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**CITY OF SANTA FE, NEW MEXICO**

**BILL NO. 2017-36**

**INTRODUCED BY:**

Councilor Joseph M. Maestas

Councilor Mike Harris

Councilor Peter N. Ives

**AN ORDINANCE**

**RELATING TO THE ECONOMIC DEVELOPMENT PLAN, SECTION 11-11 SFCC 1987;  
AMENDING AND ADDING DEFINITIONS; SPECIFYING FEES ELIGIBLE FOR WAIVER;  
AMENDING STAFF REPORTING GUIDELINES; AMENDING THE APPLICATION  
REVIEW CRITERIA TO SIMPLIFY GUIDELINES; AMENDING EXHIBIT A OF SECTION  
22 TO PERMIT THE WAIVER OF UEC FEES; AND MAKING OTHER SUCH CHANGES  
AS ARE NECESSARY.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE;**

**Section 1. Subsection 11-11.2 SFCC 1987 (being Ord. #1996-21, as amended) is  
amended to read:**

The Economic Development Plan Ordinance is enacted pursuant to the express statutory  
authority conferred ~~[upon municipalities]~~ by the Local Economic Development Act to allow public  
support of economic development (N.M. Stat. Ann. Section 5-10-1 through Section 5-10-13 (1978)).

This section is adopted as part of the city's community economic development plan.

**Section 2. Subsection 11-11.4 SFCC 1987 (being Ord. #1996-21, as amended) is**

1 amended to add and amend the following definitions:

2 ~~[As used in this Economic Development Plan Ordinance:]~~ Definitions in the Local Economic  
3 Development Act, Section 5-10-3 NMSA (1978), as may be amended, are incorporated by reference  
4 into this Economic Development Plan Ordinance with the following additions and amendments:

5 *Compliance period* means the date when the qualifying entity has fulfilled all enforceable  
6 obligations as articulated in its project participation agreement with the city of Santa Fe.

7 *Cultural facility* means a facility that is owned by the state, a county, a municipality or a  
8 qualifying entity that serves the public through preserving, educating and promoting the arts and  
9 culture, including but not limited to history, creativity and design, of a particular locale, including  
10 theaters, museums, libraries, galleries, cultural compounds, educational organizations, performing arts  
11 venues and organizations, fine arts organizations, including but not limited to folk, traditional, fine and  
12 experiential art, studios and media laboratories and facilities, and live-work housing facilities.

13 *Economic development plan* means any current plan setting forth goals, strategies or  
14 approaches for improving the economy of the city of Santa Fe, New Mexico, as adopted by ordinance  
15 by the governing body or other authorized person or persons, and managed by the office of economic  
16 development or any subsequent division or department that may replace or become responsible for the  
17 office of economic development (“OED”). The economic development plan shall be printed and made  
18 available to the residents of the city of Santa Fe.

19 **Section 3. Subsection 11-11.5 SFCC 1987 Economic Development Assistance.**  
20 **(being Ord. No 1996-21, as amended) is amended to read:**

21 **11-11.5 Economic Development ~~[Plan]~~ Assistance.**

22 **[A.]** The governing body may assist economic development projects in any legally  
23 permissible manner ~~[including but not limited to provision]~~ that create new job opportunities by  
24 providing for or using public money and resources for the provision of land, buildings or [and]  
25 infrastructure for facilities to support new or expanding businesses, provided that all the requirements

1 of this ordinance are met. The city may provide land, buildings or infrastructure it already owns, or it  
2 may build, purchase or lease the facilities needed for an economic development project. The city at its  
3 discretion may bear the full cost or contribute a portion of the costs of impact fees, permitting fees,  
4 inspection or any other fees that are part of the construction or building process. Additionally, the city,  
5 at its discretion, may include [~~including~~] the full or partial waiver of UEC fees, water adjustment fees,  
6 or a combination of both. The city, at its discretion, may also contribute to the payment of costs for  
7 professional services contracts such as industry feasibility studies and planning and design services  
8 needed to implement a project.

9 [~~B. The governing body may consider offering all forms of assistance allowed under this~~  
10 ~~section and any other legally permissible forms of assistance; however, this does not establish any~~  
11 ~~obligation on the city's part to offer any specific type or level of assistance.~~]

12 **Section 4. Subsection 11-11.6 SFCC 1987 (being Ord. #1996-21, as amended) is**  
13 **amended to read:**

14 **11-11.6 Economic Development Review Subcommittee.**

15 The economic development review subcommittee of the [~~business and quality of life~~] economic  
16 development advisory committee is established as set forth in subsection 6-17.6 SFCC 1987.

17 **Section 5. Subsection 11-11.7 (being Ord. #1996-21, as amended) is amended to**  
18 **read:**

19 **11-11.7 Application Requirements.**

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

23 B. Applications from qualifying entities shall be submitted to the [~~economic development~~  
24 ~~division~~] OED on forms provided by the city. [~~Application requirements shall be as required by the~~  
25 ~~appropriate administrative guidelines.~~]

1           Section 6.       Subsection 11-11.8 SFCC 1987 (being Ord. #1996-21, as amended) is  
2 amended to read:

3           **11-11.8           Application Review Process**

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

6           B.       If the application [~~meets~~] does not exceed the maximum threshold allowed under city  
7 procurement provisions for city manager's approval and the proposed project meets the definitions of  
8 this section and the policies and objectives of the city's economic development plan, staff shall make a  
9 recommendation to the city manager who may approve the application. Staff shall report to the  
10 [~~business and quality of life~~] economic development advisory committee on a periodic basis, no more  
11 than quarterly and no less than annually, [basis] regarding the progress and results of all applications  
12 approved by the city manager, with the period of reporting being set forth in the relevant project  
13 participation agreement. All other requirements of Section 11-11 shall apply.

14           C.       If the application [~~does not meet~~] exceeds the maximum threshold allowed under city  
15 procurement provisions for city manager's approval, staff shall advise the economic development  
16 review subcommittee if the entity and the proposed project meet the definitions of this section and the  
17 policies and objectives of the city's economic development plan. The city may at its discretion engage  
18 independent consultants to assist in the review of applications.

19           D.       The economic development review subcommittee shall determine at a public meeting  
20 whether the entity and the proposed project qualify under this section.

21           E.       City staff shall then coordinate with the qualifying entity to develop a project  
22 participation agreement as set forth in subsection 11-11.11 SFCC 1987.

23           F.       The economic development review subcommittee shall consider the economic  
24 development project and the project participation agreement at a public meeting in accordance with the  
25 criteria set forth in subsection 11-11.9 SFCC 1987. The committee shall recommend to the [business

1 ~~and quality of life~~ economic development advisory committee that the proposal be adopted,  
2 conditionally adopted or not adopted.

3 G. The recommendation will be forwarded with the project participation agreement,  
4 minutes of the economic development review subcommittee and the ~~[business and quality of life]~~  
5 economic development advisory committee meetings and any other pertinent information to the  
6 governing body for final consideration at a public hearing. Review of the application by the finance  
7 committee or other subcommittees of the governing body shall not be required unless otherwise directed  
8 by the governing body.

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

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

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

20 **Section 7. Subsection 11-11.9 SFCC 1987 (being Ord. #1996-21, as amended) is**  
21 **amended to read:**

22 **11-11.9 Application Review Criteria.**

23 A. Applications for economic development projects requesting economic assistance from  
24 the city which focus on targeted industries identified in the city's economic development plan shall  
25 receive priority. Similarly, businesses who are incorporated as a benefit corporation and whose social

1 or environmental impact commitments are directed to the city of Santa Fe or to New Mexico shall  
2 receive priority.

3 ~~[(1) Targeted sectors are identified as follows:~~

4 ~~(a) Media, including, but not limited to, film, publishing, journalism and~~  
5 ~~video game production;~~

6 ~~(b) Green, consistent with the city's sustainable plan as adopted, including~~  
7 ~~clean renewable energy with a focus on solar industries, water conservation and waste~~  
8 ~~reduction technologies, and outdoor and recreational activities and equipment;~~

9 ~~(c) Technology, including, but not limited to biotech, nanotech and~~  
10 ~~software design;~~

11 ~~(d) Knowledge, including, but not limited to research, think tanks,~~  
12 ~~financial services and consulting; and~~

13 ~~(e) Arts and culture, including, but not limited to woodworking, fine~~  
14 ~~crafts and cultural heritage as described in the city's Cultural, Arts and Tourism Plan.~~

15 ~~(2) Projects in industry sectors listed above are particularly encouraged, but]~~  
16 ~~[others] All other qualifying entities are eligible to apply, as well. The intention is to retain flexibility~~  
17 ~~in the use of incentives[; and].~~

18 ~~[(3)]~~ Qualifying entities with existing ~~[contracts]~~ agreements or projects with the  
19 city when the city of Santa Fe economic development implementation strategies are adopted may  
20 propose a restructuring of their project as an economic development project.

21 B. All applications for economic development projects requesting economic assistance  
22 from the city shall submit a cost-benefit analysis. Preparing the cost-benefit analysis shall be the  
23 responsibility of the applicant and shall be performed in a professional manner by a person or  
24 organization with relevant skills and knowledge. The city retains the right to specify a format and  
25 methodology for the cost-benefit analysis. City staff shall review and approve of the methodology used.

1 The source and rationale for any multiplier effects shall be identified. The cost-benefit analysis shall  
2 show that the city will recoup the value of its donation within ~~[a period of ten (10) years.]~~ the  
3 compliance period as required in Section 11-11.10(D). For an application to be acceptable, the analysis  
4 must show a reasonable return on investment by examining criteria such as: ~~[The analysis shall address~~  
5 ~~the following:]~~

6 (1) The number and types of jobs to be created ~~[, both temporary construction jobs~~  
7 ~~and permanent jobs (by New Mexico Department of Labor job category)];~~

8 (2) Pay scales of jobs;

9 (3) ~~[Determination of which jobs are]~~ Percentage of jobs expected to be filled by  
10 local[ly] residents and former residents who return to Santa Fe ~~[and which will be filled by~~  
11 ~~transfers from other facilities or recruited from outside the Santa Fe area];~~

12 ~~[(4) Total payroll expected at start up and after one (1) year;]~~

13 ~~[(5)4] Anticipated impact of project on local tax base; [and]~~

14 ~~[(6)5] Anticipated impact on local school system;~~

15 (6) Anticipated contribution to the vision, culture, community, environment,  
16 brand and economic strategy of the city of Santa Fe; and

17 (7) Anticipated development and sharing job training and career development plan  
18 for its employees.

19 C. All applications for economic development projects requesting economic assistance  
20 from the city shall require the same review required of industrial revenue bond applications as set forth  
21 in Resolution No. ~~[1995-83]~~ 2012-4 as may be amended. ~~[This review shall focus on environmental~~  
22 ~~and community impacts of the proposed project. Special attention shall be given to job training and~~  
23 ~~career advancement programs and policies.]~~ Projects shall demonstrate a strong commitment to  
24 providing career opportunities for Santa Fe area residents. Cultural, community and environmental  
25 impacts of projects shall also be considered.

1           ~~[D.] Any qualifying entity seeking assistance shall prepare and make available a job-training~~  
2 ~~and career-development plan for their employees.]~~

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

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

20           **Section 8.       Subsection 11-11.10 SFCC 1987 (being Ord. #1996-21, as amended) is**  
21 **amended to read:**

22           **11-11.10       Public Safeguards.**

23           A. All economic development projects receiving assistance from the city shall be subject  
24 to ~~[an annual]~~ periodic performance review conducted by city staff, such period being the same as set  
25 forth in Section 11-11.8(B). This review shall evaluate whether the project is attaining the goals and



1 objectives set forth in the project participation agreement. This review shall be presented to the  
2 ~~[finance]~~ economic development advisory committee for their consideration. The governing body at a  
3 public hearing may terminate assistance to the economic development project by passage of an  
4 ordinance which terminates the agreement and specifies the dispositions of all assets and obligations of  
5 the project as set forth in subsection 11-11.13 SFCC 1987.

6 B. The city shall retain a security interest which shall be specified in the project  
7 participation agreement. The type of security given shall depend upon the nature of the economic  
8 development project and assistance provided by the city. Types of security may include, but are not  
9 limited to:

- 10 (1) Letter of credit in the city's name;
- 11 (2) Performance bond equal to the city's contribution;
- 12 (3) A mortgage or lien on property or equipment;
- 13 (4) Pro-rated reimbursement of donation if company reduces work force or leaves  
14 the community before the term agreed to; and,
- 15 (5) Other security agreeable to both parties.

16 C. Should a qualifying entity move, sell, lease or transfer a majority interest in the economic  
17 development project before the expiration of project participation agreement, the city retains the right  
18 to deny any and all assignments, sales, leases or transfers of any interests in the economic development  
19 project until adequate assurances are made that the transferee, assignee or lessee is a qualifying entity  
20 and that the terms of the agreement will be satisfied by the transferee, assignee or lessee. At its  
21 discretion, the city may choose to deny said assignment, lease or transfer or may negotiate a new  
22 agreement with the new operator, or the city may reclaim the facility and enter into an agreement with  
23 a new qualifying entity.

24 D. Any qualifying entity seeking assistance from public resources shall commit to operate  
25 in accordance with its project participation agreement for ~~[a minimum of ten (10) years from the date~~

1 ~~the ordinance adopting the project participation agreement is passed by the governing body] the~~  
2 compliance period. The OED staff will conduct periodic performance review to ensure the qualifying  
3 entity has met its obligations required by the project participation agreement.

4 Section 9. Subsection 11-11.11 SFCC 1987 (being Ord. #1996-21, as amended) is  
5 amended to read:

6 11-11.11 Project Participation Agreement.

7 A. The qualifying entity shall prepare with the city a project participation agreement. This  
8 agreement is the formal document which states the contributions and obligation of all parties in the  
9 economic development project. The agreement must clearly state the following items:

- 10 (1) The economic development goals of the project;
- 11 (2) The contributions of the city and the qualifying entity;
- 12 (3) The specific measurable objectives upon which the performance review will  
13 be based;
- 14 (4) A schedule for project development and goal attainment;
- 15 (5) The security being offered for the city's investment;
- 16 (6) The procedures by which a project may be terminated and the city's investment  
17 recovered; and,
- 18 (7) The time period for which the city shall retain an interest in the project. Each  
19 project agreement shall have a "sunset" clause after which the city shall relinquish interest in and  
20 oversight of the project.

21 ~~(8) A time period to allow the qualifying entity to cure its non-compliance if it is~~  
22 non-compliant.

23 ~~(9) Recapture provision to protect the city investment in case of non-compliance~~  
24 by the qualifying entity.

25 B. Each project participation agreement shall be adopted as an ordinance and adopted by

1 the governing body at a public hearing.

2 **Section 10. Subsection 11-11.13 SFCC 1987 (being Ord. #1996-21, as amended) is**  
3 **amended to read:**

4 **11-11.13 Termination.**

5 The governing body may terminate this section and the city's community economic  
6 development plan and any or all project participation agreements undertaken under its authority.  
7 Termination shall be by ordinance at a public hearing or in accordance with the terms of the project  
8 participation agreement. If an ordinance or a project participation agreement is terminated, all contract  
9 provisions of the project participation agreement regarding termination shall be satisfied. Upon  
10 termination of the ordinance or any project participation agreement, any city monies remaining in city  
11 project accounts shall be transferred to the [general] economic development fund.

12 **Section 11. Subsection 11-14.3 SFCC 1987 (being Ord. #2000-16) is hereby amended**  
13 **to read:**

14 **11-14 ECONOMIC DEVELOPMENT FUND.**

15 **11-14.3 Purpose.**

16 The purpose of the Economic Development Fund Ordinance is to identify the funds which shall  
17 be deposited into the Economic Development Fund and to restrict the expenditure of monies in the  
18 Economic Development Fund to those activities which implement the [Goals, Strategies and Actions]  
19 goals, strategies or approaches of the [Santa Fe Community Economic Development Plan (CEDP)]  
20 economic development plan and/or qualify as economic development projects as defined in Section 11-  
21 11.4 SFCC 1987. Furthermore, the Fund is intended to support activities which serve to diversify the  
22 local economy, and which do not have access to other city funding sources such as, but not limited to,  
23 the Lodgers Tax through the Occupancy Tax Advisory Board or the Arts Commission and capital funds  
24 through the Capital Improvements Program. Qualifying under the Santa Fe [CEDP] economic  
25 development plan does not establish any obligation on the city's part to offer any specific type or level

1 of assistance to any project or activity, nor does it imply that a project or activity must be funded solely  
2 or primarily from the Economic Development Fund. The Economic Development Fund is not intended  
3 to be the sole source of funding for economic development projects, and any activity or project eligible  
4 for support from the Fund is strongly encouraged to develop additional sources of funds.

5       **Section 11. Subsection 7 of Exhibit A of Section 22 SFCC 1987 (being Ord. #1997-3,**  
6 **as amended) is hereby amended to read:**

7 **7. Wastewater Utility Expansion Charge (UEC).**

8       7.1. Except as set forth in Section 7.3, the wastewater utility expansion charge (UEC) applies  
9 to customers within the corporate limits of the city of Santa Fe, New Mexico and to customers in those  
10 areas outside the corporate limits to which wastewater service has been authorized by action of the  
11 governing body of the city of Santa Fe as follows:

12           7.1.1. New customers connecting to the city's wastewater system; and

13           7.1.2. Existing customers if there is an increase in the number of dwelling units or an increase  
14 in the size of the nonresidential water meter; however, the charge shall reflect only the increase in the  
15 number of dwelling units or the increase in the size of the meter.

16       7.2. ~~[The UEC shall be waived for the following:]~~ Waiver of UEC fees shall comply with the  
17 following provisions:

18           7.2.1. The UEC shall be waived for the following:

19           A. Santa Fe Homes Program for-sale or for-rent units as defined in Section 26-1  
20 SFCC 1987;

21           B. Housing opportunity program home or housing opportunity program rental unit  
22 subject to a valid housing opportunity program agreement;

23           C. A low priced dwelling unit as defined in Section 26-2 SFCC 1987;

24           D. A qualifying project within the Midtown LINC Overlay District as defined in  
25 Subsection 14-5.5(D)(4)(b) SFCC 1987.

1            7.2.2 The UEC may be waived at the discretion of the governing body for the following:

2            A.        A qualifying economic development project as defined in Subsection 11-11.4  
3            SFCC 1987.

4            [~~7.2.4~~] 7.2.3. Application for waivers of the UEC shall be made at the time of application for a  
5 building permit. Applications shall be reviewed by the office of affordable housing.

6            7.3. The UEC shall be as follows:

7            7.3.1. Single-Family Detached Dwelling Unit or Accessory Dwelling Unit  
8            As defined in Chapter 14 SFCC 1987

9

(Heated Living Area)	Charge per unit
0 - 1,500 Sq. Ft.	\$499
1,501 - 2,000 Sq. Ft.	\$735
2,001 - 2,500 Sq. Ft.	\$911
2,501 - 3,000 Sq. Ft.	\$1,052
3,001 - 3,500 Sq. Ft.	\$1,169
3,501 - 4,000 Sq. Ft.	\$1,269
4,001 - 4,500 Sq. Ft.	\$1,357
4,501 or more Sq. Ft.	\$1,435

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21            7.3.2. Multi-Family Dwelling Unit            \$561 per unit

22            Includes apartment, condominium, single family attached and residential studio units

23            7.3.3. Mobile Home Park Pad            \$902 per unit

24            7.3.4. Nonresidential (meter size)            Charge per meter

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5/8" x 3/4"	\$876
1"	\$2,190
1-1/2"	\$4,380
2"	\$7,008
3"	\$14,016
4"	\$21,900
6"	\$43,800
8"	\$70,080
10"	\$127,020

7.3.5. Any separate water meter installed for irrigation purposes only shall not be included in the calculation of the charge.


7.3.6. In the event that the development does not have a water meter, or the wastewater division director or developer believes the size of the water meter does not accurately reflect wastewater generation, the developer may submit or the director may require the submission of a study, prepared by a professional engineer, to determine the charge listed in the above table for the water meter that most closely matches the cost of capital facilities to treat the biochemical oxygen demand that will be generated by the proposed development.

7.4. The UEC shall be due prior to issuance of a building permit if the property is located in the city limits and prior to obtaining a permit to connect to the sewer if the property is located outside the city limits.

7.5. Payments of wastewater utility expansion charges shall be deposited in an account separate from other funds of the city.

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APPROVED AS TO FORM:



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KELLEY A. BRENNAN, CITY ATTORNEY