

CITY OF LEXINGTON

ECONOMIC DEVELOPMENT PROGRAM APPLICATION

DO NOT LEAVE ANY QUESTIONS BLANK

A. **Business (Borrower) Information:** Council for
 Name of Business to Receive Assistance: Economic Development Federal ID# 47-0737837
 Address: PO Box C, 607 North Washington Street
 Lexington Nebraska 68850
 City State Zip
 Contact Person: Rich McGinnis Telephone No. (308) 324-2331
 Fax No. (308) 324-2335 E-Mail: rmcginnis.homefed@charterinternet.com
 Business Classification: Manufacturing Service Retail
 Administrative Management Headquarters Warehousing and Distribution
 Research and Development Other
 Business Organizations: Proprietorship Corporation
 Partnership Other 501 (c) (3) Non-Profit Corp.
 Does the Company have a Parent or Subsidiaries? Yes No

If Yes, Identify Name: _____
 Address: _____

 City State Zip

Business Type: Start-up (0-5 yrs old) Lexington Business Center Acquisition
 Existing (if existing, years in business _____)

Ownership Identification: List all officers, directors, partners, owner, co-owners and all stockholders. Enter under Minority Code, a "1" if the person identified is a woman; a "2" if a member of a minority group; and "3" if a disabled person. (see attached)

<u>Name</u>	<u>Title</u>	<u>Ownership Percent</u>	<u>Minority Code</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Personnel (Full-Time-Equivalent, FTE is based upon 2,080 hours per year) Applied Industrial Technologies
 Existing Number of Full Time Equivalent Positions: 2
 Full-Time Equivalent Positions to be created within 18 months of Application Approval: 1 or 2
 Total Number of Seasonal Full-Time-Equivalent Jobs Created (i.e. Jobs which will be available for at least 3 continuous months and recur annually): 3 or 4

B. Project Information

USES OF FUNDS	Total Project Cost	Lexington Funds Requested
Land Acquisition	_____	_____
Building Acquisition	\$ 300,000	_____
New Facility Construction - Remodel	\$ 600,000	_____
Acquisition of Machinery/Equipment	_____	_____
Acquisition of Furniture/Fixtures	_____	_____
Working Capital (Includes Inventory)	_____	_____
Other (Specify) remodeling of the space to be occupied by Applied Industrial Technologies	\$ 115,000	\$ 115,000
TOTAL: Industrial Technologies	\$ 1,115,000	\$ 115,000

SOURCES OF FUNDS:

Note: Public sources of financing require the participation of a Bank and/or an injection of equity (non-debt) funds. None

Participating Lender Information:

Name of Lending Institution: _____

Address: _____

Contact Person: _____ Phone: () _____

Loan Amount: \$ _____ Loan Term (Yrs): _____

Interest Rate: _____ Percent _____ Variable _____ Fixed

Collateral Required: _____ Equity Required: _____

Equity Information:

Amount available by business or owners for investment: \$ _____

Project Location:

Within the City Limits of Lexington Lexington Business Center, 603 N. Lincoln Street

Population of Lexington 10,000

Outside of City Limits, but within the Zoning Jurisdiction of Lexington _____

Personal Financial Statement: Complete the Attached Personal Financial Statement Form For Each Person.

The above information is accurate to the best of my knowledge and belief. The above information is provided to help you evaluate the feasibility of obtaining public financial assistance. I further authorize release of personal and business credit information.

Signature: Rich McGinnis Dated: 2/19/09

Signature: _____ Dated: _____

Signature: _____ Dated: _____

ATTACH THE FOLLOWING:

- (1) A brief description of the business/ history and the proposed project.
- (2) 3 year historical balance sheets and operating statements. Current statements less than 90 days old. Start-up provide projected year end statements for first 2 years of operation.
- (3) Personal Financial Statement for each person. (See Attached Form.)
- (4) List of Current Obligations for Existing Business.
- (5) For new business and existing business expanding into a new product line, please include a business plan.

AMENDMENT TO LOAN AGREEMENT

This Amendment entered into on this ____ day of _____, 2009, by and between COUNCIL FOR ECONOMIC DEVELOPMENT of Lexington, Nebraska, hereinafter referred to as "the Company", and the City of Lexington, Nebraska (Lexington Economic Development Program), hereinafter referred to as "the City".

Whereas, the parties have entered into a Loan Agreement, dated February 5, 2007, and the parties mutually agree that said loan agreement should be amended to provide for the continued expense of development of the commercial real estate. It is therefore agreed by the parties that said Agreement shall be amended as follows:

1. Paragraph 1.1 shall be amended to provide that the Company will borrow and the City will lend Four Hundred Fifteen Thousand and no\100ths Dollars (\$415,000) herein with interest thereon called the loan.
2. Paragraph 1.2 shall be amended to provide that payment upon the principal amount of indebtedness shall be deferred until May 1, 2015, or until said real estate shall be sold, whichever shall occur first in time.
3. Paragraph 1.3 shall be amended to provide that that rate of interest which shall accrue on the unpaid principal balance, from February 5, 2007 until payment, shall be 0.0%.
4. Except as herein amended, the remaining provision of said Loan Agreement shall remain in full force and effect, and subject to the Security provided.
5. It is also understood by the parties, that should CED need to acquire additional bank funding to remodel or repair the Lexington Business Center premises, that the City of Lexington would be willing to subordinate its lien to the bank(s) to accomplish said improvements.

Executed on the date and year first stated above.

CITY OF LEXINGTON, NEBRASKA,
LEXINGTON ECONOMIC DEVELOPMENT
PROGRAM

By: _____
Joe Peplitsch, City Manager

BORROWER
COUNCIL FOR ECONOMIC DEVELOPMENT

By: _____
Richard McGinnis, President

LOAN AGREEMENT

THIS AGREEMENT entered into on this ____ day of _____, 2007, by and between COUNCIL FOR ECONOMIC DEVELOPMENT of Lexington, Nebraska, hereinafter referred to as "the Company", and the City of Lexington, Nebraska (Lexington Economic Development Program), hereinafter referred to as "the City".

WITNESSETH, it is agreed by the parties as follows:

SECTION 1. LENDING.

- 1.1 Amount. The Company will borrow and the City will lend Three Hundred Thousand and no\100ths Dollars (\$300,000.00) herein with interest thereon called the loan. Said amount shall be available as a line of credit to be drawn against by written requests.
- 1.2 Repayment. Repayment of the loan will be made as follows: The principal and interest shall be payable at the City Offices of Lexington, Nebraska, or such other place as the holder may designate in writing, in seven (7) consecutive equal annual installments of principal and interest, beginning on the 1st day of May, 2008, until the entire indebtedness evidenced hereby is fully paid, except that any remaining indebtedness if not sooner paid, shall be due and payable on May 1, 2015.
- 1.3 Interest. Interest shall accrue on the unpaid principal balance from the date of the Promissory Note at the rate of 4% per annum.
- 1.4 Prepayment. The Company shall have the right to prepay the principal amount outstanding in whole or in part at any time. Any partial payment shall be applied against the principal amount outstanding and shall not extend or postpone the due date of any subsequent annual installment or change the amounts of any installments, unless the holder hereof shall otherwise agree in writing.

SECTION 2. SECURITY AND GUARANTEE.

- 2.1 Security. The borrower will execute a Deed of Trust and Security Agreement and Financing Statement granting Lender a second lien position in the following described real estate, to-wit:

Lots 1, 2, 3, 4, 8, 9, 10, 11, and 12, Block 34, Original Town of Plum Creek, now City of Lexington, Dawson County, Nebraska, together with the alley lying between Lots 1-4 and Lots 9-12, which was vacated by Ordinance No. 2148.

And in addition thereto, a second lien position in all equipment, inventory, accounts, contract rights, financial accounts, plant fixtures, and all proceeds, products, rent and profits from any of the foregoing.

- 2.2 Property- Insurance. In the event the Company has physical damage insurance on any of the property securing said loan, the City will be named as a loss payee in all policies of said property insurance held by the Company.

SECTION 3. REPRESENTATIONS AND WARRANTIES.

The Company represents and warrants to the City (which representations and warranties shall be deemed continuing) that:

- 3.1 Regulatory Regulations. No consent is required from any federal, state, county, municipal or local regulatory body for the making of or performance under this agreement, other than the City of Lexington, Nebraska.
- 3.2 Financial Statements. All financial statements and data as furnished and to be furnished to the City fairly reflect the financial condition of the Company and the results of operations as of the date of such statement or data, have been prepared in conformity with generally accepted accounting principles, and no material adverse change has occurred since the date of any such statement or data.
- 3.3 Liabilities. Except to the extent shown in the statements and data warranted by 3.2 which are furnished by the Company to the City and with the exception of a \$300,000 loan payable to Tier One Bank, the Company has no liabilities, direct or contingent, and that the Company has good and marketable title to all of its properties and assets, free and clear of all mortgages, liens, pledges, charges, security interests and encumbrances with the exception of a 1st lien given to Tier One Bank, and that none of such properties, is held under any conditional sale or other title-retention agreement (including any lease in the nature of a title-retention agreement) and that no financing statements under the Uniform Commercial Code or mortgage or deeds of trust which name the Company as debtor has been filed in any jurisdiction except for the financing statement and deed of trust taken by Tier One Bank, that the Company has not signed any such financing statement or security agreements or mortgages authorizing any secured party hereunder to file any such financing statement, and except as permitted hereunder in accordance with this Agreement, the Company has not given consent to the subordination of any of its rights or claims or to the rights or claims of any other person.
- 3.4 Taxes and Claims. The Company has filed all required federal, state and local tax returns, and has paid all taxes as shown on such returns as they have become due and that no material claims, litigation or governmental proceedings are pending or threatened.
- 3.5 Litigation. There are no actions, suits or proceedings pending or threatened (or to the knowledge of the Company any basis therefore) which question the validity of this agreement, the notes, and all other agreements, instruments, documents, certificates and reports executed or to be executed in connection herewith or which question any action taken or to be taken pursuant hereto or thereto.

SECTION 4. AFFIRMATIVE COVENANTS

Until such time as the indebtedness of the Company to the City has been fully paid, the Company shall:

- 4.1 Maintenance of Properties. Maintain all equipment in good repair.
- 4.2 Taxes and Other Liens. Promptly pay all taxes, unless contested in good faith, as well as all lawful claims for labor, materials and supplies, which if unpaid, might become a lien or

charge against its properties and against which, if requested by the City, the company shall set up reserves satisfactory to the City.

- 4.3 Financial Statements. The Company shall furnish to the City:
- a) A distribution report outlining the expenditures of funds.
 - b) Proof of an injection in the amount of the line of credit drawdown(s).
 - c) Quarterly financial reports during the duration of the loan.
- 4.4 Deeds of Trust. Abide by all terms of the security agreements, financing statement, assignments and mortgages executed by the Company pursuant hereto, the instant Loan Agreement included.

SECTION 5. NEGATIVE COVENANTS

Except with the prior written consent of the City, the Company shall not directly or indirectly;

- 5.1 Sale of assets or mergers. Sell, lease, transfer or otherwise dispose of any of the fixed assets which are collateral for the loan or consolidate with or merge into any other entity or permit any other entity to merge into it, or acquire all or substantially all of the property or assets of any other entity without the prior written consent of the City.

SECTION 6. EVENTS OF DEFAULT

If any one or more of the following events shall occur and be continuing, then the Promissory Note executed in connection herewith shall, thereupon, at the option of the City, immediately become due and payable without presentation, demand, further notice, or protest, all of the foregoing having hereby been expressly waived by the Company;

- 6.1 Nonpayment. Nonpayment after the due date of any principal or accrued interest on the Promissory Note given pursuant to this agreement.
- 6.2 Misrepresentation. A representation or warranty made by the Company, as set forth in Section 3 hereof being or becoming materially false.
- 6.3 Negative Covenants. A breach by the Company in the observance or performance of any negative covenant as set forth in section 5 hereof, or of any other agreements contained within this Agreement.
- 6.4 Affirmative Covenants. A breach by the Company in the observance or performance of any of the affirmative covenants as set forth in Section 4 hereof or of any other agreements contained within this agreement.
- 6.5 Insolvency. The Company:
- a) Admitting in writing its inability to pay its debts generally as they become due;
 - b) Filing or consenting to the filing of a petition in bankruptcy or a petition to take advantage of any insolvency act;
 - c) Making an assignment for the benefit of creditors;
 - d) Consenting to the appointment of a receiver of itself or of the whole or any substantial part of its property;
 - e) Suffering a petition under the federal bankruptcy code to be filed against it, or being adjudicated bankrupt;

f) Filing a petition or answer seeking reorganization or arrangement under the federal bankruptcy code or other applicable law.

- 6.6 Default in Other Indebtedness. A default by the Company with respect to any indebtedness (other than as permitted for notes provided for in this agreement) upon becoming due and payable or upon having been declared due and payable prior to expressed maturity by reason of default of the Company, or in the performance or observance of any obligations or conditions relating thereto.
- 6.7 Judgments. Any final judgment under Court action levied against the Company, if said judgment remains undischarged for a period of sixty (60) days or more after the date on which such judgment becomes final.

SECTION 7. CONDITIONS OF LENDING

The City shall not be obligated to make any advance provided for hereunder until such time as there has been received:

- 7.1 Resolutions. A distribution report outlining the expenditure of funds as well as proof of an injection in the amount of the line of credit drawdown(s).

SECTION 8. MISCELLANEOUS AND SUPPLEMENTAL PROVISIONS

- 8.1 Prepayment. The Company shall have the right to prepay the principal amount outstanding in whole or in part, provided that the holder of the Promissory Note may require that any partial prepayment shall be made on the date monthly installments are due and shall be in the amount of that part of one or more installments which would be applicable to principal. Any partial prepayment shall be applied against the principal amount outstanding and shall not extend or postpone the due date of any subsequent monthly installments or change the amount of such installments, unless the holder of the Promissory Note shall agree in writing.
- 8.2 Waivers. No omission or delay by the City in exercising any right or power under this agreement or under any note or other agreement incidental hereto shall impair such right or power or be construed to be a waiver of any default or an acquiescence therein, and any single or partial exercise of any other right, and no waiver shall be valid unless it is in writing and signed by the City. All remedies herein and by law afforded shall be cumulative and shall be available to the City until the indebtedness of the Company is fully paid.
- 8.3 Notices. Any written notice required or permitted in this agreement maybe delivered by depositing it in the regular mails, postage prepaid, charges prepaid, addressed to the Company at (address), Lexington, Nebraska, and to the City at City of Lexington, Nebraska, Economic Development Fund, PO Box 70, Lexington, Nebraska 68850.
- 8.4 Governing Law. This agreement and the notes and any and all other agreements, instruments, documents, items and certificates executed in connection herewith shall be governed by the laws of the State of Nebraska.
- 8.5 Successors and Assigns. This agreement shall be binding upon the Company and the City and their respective successors and assigns and inure to the benefit of the Company and the City and their respective successors and assigns.
- 8.6 Section Headings. This agreement contains capitalized section headings which are included solely for purposes of organization and reference and which shall not in any manner be

construed to act as a limitation on the force and effectiveness of any of the provisions included herein.

8.7 Execution. This agreement, and all agreements arising in connection herewith may be executed in any number of counterparts, each of which shall be considered an original, and all of which taken together shall constitute the same agreement.

8.8 Dates of Signing. The foregoing represents the agreement of the parties from the date first above states irrespective of dates of signing.

DATED this _____ day of _____, 2007.

CITY OF LEXINGTON, NEBRASKA,
LEXINGTON ECONOMIC DEVELOPMENT
PROGRAM

By: _____
Joe Peplitsch, City Manager

BORROWER
COUNCIL FOR ECONOMIC
DEVELOPMENT

By: _____
Dave Fairbanks, President