

**SANTA FE COUNTY
BOARD OF COUNTY COMMISSIONERS**

ORDINANCE NO. 2024- 10

AN ORDINANCE

**APPROVING THE 2024 ECONOMIC DEVELOPMENT PLAN; REPEALING
ORDINANCE 2014-007; PROVIDING FOR DETAILED RULES TO BE APPLIED TO
ASSISTANCE OF QUALIFYING ECONOMIC PROJECTS, INCLUDING THE
QUALIFICATIONS OF APPLICANTS, REQUIRING AN APPLICATION, REQUIRING
A PROJECT PARTICIPATION AGREEMENT AND SPECIFYING ITS CONTENTS,
PROVIDING FOR LIMITATIONS ON THE AMOUNT OF ASSISTANCE PERMITTED
PURSUANT TO THE LOCAL ECONOMIC DEVELOPMENT ACT; AND REQUIRING
A SPECIAL FUND FOR MONIES RECEIVED OR HELD FOR AN ECONOMIC
DEVELOPMENT PROJECT.**

**BE IT ORDAINED BY THE SANTA FE COUNTY BOARD OF COUNTY
COMMISSIONERS:**

SECTION 1. SHORT TITLE.

This Ordinance shall be cited as "Santa Fe County Economic Development Ordinance" and shall be referred to herein as "the Ordinance" or "this Ordinance".

SECTION 2. PURPOSE.

To provide the current Economic Plan for Santa Fe County, and to establish the requirements for economic development projects in Santa Fe County pursuant to the Local Economic Development Act, NMSA 1978, Chapter 5, Article 10 (2021) (hereinafter referred to as "the Act").

SECTION 3. AUTHORITY.

This Ordinance is enacted pursuant to the authority granted by Article IX, Section 14 (D) of the New Mexico Constitution (2022) and the Local Economic Development Act, NMSA 1978, Chapter 5, Article 10 (2021).

SECTION 4. DEFINITIONS.

A. "Broadband Telecommunications Network Facilities" means the electronics, equipment, transmission facilities, fiber-optic cables and any other item directly related to a system capable of transmission of internet protocol or other formatted data at current Federal Communications

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Commission baseline speed standard, all of which will be owned and used by a provider of internet access services;

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

C. "Economic Development Project" or "project" means the project of a qualifying entity for which public support may be provided pursuant to the Local Economic Development Act;

D. "Municipality" means an incorporated city, town or village;

E. "Person" means an individual, corporation, association, partnership or other legal entity;

F. "Project Participation Agreement" means an agreement between a qualifying entity and the county whereby the county provides assistance in the form of an economic development project in exchange for benefits received as set forth in this Ordinance.

G. "Public Support" means the provision of assistance by the state to a local or regional government or the provision of direct or indirect assistance to a qualifying entity by a local or regional government for an economic development project. "Public support":

(1) includes the provision of:

(a) land, buildings or other infrastructure, by purchase, lease, grant, construction, reconstruction, improvement or other acquisition or conveyance;

(b) the placement of new broadband telecommunications network facilities; provided that the facilities shall not serve a public facility or location that already meets federal communications commission baseline speed standards;

(c) rights-of-way infrastructure, including trenching and conduit, for the placement of new broadband telecommunications network facilities;

(d) public works improvements essential to the location or expansion of a qualifying entity;

(e) payments for professional services contracts necessary for local or regional governments to implement a plan or provide public support for a project;

(f) direct loans or grants for land, buildings or infrastructure;

(g) technical assistance to cultural facilities;

(h) loan guarantees securing the cost of land, buildings or infrastructure in an amount not to exceed the revenue that may be derived from an increment of the: 1) municipal gross receipts tax imposed at a rate not to exceed one-fourth percent and dedicated by the ordinance imposing the increment for projects; or 2) county gross receipts tax imposed at a rate not to exceed one-eighth percent and dedicated by the ordinance imposing the increment for projects;

(i) grants for public works infrastructure improvements essential to the location or expansion of a qualifying entity and grants or subsidies to cultural facilities;

(j) land for a publicly held industrial park or a publicly owned cultural facility, by purchase; and

(k) the construction of a building for use by a qualifying entity; but

(2) does not include the purchase, lease, grant or other acquisition or conveyance of water rights;

H. "Qualifying Entity" means a corporation, limited liability company, partnership, joint venture, syndicate, association or other person that is one or a combination of two or more of the following:

(1) an industry for the manufacturing, processing or assembling of agricultural or manufactured products;

(2) a commercial enterprise for storing, warehousing, distributing or selling products of agriculture, mining or industry, but, other than as provided in Paragraph (5), (6) or (9) of this subsection, not including any enterprise for sale of goods or commodities at retail or for distribution to the public of electricity, gas, water or telephone or other services commonly classified as public utilities;

(3) a business, including a restaurant or lodging establishment, in which all or part of the activities of the business involves the supplying of services to the general public or to governmental agencies or to a specific industry or customer, but, other than as provided in Paragraph (5) or (9) of this subsection, not including businesses primarily engaged in the sale of goods or commodities at retail;

(4) an Indian nation, tribe or pueblo or a federally chartered tribal corporation;

(5) a telecommunications sales enterprise that makes the majority of its sales to persons outside New Mexico;

(6) a facility for the direct sales by growers of agricultural products, commonly known as farmers' markets;

(7) a business that is the developer of a metropolitan redevelopment project;

(8) a cultural facility; and

(9) a retail business;

I. "Regional Government" means any combination of municipalities and counties that enter into a joint powers agreement to provide public support for economic development projects pursuant to a plan adopted by all parties to the joint powers agreement; and

J. "Retail Business" means a business that is primarily engaged in the sale of goods or commodities at retail and that is located:

(1) in a municipality with a population, according to the most recent federal decennial census, of:

(a) fifteen thousand or less; or

(b) more than fifteen thousand if the economic development project is not funded or financed with state government revenues; or

(2) in an unincorporated area of a county.

SECTION 5. ECONOMIC DEVELOPMENT PLAN

The Santa Fe County Economic Development Plan, adopted by this Ordinance and developed in 2024, is attached hereto as Exhibit A, shall be collectively referred to as "the Plan."

SECTION 6. ASSISTANCE FOR QUALIFYING ECONOMIC PROJECT

A. Santa Fe County may, but is not obligated to, provide direct or indirect economic assistance to a Qualifying Entity pursuant to the Act; such economic assistance may include 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; or payments for professional services contracts necessary for the County to implement any plan or project.

B. The total amount of public money expended and the value of credit pledged in the fiscal year in which that money is expended or credit pledged by the County for economic development projects shall not exceed ten percent of the annual general fund expenditures of the County in that fiscal year. The foregoing restrictions shall not apply to those items which are not subject to the limitations on public expenditures or pledges of credit under the provisions of the Act.

C. This Ordinance shall not be construed to create any right, entitlement or expectation in any Person to receive assistance or funds from the County for an Economic Development Project.

D. Priority for direct or indirect economic assistance will be given to Economic Development Projects that encourage private companies to expand, build or relocate facilities which support new or expanding businesses; business start-ups; projects that create new jobs; projects that encourage economic clusters as identified in the Plan; or increase the knowledge base of the labor force.

SECTION 7. APPLICATION REQUIREMENTS

A. Each Qualifying Entity desiring to receive economic assistance pursuant to the Act and this Ordinance shall prepare and file an application on a form provided by the County and containing all of the information specified in the application and Plan. Applications shall be submitted to the County Economic Development Manager. A pre-application review may be conducted by the Economic Development Manager to establish basic project qualification criteria prior to a formal application submission. Submitted applications will be forwarded to the County Manager

B. Evaluation of an application for economic assistance pursuant to this Ordinance and the Act shall be based on the provisions of the Plan, the financial and management stability of the Qualifying Entity, the demonstrated commitment of the qualifying entity to the community, a cost-benefit analysis of the project and any other information the County believes is necessary for a full review of the Economic Development Project application. Additional information may be requested by the County as is reasonable. A procedural process and any additional requirements may be included in the application.

C. Each economic development project shall be approved by Ordinance.

SECTION 8. APPLICATION REVIEW PROCESS

A. The County Manager shall appoint a team to review each application, verify the information furnished by the applicant and evaluate the feasibility of the project, the financial and management capabilities and stability of the applicant and the demonstrated commitment of the applicant to the community. The team will also determine whether the project is permitted, and the applicant qualifies for economic assistance under this Ordinance, and whether the project shall provide a public benefit to the residents of the County by contributing to the achievement by the County of self-sufficiency through economic diversification and increased job and income opportunities and other identified public benefits.

B. Each application shall contain a cost-benefit analysis in a format acceptable to the County review team. The proposed project shall be consistent with the provisions of this Ordinance and the objectives and priorities of the County's Economic Development Plan.

C. Upon completion of the review process, the County review team shall make a recommendation via the County Manager to the Board of County Commissioners whether the proposed project should be approved. Each Economic Development Project shall be approved by Ordinance.

D. An application by a Qualifying Entity requesting economic assistance and industrial revenue bonds from the County shall require the same review. This review shall focus on economic, environmental and community impacts of the proposed project. Applicant may be required to provide third party produced economic, environmental and community impact reports with criteria established by the County. The County may request additional information.

SECTION 9: OBJECTIVES AND PRIORITIES

A. *Objectives.* The economic development objective of the County is to establish a community and economic climate attractive to private businesses and to thereby achieve self-sufficiency through:

- (1) Economic diversification;
- (2) Expansion of the tax base;
- (3) Increased job and income opportunities;
- (4) Retention and expansion of existing businesses and industries;
- (5) Recruitment of businesses that utilize the County's science and technology assets;
- (6) Strong entrepreneurship and business start-up activities;
- (7) Strengthening the business sector and redevelopment of nonresidential areas;
- (8) To further the Santa Fe County Economic Plan approved and adopted with this Ordinance; and
- (9) Other public benefit industries compliant with the Local Economic Development Act, NMSA 1978, Chapter 5, Article 10 (2021), and approved and directed by the Board of County Commissioners.

B. *Priorities.* Those Qualifying Entities which fall within any one or more of the following categories shall receive priority:

- (1) Private businesses seeking to build, expand or relocate facilities, with additional consideration given to businesses that are in the targeted and cluster industries identified in the economic development plan;
- (2) Private businesses that provide facilities or services which enhance the ability of county businesses to operate and expand;

(3) Research and development and high technology firms that enhance the technology base of the county;

(4) Private businesses which enhance their exporting capacity or reduce the net level of imports in the local economy; and

(5) Organizations which assist business start-ups or bring small businesses together to increase their competitive abilities by undertaking tangible projects that shall promote an industry, increase the value of jobs or positively impact county tax revenues. Examples include, but are not limited to:

a. Business incubators;

b. Research and development facilities;

c. Public markets for farmers, gardeners or crafts Persons; and

d. Organizations which foster economic development by promoting work force development efforts such as apprenticeships or other job training programs.

SECTION 10. PROJECT PARTICIPATION AGREEMENT

A. Upon approval of the project by the Board of County Commissioners, the County and the Qualifying Entity shall enter into a Project Participation Agreement. The agreement shall identify and include, but not be limited to, the following provisions:

(1) Economic development goals of the project;

(2) Substantive contribution from the qualifying entity for the project, such as in-kind services, jobs, expanded tax base, property or other thing or service of value for the expansion of the economy;

(3) Contributions provided by the County for the project in exchange for a substantive contribution from the Qualifying Entity;

(4) Provisions for performance audits and the specific measurable objectives upon which performance audits shall be based;

(5) A schedule for project development and completion, including measurable goals and time limits for those goals;

(6) The security provided for County's investment by the qualifying entity in the form of a lien, mortgage or other indenture and the pledge of the Qualifying Entity's financial or material participation and cooperation to guarantee the Qualifying Entity's performance pursuant to the Project Participation Agreement;

(7) Procedures by which the project can be terminated;

(8) A description of the safeguards of public resources that shall be required, including specific ways the County can recover costs, land, buildings or other things of value if a qualifying entity ceases operation, relocates or otherwise defaults or reneges on its contractual or implied obligations to the County;

(9) The time period for which the County shall retain an interest in the Economic Development Project; and

(10) A sunset clause, after which the County shall relinquish interest in and oversight of the project.

B. Each Project Participation Agreement and any subsequent amendments shall be approved by the Board of County Commissioners.

SECTION 11. PUBLIC SAFEGUARDS

A. All Qualifying Entities receiving assistance from the County may be subject to a periodic performance audit conducted by the County Manager, or designee, to evaluate whether the Qualifying Entity is attaining the goals and objectives set forth in the project participation agreement.

B. If a Qualifying Entity moves, sells, leases or transfers a majority interest in the Economic Development Project before expiration of the project participation agreement, the County shall retain the right to deny any and all assignments, sales, leases or transfers of any interest in the Economic Development Project until adequate assurances are made that the transferee, assignee or lessee is a qualifying entity and that terms of the agreement shall be satisfied by the transferee, assignee or lessee.

C. The County shall retain a security interest that shall be specified in the Project Participation Agreement.

D. The County may call any promissory note executed by a Qualifying Entity in accordance with the Project Participation Agreement such that the principal and interest become due and immediately payable.

SECTION 12. PROJECT MONIES

All project monies shall be kept in clearly identified separate accounts (by the County), subject to an annual independent audit. The audit is a public record.

SECTION 13. TERMINATION

The Board of County Commissioners may terminate projects undertaken under the authority of this Ordinance, pursuant to the Act. If this Ordinance or a Project Participation Agreement is

terminated, all contract provisions of the Project Participation Agreement regarding termination shall be satisfied. Upon termination of any project, any county funds remaining in county project accounts shall be transferred to the general fund or other appropriate county fund.

SECTION 14. JOINT OR REGIONAL PROJECTS

The County may engage in Economic Development Projects involving one or more other governmental entities for projects that encompass more than one municipality or county. Criteria established under a joint powers agreement shall be consistent with provisions of this Ordinance.

SECTION 15. ADMINISTRATIVE REGULATIONS

A. The County Manager, or designee, is authorized and directed to promulgate any and all regulations, guidelines, policies and procedures necessary and sufficient to carry out the provisions and intent of this Ordinance, and such shall become effective immediately upon their promulgation.

B. All regulations, guidelines, policies and procedures promulgated pursuant to this Ordinance shall be applied prospectively only, unless there appears a statement in the regulations, guidelines, policies and procedures that they shall have a retroactive effect and a statement of the extent of any retroactive effect, consistent with the preservation of the right of contract for parties to existing Project Participation Agreements.

SECTION 16. LIMITED REPEAL OF ORDINANCE NO. 2014-07.

Ordinance No. 2014-07 and the 2014 Economic Development Plan shall be and hereby are repealed; provided, however, that, pursuant to NMSA 1978, Section 5-10-12(A) (2021), a project approved pursuant to Ordinance No. 2014-07 or the 2014 Economic Development Plan and Ordinance No. 1996-07 and corresponding Economic Development Plan, shall not be dissolved or terminated and the rights and responsibilities of the parties to an existing contract entered into pursuant to Ordinance No. 2014-07 or Ordinance 1996-07 shall not be affected by this Ordinance.

SECTION 17. SEVERABILITY.

If a provision of this Ordinance or its application to any person or circumstance is held by a court of competent jurisdiction to be invalid, the invalidity does not affect other provisions or applications of the Ordinance that can be given effect without the invalid provision or application, and to this end, the provisions of the Ordinance are severable.

SECTION 18. EFFECTIVE DATE.

The effective date of this Ordinance shall be thirty (30) days after this Ordinance is recorded with the County Clerk.

PASSED, APPROVED AND ADOPTED ON THIS 9th DAY OF December, 2024.

**SANTA FE COUNTY
THE BOARD OF COUNTY COMMISSIONERS**

By: Hank Hughes
Hank Hughes, Chair

ATTEST:

Katharine E. Clark
Katharine E. Clark
Santa Fe County Clerk



Approved as to Form:

Michael Nunez for
Jeff Young
Santa Fe County Attorney



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

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I Hereby Certify That This Instrument Was Filed for
Record On The 10TH Day Of December, 2024 at 02:26:19 PM
And Was Duly Recorded as Instrument # 2048558
Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Katharine E. Clark
Deputy [Signature] County Clerk, Santa Fe, NM

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