

City of Franklin
City of Franklin
March 9, 2021 7:00 PM City Hall

A Copy of the "Open Meetings Act" is posted in the Council Room
This Agenda can be changed up to 24 hours prior to meeting time per open meeting law.

The Board may enter into closed session to discuss any matter on this agenda when it is determined by the council that it is clearly necessary for protection of the public interest or the prevention of needless injury to the reputation of an individual and if such an individual has not requested a public meeting, or as otherwise allowed by law. A closed session shall be limited to the subject matter for which the closed session was called. If the motion to close passes, the presiding officer immediately prior to the closed session shall restate on the record the limitation of the subject matter of the closed session.

It is the intention of the Board to take up the items on the agenda in sequential order. However, the Board reserve the right to take up matters in a different order to accommodate the schedules of the board members, persons having items on the agenda, and the public.

1. Call Meeting to Order Roll Call
2. Verification of Open Meetings Notice
3. **Discussion and Action Items**
 - 3.a. Discussion and action on agreement for legal services with Cline Williams for future projects for the CDA
 - 3.b. Discussion and action on a General Redevelopment Plan for the CDA Board
 - 3.c. Discussion and action Resolution 2021-01 CDA - Community Development Agency establishing a forgivable loan program.
4. Adjourn

CLINE WILLIAMS

ENGAGEMENT AGREEMENT FOR LEGAL SERVICES

This Engagement Agreement for Legal Services (“Agreement”) confirms that the City of Franklin, Nebraska (the “City”) hereby retains and employs the law firm of Cline Williams Wright Johnson & Oldfather, L.L.P. (“Cline Williams”) as its attorneys. Cline Williams’ representation of the City will begin upon Cline Williams’ receipt of a signed copy of this Agreement.

Retention and Scope of Engagement. The City retains Cline Williams to provide the following legal services: general redevelopment matters, including tax increment financing material. The legal services which Cline Williams will provide under this Agreement are limited to those services set forth in this paragraph, and will not include advice on tax-related or other issues or matters unless and to the extent specifically requested by the City and included in the scope of Cline Williams’ representation as set forth above.

Client Liaison and Cline Williams Liaison. Andrew R. Willis will be the City’s primary client contact for Cline Williams in connection with the legal services provided by Cline Williams pursuant to this Agreement. Andrew R. Willis will be the Cline Williams attorney who will serve as the primary contact for the City for the legal services provided by Cline Williams pursuant to this Agreement.

Fees for Legal Services. Cline Williams’ fees for legal services will be charged based upon the amount of time each attorney and paralegal expends on legal services provided pursuant to this Agreement multiplied by an hourly rate Cline Williams assigns annually to each attorney or paralegal.

The hourly rates assigned to each Cline Williams attorney and paralegal vary depending on the experience of the professional involved. The hourly rates for the attorneys and paralegals who, at this time, have been identified as likely to provide legal services on this matter and their present hourly rates are as follows:

Andrew R. Willis (attorney)	\$335/hr.
Shannon E. Fallon (attorney)	\$275/hr.
Alison K. Janecek (attorney)	\$225/hr.

Theresa L. Brammier (paralegal) \$175/hr.

Other Cline Williams attorneys and paralegals may be assigned to work on certain aspects of this matter as needed. Cline Williams' hourly rates are subject to annual, internal reviews and adjustments, and Cline Williams reserves the right to revise those hourly rates accordingly. The hourly rates noted above for this engagement will not be adjusted in 2021. Cline Williams will notify the City if new hourly rates are adopted for 2022.

Additional Charges. In addition to the fees for legal services provided for above, Cline Williams may incur expenses on the City's behalf for which the City will be obligated to reimburse Cline Williams. Invoices for expenses charged by third parties will be submitted by Cline Williams to the City for direct payment, whenever possible. The City agrees to reimburse Cline Williams for all expenses incurred by Cline Williams in connection with this matter, or, if the City is billed directly for these expenses, to make prompt payment directly to third parties. Such expenses shall include, but not be limited to, all filing fees, charges for service of process, witness fees, court costs, deposition costs, travel expenses for Cline Williams attorneys, document reproduction costs, expenses for investigators, consultants or experts necessary to assist in representation of the City's interest, and all other expenses necessarily incurred by the City or Cline Williams in connection with Cline Williams' representation of the City with respect to this matter.

Billing. Cline Williams will send the City monthly statements for fees and expenses charged in connection with Cline Williams' representation. At the City's election indicated below, Cline Williams' billing statements will be mailed, e-mailed, or both.

- The City gives permission for Cline Williams to transmit billing statements to the City electronically at the following e-mail address:

_____.

- The City requests that Cline Williams mail billing statements to the City at the following address:

_____.

All billing statements not paid within forty-five (45) days of the billing statement date will be deemed to be past due and interest will accrue from the billing statement date on all amounts set forth in the statement at the rate of one percent (1%) per month.

If the City has any questions about any invoice, the City should raise them with Cline Williams as soon as possible. If any portion or element of an invoice is questioned, then the remainder of the invoice is to be paid within 30 days.

The City further agrees that the proceeds of any recovery by the City, whether by settlement, judgment, levy or otherwise, are available to satisfy the fees and expenses owing Cline Williams, and Cline Williams shall possess a lien upon all funds recovered to secure payment of fees and expenses.

The City is ultimately responsible for payment of Cline Williams' billing statements, even though a third party may have agreed with the City to do so on the City's behalf. An attorney may accept payment for fees from someone other than a client so long as (1) the client consents after consultation and full disclosure, (2) the third party does not interfere with the attorney's independence of professional judgment or with the attorney-client relationship and (3) the attorney preserves client confidences in accordance with the ethical duty of confidentiality. To the extent a third party, such as a family member or an insurance company, will be paying the City's legal expenses, the City is Cline Williams' client and Cline Williams is performing services on the City's behalf, not on the third party's behalf. The City controls the decisions.

Withdrawal from Representation. Cline Williams reserves the right to withdraw from representation under circumstances permitted by applicable rules of professional conduct. These situations include, but are not limited to: the City's failure or refusal to carry out its promises in this Agreement; a conflict of interest that prevents Cline Williams' continued representation, or where the City's conduct makes continued representation by Cline Williams unreasonably difficult.

Termination of Representation. When Cline Williams has completed the scope of work for which Cline Williams has been retained under this Agreement, Cline Williams will consider Cline Williams' representation of the City pursuant to this Agreement to have ended.

The City may terminate Cline Williams' representation at any time, with or without reason. The City's termination of Cline Williams' representation in no way relieves the City of the obligation to pay for legal services that have been rendered and expenses incurred prior to the time of termination or that are necessitated to make an orderly transfer of Cline Williams' file materials.

Dated this ____ day of March, 2021.

CITY OF FRANKLIN, NEBRASKA

By: _____
Authorized Representative

Print Name: _____

CLINE WILLIAMS
WRIGHT JOHNSON & OLDFATHER, L.L.P.

By: _____
Andrew R. Willis, Partner

**COMMUNITY DEVELOPMENT AGENCY OF THE
CITY OF FRANKLIN, NEBRASKA**

**RESOLUTION NO. 2021-01 CDA
(Forgivable Loan Program)**

**A RESOLUTION OF THE COMMUNITY DEVELOPMENT AGENCY OF THE
CITY OF FRANKLIN, NEBRASKA, ESTABLISHING A FORGIVEABLE LOAN
PROGRAM.**

RECITALS

A. The City of Franklin, Nebraska (“City”), has adopted a Blight and Substandard Study (“Blight Study”) for a certain area of the City identified as Blight Study Area #1 (“Study Area”).

B. Pursuant to the Nebraska Community Development Law codified at Neb. Rev. Stat. §§ 18-2101 through 18-2155 (the “Act”), the City created the Community Development Agency of the City of Franklin, Nebraska (“CDA”).

C. The CDA desires to establish a Forgivable Loan Program to create a funding source to encourage private development in commercial areas of the Study Area to help remove blighted and substandard conditions and support the growth and economic development of the community.

D. The CDA finds that the redevelopment of the Study Area through the proposed Forgivable Loan Program will conform to the general plan and the coordinated, adjusted, and harmonious development of the City and its environs, which will, in accordance with present and future needs, promote health, safety, morals, order, convenience, prosperity, and the general welfare, as well as efficiency and economy in the process of development.

E. Pursuant to Neb. Rev. Stat. § 18-2107(4) of the Act, the CDA has the authority “to establish a revolving loan fund” and “to enter into any contracts necessary to effectuate the purposes of the [Act].”

F. The CDA has determined that the Forgivable Loan Program, as described below, is a revolving loan fund.

NOW THEREFORE, BE IT RESOLVED, the Community Development Agency of the City of Franklin, Nebraska, hereby adopts the following guidelines for the implementation of the Forgivable Loan Program:

1. Administration. The program shall be administered by the CDA.
2. General. Eligible applicants may apply for a forgivable loan for eligible improvements from available CDA funds.

3. Eligible Applicants. Eligible applicants include property owners or tenants with property located within the C-1 and C-2 zoning districts in the Study Area.
4. Eligible Improvements. Except as otherwise provided herein, eligible improvements include improvement, rehabilitation and renovation projects on property located within the C-1 and C-2 zoning districts in the Study Area, including, but not limited to:
 - a. Repair, replacement or addition of: roof, awning, signage, exterior lighting, windows or doors;
 - b. Façade enhancements (e.g., painting);
 - c. Repair or replacement of sidewalks, streets, parking areas, utilities and other infrastructure; and
 - d. Other work that qualifies as TIF-eligible expenditures under the Act.
5. Ineligible Improvements. The following costs are ineligible for payment under the program:
 - a. Working capital;
 - b. In-kind labor (“sweat equity”);
 - c. The purchase of real estate; and
 - d. The purchase of personal property that does not become a part of the real estate.
6. Funding Source. The CDA may approve a forgivable loan for up to 75% of the total costs of the eligible improvements that are part of the proposed project, up to \$25,000.00 (the “Loan Amount”). Applicant shall be required to pay for 25% of the total costs of the eligible improvements.
7. Application Process. Applications shall be submitted to the CDA on a form furnished by the CDA. Estimates, bids or quotes for the proposed project shall be attached to the application. The CDA reserves the right to review all applications on a case-by-case basis.
8. Design Review. All proposed work will be subject to design review and approval by the CDA.
9. Compliance with Laws. Applicant shall be responsible for compliance with the City zoning ordinance, building code, and all other applicable laws and codes.

10. Loan. The CDA shall pay the Loan Amount to the applicant upon execution of the Loan Documents.
11. Loan Documents. All approved loans shall be secured by a loan agreement and promissory note (the "Loan Documents").
12. Total Forgiveness of Loan Amount. The CDA shall forgive the loan and shall return the promissory note marked cancelled upon the satisfaction of the following conditions:
 - a. Applicant shall complete the project no later than one hundred eighty (180) days after the effective date of the Loan Documents (the "Completion Date"); and
 - b. Applicant shall submit to the CDA a certification of eligible project costs ("Cost Certification"). The Cost Certification shall be subject to review and approval by the CDA and must be in a form acceptable to the CDA in the CDA's sole discretion.
13. Partial Forgiveness of Loan Amount. If the conditions set forth above are not met, a portion of the amount due under the promissory note, up to the entire Loan Amount, shall be due and payable. The amount of the Loan Amount that will be due and not forgiven shall be determined according to the following terms:
 - a. If the project is not fully completed on or before the Completion Date, One Thousand and No/100 Dollars (\$1,000.00) shall not be forgiven. An additional One Thousand and No/100 Dollars (\$1,000.00) shall not be forgiven for every thirty (30) days after the Completion Date that the project is not fully completed.
 - b. In the event that the certified eligible project costs are less than the Loan Amount, taking into account the required 25% match, that portion of the Loan Amount which has not been certified shall not be forgiven.

All amounts of the Loan Amount not forgiven according to the terms set forth above shall be in the aggregate up to the amount of the Loan Amount.
14. Available Funds. Notwithstanding anything above to the contrary, no forgivable loan shall be approved by the CDA if there are not readily available funds in the CDA's account that are able to be utilized for said loan.

BE IT FURTHER RESOLVED, the CDA hereby rescinds any other resolutions or actions that are contradictory or incompatible with this Resolution.

Dated this ____ day of March, 2021.

COMMUNITY DEVELOPMENT AGENCY
OF THE CITY OF FRANKLIN, NEBRASKA

Chairperson

ATTEST:

Secretary

4832-6968-4959, v. 1