

1 CITY OF SANTA FE, NEW MEXICO

2 ORDINANCE NO. 2008-42

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5 AN ORDINANCE

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

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

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

12 11-11.4 Definitions.

13 As used in this Economic Development Plan Ordinance:

14 *Cultural facility* means a facility that is owned by the state, a county, a municipality or a  
15 qualifying entity that serves the public through preserving, educating and promoting the arts and  
16 culture of a particular locale, including theaters, museums, libraries, galleries, cultural compounds,  
17 educational organizations, performing arts venues and organizations, fine arts organizations, studios  
18 and media laboratories and live-work housing facilities.

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

25 *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 that is one or a combination of two (2) or more of the  
5 following:

6 A. A business in a primary industry that creates economic base jobs which is defined as  
7 a company that manufactures, assembles or processes goods or products and companies that export  
8 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<sub>1</sub> and F<sub>1</sub> 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; [øø]

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; or

22 G. A cultural facility.

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

25 **11-11.7 Application Requirements.**

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

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

7           **Section 3.     Section 11-11.8 SFCC 1987 (being Ord. #1996-21, §8, as amended) is**  
8 **amended to read:**

9           **11-11.8 Application Review Process.**

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

12          B.     If the application meets the maximum threshold allowed under city procurement  
13 provisions for city manager's approval and the proposed project meets the definitions of this section  
14 and the policies and objectives of the city's economic development plan, staff shall make a  
15 recommendation to the city manager who may approve the application. Staff shall report to the  
16 business and quality of life committee on a quarterly basis all applications approved by the city  
17 manager. All other requirements of Article 11-11 shall apply.

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

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

25          E.     City staff shall then coordinate with the qualifying entity to develop a project

1 participation agreement as set forth in subsection 11-11.11 SFCC 1987.

2 F. The economic development review subcommittee shall consider the economic  
3 development project and the project participation agreement at a public meeting in accordance with  
4 the criteria set forth in subsection 11-11.9 SFCC 1987. The committee shall recommend to the  
5 business and quality of life advisory committee that the proposal be adopted, conditionally adopted or  
6 not adopted.

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

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

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

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

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

1 read:

2 **11-11.9 Application Review Criteria.**

3 A. Applications for economic development projects requesting economic assistance  
4 from the city which focus on targeted industries identified in the city's economic development plan  
5 shall receive priority.

6 (1) Targeted sectors are identified as follows:

7 (a) Media, including, but not limited to, film, publishing, journalism and  
8 video game production;

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

13 (c) Technology, including, but not limited to biotech, nanotech and  
14 software design;

15 (d) Knowledge, including, but not limited to research, think tanks,  
16 financial services and consulting; and

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

19 (2) Projects in industry sectors listed above are particularly encouraged, but  
20 others are eligible to apply as well. The intention is to retain flexibility in the use of  
21 incentives; and

22 (3) Qualifying entities with existing contracts or projects with the city when the  
23 city of Santa Fe economic development implementation strategies are adopted may propose a  
24 restructuring of their project as an economic development project.

25 B. All applications for economic development projects requesting economic assistance

1 from the city shall submit a cost-benefit analysis. Preparing the cost-benefit analysis shall be the  
2 responsibility of the applicant. The city retains the right to specify a format and methodology for the  
3 cost-benefit analysis. City staff shall review and approve of the methodology used. The source and  
4 rationale for any multiplier effects shall be identified. The cost-benefit analysis shall show that the  
5 city will recoup the value of its donation within a period of ten (10) years. The analysis shall address  
6 the following:

- 7 (1) The number and types of jobs to be created, both temporary construction jobs  
8 and permanent jobs (by New Mexico Department of Labor job category);
- 9 (2) Pay scales of jobs;
- 10 (3) Determination of which jobs are expected to be filled locally and which will  
11 be filled by 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) Anticipated impact of project on local tax base; and[;]
- 14 (6) Anticipated impact on local school system.

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

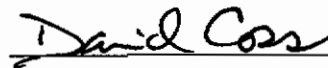
22 D. Any qualifying entity seeking assistance shall prepare and make available a job  
23 training and career development plan for their employees.

24 E. All applications for economic development projects requesting economic assistance  
25 from the city shall clearly demonstrate the benefits which will accrue to the community as a result of

1 the donation of public resources. The city has considerable flexibility in determining what is  
2 considered as adequate benefits. Benefits such as providing components or production capabilities  
3 which enhance a targeted industry sector, or addressing critical deficiencies in the regional economy  
4 may be recognized. The benefits claimed of any proposal will receive careful scrutiny. However, it  
5 is the intent of this section to be flexible in the evaluation of these benefits, and to recognize the  
6 qualitative as well as quantitative impacts of a proposal.

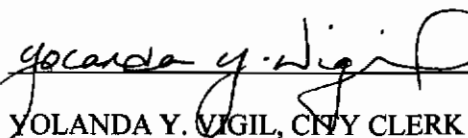
7 F. All applications for economic development projects requesting economic assistance  
8 from the city shall clearly demonstrate how the qualifying entity is making a substantive contribution.  
9 The contribution shall be of value and may be paid in money, in-kind services, jobs, expanded tax  
10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

16 PASSED, APPROVED and ADOPTED this 30th day of July, 2008.

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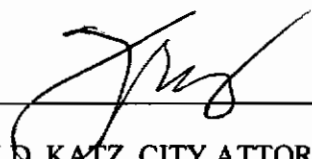
19 DAVID COSS, MAYOR

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21 ATTEST:

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24 YOLANDA Y. VIGIL, CITY CLERK

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APPROVED AS TO FORM:



FRANK D. KATZ, CITY ATTORNEY