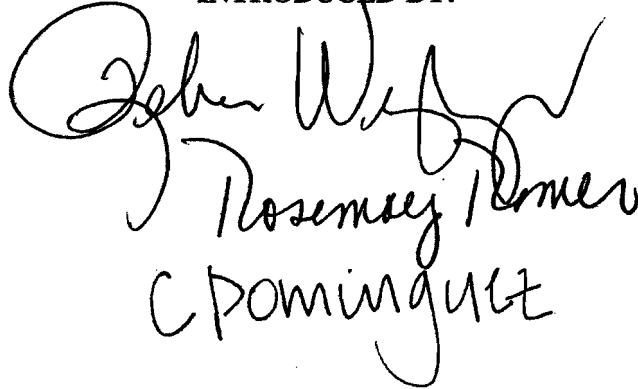


CITY OF SANTA FE, NEW MEXICO

BILL NO. 2008-42

INTRODUCED BY:

  
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AN ORDINANCE

AMENDING CERTAIN SECTIONS OF ARTICLE 11-11 SFCC 1987 REGARDING THE  
ECONOMIC DEVELOPMENT PLAN ORDINANCE.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

Section 1. Section 11-11.4 SFCC 1987 (being Ord. #1996-21, §4, as amended) is  
amended to read:

**11-11.4 Definitions.**

As used in this Economic Development Plan Ordinance:

*Economic development project* means the provision of direct or indirect assistance to a  
qualifying business and includes the purchase, lease, grant, construction, reconstruction, improvement  
or other acquisition or conveyance of land, buildings or other infrastructure; public works  
improvements essential to the location or expansion of a qualifying business; and payments for  
professional services contracts necessary for local or regional governments to implement a plan or  
project.

*Project participation agreement* means an agreement between a qualifying entity and the city

1 whereby the city provides assistance to an economic development project in exchange for the benefits  
2 received as set forth in this section.

3 *Qualifying entity* means a corporation, limited liability company, partnership, joint venture,  
4 syndicate, association or other person is one or a combination of two (2) or more of the following:

5 A. ~~[An industry for the manufacturing, processing, or assembling of any agricultural or~~  
6 ~~manufactured products;]~~ A business in a primary industry that creates economic base jobs which is  
7 defined as a company that manufactures, assembles or process goods or products and companies that  
8 export 50% or more of their services or goods outside of the State of New Mexico.

9 B. A commercial enterprise for storing, warehousing, distributing or selling products of  
10 agriculture, mining or industry, but, except as provided by paragraphs E and F of this definition, not  
11 including any enterprise for sale of goods or commodities at retail, or for the distribution to the public  
12 of electricity, gas, water or telephone or other services commonly classified as public utilities;

13 C. A business in which all or part of the activities of the business involves the supplying  
14 of services to the general public or to governmental agencies or to a specific industry or customer,  
15 but, other than as provided in paragraph F. of this subsection, not including businesses primarily  
16 engaged in the sale of goods or commodities at retail;

17 D. An Indian tribe or pueblo or a federally chartered tribal corporation; or

18 E. A telecommunications sales enterprise that makes the majority of its sales to persons  
19 outside New Mexico.

20 F. A facility for the direct sales by growers of agricultural products, commonly known  
21 as farmers' markets.

22 G. A cultural facility for the promotion of business, industry or community which is  
23 engaged in artistic, heritage or other cultural activity.

24 Section 2. Section 11-11.7 SFCC 1987 (being Ord. #1996-21, §7, as amended) is  
25 amended to read:

1           **11-11.7 Application Requirements.**

2           A.     Any qualifying entity meeting the definition set forth in subsection 11-11.4 SFCC  
3 1987 may propose an economic development project to the city. Meeting the definition of a  
4 qualifying entity does not create any obligation on the part of the city.

5           B.     Applications from qualifying entities shall be submitted to the economic  
6 development division on forms provided by the city. Application requirements will be as required by  
7 the appropriate administrative guideline.

8           [C. — ~~Application shall contain the following information:~~

9                 ~~(1) — Identification information:~~

10                ~~—— (a) — Complete name and address of entity;~~

11                ~~—— (b) — Incorporation papers with bylaws;~~

12                ~~—— (c) — List of board of directors and executive director, with addresses; and~~

13                ~~—— (d) — Resumes of all directors and officers.~~

14                ~~—— (2) — Evidence of financial solvency:~~

15                ~~—— (a) — Financial statements (income statements and balance sheets) for the~~  
16 ~~past three (3) years;~~

17                ~~—— (b) — Independent audit of the latest year;~~

18                ~~—— (c) — Federal tax number, New Mexico State Taxation and Revenue~~  
19 ~~number and city business license;~~

20                ~~—— (d) — Projected income statements for at least three (3) years.~~

21                ~~(3) — Evidence of organization's capacity:~~

22                ~~—— (a) — Brief history of the entity;~~

23                ~~—— (b) — Organizational chart of entity;~~

24                ~~—— (c) — Business plans for the entity and proposed project (shall include pro-~~  
25 ~~forma cash flow analysis);~~

- 1                   ~~\_\_\_\_\_ (d) Evidence of ability to manage the project, such as, but not limited to:~~
- 2                   ~~\_\_\_\_\_ (i) List and description of previously completed projects;~~
- 3                   ~~\_\_\_\_\_ (ii) Resumes of key staff involved with project;~~
- 4                   ~~\_\_\_\_\_ (e) Entity shall disclose the following information (if the answer is yes,~~
- 5                   ~~entity shall attach a written explanation):~~
- 6                   ~~\_\_\_\_\_ (i) Has the business or any of its officers ever been involved in~~
- 7                   ~~a bankruptcy;~~
- 8                   ~~\_\_\_\_\_ (ii) Has the business or any of its officers ever defaulted on any~~
- 9                   ~~loans or financial obligation; and,~~
- 10                   ~~\_\_\_\_\_ (iii) Does the entity have any loans or other financial obligations~~
- 11                   ~~on which payments are not current?~~
- 12                   ~~\_\_\_\_\_ (4) Funding sources for project:~~
- 13                   ~~\_\_\_\_\_ (a) Entity investment of qualifying entity;~~
- 14                   ~~\_\_\_\_\_ (b) Assistance being requested of the city (e.g. specific parcel of land,~~
- 15                   ~~applicable fees, etc.), with estimate of value; and,~~
- 16                   ~~\_\_\_\_\_ (c) Funding sources other than the city with letters of commitment or~~
- 17                   ~~intent to fund;~~
- 18                   ~~\_\_\_\_\_ (5) Identification of the terms, conditions, location, scope and requirements of~~
- 19                   ~~the economic development project.~~
- 20                   ~~\_\_\_\_\_ (6) Information sufficient for the economic development review subcommittee~~
- 21                   ~~and the business and quality of life advisory committee to make its determination whether the~~
- 22                   ~~applicant is a qualifying entity.~~
- 23                   ~~\_\_\_\_\_ (7) Any other information required of the applicant.]~~

24                   Section 3.       Section 11-11.8 SFCC 1987 (being Ord. #1996-21, §8, as amended) is

25                   amended to read:

1       **11-11.8 Application Review Process.**

2       A.     The economic development division, finance department, and such other city staff as  
3 are necessary and appropriate shall review the application.

4       B.     If the application is for less than \$30,000 and the proposed project meets the  
5 definitions of this section and the policies and objectives of the city's economic development plan,  
6 staff shall make a recommendation to the city manager who may approve the application. Staff shall  
7 report to the business and quality of life committee on a quarterly basis all applications approved by  
8 the city manager. All other requirements of Article 11-11 shall apply.

9       C.     If the application is for \$30,000 or more, staff shall [and] advise the economic  
10 development review subcommittee if the entity and the proposed project meet the definitions of this  
11 section and the policies and objectives of the city's economic development plan. The city may at its  
12 discretion engage independent consultants to assist in the review of applications.

13       ~~[B.]~~D. The economic development review subcommittee shall determine at a public meeting  
14 whether the entity and the proposed project qualify under this section.

15       ~~[C.]~~E. City staff shall then coordinate with the qualifying entity to develop a project  
16 participation agreement as set forth in subsection 11-11.11 SFCC 1987.

17       ~~[D.]~~F. The economic development review subcommittee shall consider the economic  
18 development project and the project participation agreement at a public meeting in accordance with  
19 the criteria set forth in subsection 11-11.9 SFCC 1987. The committee shall recommend to the  
20 business and quality of life advisory committee that the proposal be adopted, conditionally adopted or  
21 not adopted.

22       ~~[E.]~~G. The recommendation will be forwarded with the project participation agreement,  
23 minutes of the economic development review subcommittee and the business and quality of life  
24 advisory committee meetings and any other pertinent information to the governing body for final  
25 consideration at a public hearing. Review of the application by the finance committee or other

1 subcommittees of the governing body shall not be required unless otherwise directed by the  
2 governing body.

3 H. Information obtained by the city of Santa Fe that is proprietary technical or business  
4 information or related to the possible relocation or expansion of a qualifying entity shall be  
5 confidential and not subject to inspection pursuant to the Inspection of Public Records Act 14-2-4  
6 NMSA 1978.

7 I. It is unlawful for any employee of the city, or any former employee of the city to  
8 reveal to any person other than another employee of the city any confidential information obtained by  
9 the city that is proprietary technical or business information or related to the possible relocation or  
10 expansion of a qualifying entity and not available from public sources, except in response to an order  
11 of a district court, an appellate court or a federal court.

12 J. Any employee or former employee of the city who reveals to another person any  
13 information that he is prohibited from lawfully revealing is in violation of this section and shall be  
14 sentenced in accordance with the provisions of Section 1-3.1 SFCC 1987.

15 **Section 4. Section 11-11.9 SFCC 1987 (being Ord. #1996-21, §9) is amended to**  
16 **read:**

17 **11-11.9 Application Review Criteria.**

18 **A. Applications for economic development projects requesting economic assistance**  
19 **from the city which ~~[meet the policies and objectives of the city's community]~~ focus on targeted**  
20 **industries identified in the city's economic development plan shall receive priority. ~~[Examples~~**  
21 **~~include, but are not limited to:~~**

22 ~~—— (1) — Manufacturing firms (including intellectual property such as computer~~  
23 ~~software);~~

24 ~~—— (2) — Projects which enhance the exporting capacity of companies and/or provide~~  
25 ~~goods and services which currently have to be imported into Santa Fe;~~

1 ~~\_\_\_\_\_ (3) Private companies seeking to build, expand or relocate facilities;~~  
2 ~~\_\_\_\_\_ (4) Private companies which provide facilities or services which enhance the~~  
3 ~~ability of Santa Fe businesses to operate;~~  
4 ~~\_\_\_\_\_ (5) Organizations which assist business start-ups or bring small companies~~  
5 ~~together to increase their competitive abilities. This must involve a tangible project which~~  
6 ~~will create jobs and promote an industry. Examples include, but are not limited to:~~

- 7 ~~\_\_\_\_\_ (a) Business incubators;~~  
8 ~~\_\_\_\_\_ (b) Art incubators or coalitions (e.g. a performing arts coalition seeking~~  
9 ~~to construct rehearsal or performance facilities);~~  
10 ~~\_\_\_\_\_ (c) Public markets for farmers, gardeners, crafts, etc.; and,~~  
11 ~~\_\_\_\_\_ (d) Organizations which foster economic development by promoting~~  
12 ~~work force development efforts such as apprenticeships or other job training~~  
13 ~~programs;]~~

14 (1) Targeted sectors are identified as follows:

- 15 \_\_\_\_\_ (a) Media (film, publishing, journalism, video game production, etc.);  
16 \_\_\_\_\_ (b) Green – consistent with the city's sustainable plan as adopted and  
17 including clean renewable energy with a focus on the solar industry, water  
18 conservation and waste reduction technologies;  
19 \_\_\_\_\_ (c) Technology (biotech, nanotech, software design, etc.);  
20 \_\_\_\_\_ (d) Knowledge (research, think tanks, financial services, consulting,  
21 etc.); and  
22 \_\_\_\_\_ (e) Arts and culture (artisans, woodworking, fine crafts, cultural  
23 heritage, etc.);

24 [(6)](2) Projects in industry [clusters] sectors listed above are particularly  
25 encouraged, but others are eligible to apply as well. The intention is to retain flexibility in the

1 use of incentives; and,

2 [(7)](3) Qualifying entities with existing contracts or projects with the city when [this  
3 plan] the city of Santa Fe economic development strategies for implementation is adopted  
4 may propose a restructuring of their project as an economic development project.

5 B. All applications for economic development projects requesting economic assistance  
6 from the city shall submit a cost-benefit analysis. Preparing the cost-benefit analysis shall be the  
7 responsibility of the applicant. The city retains the right to specify a format and methodology for the  
8 cost-benefit analysis. City staff shall review and approve of the methodology used. The source and  
9 rationale for any multiplier effects shall be identified. The cost-benefit analysis shall show that the  
10 city will recoup the value of its donation within a period of ten (10) years. The analysis shall address  
11 the following:

12 (1) The number and types of jobs to be created, both temporary construction jobs  
13 and permanent jobs (by New Mexico Department of Labor job category);

14 (2) Pay scales of jobs;

15 (3) Determination of which jobs are expected to be filled locally and which will  
16 be filled by transfers from other facilities or recruited from outside the Santa Fe area;

17 (4) Total payroll expected at start-up and after one (1) year;

18 (5) Anticipated impact of project on local tax base; and,

19 (6) Anticipated impact on local school system.

20 C. All applications for economic development projects requesting economic assistance  
21 from the city shall require the same review required of industrial revenue bond applications as set  
22 forth in Resolution No. 1995-83 as may be amended. This review shall focus on environmental and  
23 community impacts of the proposed project. Special attention shall be given to job training and  
24 career advancement programs and policies. Projects shall demonstrate a strong commitment to  
25 providing career opportunities for Santa Fe area residents. Cultural impacts of projects shall also be



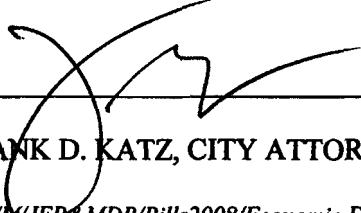
1 considered.

2 D. Any qualifying entity seeking assistance shall prepare and make available a job  
3 training and career development plan for their employees.

4 E. All applications for economic development projects requesting economic assistance  
5 from the city shall clearly demonstrate the benefits which will accrue to the community as a result of  
6 the donation of public resources. The city has considerable flexibility in determining what is  
7 considered as adequate benefits. Benefits such as providing components or production capabilities  
8 which enhance a targeted industry [~~cluster~~] sector or addressing critical deficiencies in the regional  
9 economy may be recognized. The benefits claimed of any proposal will receive careful scrutiny.  
10 However, it is the intent of this section to be flexible in the evaluation of these benefits, and to  
11 recognize the qualitative as well as quantitative impacts of a proposal.

12 F. All applications for economic development projects requesting economic assistance  
13 from the city shall clearly demonstrate how the qualifying entity is making a substantive contribution.  
14 The contribution shall be of value and may be paid in money, in-kind services, jobs, expanded tax  
15 base, property or other thing or service of value for the expansion or improvement of the economy.  
16 The city retains flexibility in defining the "substantive contribution". The benefits identified in the  
17 previous paragraphs may be accepted as adequate contribution on their own, or a cash donation may  
18 be required. Assistance in providing affordable housing to its employees or the community at large  
19 may also qualify. Determination of what constitutes an acceptable contribution for a given project  
20 shall be at the discretion of the governing body.

21 APPROVED AS TO FORM:

22  
23   
24 FRANK D. KATZ, CITY ATTORNEY

25 *mdb/M/IEP&MDB/Bills2008/Economic Development Bill (5-14-08)*