

1 CITY OF SANTA FE, NEW MEXICO

2 ORDINANCE NO. 2018-4

3
4
5 AN ORDINANCE

6 RELATING TO THE ECONOMIC DEVELOPMENT PLAN, SECTION 11-11 SFCC 1987;
7 AMENDING AND ADDING DEFINITIONS; SPECIFYING FEES ELIGIBLE FOR WAIVER;
8 AMENDING STAFF REPORTING GUIDELINES; AMENDING THE APPLICATION
9 REVIEW CRITERIA TO SIMPLIFY GUIDELINES; AMENDING EXHIBIT A OF SECTION
10 22 TO PERMIT THE WAIVER OF UEC FEES; AND MAKING OTHER SUCH CHANGES
11 AS ARE NECESSARY.

12
13 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE;

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

16 The Economic Development Plan Ordinance is enacted pursuant to the express statutory
17 authority conferred by the Local Economic Development Act to allow public support of economic
18 development (N.M. Stat. Ann. Section 5-10-1 through Section 5-10-13 (1978)). This section is adopted
19 as part of the city's community economic development plan.

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

22 Definitions in the Local Economic Development Act, Section 5-10-3 NMSA (1978), as may
23 be amended, are incorporated by reference into this Economic Development Plan Ordinance with the
24 following additions and amendments:

25 *Compliance period* means the date when the qualifying entity has fulfilled all enforceable

1 obligations as articulated in its project participation agreement with the city of Santa Fe.

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

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

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

16 **11-11.5 Economic Development Assistance.**

17 The governing body may assist economic development projects in any legally permissible
18 manner that create new job opportunities by providing for or using public money and resources for the
19 provision of land, buildings or infrastructure for facilities to support new or expanding businesses,
20 provided that all the requirements of this ordinance are met. The city may provide land, buildings or
21 infrastructure it already owns, or it may build, purchase or lease the facilities needed for an economic
22 development project. The city at its discretion may bear the full cost or contribute a portion of the costs
23 of impact fees, permitting fees, inspection or any other fees that are part of the construction or building
24 process. Additionally, the city, at its discretion, may include the full or partial waiver of wastewater
25 utility expansion charges (“UEC”) fees, water adjustment fees, or a combination of both, pursuant to

1 Subsection 7 of Exhibit A, Section 22 SFCC 1987. The city, at its discretion, may also contribute to the
2 payment of costs for professional services contracts such as industry feasibility studies and planning
3 and design services needed to implement a project.

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

6 **11-11.6 Economic Development Review Subcommittee.**

7 The economic development review subcommittee of the economic development advisory
8 committee is established as set forth in subsection 6-17.6 SFCC 1987.

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

11 **11-11.7 Application Requirements.**

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

15 B. Applications from qualifying entities shall be submitted to the OED_on forms provided
16 by the city.

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

19 **11-11.8 Application Review Process**

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

22 B. If the application does not exceed the maximum threshold allowed under city
23 procurement provisions for city manager's approval and the proposed project meets the definitions of
24 this section and the policies and objectives of the city's economic development plan, staff shall make a
25 recommendation to the city manager who may approve the application. Staff shall report to the

1 economic development advisory committee on a periodic basis, no more than quarterly and no less than
2 annually, regarding the progress and results of all applications approved by the city manager, with the
3 period of reporting being set forth in the relevant project participation agreement. All other
4 requirements of Section 11-11 shall apply.

5 C. If the application exceeds the maximum threshold allowed under city procurement
6 provisions for city manager's approval, staff shall advise the economic development review
7 subcommittee if the entity and the proposed project meet the definitions of this section and the policies
8 and objectives of the city's economic development plan. The city may at its discretion engage
9 independent consultants to assist in the review of applications.

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

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

14 F. The economic development review subcommittee shall consider the economic
15 development project and the project participation agreement at a public meeting in accordance with the
16 criteria set forth in subsection 11-11.9 SFCC 1987. The committee shall recommend to the economic
17 development advisory committee that the proposal be adopted, conditionally adopted or not adopted.

18 G. The recommendation will be forwarded with the project participation agreement,
19 minutes of the economic development review subcommittee and the economic development advisory
20 committee meetings and any other pertinent information to the governing body for final consideration
21 at a public hearing. Review of the application by the finance committee shall be required” in lieu
22 thereof.

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

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

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

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

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

12 A. Applications for economic development projects requesting economic assistance from
13 the city which focus on targeted industries identified in the city's economic development plan shall
14 receive priority. Similarly, businesses who are incorporated as a benefit corporation and whose social
15 or environmental impact commitments are directed to the city of Santa Fe or to New Mexico shall
16 receive priority. All other qualifying entities are eligible to apply, as well. The intention is to retain
17 flexibility in the use of incentives. Qualifying entities with existing agreements or projects with the city
18 when the city of Santa Fe economic development implementation strategies are adopted may propose
19 a restructuring of their project as an economic development project.

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

1 show that the city will recoup the value of its donation within the compliance period as required in
2 Section 11-11.10(D). For an application to be acceptable, the analysis must show a reasonable return
3 on investment by examining criteria such as:

4 (1) The number and types of jobs to be created;

5 (2) Pay scales of jobs;

6 (3) Percentage of jobs expected to be filled by local residents and former residents
7 who return to Santa Fe;

8 (4) Anticipated impact of project on local tax base;

9 (5) Anticipated impact on local school system;

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

12 (7) Anticipated development and sharing job training and career development plan
13 for its employees.

14 (8) Anticipated internships, cooperative education and internship programs for
15 current or future employment.

16 C. All applications for economic development projects requesting economic assistance
17 from the city shall require the same review required of industrial revenue bond applications as set forth
18 in Resolution No. 2012-4 as may be amended. Projects shall demonstrate a strong commitment to
19 providing career opportunities for Santa Fe area residents. Cultural, community and environmental
20 impacts of projects shall also be considered.

21 D. All applications for economic development projects requesting economic assistance
22 from the city shall clearly demonstrate the benefits which will accrue to the community as a result of
23 the donation of public resources. The city has considerable flexibility in determining what is considered
24 as adequate benefits. Benefits such as providing components or production capabilities which enhance
25 a targeted industry sector or addressing critical deficiencies in the regional economy may be recognized.

1 The benefits claimed of any proposal will receive careful scrutiny. However, it is the intent of this
2 section to be flexible in the evaluation of these benefits, and to recognize the qualitative as well as
3 quantitative impacts of a proposal.

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

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

15 **11-11.10 Public Safeguards.**

16 A. All economic development projects receiving assistance from the city shall be subject
17 to periodic performance review conducted by city staff, such period being the same as set forth in
18 Section 11-11.8(B). This review shall evaluate whether the project is attaining the goals and objectives
19 set forth in the project participation agreement. This review shall be presented to the economic
20 development advisory committee for their consideration. The governing body at a public hearing may
21 terminate assistance to the economic development project by passage of an ordinance which terminates
22 the agreement and specifies the dispositions of all assets and obligations of the project as set forth in
23 subsection 11-11.13 SFCC 1987.

24 B. The city shall retain a security interest which shall be specified in the project
25 participation agreement. The type of security given shall depend upon the nature of the economic

1 development project and assistance provided by the city. Types of security may include, but are not
2 limited to:

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

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

17 D. Any qualifying entity seeking assistance from public resources shall commit to operate
18 in accordance with its project participation agreement for the compliance period. The OED staff will
19 conduct periodic performance review to ensure the qualifying entity has met its obligations required by
20 the project participation agreement.

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

23 **11-11.11 Project Participation Agreement.**

24 A. The qualifying entity shall prepare with the city a project participation agreement. This
25 agreement is the formal document which states the contributions and obligation of all parties in the

1 economic development project. The agreement must clearly state the following items:

- 2 (1) The economic development goals of the project;
- 3 (2) The contributions of the city and the qualifying entity;
- 4 (3) The specific measurable objectives upon which the performance review will
5 be based;
- 6 (4) A schedule for project development and goal attainment;
- 7 (5) The security being offered for the city's investment;
- 8 (6) The procedures by which a project may be terminated and the city's investment
9 recovered; and,
- 10 (7) The time period for which the city shall retain an interest in the project. Each
11 project agreement shall have a "sunset" clause after which the city shall relinquish interest in and
12 oversight of the project.
- 13 (8) A time period to allow the qualifying entity to cure its non-compliance if it is
14 non-compliant.
- 15 (9) Recapture provision to protect the city investment in case of non-compliance
16 by the qualifying entity.

17 B. Each project participation agreement shall be adopted as an ordinance and adopted by
18 the governing body at a public hearing.

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

21 **11-11.13 Termination.**

22 The governing body may terminate this section and the city's community economic
23 development plan and any or all project participation agreements undertaken under its authority.
24 Termination shall be by ordinance at a public hearing or in accordance with the terms of the project
25 participation agreement. If an ordinance or a project participation agreement is terminated, all contract

1 provisions of the project participation agreement regarding termination shall be satisfied. Upon
2 termination of the ordinance or any project participation agreement, any city monies remaining in city
3 project accounts shall be transferred to the economic development fund.

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

6 **11-14 ECONOMIC DEVELOPMENT FUND.**

7 **11-14.3 Purpose.**

8 The purpose of the Economic Development Fund Ordinance is to identify the funds which shall
9 be deposited into the Economic Development Fund and to restrict the expenditure of monies in the
10 Economic Development Fund to those activities which implement the goals, strategies or approaches
11 of the economic development plan and/or qualify as economic development projects as defined in
12 Section 11-11.4 SFCC 1987. Furthermore, the Fund is intended to support activities which serve to
13 diversify the local economy, and which do not have access to other city funding sources such as, but
14 not limited to, the Lodgers Tax through the Occupancy Tax Advisory Board or the Arts Commission
15 and capital funds through the Capital Improvements Program. Qualifying under the Santa Fe economic
16 development plan does not establish any obligation on the city's part to offer any specific type or level
17 of assistance to any project or activity, nor does it imply that a project or activity must be funded solely
18 or primarily from the Economic Development Fund. The Economic Development Fund is not intended
19 to be the sole source of funding for economic development projects, and any activity or project eligible
20 for support from the Fund is strongly encouraged to develop additional sources of funds.

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

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

24 7.1. Except as set forth in Section 7.3, the wastewater utility expansion charge (UEC) applies
25 to customers within the corporate limits of the city of Santa Fe, New Mexico and to customers in those

1 areas outside the corporate limits to which wastewater service has been authorized by action of the
2 governing body of the city of Santa Fe as follows:

3 7.1.1. New customers connecting to the city's wastewater system; and

4 7.1.2. Existing customers if there is an increase in the number of dwelling units or an increase
5 in the size of the nonresidential water meter; however, the charge shall reflect only the increase in the
6 number of dwelling units or the increase in the size of the meter.

7 7.2. Waiver of UEC fees shall comply with the following provisions:

8 7.2.1. The UEC shall be waived for the following:

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

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

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

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

16 7.2.2 The UEC may be waived at the discretion of the governing body for the following:

17 A. A qualifying economic development project as defined in Subsection 11-11.4
18 SFCC 1987.

19 7.2.3. Application for waivers of the UEC shall be made at the time of application for a building
20 permit. Applications shall be reviewed by the office of affordable housing.

21 7.3. The UEC shall be as follows:

22 7.3.1. Single-Family Detached Dwelling Unit or Accessory Dwelling Unit

23 As defined in Chapter 14 SFCC 1987
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

(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

- 7.3.2. Multi-Family Dwelling Unit \$561 per unit
Includes apartment, condominium, single family attached and residential studio units
- 7.3.3. Mobile Home Park Pad \$902 per unit
- 7.3.4. Nonresidential (meter size) Charge per meter

[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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.

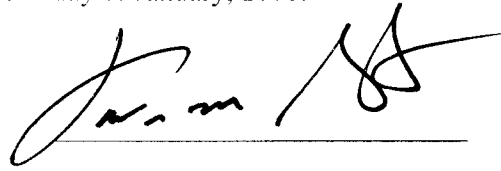
7.3.6. In the event that the development does not have a water meter, or the wastewater division director or developer believes the size of the water meter does not accurately reflect wastewater generation, the developer may submit or the director may require the submission of a study, prepared by a 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.

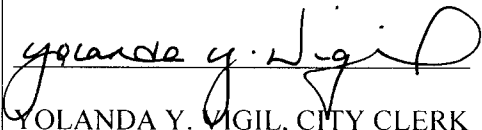
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PASSED APPROVED and ADOPTED this 10th day of January, 2018.



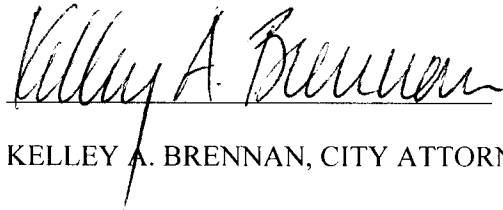
JAVIER M. GONZALES, MAYOR

ATTEST:



YOLANDA Y. VIGIL, CITY CLERK

APPROVED AS TO FORM:



KELLEY A. BRENNAN, CITY ATTORNEY