, approved subject to restrictions or modifications, rejected with instructions for resubmission directly to Council, or rejected outright.
- (9) In addition to their approval, Council shall designate in their resolution whether they are:
  - a. Authorizing the Mayor to sign any agreements, contracts, or other legal documents submitted by the Applicant, and/or
  - b. Authorizing the City Administrator and City Attorney to negotiate terms of any agreements, contracts, or other legal documents consistent with the Application for the Mayor's signature without further action by Council, and/or
  - c. Will require the applicant to present all proposed agreements, contracts, or other legal documents consistent with the Application for Council review and future approval.

#### Applicant Qualifications

An Applicant for Program Funds other than the City of Grand Island must be a qualified applicant. To be a qualified applicant the person, entity, or group of persons and entities must:

- (1) Be a Qualified Business.
- (2) Have, or be able to obtain, minimal insurance coverage which names the City of Grand Island as an additional insured.
- (3) Be able to obtain a performance bond in an amount sufficient to guarantee performance of all deliverables for which any Program Funds are requested.
- (4) Be committed to legal compliance and must be able to certify that they will conduct all operations consistent with all required local, state, and federal laws.
- (5) May not have been debarred, disqualified, or otherwise restricted from participation in any public project within ten (10) years preceding the application.
- (6) For payment of Eligible Costs which are improvements to or related to real property, provide: (1) proof of ownership in property for which program funds would be expended; and/or (2) an exclusive interest in property that can be enforced and encumbered by restriction for a period of not less than 30 years; and/or (3) evidence that any improvements proposed on public property are designed in accordance with relevant industry standards; and/or (4) authorization from all involved property owners for submission of an application and consent for negotiated encumbrance of the property for a period of not less than 30 years.

#### Application Contents

The City Administrator shall develop an application form or guidance documents to include these documents or their equivalents. In the event an applicant is unable to provide any of the requested materials, the City Administrator may reject the application without submission to Council as an incomplete application. Applications should include:

- (1) Supporting documentation to demonstrate the application is made by a qualified applicant.
- (2) A Project proposal which shall include, at a minimum:
  - a. A concise written summary of the project.
  - b. The total cost of the proposed project and a summary of the financial structure proposed.
  - c. A developer capital stack for the project prepared by an attorney or financing professional which includes documentation of commitments for financing of the project.

- d. A summary of the request for Program Funds including the amount of funding, a proposed disbursement schedule, and whether the request is for payment of project expenses or reimbursement after project completion.
- (3) For each request for Program Funds, applicant shall provide written support highlighting how use of the proposed Program Funds exemplifies the Program purposes and goals and outlining why this request should receive funding priority.
- (4) For each request for Program Funds, the applicant shall include a developer gap analysis detailing the necessity for the City to provide incentives for the project from Program Funds. This gap analysis should highlight what benefit or return on investment use of Program Funds would provide to the Program that would not exist but for the use of Program Funds, any "but for" analysis which supports that the project benefits would not occur or would be substantially delayed but for use of the Fund.
- (5) A draft site plan to include visual site plans, studies, surveys, or other documents.
- (6) An estimate of the number of new permanent jobs created within the project.
- (7) An estimate of the number of temporary, seasonal, or construction related jobs created within the project.
- (8) A list of all occupied structures to be built; to include the type of structure, approximate square footage, and proposed use.
- (9) Developer governance documents for each involved developer or sub-developer. If applicable, corporate structure charts showing equity ownership for the project, developer, or landowners.
- (10) Projected annual sales estimated for development within the project to include the following details: annual estimated taxable sales, annual estimated non-taxable sales, percentage of taxable sales estimated to be made to out-of-state residents.
- (11) Projected annual out-of-state visitors to project.
- (12) Supporting documentation for any estimates used in support of sales, visitor, or jobs projections.
- (13) Documentation of land acquisition or executed contracts supporting acquisition for such land.
- (14) Any purchase agreements, sale agreements, leases, memorandums of understanding, or other commitment documents from businesses described in the site plan or who intend to occupy any buildings included in the list of occupied structures.
- (15) Pro forma documents for any hospitality, leisure, recreational, or athletic-related business described in the site plan or who intend to occupy any buildings included in the list of occupied structures.
- (16) Proposals for contracts, agreements, deed restrictions, or other encumbrances which provide assurances to the City that the project will be executed to completion or will be sufficiently encumbered so as to leave the City with a demonstrable return on investment should the project fail to be completed.
- (17) A summary of any annexations, rezoning actions, or blight studies which are or may be necessary for the project, including a proposed schedule for all preliminary actions which must occur prior to distribution of Program Funds.
- (18) Identification of any professionals, consultants, or third parties which may be needed to assist the City or Applicant in the development of the proposed project for whom the applicant is requesting payment or reimbursement of expenses from the Program Fund.
- (19) Either: (1) An affidavit confirming that no tax increment financing is, or will be requested, as part of the Project so long as Program Funds are expended or (2) A summary of what tax increment financing is, or may be, requested as part of the project, and a draft of any proposed Redevelopment Plan pursuant to the Nebraska Community Development Law, if tax increment financing is

requested for any part of the Project, and a cost-benefit study which includes and incorporates any requested Program Funds.

- a. Note that any application for Project Funds is not, and will not be, considered as an applicant for tax increment financing but is merely required as an aid to the City in evaluating the range and scope of incentives requested.

(20) Applicant will include clear and concise statements detailing how their project fits the Program Goals listed below, if applicable:

- a. How does the proposed project promote the goals and purposes contained in the Good Life District Transformational Projects Act and Chapter 38, Article II of Grand Island City Code?
- b. What makes this project unique and transformational as opposed to normal or routine economic development and growth?
- c. How does the project expand the tax base within the Program Area?
- d. Does the project demonstrate an ability to generate additional Local Sources of Revenue in an amount equal to, or greater than, the requested initial grant of Program Funds?
- e. What impacts will the project have on the provision of public services to include police, fire, schools, and public works?
- f. How will this project draw visitors from outside the State of Nebraska?
- g. Does this project fill an identified gap in available resources in the City of Grand Island? If so, how?

(21) Per Neb. Rev. Stat. 77-4412(e):

- a. The Applicant will provide adequate documentation to demonstrate the existence of sufficient infrastructure to serve the program area; or how such infrastructure will be created, funded, and maintained by and through the proposed Project.
- b. The Applicant will provide required data showing that sufficient capital investment in buildings and facilities exist to generate enough Local Sources of Revenue to Sustain the Program.
- c. The Applicant will provide sufficient assurances that substantially all of the eligible costs will be used for the benefit of the Program Area.

Notwithstanding the foregoing, if the Good Life District Applicant is an Applicant for funding from the Program, the Good Life District Applicant shall not be required to submit any additional information about the business structure, business entity, or historical business information of the entity which is the Good Life District Applicant than what was included in the original application to the Nebraska Department of Economic Development for establishing the Good Life District.

#### City Applications

City Administration may present proposals for the City's use of the Program Fund directly to City Council who may grant approval of any presented proposal so long as the use of funds is for Eligible Costs. Such uses may occur within the Program Area which serve the goals and purposes of the Program, provides infrastructure in support of growth within the Program Area or is otherwise related to the Program Area, or other permitted Eligible Costs.

City Administration may make application to City Council for the ability to use or pledge Program Funds in conjunction with the issuance of any bonds authorized under this Program.

No fee shall be charged for requests made by the City, processed in response to a City-issued request for development proposal, or in furtherance of the issuance or processing of authorized bonds made by the City.

#### Limitations on Eligible Costs

The City specifically authorizes all defined types of Eligible Costs contained in 38-14 City; however Council reserves the right to limit, on a per-application basis, the amounts or types of Eligible Costs as are determined to be in the best interest of the City and the Program, including per-project maximums or maximum portions of project expenses eligible for funding by the Program.

#### Further Considerations

City Council shall specifically consider, when reviewing applications:

- (1) Whether there is sufficient existing infrastructure to serve the Program Area with the addition of this Project; or whether this Project creates the required infrastructure.
- (2) Whether any proposed or necessary infrastructure is adequately constructed and funded by and through the proposed Project.
- (3) Whether the proposed Project includes sufficient capital investment in buildings and facilities to generate enough Local Sources of Revenue to sustain the Program.
- (4) Whether the proposed Project provides sufficient guarantee that substantially all of the Eligible Costs will be used for the benefit of the Program Area.

#### **38-20 Compliance, Modifications, and Program Restrictions**

No Projects shall be eligible if the project includes a licensed racetrack enclosure or an authorized gaming operator as such terms are defined in Neb. Rev. Stat. §9-1103, except for infrastructure or facilities that are publicly owned or are used by or at the direction of the Nebraska State Fair Board, so long as no gaming devices or games of chance are expected to be operated by an authorized gaming operator within any such facilities;

No Projects shall be eligible if the project received funds pursuant to the Shovel-Ready Capital Recovery and Investment Act or the Economic Recovery Act.

No Project shall be eligible if the project includes any portion of a public or private university.

Pursuant to Neb. Rev. Stat. §77-4405(7)(b), Chapter 38, Article II of the Grand Island City Code shall serve as notice to the Department of Economic Development that the City intends to fully preserve its right to pledge any or all local sources of revenue for the payment of bonds issued pursuant to the Good Life District Economic Development Act and that the City believes removal of any property from the boundaries of an approved Good Life District would not be in the best interest of the City, would be contrary to the goals and purposes of the approved application for the Good Life District, and would jeopardize the City's ability to honor the voter's directive that transformational growth be pursued as allowed by the Act.

Should City Council identify parcel(s) of land which are appropriate for removal from the District it may pass a resolution determining that said removal is in the best interest of the City by a two-thirds vote of its Members.

As the City of Grand Island and its citizens have relied on the local sources of revenue needed to fund this Program, any property owner, applicant, or other entity, other than the City of Grand Island, wishing to modify the District as approved, including adding or removing real estate from the District, shall be

responsible for all costs and expenses incurred by the City of Grand Island including all administrative and legal expenses, the cost of removing or modifying any infrastructure funded in whole or in part by the Program, the cost of any necessary bond refinancing, and shall remain obligated to impose and collect the Good Life District Occupation Tax so long as the subject property would have been within the approved boundaries of the District but for the modification of the District as approved. Should any costs be so attributed, the City Council shall certify the amount due and owed each quarter and shall cause the same to be levied as an assessment against any real property and may pursue other legal actions as needed to enforce this section.

Demonstration to the State of Nebraska that the required new development costs have been met will include demonstration made by evidence submitted by the District applicant or the City of Grand Island, or any other person who submits satisfactory evidence to the Department of Economic Development.

All persons or entities receiving Good Life District Funds or other financial assistance under this Program shall certify to the City of Grand Island annually the amount they have committed for investment within the District and the amount they have actually expended. This sworn certification shall be due no later than January 15<sup>th</sup> of each year. Any person or entity failing to make said sworn certification shall be ineligible to receive additional Program funds and will be considered in breach of any funding agreements.

The City shall be authorized to pass any actions necessary to impose and enforce any Local Sources of Revenue as needed to develop and fund the Program Fund.

### **38-21 Amendment or Repeal of the Program Ordinance**

City Council reserves the right to amend the authorizing Ordinance and this Chapter of City Code at any time by a two-thirds vote of the members of Council.

City Council may repeal this ordinance in its entirety, subject only to the provisions of any outstanding bonds or existing contracts relating to such program and the rights of any third parties arising from such bonds or contracts. Any effort to repeal the Program Ordinance must be approved by a two-thirds vote of the members of Council.

### **38-22 Reservation of Governance Rights and Effect of Other Laws**

The City retains the express authority to issue bonds, enter into contracts, or incur other obligations as allowed by the Act subject only to the approval of City Council.

As set forth in Neb. Rev. Stat. §77-4426, no consent of any department, division, commission, board, bureau, or instrumentality of the State is required and no other proceedings or happenings, or any other conditions or things than those actions required by Council shall be required. The validity of and security for any bonds, contract, or other obligations shall not be affected by the existence or nonexistence of any such consent or other proceedings, conditions, or things. No other proceedings except those required under this Program shall be required. No other laws shall apply to bonds, contracts, or other obligations issued or entered into pursuant to the Good Life District Economic Development Act.

Pursuant to Neb. Rev. Stat. §77-4427, In any suit, action, or proceeding involving the validity or enforceability of any bonds, contract, or agreement of a city pursuant to the Good Life District Economic Development Act, or the security therefore, brought after the lapse of thirty days after the authorization by the City Council for the issuance of such bonds or entry into such contract or agreement, any such bond, contract or agreement, and the security therefore and provisions therein, reciting in substance that it has been authorized by the city pursuant to the Good Life District Economic Development Act or to provide

financing for a Good Life District Economic Development Program shall be conclusively deemed to have been authorized for such purpose and such bonds, contracts, or agreement, and security therefore and provisions therein, issued or delivered pursuant to such authorization shall be conclusively deemed to have been issued, entered into, provided, and carried out in accordance and compliance with the purposes and provisions of the Good Life District Economic Development Act, and deemed to be valid and binding obligations and agreements of the city for the duration of the term of such obligations and agreements as provided therein.

All State actions brought pursuant to the Program shall be brought in the District Court of Hall County, Nebraska. All Federal actions shall be brought in the District of Nebraska.

All applicants for Projects or Program Funds which involve one or more persons, entities, or owners shall waive its right to bring any cause of action related to the Program or any Program Project or any contract for Funds except for those causes of action filed jointly by *all* impacted persons, entities, or owners other than the City of Grand Island. In the event an action is filed with the consent of all involved parties other than the City of Grand Island, while said cause of action is pending no additional appropriation or distribution of Program Funds or any other public financing authorized by the Act, or as part of any project approval, shall be made until such time as said cause of action is resolved and all applicable appeal times have lapsed. Any appropriations or distributions which would have been made between the filing of said cause of action and the expiration of any opportunity to appeal shall be deemed waived by the applicant for Funds.

If any provisions of the Act are inconsistent with the provisions of any other law of the State of Nebraska, or ordinance of the City of Grand Island, the provisions of the Act shall be controlling.

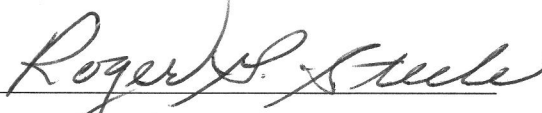
The powers conferred to the City by the Good Life District Economic Development Act shall be in addition and supplemental to the powers conferred by any other law of Nebraska, including, without limitation, the Local Option Revenue Act, the Community Development Law, the Local Option Municipal Economic Development Act, and the Good Life Transformational Projects Act.

The Good Life District Economic Development Act and all grants of power, authority, rights, or discretion to a city under the act shall be liberally construed, and all incidental powers necessary to carry the act into effect are hereby expressly granted to and conferred upon a city. Nothing in this Program or the Act shall be construed to limit the existing statutory authority of the City of Grand Island.


#### SECTION 5. Effective Date

All provisions of this ordinance shall be in force and take effect immediately upon its passage and publication pursuant to law.

Enacted 10<sup>th</sup>, September 2024

  
\_\_\_\_\_  
Roger G. Steele, Mayor

Attest:

  
\_\_\_\_\_  
Jill Granere, City Clerk

