CHAPTER XI
FINANCE AND BUDGET

11-1 FISCAL YEAR.

The fiscal year of the city shall begin on July 1 and end on June 30.

(Code 1953, § 2-62; Code 1973, § 8-1; SFCC 1981, § 9-3-1)

State law reference(s)—Similar provisions, Sec. 6-10-1 NMSA 1978.

11-2 PREPARATION AND APPROVAL OF ANNUAL BUDGET.

11-2.1 Appropriation.

Upon preparation and submission of an annual budget by the mayor, the governing body shall adopt the budget by resolution that includes an operating budget and multi-year appropriations.

A. The final operating budget shall include summaries of the following:
   1. Anticipated revenues by fund;
   2. Planned expenditures by fund, department, and category;
   3. Planned cash transfers between funds;
   4. Estimated beginning and ending cash balances;
   5. Costs for personnel salaries and benefits by fund and department;
   6. General obligation and revenue bonded debt service; and
   7. Line-item detailed reports for all funds and detailed personnel schedules, which must be prepared and be available upon request.

B. The following components may be included in a multi-year section of the budget:
   1. Schedules of lease purchase agreements;
   2. Capital outlay appropriations authorized for up to three years;
   3. Grant appropriations authorized for up to the term of the relevant grant;
   4. "Special" appropriations, which are limited-duration, non-capital appropriations, authorized for up to three years; and
   5. Reauthorizations of multi-year appropriations unexpended during the initial appropriation term and deemed necessary.
   6. Deauthorizations of prior-year(s), unexpended, multi-year appropriations.

(Code 1953, § 2-65; Code 1973, § 8-2; SFCC 1981, § 9-3-2; Ord. #2008-20, § 1; Ord. #2025-10, § 1)

11-2.2 Limitation on amount appropriated.

The total amount appropriated by the governing body in any particular fiscal year shall not exceed the probable amount of available money at the beginning of the year plus anticipated revenue during the fiscal year.

(Code 1953, § 2-65; Code 1973, § 8-4; SFCC 1981, § 9-3-3)

11-2.3 State approval required.

The governing body shall submit its adopted budget to the local government division of the department of finance and administration for review, amendment, if required, and approval. Upon receipt of the approved budget the governing body shall cause such budget to be made a part of the minutes of the governing body.

(SFCC 1981, § 9-3-4)

State law reference(s)—Similar provisions, Sec. 6-6-5 NMSA 1978.

11-2.4 Annual audit.

A. The finance director shall complete an annual comprehensive financial report including all city funds. The finance director shall also ensure an annual audit is contracted with the state auditor or an independent auditing firm in accordance with generally accepted auditing standards, state statutes, and other written state auditor's office policies and procedures.

B. A copy of the annual comprehensive financial report shall be distributed to all members of the governing body when released by the state auditor. The auditors completing the audit shall present a summary of the audit report to the finance committee.

C. The city manager shall direct department directors to resolve the findings included in the audit report, and report to the finance committee within ninety (90) days of the presentation of the audit report. Findings not resolved shall be brought back to the finance committee every ninety (90) days until resolutions are final.

(Ord. #2001-37, § 1)

11-2.5 Review of fees and charges.

Prior to the city manager's recommendation of the annual budget to the governing body, the city manager shall direct all departments to review all fees and charges assessed by that department.

(Ord. #2003-27, § 1)

11-3 CLAIMS OR PAYMENTS IN EXCESS OF APPROVED BUDGET; LIABILITY.

A. When the budget has been approved and received by the city, it shall be binding upon all officials and the governing body. The governing body shall not allow or approve claims in excess thereof, and no official shall make any payment in excess thereof; such allowances or claims or payments so allowed or paid shall be a liability against the officials so allowing or paying such claims or payments, and recovery for such excess amounts so allowed or paid may be had against the bondsmen of such officials.

B. The determination of expenses or expenditures in excess of the approved budget shall be by fund, function, department and division.

C. In the event that operations for the public health, safety and welfare require a service to be continued without interruption, the department director shall present the fund deficit within thirty (30) days of discovery to the finance committee for recommendation of action to the governing body. If the department director fails to take this action, the finance director shall bring the deficit to the finance committee within the next thirty (30) days.

D. For enterprise fund operations supported by revenues, quarterly reports also shall be made to the finance committee indicating the status of the revenues to date compared to the expenses to date. If the revenues are not in excess of expenses, and are not anticipated to be by the end of the fiscal year, the finance committee shall recommend action to the governing body of the proposed funding source to cover the deficit.

(SFCC 1981, § 9-3-5; Ord. #2001-37, § 2; Ord. #2008-20, § 2)

State law reference(s)—Similar provisions, Sec. 6-6-6 NMSA 1978.

11-4 BUDGET ADJUSTMENTS.

When budget adjustments are needed during the fiscal year, the following procedures shall apply:

A. The finance director has the authority to approve budget increases or decreases in revenue or transfers-in or in expenditures, expenses or transfers-out, that reflect increases or decreases in the budget up to and including five thousand dollars ($5,000.00).

B. The city manager has the authority to approve budget increases or decreases in revenue or transfers-in or in expenditures, expenses or transfers-out, that reflect increases or decreases in the budget up to and including sixty thousand dollars ($60,000.00).

C. The governing body shall approve budget increases or decreases in revenue or transfers-in or in expenditures, expenses or transfers-out, that reflect increases or decreases in the budget that are over sixty thousand dollars ($60,000.00).

D. Budget adjustments approved by the finance director, city manager, and the governing body shall be included by fund in a quarterly budget resolution approved by the governing body.

E. Budget adjustment requests will conform to the rules and regulations adopted by the local government division of the department of finance and administration.

F. For budgets associated with grants and grant agreements, the following shall apply:

(1) The finance director may approve grant applications, grant awards, grant match requirements, and agreements up to and including five thousand dollars ($5,000.00).

(2) The city manager may approve grant applications, grant awards, grant match requirements, and grant agreements up to and including sixty thousand dollars ($60,000.00), or in any amount if the deadline to approve grant applications, grant awards, grant match requirements, or grant agreements occurs before the deadline to include the application or award on the agenda for the governing body's next regularly scheduled meeting, in which case the application or award shall be subject to ratification by the governing body at the next scheduled meeting for which an agenda has not yet been posted.

(3) The city manager may approve budget revenue and related expenditure/expense increases exceeding sixty thousand dollars ($60,000.00) (including budget adjustments or decreases, as applicable), for grants provided that all of the following conditions are met:

(a) The governing body has already approved the grant application including the recommended match (if applicable), unless the deadline to seek or accept the funds occurs before the deadline to include the agreement on the agenda for the governing body's next regularly scheduled meeting, in which case the agreement shall be subject to ratification by the governing body at the next scheduled meeting for which an agenda has not yet been posted; and

(b) The final grant award does not significantly differ from the grant application in the amount, match, requirements, or other requirements on the part of the city; and

(4) Any city department receiving a grant shall submit a copy of the final award agreement and documentation for the grant to the finance department for financial tracking, reporting and auditing purposes.

G. Until December 31, 2025, or until the city implements software appropriate for accounting for multi-year appropriations for grants and capital projects, whichever is later, unspent amounts from multi-year grants and capital projects that the governing body approved in the prior fiscal year may be appropriated in the following fiscal year if the department administering the grant or capital project requests, and the finance director approves, such an appropriation. The appropriation shall be the entire remaining balance and it shall be budgeted for the same purpose and project that were approved by the governing body during the prior fiscal year. The finance department shall include such amounts in a quarterly budget resolution for review and approval of the governing body.

(Code 1953, Sec. 2-66; Code 1973, Sec. 8-5; SFCC 1981, § 9-3-6; Ord. #2002-25, § 1; Ord. #2003-3, § 1; Ord. #2008-20, § 3; Ord. #2011-3, § 1; Ord. #2018-1, § 1; Ord. #2019-4, § 1; Ord. #2020-33, § 2; Ord. #2025-10, § 3)

11-5 BATEMAN ACT.

11-5.1 Yearly expenditures limited to income.

The governing body cannot for any purpose become indebted or contract any debts of any kind during any fiscal year which, at the end of the fiscal year, cannot then be paid out of the money actually available at the beginning of the year or collected and belonging to that fiscal year.

(SFCC 1981, § 9-3-7)

State law reference(s)—Similar provisions, Sec. 6-6-11 NMSA 1978.

11-5.2 Exemptions.

Insurance contracts not exceeding five (5) years, lease purchase agreements and lease agreements entered into by the governing body are exempt from the provisions of Section 6-6-11 NMSA 1978, and such contracts, base purchase agreements and lease agreements do not constitute the creation of debt.

(SFCC 1981, § 9-3-8)

State law reference(s)—Similar provisions, Sec. 6-6-12 NMSA 1978.

11-6 COMMITMENT OF PUBLIC FUNDS AND PAYMENT OF EXPENDITURES.

A. The governing body shall adopt, and amend as needed, by resolution, rules and regulations governing the commitment of public funds and payment of expenditures within the approved budget, not inconsistent with state law.

B. It is unlawful for any city employee or official of the city to make any commitment for or on behalf of the city without proper authorization or as prescribed in the rules and regulations.

(SFCC 1981, § 9-3-9)

11-7 LIABILITY OF EMPLOYEE OR OFFICIAL.

Every employee, officer or official of the city who participates in any violation of any of the preceding provisions of this chapter shall, in addition to any other penalty imposed, be liable personally and on their official bond, if bonded, for all money expended contrary to the provisions hereof.

(Code 1953, § 2-72; Code 1973, § 8-11; SFCC 1981, § 9-3-10; Ord. No. 2023-7, Exh. A)

11-8 INVESTMENT OF PUBLIC FUNDS.

A. The city shall invest to the fullest extent all available funds, at the highest rate of return, pursuant to Sections 6-10-10 through 6-10-40 NMSA 1978, and state board of finance directives which set forth the interest rate policy on public funds.

B. The governing body shall adopt by resolution an investment policy designating as a minimum:

(1) An investment fund; and

(2) An investment portfolio.

C. For investing money held in demand deposits, not immediately needed for the operation of the city, the governing body authorizes the city manager to either: 1) appoint an employee to invest, or 2) direct the Finance Director or a designee to manage a professional service contract for investment advisory services.

(SFCC 1981, § 9-3-11; Ord. #2024-8, § 1)

11-9 BONDED INDEBTEDNESS.

11-9.1 General obligation bonds.

A. The governing body may secure funds for projects or activities authorized by Section 3-30-5 NMSA 1978 or other applicable state law by:

(1) Submitting to a vote of the qualified electors the question of issuing the bonds; and

(2) Upon approval by a majority of those voting on the question favoring the creation of the debt, issuing and disposing of negotiable bonds pursuant to state law. The debt and interest on the debt will be paid for by assessing real estate property taxes over the life of the bonds.

B. The city shall use the money received from the issuance of the bonds only for the purpose for which the bonds were issued and all bond campaign public information materials generated by the city, shall be consistent with that purpose.

C. The city shall pledge its full faith and credit to the payment and debt retirement of the bonds. The city shall designate and maintain sinking and interest funds for the payment of interest on and principal of the bonds as the payments become due. Provided, however, that the city may pay the principal and interest on the bonds from any available revenues, and the levy or levies of taxes may be diminished to the extent such other revenues are available for the payment of such principal and interest.

D. Within thirty (30) days of passage of an election resolution authorizing the placement of general obligation bond questions on the ballot, the city shall provide information to the electorate regarding the purpose(s) of the general obligation bonds.

E. Any reallocation of proceeds from a voter-approved general obligation bond that deviates materially from the information provided to the electorate by the city of Santa Fe pursuant to paragraph D, above, shall be voted upon by the governing body through the adoption of an ordinance. For the purposes of this paragraph E, a change order reallocating such proceeds due to unforeseen or latent conditions is not a material deviation.

(SFCC 1981, § 9-3-12; Ord. #2013-33, § 1; Ord. #2014-30, § 1; Ord. #2015-24, § 1)

11-9.2 Revenue bonds.

A. The governing body may authorize the issuance of revenue bonds pursuant to Sections 3-31-1 through 3-31-12 NMSA 1978, for the purposes specified by law.

B. At a regular or special meeting called for the purpose of issuing revenue bonds, the governing body may adopt an ordinance that:

(1) Declares the necessity for issuing revenue bonds; and

(2) Authorizes the issuance of revenue bonds by an affirmative vote of three-fourths (¾) of all members of the governing body.

C. If a majority of the governing body, but less than three-fourths (¾) of all the members, vote in favor of adopting the ordinance authorizing the issuance of revenue bonds, the ordinance is adopted but shall not become effective until the question of issuing the revenue bonds is submitted to a vote of the qualified electors for their approval at a special or regular municipal election.

D. It is unlawful to divert, use or expend any money received from the issuance of bonds for any purpose other than the purpose for which the bonds were issued and to meet the Art in Public Places Ordinance as set forth in subsection 6-1.4 SFCC 1987.

E. Revenue bonds are not general obligations of the municipality and are collectible only from the proper pledged revenues. Each bond shall state that it is payable solely from the pledged revenues and that the bond holders may not look to any other municipal fund for the payment of the interest and principal of the bond. The term "pledged revenues" means the revenues, net income or net revenues authorized to be pledged to the payment of particular revenue bonds.

(SFCC 1981, § 9-3-13; Ord. #2006-05, § 3)

11-9.3 Fund balances.

If a balance remains in an interest or sinking fund after the retirement and payment in full of the bonded indebtedness for which the fund was created, the governing body may request from the secretary of finance and administration the transfer of the balance to a fund requested by the city. Any balance transferred shall be used for non-recurring expenditures only.

(SFCC 1981, § 9-3-14)

State law reference(s)—Similar provisions, Section 6-10-43 NMSA 1978.

11-10 SALE OR LEASE OF CITY PROPERTY.

11-10.1 Personal property.

The city may dispose of any item of personal property belonging to the city pursuant to the requirements set forth in Article 6, Chapter 13 NMSA 1978, or as otherwise provided by law.

(SFCC 1981, § 9-3-15)

11-10.2 Real property or municipal utility.

The city may lease or sell and convey any municipal utility or real estate pursuant to the requirements of Article 54, Chapter 3, NMSA 1978, or as otherwise provided by law.

(SFCC 1981, § 9-3-15)

11-11 ECONOMIC DEVELOPMENT PLAN.

11-11.1 Short title.

This section may be cited as the "Economic Development Plan Ordinance."

(Ord. #1996-21, § 1)

11-11.2 Authority.

The Economic Development Plan Ordinance is enacted pursuant to the express statutory authority conferred 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.

(Ord. #1996-21, § 2; Ord. #2018-4, § 1)

11-11.3 Purpose.

The purpose of the Economic Development Plan Ordinance is to allow public support of economic development projects to foster, promote and enhance local economic development efforts while continuing to

protect against the unauthorized use of public money and other public resources. Further, the purpose of the section is to allow the city to enter into one (1) or more joint powers agreements with other local governments to plan and support regional economic development projects.

(Ord. #1996-21, § 3)

11-11.4 Definitions.

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

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

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, including but not limited to history, creativity and design, of a particular locale, including theaters, museums, libraries, galleries, cultural compounds, educational organizations, performing arts venues and organizations, fine arts organizations, including but not limited to folk, traditional, fine and experiential art, studios and media laboratories and facilities, and live-work housing facilities.

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

(Ord. #1996-21, § 4; Ord. #2007-8, § 1; Ord. #2008-42, § 1; Ord. #2018-4, § 2)

11-11.5 Economic development assistance.

The governing body may assist economic development projects in any legally permissible manner that create new job opportunities by providing for or using public money and resources for the provision of land, buildings or infrastructure for facilities to support new or expanding businesses, provided that all the requirements of this ordinance are met. The city may provide land, buildings or infrastructure it already owns, or it may build, purchase or lease the facilities needed for an economic development project. The city at its discretion may bear the full cost or contribute a portion of the costs of impact fees, permitting fees, inspection or any other fees that are part of the construction or building process. Additionally, the city, at its discretion, may include the full or partial waiver of wastewater utility expansion charges ("UEC") fees, water adjustment fees, or a combination of both, pursuant to Subsection 7 of Exhibit A, Section 22 SFCC 1987. The city, at its discretion, may also contribute to the payment of costs for professional services contracts such as industry feasibility studies and planning and design services needed to implement a project.

(Ord. #1996-21, § 5; Ord. #2018-4, § 3)

11-11.6 Reserved.

Editor's note(s)—Ord. #2018-27, § 3, adopted December 12, 2018, repealed § 11-11.6, which pertained to economic development review subcommittee and derived from Ord. #1996-21, § 6; Ord. #2004-37, § 1; Ord. #2008-16, § 5; Ord. #2018-4, § 4.

11-11.7 Application requirements.

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

B. Applications from qualifying entities shall be submitted to the OED on forms provided by the city.

(Ord. #1996-21, § 7; Ord. #2007-45, § 26; Ord. #2008-16, § 6; Ord. #2008-42, § 2; Ord. #2018-4, § 5)

11-11.8 Application review process.

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

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

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

D. The economic development advisory committee shall determine at a public meeting whether the entity and the proposed project qualify under this section.

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

F. The economic development advisory committee shall consider the economic development project and the project participation agreement at a public meeting in accordance with the criteria set forth in subsection 11-11.9 SFCC 1987.

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

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

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

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

(Ord. #1996-21, § 8; Ord. #2007-45, § 27; Ord. #2008-16, § 7; Ord. #2008-42, § 3; Ord. #2018-4, § 6; Ord. #2018-27, § 4)

11-11.9 Application review criteria.

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

B. All applications for economic development projects requesting economic assistance from the city shall submit a cost-benefit analysis. Preparing the cost-benefit analysis shall be the responsibility of the applicant and shall be performed in a professional manner by a person or organization with relevant skills and knowledge. The city retains the right to specify a format and methodology for the cost-benefit analysis. City staff shall review and approve of the methodology used. The source and rationale for any multiplier effects shall be identified. The cost-benefit analysis shall show that the city will recoup the value of its donation within the compliance period as required in Section 11-11.10(D). For an application to be acceptable, the analysis must show a reasonable return on investment by examining criteria such as:

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

   (2) Pay scales of jobs;

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

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

   (5) Anticipated impact on local school system;

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

   (7) Anticipated development and sharing job training and career development plan for its employees; and

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

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

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

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

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

(Ord. #1996-21, § 9; Ord. #2008-42, § 4; Ord. #2018-4, § 7)

11-11.10 Public safeguards.

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

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

(1) Letter of credit in the city's name;

(2) Performance bond equal to the city's contribution;

(3) A mortgage or lien on property or equipment;

(4) Pro-rated reimbursement of donation if company reduces work force or leaves the community before the term agreed to; and,

(5) Other security agreeable to both parties.

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

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

(Ord. #1996-21, § 10; Ord. #2018-4, § 8)

11-11.11 Project participation agreement.

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

(1) The economic development goals of the project;

(2) The contributions of the city and the qualifying entity;

(3) The specific measurable objectives upon which the performance review will be based;

(4) A schedule for project development and goal attainment;

(5) The security being offered for the city's investment;

(6) The procedures by which a project may be terminated and the city's investment recovered; and,

(7) The time period for which the city shall retain an interest in the project. Each project agreement shall have a "sunset" clause after which the city shall relinquish interest in and oversight of the project.

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

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

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

(Ord. #1996-21, § 11; Ord. #2018-4, § 9)

11-11.12 Project monies.

All project monies shall be kept in separate accounts by the entity and the city, with such accounts clearly identified. These accounts shall be subject to an annual independent audit.

(Ord. #1996-21, § 12)

11-11.13 Termination.

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

(Ord. #1996-21, § 13; Ord. #2018-4, § 10)

11-11.14 Joint or regional projects.

The city may engage in economic development projects involving one (1) or more other governmental entities for projects which encompass more than one (1) municipality or county. In such instances, a joint powers agreement shall be adopted by the relevant governing bodies. This agreement will establish the application criteria and the terms of all project participation agreements. Criteria established under a joint powers agreement shall be consistent with the provisions of this section.

(Ord. #1996-21, § 14)

11-11.15 Policies and procedures.

The community economic development plan and such other forms, policies and procedures as are deemed necessary by the city in order to implement this section are hereby adopted as a part of the city's economic development plan and are incorporated by reference.

(Ord. #1996-21, § 15)

11-11.16 Separability.

The provisions of this section are separable and the invalidity of any part of this section shall not affect the validity of the rest of the section.

(Ord. #1996-21, § 16)

11-12 ENTERPRISE FUNDS.

11-12.1 Enterprise fund expenditures.

A. All revenues generated by enterprise funds, including bond and grant proceeds, shall be expended solely for the purposes of their respective enterprise funds.

B. All revenues in excess of that needed to pay for operations and maintenance, capital outlays, bond debt service and similar revenue expenditures shall remain within their respective funds unless a failure to transfer the funds would constitute a violation of law or an impairment of an existing contract, or is made in accordance with paragraph D of this section.

C. Net revenue generated by enterprise funds shall be used for capital investment, repair and replacement, debt management, working capital, and transfers to the general fund.

D. On an annual basis, the governing body may authorize a transfer to the general fund in an amount not to exceed twelve percent (12%) of the three-year average total operating revenues based on the previous two (2) years' actual revenues reported in the city's annual audit, after allowing the enterprise to meet all of its operating expenses and debt service obligations, and providing for forty-five (45) days of working capital. Prior to such transfer of enterprise funds to the general fund, an analysis shall be performed to ensure that such a transfer would not require an enterprise fund rate increase; negatively affect bond ratings associated with the specific enterprise fund or be inconsistent with Section 3-23-4 NMSA 1978. The city may charge the enterprise fund for duly incurred non-routine costs of city services attributable to operation and maintenance of the enterprise or enterprise fund.

E. This ordinance is not intended to be construed to affect, amend or repeal any provision of any bond ordinance and is not intended to pertain to the collection of payments in lieu of taxes/fees or the convention center enterprise fund.

(Ord. #1997-4, § 1; Ord. #2011-14, § 1; Ord. #2015-19, § 1; Ord. #2016-14)

11-13 ADOPTION OF CITY'S PROCUREMENT CODE.

A. The city of Santa Fe hereby adopts the state of New Mexico Procurement Code (§§ 13-1-28 through 13-1-199, NMSA 1978) as the city of Santa Fe Procurement Code ("City Procurement Code"). Pursuant to its home-rule authority, and the city charter, the city may adopt rules specific to the city, which depart from state law. Any departures from the state law shall be adopted by ordinance.

B. Exemptions permitted by §§ 13-1-98 through 13-1-98.2, NMSA 1978 are hereby adopted, in addition to the following exemptions:

(1) Purchases of publicly provided or publicly regulated utilities and information services, including but not limited to: gas, electricity, water, sewer, telecommunications, refuse collection services, internet, and cable television;

(2) Legal services but not limited to, advice, consultation, representation, research services, and litigation expenses in connection with proceedings before administrative agencies or state or federal courts, including experts, mediators, court reporters, process servers, and witness fees;

(3) Initial purchases not exceeding one hundred thousand dollars ($100,000.00) for prepayment- required items, such as magazine subscriptions, organizational membership fees, web based or electronic subscriptions, and conference registration fees, are exempt from competitive procurement. This exemption does not apply if the subscription includes implementation costs or service fees.

(4) Lobbying services performed by a registered lobbyists for the purpose of representing the city's interests before federal or state legislative or executive bodies.

C. The purchasing officer shall be the "Chief Procurement Officer of the City" or "CPO" as defined by NMSA 1978, Section 13-1-38.1.

D. Local Preferences. Notwithstanding, NMSA 1978, Sections 13-1-21 and 13-1-22, the city shall apply the following definitions and preferences:

(1) "Resident business" means a business that has a valid resident business certificate issued by the taxation and revenue department pursuant to NMSA 1978, Section 13-1-22, and which shows that the resident business resides within the Santa Fe municipal limits.

(2) When the city makes a purchase using a formal bid process, the public body shall deem a bid submitted by a resident business to be three percent (3%) lower than the bid actually submitted. In addition, if the bid includes subcontractors who are also resident businesses, the public body shall deem a bid submitted by a resident business with resident business subcontractors to be six percent (6%) lower than the bid actually submitted. If a nonresident business hires all resident business subcontractors, the public body shall deem the bid to be three percent (3%) lower than the bid actually submitted.

(3) When the city makes a purchase using a formal request for proposals process, not including contracts awarded on a point-based system, the city shall award an additional:

(a) Three percent (3%) of the total weight of all the factors used in evaluating the proposals to a resident business; and

(b) Three percent (3%) of the total weight of all the factors used in evaluating the proposals to a business with all resident business subcontractors.

(4) When the city makes a purchase using a formal request for proposals process, and the contract is awarded based on a point-based system, the city shall award additional points equivalent to:

(a) Three percent (3%) of the total possible points to a resident business; and

(b) Three percent (3%) of the total possible points to a business with all resident business subcontractors.

(5) The maximum available local preference shall be six percent (6%).

E. Competitive sealed proposals valued in excess of one million dollars ($1,000,000.00).

(1) If the bid or proposal includes to subcontractors who are also resident businesses, the public body shall deem a bid or proposal submitted by a resident business to be six percent (6%) lower than the bid actually submitted, if and only if at least fifty percent (50%) of the subcontracted services go to subcontractors who are resident businesses.

(2) If a non-resident business hires resident business subcontractors, the public body shall deem the bid or proposal to be three percent (3%) percent lower than the bid actually submitted, if and only if at least fifty percent (50%) of the subcontracted services go to subcontractors who are resident businesses.

F. City employees shall endeavor to procure local goods and services that qualify as "small purchases" as defined by NMSA 1978, Section 13-1-125.

G. *Procurement Manual.* The governing body shall adopt the Procurement Manual by resolution.

H. *Professional Service Contracts.* Professional service contracts may be established or amended for a term not to exceed eight (8) years.

I. *CPO Purchase Authority.* Pursuant to NMSA 1978, Section 13-1-95.2, the CPO is authorized to approve Purchase Orders (POs).

J. *Use of Request for Applications (RFA).* The CPO may approve the use of RFA. Procedures for making the approval may be found in the city's procurement manual.

K. *Construction Manager at Risk (CMAR) Delivery Method.* Pursuant to its home rule authority under the Santa Fe Municipal Charter, the city hereby adopts the procedures set forth in NMSA 1978, Sections 13-1-124.1 through 13-1-124.5 and the applicable provisions of the New Mexico Administrative Code (NMAC), unless the city adopts its own CMAR procedures through the Procurement Manual. Wherever the state statutes reference the "governing body," such term shall be interpreted in accordance with SFCC 1987, Section 2-1.1, to mean the city's duly elected governing body as defined in the city charter.

L. The city hereby modifies the amounts listed in NMSA 1978, Section 13-1-125.

(1) Purchases shall not be artificially divided to constitute a small purchase under this section.

(2) The city may procure any services, construction, and items of tangible personal property having a value not exceeding sixty thousand dollars ($60,000.00), excluding applicable state and local gross receipts taxes, by issuing a direct purchase order to a contractor based upon the best interest of the city.

(3) The city shall procure services, construction, or items of tangible personal property having a value not exceeding one hundred thousand dollars ($100,000.00), or more if the New Mexico Legislature increases the threshold in NMSA 1978, Section 13-1-125. These amounts exclude applicable state and local gross receipts taxes, in accordance with the applicable small purchase rules adopted in the city's Procurement Manual.

M. *Contract Amendments Within City Manager Authority.* The city manager is authorized to approve amendments to existing contracts that do not materially alter the scope of work, including but not limited to term extensions, assignments or transfers of ownership, and other non-monetary changes. The city manager

may also approve amendments that decrease the total compensation amount or that increase compensation, provided such increase is within the city manager's established approval authority.

N. *Emergency Procurement, Authorization to Commence Work.*

(1) Upon a written determination that an emergency condition exists, executed in accordance with this section and approved by the appropriate person, the city may authorize a vendor to commence work prior to the execution of a separate contract, but following issuance of a PO, to the extent necessary to address the emergency.

(2) Authorization to proceed under this section shall be limited to work necessary to mitigate or resolve the emergency condition and shall not exceed the scope, duration, or dollar amount specified in the approved emergency determination.

(3) Any emergency procurement authorized pursuant to this section shall be submitted for ratification as soon as practicable after the CPO has issued a written determination. Ratification shall be completed by:

(a) The city manager, when the total procurement amount is within the city manager's approval authority; or

(b) The governing body, when the total procurement amount exceeds the city manager's approval authority.

(4) Work authorized and performed in good faith pursuant to an approved emergency determination shall not be invalidated due to the timing of ratification, provided all requirements of this section and the Bateman Act are otherwise satisfied.

(Ord. #1999-1, § 1; Ord. #2000-32, § 1; Ord. #2012-12; Ord. #2012-16; Ord. #2018-1, § 2; Ord. #2023-20, § 2; Ord. #2026-8, § 1)

11-14 ECONOMIC DEVELOPMENT FUND.

11-14.1 Short title.

This section may be cited as the "Economic Development Fund Ordinance."

(Ord. #2000-16, § 1)

11-14.2 Authority.

The Economic Development Fund Ordinance is enacted pursuant to the express statutory authority conferred upon municipalities to allow public support of economic development (Section 5-10-1 through Section 5-10-13 NMSA 1978). This ordinance is adopted as part of the city's community economic development plan.

(Ord. #2000-16, § 1)

11-14.3 Purpose.

The purpose of the Economic Development Fund Ordinance is to identify the funds which shall be deposited into the economic development fund and to restrict the expenditure of monies in the economic development fund

to those activities which implement the goals, strategies or approaches of the economic development plan and/or qualify as economic development projects as defined in Section 11-11.4 SFCC 1987. Furthermore, the fund is intended to support activities which serve to diversify the local economy, and which do not have access to other city funding sources such as, but not limited to, the lodgers' tax through the occupancy tax advisory board or the arts commission and capital funds through the capital improvements program. Qualifying under the Santa Fe Economic Development Plan does not establish any obligation on the city's part to offer any specific type or level of assistance to any project or activity, nor does it imply that a project or activity must be funded solely or primarily from the economic development fund. The economic development fund is not intended to be the sole source of funding for economic development projects, and any activity or project eligible for support from the fund is strongly encouraged to develop additional sources of funds.

(Ord. #2000-16, § 3; Ord. #2018-4, § 11; Ord. #2021-11, § 6)

11-14.4 Definitions.

As used in this Economic Development Fund Ordinance:

Economic development fund means that fund in the City budget created by Resolution 1998-49, adopted on July 29, 1998.

Economic development project means a project or activity which meets the definition of a qualifying entity found in subsection 11-11.4 SFCC 1987, or serves to implement the goals, strategies and actions contained in the Santa Fe CEDP, or which originates or results from a regional project or activity with Santa Fe County or any other public entity.

(Ord. #2000-16, § 4)

11-14.5 Dedication and partial sunset.

A. An amount of the general fund equal to a minimum of one-quarter of one percent (0.25%) of the city's share of the state gross receipts tax shall be allocated annually to the economic development fund beginning in the fiscal year 2000/01 budget. This allocation shall be increased by one-quarter of one percent (0.25%) each subsequent year until an allocation of one percent (1%) is attained in FY 2003/04. Thereafter, the allocation shall be maintained at one percent (1%) unless increased by other annual allocations the governing body approves contingent upon sufficient appropriations and authorization by the governing body.

B. Between January 1, 2021 and December 31, 2030, half of all net proceeds from the sale of city-owned land and buildings shall be deposited into the economic development fund and half shall be deposited in the affordable housing trust fund, as set forth in section 26-3 SFCC 1987, and all net proceeds from the lease of city-owned land and buildings shall be deposited into the economic development fund. Thereafter, all net proceeds from any sale or lease of city-owned land and buildings shall be deposited into the economic development fund. These deposits shall be subject to the following provisions:

   (1) *Railyard property.* Proceeds from the sale or lease of property on the railyard property are exempted from the provisions of this section and shall not be deposited in the economic development fund.

   (2) *Santa Fe Estates.* Proceeds from the sale or the lease of the Santa Fe Estates are exempted from the provisions of this section and are subject to appropriation by the governing body.

   (3) *Tierra Contenta.* Only the share of revenues from the sale of property in Tierra Contenta which had been designated to reimburse CIP funds used for the original purchase of Tierra Contenta shall be deposited in to the economic development fund (less funds already allocated for a new southside

library in the amount of five hundred thousand dollars ($500,000.00). These funds shall be reserved for capital projects and their related expenses for projects authorized in subsection 11-14.5A SFCC 1987.

(4) *Existing agreements.* Agreements, ordinances and resolutions in force at the time of adoption of this section which stipulate other uses for the proceeds of specific transactions will exempt those transactions from the provisions of this section.

(5) *Enterprise funds.* Proceeds from the sale or lease of property belonging to or associated with enterprise funds are exempt from the provisions of this section.

(6) *Airport Industrial Park.* Net proceeds from the sale or lease of property in the Airport Industrial Park or other airport property, after all costs to build out all phases of the park have been recovered, shall go to the support of the Santa Fe regional airport.

(7) *Other.* Agreements for the sale or lease of city property which may be subject to other restrictions as to revenue designations or uses are not subject to the provisions of this section. Any such agreement must cite this subsection of this section in the agreement in order to qualify for this exemption.

(Ord. #2000-16, § 5; Ord. #2019-18, § 1; Ord. #2021-10, § 1; Ord. #2025-11, § 1)

Ord. #2021-10, § 1, adopted Apr. 28, 2021, changed the title of § 11-14.5 from dedication to dedication and partial sunset.

11-14.6 Eligible uses.

A. All funds deposited into the economic development fund, including those in the fund at the time of the adoption of this section, shall be reserved for those activities which implement the goals, strategies and actions of the Santa Fe CEDP and/or qualify as economic development projects or activities as defined in subsection 11-11.4 SFCC 1987, or which originates or results from a regional project or activity with Santa Fe County or any other public entity.

B. Any agreement, contract or other undertaking which involves the use of funds from the economic development fund shall clearly state that the activity or project meets the purpose of this section.

C. Any use of funds in the economic development fund for projects or activities not authorized in subsection 11-14.6-A SFCC 1987 or not included as a goal, strategy or action in the community economic development plan shall require an amendment to this section at a public hearing.

D. Each activity or project funded shall incorporate adequate measures and criteria to evaluate effectiveness and benefit.

(Ord. #2000-16, § 6)

11-14.7 Separability.

The provisions of this section are separable and the invalidity of any part of this section shall not affect the validity of the rest of the section.

(Ord. #2000-16, § 7)

11-15 FRANCHISE FINANCIAL REVIEWS.

A. The city manager shall assign each franchise agreement to a department for contract administration, which shall be in place until otherwise changed.

B. The city of Santa Fe shall select at least one (1) franchisee each fiscal year for a financial review by either a city internal auditor or an independent audit firm.

C. The financial review shall be based on the fiscal operating year of the franchisee.

D. Generally accepted review standards shall be used and documented by the auditor.

E. Additional reviews by a city internal auditor or an independent audit firm may be directed or contracted by the city manager or the finance committee. The internal auditor or assigned contract administrator may recommend a financial review if concerns arise. A financial review shall be completed if a franchisee has changed ownership, is experiencing significant financial or operational difficulties or irregularities or if payments are regularly late or not paid.

F. The financial review shall be presented to the finance committee within thirty (30) days of the report being issued.

(Ord. #2002-40, § 1)

11-16 RESERVED.[1]

[1]Editor's note(s)—Former Section 11-16, Affordable Housing Investment Loan Fund, previously codified herein and containing portions of Ordinance No. 2006-33, was repealed in its entirety by Ordinance No. 2007-23.