Henry P. Roybal
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3

Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

Date: December 31, 2014

To: Board of County Commissioners

From: Steven Brugger, Affordable Housing Administrator SB

Via: Katherine Miller, County Manager
Gregory S. Shaffer, County Attorney
Penny Ellis-Green, Growth Management Director
Robert Griego, Planning Manager

Re: First Public Hearing on an Ordinance Entitled "An Ordinance Amending Ordinance No. 2012-1 Pertaining to the Affordability Lien that is Executed and Recorded at the Time of Closing of an Affordable Home Sale"

Issue. At its November 28 meeting, the BCC authorized staff to publish title and general summary for an ordinance entitled "An Ordinance Amending Ordinance No. 2012-1 Pertaining to the Affordability Lien that is Executed and Recorded at the Time of Closing of an Affordable Home Sale" This is a request to amend Ordinance 2012-1, the most recent ordinance which changed provisions of the original Affordable Housing Ordinance No. 2006-02.

This is the first of two public hearings for consideration of this issue. The second public hearing will be held on January 27, at which time the BCC may act on this request to amend Ordinance 2012-1 and eliminate the ten year affordability lien reduction provision. The current affordability lien reduction provision applies to subdivisions approved under the original 2006-02 ordinance, as amended by several other ordinances, the last being Ordinance 2012-1.

This proposed ordinance amendment provides for deleting the entire Section 3A of Ordinance 2012-1 and replacing it with the original language from Section 18A of Ordinance 2006-02 which did not allow for a reduction in the affordability lien.

Background. The rationale for approving the proposed ordinance amendment is threefold: 1) As written, Section 3A of Ordinance 2012-1 allows the face value of the affordability lien to be reduced to zero the day after closing of the affordable home sale, after which time the face value of the affordability lien would be increased by 10% every year after the closing date until at the end of 10 years, the face value of the affordability lien would be restored to its original amount. This would encourage speculation and flipping of property, and eliminate long term affordability, which is the opposite of what this program intended; 2) The County has over 200 liens outstanding with a total face value of $13,747,919 (and an estimated current value of $11 million after factoring in an allowance for uncollectibles) which are not forgiven over time. Instituting lien forgiveness for new buyers, without extending this opportunity to previous buyers may be perceived as unequal treatment; 3) Review of the staff reports and minutes of the January 10, 2012 and January 31, 2012 BCC meetings where Ordinance 2012-1 was approved, clearly shows that the public discussion focused on reducing the affordable housing requirement from 30% to 15% for major projects and from 16% to 8% for minor projects, which is also included in this ordinance.

As recorded in the minutes, there was no discussion from the Commissioners at the BCC meetings, nor in the Affordable Housing meeting on January 31, 2012, of the proposed affordability lien reduction. Even staff commentary was limited on this issue, other than to say that this would "expand long term affordability", as was stated in the last five words of the title of the Ordinance: ..."To Protect Long-Term Affordability".

Forgiving the liens over a ten year period does not protect or expand long term affordability, rather it eliminates long-term affordability and provides a rather large gift to the affordable homeowner at the expense of the developer who initially provided the subsidy as required by the County inclusionary zoning program. At present, when an existing owner wants to sell the affordable unit, staff has been able to find another affordable buyer who assumes the subsidy, thereby preserving long term affordability. Approval of the proposed ordinance amendment would enable staff to continue this practice for all affordable homes sold in the future.

Fiscal Impact. Approval of this ordinance amendment would have a positive fiscal impact on the County affordable housing program. Assuming that 10 affordable homes are sold per year, with an average County-held lien of $50,000, retention, rather than forgiveness over 10 years of the face value of the liens would create an annual asset value increase of $50,000.

Recommendation. Staff recommends that the BCC approve the proposed ordinance amendment at the second public hearing to be held on this item on January 27, 2015.

Attachments

Exhibit A:	Proposed Ordinance No. 2015-
Exhibit B:	Ordinance 2012-1
Exhibit C:	Ordinance 2006-02
Exhibit D:	Fiscal Impact Report

EXHIBIT A
THE BOARD OF COUNTY COMMISSIONERS
SANTA FE COUNTY, NEW MEXICO

ORDINANCE NO. 2015-XXX

AN ORDINANCE AMENDING ORDINANCE NO. 2012-1 PERTAINING TO THE AFFORDABILITY LIEN THAT IS EXECUTED AND RECORDED AT THE TIME OF CLOSING OF AN AFFORDABLE HOME SALE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY that Ordinance 2012-1 is amended as follows:

Section One. Section Three is hereby deleted and replaced with the following:

"Section One of Ordinance No. 2009-01 (amending subsection 18(A) ("Long-term Affordability") of Ordinance No. 2006-02) shall be and hereby is repealed together with Ordinance No, 2010-09 and a new subsection 18(A) of Ordinance No. 2006-02 shall be adopted as follows:

"A. Each Affordable Housing Agreement shall include a form of lien, mortgage or other instrument (hereinafter referred to as "the Affordability Mortgage or Lien") that shall be executed and recorded along with the deed conveying the Affordable Unit to the first buyer, and that instrument shall create a mortgage or lien in favor of the County in the amount of the difference between the Maximum Target Housing Price and ninety-five percent of the unrestricted fair market value of the Affordable Unit at the time of initial sale, as determined by an appraisal approved by the County. The lien, mortgage or other instrument shall be duly executed and recorded in the Office of the County Clerk."

Section Two. All other provisions of Ordinance 2012-1 not herein amended shall remain in full force and effect.

PASSED, APPROVED, and ADOPTED on the _______ day of _________________ ______, 2015 by the Board of County Commissioners of Santa Fe County.

THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

____
Robert A. Anaya, Chair

ATTEST:

____
Geraldine Salazar, County Clerk

Approved as to form:

____
Gregory S. Shaffer, County Attorney

EXHIBIT

B

THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

ORDINANCE NO. 2012-1

AN ORDINANCE CONCERNING THE COUNTY'S AFFORDABLE HOUSING PROGRAM; REPEALING SPECIFIED PORTIONS OF ORDINANCES NO. 2006-02, 2009-01 AND 2010-09; ENACTING REPLACEMENT PROVISIONS THAT REDUCE THE AMOUNT OF AFFORDABLE HOUSING FROM 30% TO 15% OF THE TOTAL HOUSING PROVIDED IN A MAJOR PROJECT, AND REDUCING FROM 16% TO 8% THE AFFORDABLE HOUSING PROVIDED IN A MINOR PROJECT; AMENDING THE AFFORDABILITY LIEN; AND PROVIDING FOR THE REMAINDER OF THE AFFORDABILITY LIEN TO DECLINE TO MATCH THE APPRECIATION SHARE LIEN TO PROTECT LONG-TERM AFFORDABILITY.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY THAT SPECIFIED PORTIONS OF ORDINANCES NO. 2006-02, 2009-01 AND 2010-09 ARE HEREBY REPEALED AND REPLACEMENT PROVISIONS ENACTED AS FOLLOWS:

Section One. Subsections 4(A) and 4(B) of Ordinance No. 2006-02 ("Affordable Housing Requirements") shall be and are repealed and new subsections 4(A) and 4(B) enacted as follows:

> **"Section Four. Affordable Housing Requirements.**
>
> "A. Of the total housing provided in any Major Project, no less than fifteen percent (15%) shall be Affordable Housing as defined herein. Of the total housing provided in any Minor Project, no less than eight percent (8%) shall be Affordable Housing as defined herein.
>
> "B. The distribution of the Affordable Units provided in connection with a Major Project shall include Affordably Priced Housing Units provided equally to Eligible Buyers in Income Range 1 (3.75%), Income Range 2 (3.75%), Income Range 3 (3.75%), and Entry Market Housing Units provided to Entry Market Buyers in Income Range 4 (3.75%). The distribution of the Affordable Units provided in connection with a Minor Project, except as otherwise set forth in Section Five of this Ordinance, shall include Affordably Priced Housing Units provided equally to Eligible Buyers in Income Range 1 (2%), Income Range 2 (2%), Income Range 3 (2%), and Entry Market Housing Units provided to Entry Market Buyers in Income Range 4 (2%)."

Section Two. Subsection 16(A) of Ordinance No. 2006-02 shall be and hereby is repealed and a new subsection 16(A) enacted as follows:

"**Section Sixteen. Alternate Means of Compliance.**

"A. A Project may alternatively meet all or a portion of its obligation to provide Affordable Housing by:

"1. providing Affordable Units outside the Project but within central and northern Santa Fe County, as shown on Attachment A, subject to the provisions of Section Sixteen (D) of this Ordinance;

"2. making a cash payment that is equal to or greater value than would have been required if the Project had been constructed or created Affordable Units as provided in this Ordinance, applying the methodology set forth in the Affordable Housing Regulations;

"3. dedicating property suitable for construction of Affordable Units outside the Project but within central and northern Santa Fe County, as shown on Attachment A, whose value is equal to or greater than that which would have been required if the Project had been constructed or created Affordable Units as provided in this Ordinance, applying the methodology set forth in the Affordable Housing Regulations; or

"4. otherwise providing Affordable Units in a manner that is consistent with the goals and objectives of this Ordinance (including providing rental homes in lieu of homes for purchase, so long as the initial market value rental payments do not exceed that which an affordable buyer would have to pay to purchase a home in the income ranges specified in the affordable housing regulations).

Section Three. Section One of Ordinance No. 2009-01 (amending subsection 18(A) (" Long-term Affordability") of Ordinance No. 2006-02) shall be and hereby is repealed together with Ordinance No. 2010-09 and a new subsection 18(A) of Ordinance No. 2006-02 shall be adopted as follows:

"A. Each Affordable Housing Agreement shall include a form of lien, mortgage or other instrument (hereinafter referred to as "the Affordability Mortgage or Lien") that shall be executed and recorded along with the deed conveying the Affordable Unit to the first buyer, and that instrument shall create a mortgage or lien in favor of the County in the amount of the difference between the Maximum Target Housing Price and ninety-five percent of the unrestricted fair market value of the Affordable Unit at the time of initial sale, as determined by an appraisal approved by the County, which specifies that the value of the mortgage or lien is calculated at any given point by multiplying the number of full years that have elapsed from the date of first sale of the Affordable Unit by 0.10 and then multiplying that result by the difference between the Maximum Target

Housing Price and ninety-five percent of the unrestricted fair market value of the Affordable Unit at the time of initial sale. The liens, mortgages or other instruments shall be duly executed and recorded in the Office of the County Clerk.

Section Four. All other provisions of Ordinances No. 2006-02, 2009-01 and 2010-9 shall remain in force.

PASSED, APPROVED AND ADOPTED this 31st day of January, 2012.

THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY

By: ______________________
Liz Stefanics, Chair

ATTEST:

____
Valerie Espinoza, Santa Fe County Clerk

APPROVED AS TO FORM:

____
Stephen C. Ross, Santa Fe County Attorney

EXHIBIT C

SANTA FE COUNTY ORDINANCE NO. 2006-02

AN ORDINANCE REQUIRING AFFORDABLE HOUSING IN PROJECTS AND MINOR PROJECTS DEVELOPED WITHIN THE NORTHERN AND CENTRAL AREA OF THE COUNTY, CREATING THE POSITION OF AFFORDABLE HOUSING ADMINSTRATOR, PROVIDING FOR ENACTMENT OF AFFORDABLE HOUSING REGULATIONS, PROVIDING FOR INCENTIVES TO AMELIORATE THE COST OF PROVIDING AFFORDABLE HOUSING, ENSURING LONG-TERM AFFORDABILITY, PROVIDING FOR ALTERNATE MEANS OF COMPLIANCE AND MEANS TO ADDRESS HARDSHIP SITUATIONS, AMENDING ORDINANCE NOS. 1996-10, 1997-03, 2000-13, 2001-7, AND 2002-1, REPEALING SECTION K OF ORDINANCE NO. 2000-12, AND REPEALING ORDINANCES NO. 1997-02, 1997-10 and 2000-11.

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

Section One. Purpose and Intent. The purpose of this Ordinance is to provide increased housing opportunities within a broad range of incomes for current and future residents of Santa Fe County. The intent is to encourage new development to achieve a reasonable balance between market rate housing and Affordable Housing through the use of incentives and other means to help offset potential costs.

Section Two. Applicability. This Ordinance shall apply to each Project and Minor Project within the unincorporated areas of central and northern Santa Fe County shown on Attachment A not otherwise governed by the Santa Fe County Exterritorial Zoning Ordinance, Ordinance No. 1997-4, as amended. This Ordinance shall apply to an existing approved master plan and shall apply to an application for approval of master plan, preliminary development plan or preliminary plat.

Section Three. Definitions. For purposes of this Ordinance, the following definitions shall apply:

A. "Affordable Housing" means an Eligible Housing Type or Unit that is sold at or below the Maximum Target Housing Price to an Eligible or Entry Market Buyer, where the Eligible Housing Unit is occupied by the Eligible or Entry Market Buyer as a primary residence.

B. "Affordably Priced Housing Unit" means an Eligible Housing Type or Unit that is sold at or below the Maximum Target Housing Price to an Eligible Buyer within Income Ranges 1, 2, or 3 respectively.

C. "Affordable Housing Administrator" means the County employee charged with administering this Ordinance, making recommendations and taking other actions as set forth in this Ordinance.

D. "Affordable Housing Plan" means a written plan that describes how an applicant intends to comply with the Affordable Housing requirements of this Ordinance, and which specifies the general location, number and types of Affordable Units that will be built.

E. "Affordable Housing Regulations" refers to regulations developed and updated periodically by the Board of County Commissioners to govern implementation and administration of this Ordinance.

F. "Affordable Unit" means an Affordably Priced Housing Unit or an Entry Market Housing Unit.

G. "Appreciation" means the amount an Affordable Unit has increased in value since the first sale of the unit to an Eligible Buyer using an initial sales price that has been adjusted by an index specified in the Affordable Housing Regulations.

H. "Area Median Income" means the median income of the Santa Fe Metropolitan Statistical Area, adjusted for various household sizes, published by the United States Department of Housing and Urban Development and amended annually pursuant to data published by the United States Department of Housing and Urban Development.

I. "Code Administrator" means the Santa Fe County Land Use Director, or his/her designee.

J. "Community Water System" has the same meaning as that phrase is given in the Land Development Code, Ordinance No. 1996-10 (as amended), a water supply system that serves five (5) or more dwelling units or commercial units through facilities that are under central or common ownership and/or management and that utilize permitted water rights instead of a domestic well, including public water supply systems such as those operated by Santa Fe County and the City of Santa Fe.

K. "Eligible Buyer" means the buyer of an Eligible Housing Unit whose Annual Gross Income is one hundred percent (100%) or less than the Area Median Income.

L. "Eligible Housing Type" or "Unit" means a housing unit, attached or detached, that is constructed in compliance with applicable codes. Design standards for an Eligible Housing Type or Unit shall be further categorized within the Affordable Housing Regulations according to housing type, number of bedrooms, number of bathrooms and minimum square footages of heated residential area.

M. "Entry Market Buyer" means a buyer of an Eligible Housing Type of Unit whose Annual Gross Income is between 101% to 120% of the Area Median Income.

N. "Entry Market Housing Unit" means an Eligible Housing Type or Unit that is sold at or below the Maximum Target Housing Price to an Entry Market Buyer within Income Range 4 respectively.

O. "Income Range" means the income range used to determine the Maximum Target Home Price for each Eligible Housing Type. For purposes of this Ordinance, the Income Ranges are as follows:

1. Income Range 1: 0% to 65% of the Area Median Income.
2. Income Range 2: 66% to 80% of the Area Median Income.
3. Income Range 3: 81% to 100% of the Area Median Income.
4. Income Range 4: 101% to 120% of the Area Medium Income.

P. "Maximum Target Housing Price" means the highest price at which an Eligible Housing Type or Unit may be sold to an Eligible or Entry Market Buyer in the appropriate Income Range and otherwise satisfy the affordable housing requirements of this Ordinance. The Maximum Target Housing Prices for each Eligible Housing Type and Income Range shall be included in the Affordable Housing Regulations, and the

Maximum Target Housing Prices shall be amended from time to time as the Area Median Income, interest rates, or other appropriate indices change. The Maximum Target Housing Price shall not include any options, lot premiums or upgrades chosen by the Eligible or Entry Market Buyer so long as the options, premiums and upgrades are published by the seller in advance as part of its marketing efforts and so long as the options are reasonably comparable to those offered to other buyers of the same housing type and do not exceed the sum of $2,000 in total.

Q. "Major Project" means any division of property into twenty-five (25) or more parcels for purpose of sale, lease or other conveyance of one or more single-family residences.

R. "Minor Project" means subdivision of a parcel or parcels into between five (5) and no more than twenty-four (24) or parcels (inclusive of any Affordable Housing provided as a result of the application of requirements of this Ordinance) for purpose of sale, lease or other conveyance of one or more single-family residences.

S. "Project" means any Major Project or Minor Project.

Section Four. Affordable Housing Requirements.

A. Of the total housing provided in any Major Project, no less than thirty percent (30%) shall be Affordable Housing as defined herein. Of the total housing provided in any Minor Project, no less than sixteen percent (16%) shall be Affordable Housing as defined herein.

B. The distribution of the Affordable Units provided in connection with a Major Project shall include Affordably Priced Housing Units provided equally to Eligible Buyers in Income Range 1 (7.5%), Income Range 2 (7.5%), Income Range 3 (7.5%), and Entry Market Housing Units provided to Entry Market Buyers in Income Range 4 (7.5%). The distribution of the Affordable Units provided in connection with a Minor Project, except as otherwise set forth in Section Five of this Ordinance, shall include Affordably Priced Housing Units provided equally to Eligible Buyers in Income Range 1 (4%), Income Range 2 (4%), Income Range 3 (4%), and Entry Market Housing Units provided to Entry Market Buyers in Income Range 4 (4%).

C. If a fractional portion of an Affordable Unit remains when determining the required number of Units, the following requirements apply:

1. Where the fractional remainder is greater than 0.5, an additional unit shall be required.

2. Where the fractional remainder is 0.5 or less, a residual fee shall be required in accordance with the Affordable Housing Regulations.

D. Affordable Housing shall be integrated into the overall design and layout of the Project, and the Affordable Units shall be reasonably dispersed within the Project. An appropriate mix of housing types and sizes may be included in the Project so long as it otherwise complies with this Ordinance. At a minimum, the general location, total number of units, a description as to the type and design of those units, the general pricing structure, and the proposed phasing of the Affordable Housing shall be identified in the Affordable Housing Plan and the exact location of the Affordable Units shall be identified in the Affordable Housing Agreement.

E. Affordable Housing shall be provided in phases if the Project is otherwise to be phased, but the proportion of Affordable Units offered for sale within any phase must not be less than the proportion of the total number of lots to be developed within all phases of the Project and the total number of Affordable Units to be offered within all phases of the Project.

F. An applicant shall submit an Affordable Housing Plan as a part of the application for approval of a Project. The Affordable Housing Plan shall describe, in detail, how the applicant intends to comply with the Affordable Housing requirements of this Ordinance, and shall specify whether alternative means of compliance or hardship conditions will be claimed and, if so, the grounds for doing so. The Affordable Housing Plan shall be submitted at the earliest phase of the review process and shall be included as a part of the development review for that development. The Affordable Housing Administrator may request additional information from the applicant, or reject or require amendments to a proposed Affordable Housing Plan if the proposed Affordable Housing Plan fails to meet the requirements of this Ordinance or the Affordable Housing Regulations. The Affordable Housing Plan will be incorporated into the Affordable Housing Agreement that shall be filed and recorded with a final development plan or a final plat, whichever instrument is the first to be recorded.

G. A final plat shall not be recorded until the applicant has entered into an Affordable Housing Agreement with the County.

Section Five. [Reserved]

Section Six. Affordable Housing Regulations.

A. The Affordable Housing Administrator shall recommend and present to the Board of County Commissioners proposed Affordable Housing Regulations contemporaneous with consideration of this Ordinance.

B. The Affordable Housing Regulations ultimately adopted by the Board of County Commissioners shall include, at a minimum, the following:

1. The application submittal requirements necessary to reasonably evaluate compliance with this Ordinance, the requirements governing the Affordable Housing Plan and Affordable Housing Agreement.

2. The form of the Affordable Housing Agreement, including standard terms and conditions for providing Affordable Housing within a Project, the location, housing type(s) and size(s) and the Maximum Target Housing Price(s) of the proposed Affordable Units, a description of how the Affordable Units will be marketed and sold to Eligible Buyers or Entry Market Buyers, and a requirement that the Affordable Housing Agreement be filed and recorded with the Final Plat;

3. A reasonable process for certifying Eligible or Entry Market Buyers by the County or its agent that, to the extent possible, takes no more than fifteen (15) business days from the date a potential buyer applies for certification;

4. Reasonable fees to be charged for certification of Eligible or Entry Market Buyers;

5. The form of the Certificate of Compliance to be issued upon compliance with the terms of this Ordinance;

6. A Maximum Target Housing Price for each income range;

7. Minimum design requirements including the number of bathrooms and the minimum residential square footages of heated area according to the number of bedrooms;

8. [Reserved]

9. The method used to determine and periodically adjust the Maximum Target Housing Price, including the methodology to be used to determine the initial market price for each Eligible Housing Type and a means to discount the market price by the same percentages to determine the price for each category of Eligible Housing Type and for each Income Range;

10. The method for determining fees associated with this Ordinance, including cash payments as an alternative means of compliance and residual fees;

11. Rules for applying the residual fee standards in Section 4(C)(2) of this Ordinance;

12. A methodology for evaluating cash payments pursuant to Section 16(A)(2) of this Ordinance;

13. A methodology for evaluating property dedications pursuant to Section 16(A)(3) of this Ordinance;

14. A methodology for evaluating proposed cash payments for alternative means of compliance pursuant to Section 16(F)(1) of this Ordinance;

15. A methodology for evaluating property dedications for alternative means of compliance pursuant to Section 16(F)(3) of this Ordinance;

16. Criteria and procedures for reducing the County's share of the Appreciation and the Affordability Mortgage or Lien pursuant to Section 18(C) of this Ordinance; and

17. Any other matter deemed necessary by the Board of County Commissioners.

C. The Affordable Housing Regulations shall be adopted by resolution of the Board of County Commissioners, and shall be amended from time to time as deemed necessary and to account for changes in indices used to make calculations required by this Ordinance and the Affordable Housing Regulations.

Section Seven. Rental of Affordable Units. An Eligible or Entry Market Buyer shall not lease an Affordable Housing Unit that is provided pursuant to this Ordinance unless the proposed tenant is an immediate family member of the Eligible or Entry Market Buyer, the Eligible or Entry Market Buyer is under duress by reason of unemployment, family medical emergency, is unable to sell the Affordable Unit for an amount equal to or greater than the original sale price or other unique circumstances of hardship, and the proposed lease of the premises is approved in writing by the Affordable Housing Administrator.

Section Eight. Water for Affordable Housing. Notwithstanding the provisions of Article V, Section 5.2.2.g.(9) of the Santa Fe Land Development Code and Ordinance No. 2005-02 (Master Plan Procedures), or any Resolution governing operations of the Santa Fe County Water Resources Department, a Project shall not be required to transfer water rights to the County for the Affordably Priced Housing Units as required by application of Section 4(A) of this Ordinance, so long as at the time of application the County holds adequate water rights to supply the Affordably Priced Housing Units and is otherwise capable of supplying the Affordably Priced Housing Units.

Section Nine. Density Bonus for Affordable Housing.

A. A Major Project that utilizes a Community Water System may receive increased density to accommodate the Affordably Priced Housing Units pursuant to the requirements contained within this Ordinance.

B. A Minor Project may receive increased density to accommodate the Affordably Priced Housing Units pursuant to the requirements contained within this Ordinance so long as the Project provides no less than thirty percent (30%) Affordable Housing, and so long as: (i) the Project utilizes a Community Water System, and (ii) clustering concepts are incorporated into the Project.

C. The density bonus permitted by this Section shall not exceed 2/3 unit for each Affordably Priced Housing Unit provided and as otherwise permitted by application of the Land Development Code, not to exceed an increased density of fifteen percent (15%) attributable to the Project in total.

D. The affordability requirements for a Project shall be determined prior to applying any density bonus.

E. Density bonuses of not more than twenty percent (20%) attributable to the Project as a whole may be approved by the Board of County Commissioners on a case-by-case basis, so long as the Project remains compatible with surrounding uses and the impacts to adjacent areas are minimal.

Section Ten. Incentives for Energy Efficiency. A Project that provides energy efficiency measures within the Project as a whole shall be permitted to apply all the incentives described in this Ordinance to each Entry Market Housing Unit. The criteria to evaluate a proposal to provide energy efficiency measures shall be more specifically described in the Affordable Housing Regulations.

Section Eleven. Relief from Development Fees. Notwithstanding the provisions of Article V, Section 6 ("Fees and Levies") Article XII of the Santa Fe County Land Development Code, a Project that provides Affordable Housing as required by this Ordinance shall be relieved of the obligation to pay development fees for each Affordably Priced Housing Unit provided within the Project.

Section Twelve. Relief from Additional Santa Fe County Water Utility Connection Charges. A Project that provides Affordable Housing as required by this Ordinance shall be relieved of the obligation to pay additional water connection charges (excluding the costs of creating a line extension pursuant to a Water Service Agreement) for each of the Affordably Priced Housing Unit that exceed the cost of the water meter.

Section Thirteen. Reduction of Lot Size for Affordable Units. A Minor Project that is not eligible for a water rights transfer waiver (Section Eight, herein) or a water allocation or density bonus (Section Nine, herein), may reduce the lot area for each Affordably Priced Housing Unit to the minimum permitted by applicable Regulations of the New Mexico Environmental Department, so long as the Affordably Priced Housing Unit whose lot sizes are reduced pursuant to this Section are reasonably dispersed throughout the Project. The reduction in lot size shall not alter the hydrologic standards set forth in the Santa Fe County Land Development Code.

Section Fourteen. [Reserved.]

Section Fifteen. Other Incentives Authorized by Article 27, New Mexico Affordable Housing Act. The County may donate land for construction of affordable housing or an existing building for conversion or renovation into affordable housing or may provide or pay the costs of infrastructure necessary to support affordable housing projects if permitted under the terms of a separate ordinance enacted pursuant to NMSA 1978, Section 6-27-1 et seq.

Section Sixteen. Alternate Means of Compliance.

A. A Project may alternatively meet all or a portion of its obligation to provide Affordable Housing by:

1. providing Affordable Units outside the Project but within central and northern Santa Fe County, as shown on Attachment A, subject to the provisions of Section Sixteen (D) of this Ordinance;

2. making a cash payment that is equal to or greater value than would have been required if the Project had been constructed or created Affordable Units as provided in this Ordinance, applying the methodology set forth in the Affordable Housing Regulations; or

3. dedicating property suitable for construction of Affordable Units outside the Project but within central and northern Santa Fe County, as shown on Attachment A, whose value is equal to or greater than that which would have been required if the Project had been constructed or created Affordable Units as provided in this Ordinance, applying the methodology set forth in the Affordable Housing Regulations.

B. Review and approval of a proposal to use an alternative means of compliance provided by this Section shall be conducted during the review of application for approval of the master plan, preliminary plat or development plan, as appropriate. Alternatively, a person desiring to develop a Project may apply for concept approval of a proposed Affordable Housing Plan prior to applying for approval of a Project, in which case the application shall be processed in the same manner as an application for a master plan is processed. Concept approval of an alternative means of compliance shall not imply nor commit to an approval for future development.

C. Where an alternative means of compliance pursuant to Section 16 (A)(1) is proposed, both the Project and its off-site affordable housing component shall be considered and processed as a single Project, except as provided in Section 16 (D) of this Ordinance.

D. Where an alternative means of compliance pursuant to Section 16 (A)(1) is proposed (hereinafter referred to as "the sending project") but the off-site Affordable Units (hereinafter referred to as "the receiving project") are to be located within an area governed by the Santa Fe County Exterritorial Zoning Ordinance,

Ordinance No. 1997-4, as amended, or the platting and planning jurisdiction of any municipality (hereinafter referred to collectively as "the Extraterritorial Zone"), the provisions of Section 16 (C) shall not apply. The receiving project must receive final development plan and plat approval from the Extraterritorial Zoning Authority or, in areas without an exterritorial zoning ordinance or regulations, from the appropriate municipality, prior to the approval of the final development plan and plat for the sending project.

E. In deciding whether to accept a proposed alternative means of compliance pursuant to Section 16 (A)(1), the County shall consider the following where applicable:

1. whether implementation of a proposed alternative means of compliance would overly concentrate Affordable Units in an area or within the proposed Project in a location where such a concentration would be inappropriate given present or future conditions;

2. if the proposal involved providing Affordable Units outside the Project area, whether the cumulative number of Affordable Units required of both the sending and receiving projects is met;

3. if the proposal involves providing Affordable Units outside the Project area, whether there is adequate existing infrastructure, including water systems, liquid waste facilities and transportation systems, to support the Affordable Units in the proposed location, whether infrastructure for water and liquid waste disposal systems can serve the proposed alternative site or project, and whether the commitment to provide such service has been confirmed in a commitment letter, or water or wastewater service agreement;

4. if the proposal involves providing Affordable Units outside the Project area, whether there is a specific need or market for Affordable Units in the location where proposed;

5. if the proposal involves providing Affordable Units outside the Project, whether the property where the Affordable Units are proposed to be located is suitable for residential use and residential development; and

6. if the proposal provides an overall greater public benefit than if the Affordable Units were constructed within the Project or Minor Project.

F. In deciding whether to accept a proposed alternative means of compliance pursuant to Sections 16 (A)(2) or (A)(3), the County shall consider the following where applicable:

1. whether the proposed cash payment is equal to or greater than the cost of constructing equivalent Affordable Units within the Project, applying the methodology set forth in the Affordable Housing Regulations;

2. whether a proposed cash payment or dedication of property creates a substantial surplus of funds within the dedicated housing fund or trust specific to that purpose;

3. whether the appraised value of the property proposed to be dedicated is equal to or greater than the total estimated value of the affordable units that would have been constructed within the Project, applying the methodology set forth in the Affordable Housing Regulations; and

4. whether a cash payment or property provides a greater overall public benefit than if the Affordable Units were constructed within the Project or Minor Project that would have otherwise provided for mixed-income development.

G. The method for determining whether the total cash payment amount or value of property proposed for transfer is sufficient shall be established in the Affordable Housing Regulations.

H. Incentives described in Sections 8 through 15 of this Ordinance may only be applied to a Project utilizing alternative means of compliance if the Board of County Commissioners specifically finds that this Ordinance, when applied to the Project, would result in economic infeasibility of the Project.

Section Seventeen. Hardship Conditions.

A. The Board of County Commissioners or, if a Board of Adjustment is created by the Board of County Commissioners of Santa Fe County, then the Board of Adjustment, may waive one or more of the requirements set forth in this Ordinance if a condition of hardship exists as set forth in this Section.

B. A condition of hardship shall exist for purposes of this Section, as follows:

1. A condition of hardship exists where the Project fails to qualify for any incentive set forth herein, where the Project fails to demonstrate eligibility for an alternative means of compliance, where application of the provisions of this Ordinance would result in economic infeasibility of the Project, and where complying with the requirements of this Ordinance would deprive a property owner of substantially all economically viable use of the subject property taken as a whole contrary to the Constitution of the United States or the Constitution of the State of New Mexico.

2. A condition of hardship exists for a Minor Project when an Affordable Unit (or lot created for an Affordable Unit) cannot be sold within a reasonable period of time without causing a loss on the Minor Project taken as a whole.

Section Eighteen. Long-term Affordability.

A. Each Affordable Housing Agreement shall include a form of lien, mortgage or other instrument (hereinafter referred to as "the Affordability Mortgage or Lien") that shall be executed and recorded along with the deed conveying the Affordable Unit to the first buyer, and that instrument shall create a mortgage or lien in favor of the County in the amount of the difference between the Maximum Target Housing Price and ninety-five percent of the unrestricted fair market value of the Affordable Unit at the time of initial sale, as determined by an appraisal approved by the County. The lien, mortgage or other instrument shall be duly executed and recorded in the Office of the County Clerk.

B. The lien, instrument, or mortgage shall contain a provision that creates a right of first refusal in favor of the County to purchase the Affordable Unit or the right to broker resale of the Affordable Unit to an Eligible or Entry Market Buyer at the-then fair market value of the Affordable Unit. This instrument shall require the owner of an Affordable Unit to provide the County with fifteen (15) days written notice of intent to sell the Affordable Unit during which period the County may indicate its intent to purchase the unit or broker a purchase and sale of the unit to an Eligible Buyer. The instrument shall further provide the County with an additional 60 days after it has notified the owner of its intent to purchase the unit or broker a purchase and sale of the unit to complete the transaction. If the County fails to notify the owner of its intent to purchase the unit or broker a purchase of the unit within the allotted time period, or if it does not complete the transaction within the allotted time period, the owner shall have the right to sell the unit to any buyer at an unrestricted price.

C. The lien, mortgage or other instrument shall also provide that if the Affordable Unit is sold or refinanced during the ten year period beginning on the date of sale of the Affordable Unit to the first buyer thereof, the County shall share in any Appreciation; the seller's share of the resulting appreciation shall be measured by multiplying the number of full years that have elapsed from the date of first sale of the Affordable Unit by 0.10 and then multiplying that result by the Appreciation. If the sale price is insufficient to close the transaction and satisfy the County's share of the Appreciation and the Affordability Mortgage or Lien, the County's share shall be reduced according to criteria set forth in the Affordable Housing Regulations.

D. The form of the instrument described in subsection 18(A), above, and the methodology for determining the initial market value of the Affordable Unit shall be specified in the Affordable Housing Regulations.

E. Any lien, mortgage, or other instrument referred to in this Section shall be released and satisfied through an appropriate instrument at the time of sale of the Affordable Unit and the appropriate instrument shall be recorded in the Office of the County Clerk documenting the release and satisfaction thereof. Any amounts collected from application of any affordability mortgage or lien pursuant to Section 18(A), above, shall be paid to the County contemporaneously with release of said instrument.

F. An Affordability Mortgage or Lien may be temporarily released for the limited purpose of closing a subsequent purchase and sale of an Affordable Unit so long as an affordability mortgage or lien is executed by the buyer and recorded as provided in this Section.

G. Any amounts collected from application of any Affordability Mortgage or Lien shall be deposited into a fund created in the County treasury or separate trust whose sole purpose shall be to support Affordable Housing within Santa Fe County or, alternatively, transferred to the Santa Fe County Housing Authority to support Affordable Housing within Santa Fe County. The fund or trust shall be governed by rules and requirements set forth in a separate Ordinance enacted pursuant to NMSA 1978, Section 6-27-1 et seq.

H. [Reserved]

I. Where the-then owner of an Affordable Unit is under extreme duress by reason of unemployment, family medical emergency, divorce, or death and is unable to sell the Affordable Unit for an amount equal to or greater than the original sale price or for other unique and extreme circumstances of hardship, the Affordable Lien may be compromised or released.

Section Nineteen. Affordable Housing Administrator. The position of Affordable Housing Administrator is established. The Affordable Housing Administrator shall administer the Affordable Housing Ordinance, manage the fund or trust established pursuant to Section 17(G) of this Ordinance and a separate ordinance enacted pursuant to

NMSA 1978, Section 6-27-1 et seq., act as an ombudsman to the development review process, and have other responsibilities set forth in this Ordinance. The salary and benefits of the Affordable Housing Administrator shall be paid from proceeds collected pursuant to Paragraph 17(G) of this Ordinance and a separate ordinance enacted pursuant to NMSA 1978, Section 6-27-1 et seq., to the extent permitted by law.

Section Twenty. Affordable Housing Ordinance Review. The Affordable Housing Administrator shall prepare an Affordable Housing Report and present it to the Board of County Commissioners by the first anniversary of the effective date of this Ordinance. The purpose of the report is to measure the overall effectiveness of the Ordinance and to identify any deficiencies. In the report, the Affordable Housing Administrator shall recommend any amendments necessary to rectify those deficiencies. A similar report shall be developed and presented annually thereafter. If, at a future date, the provisions contained herein no longer meet the purpose and intent provided in Section One of this Ordinance, the Board of County Commissioners may consider appropriate amendments to this Ordinance or may repeal this Ordinance in whole or in part.

Section Twenty-One. Repeal and Amendment of Existing Ordinances.

A. Upon the effective date of this Ordinance, Ordinance Nos. 1997-02, adopted March 5, 1997, 1997-10, adopted August 12, 1997, and 2000-11, adopted September 26, 2000, shall be and hereby are repealed.

B. Upon the effective date of this Ordinance, Ordinance No. 1996-10 (the "Santa Fe County Land Development Code"), first adopted September 10, 1996, as amended, shall be and hereby is amended, as follows:

1. A new subsection 2.4.1a(1)(a)(vii) is adopted which shall provide as follows: "2.4.1a(1)(a)(vii). Submittals required by Ordinance No. 2006-02 ("Affordable Housing")."
2. A new subsection 2.4.2b(1)(a)(vii) is adopted which shall provide as follows: "2.4.2b(1)(d): Submittals required by Ordinance No. 2006-02 ("Affordable Housing")."
3. Art. III, Section 11.1 shall be amended with the following additional language, to be placed at the end of the Section: "... except as otherwise provided by application of the density bonus set forth in Ordinance No. 2006-02 ("Affordable Housing")."
4. Art. III, Section 11.2 shall be amended with the following additional language, to be placed at the end of the Section: "... except as otherwise provided by application of the density bonus set forth in Ordinance No. 2006-02 ("Affordable Housing")."
5. A new subsection 7.1.2(dd) of Art. V shall be and hereby is adopted which shall provide as follows: "7.1.2(dd): Submittals required by Ordinance No. 2006-02 ("Affordable Housing")."

C. Upon the effective date of this Ordinance, Section 10.1.2 of Ordinance No. 1997-03, as amended, shall be and hereby is amended with the following additional language, to be placed at the end of the Section: "..., except as otherwise provided by application of the density bonus set forth in Ordinance No. 2006-02 ("Affordable Housing")."

D. Upon the effective date of this Ordinance, Art. XV, Section K, Section 3.B., Exhibit 1 ("Zoning Matrix"), Col. N, 1b, 5b, 6b, 8b of Ordinance No. 2000-12 ("the Community College District Ordinance"), adopted December 11, 2000, shall be and hereby are repealed.

E. Upon the effective date of this Ordinance, a new Section 3.4.1.c(2) of Ordinance 2000-13 (the "Tesuque Community Zoning District"), adopted December 11, 2000, shall be and hereby is amended as follows: "2) where affordable housing that is provided pursuant to Ordinance No. 2006-02 ("Affordable Housing")."

F. Upon the effective date of this Ordinance, a new Section 4.4.2 of Ordinance 2002-1 ("Madrid Community Planning District"), adopted January 8, 2002, shall be and hereby is adopted which shall provide as follows: "... except as otherwise provided by application of the density bonus set forth in Ordinance No. 2006-02 ("Affordable Housing")."

G. Any ordinance, regulation or policy that is inconsistent with this Ordinance shall be, and hereby is, repealed.

Section Twenty-Two. Severability. The provisions of this Ordinance are severable and if any individual provision of this Ordinance is held invalid by a Court of Law, then the offending provision shall be stricken but the remaining provisions shall remain in full force and effect.

PASSED AND ENACTED THIS 14th DAY OF FEBRUARY, 2006.

THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY, NEW MEXICO

By____________________________
Harry B. Montoya, Chair

ATTEST:

____
Valerie Espinoza, County Clerk

Approved as to form:

____
Stephen C. Ross, County Attorney

BCC ORDINANCE
PAGES: 14

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

I Hereby Certify That This Instrument Was Filed for Record On The 20TH Day Of February, A.D., 2006 at 05 48 And Was Duly Recorded as Instrument # 1420817 Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Valerie Espinoza
County Clerk, Santa Fe, NM

Deputy

SFC CLERK RECORDED 02/20/2006

ATTACHMENT A

Santa Fe County Affordable Housing Ordinance 2006-2

Northern and Central Santa Fe County

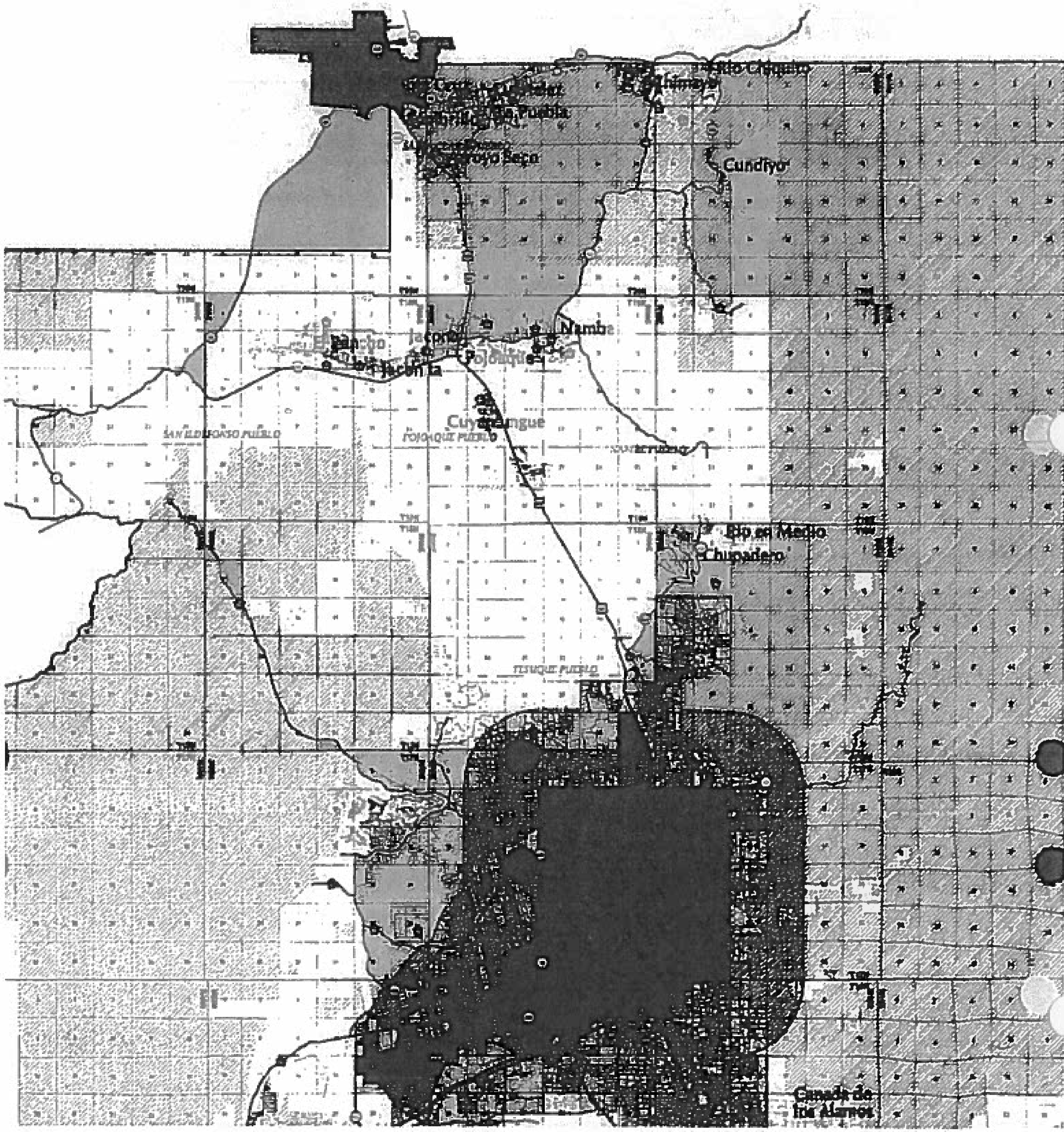

EXHIBIT
D

SANTA FE COUNTY
FISCAL IMPACT REPORT (FIR)

This Fiscal Impact Report (FIR) shall be completed for each proposed ordinance or resolution as to its direct impact upon the County's operating budget and is intended for use by staff of the Human Resources and Finance Divisions, the County Manager and the governing body of Santa Fe County. Ordinances/resolutions with a fiscal impact must be reviewed by the Finance Division Director or the Budget Administrator. Ordinances/resolutions with proposed staffing increases must be reviewed and approved by the Human Resources staff and approved by the County Manager before presentation to the Board of County Commissioners (BCC).
Please refer to the instructions on how to complete this form.

Section A. General Information

☑ Ordinance ☐ Resolution ☐ Other
A single FIR may be used for related ordinances and/or resolutions.

Short Title(s): Amendment of Ordinance No. 2012-1 Pertaining to Affordability Lien

Reviewing Division(s): Growth Management, Planning Division

Person Completing FIR: Steve Brugger

Date: 11/12/2014 Phone: 992-6752

Section B. Summary

Briefly explain the purpose and major provisions of the ordinance/resolution.

Remove the provision for affordability lien reduction and elimination in Ordinance 2012-1 and restore original language in Ordinance 2006-02 regarding preservation of affordability lien.

Section C. Fiscal Impact

NOTE: Financial information on this FIR does not directly translate into a Santa Fe County budget increase.

a. The item must be presented to the Finance Division for analysis and recommendation as a potential request to increase the existing budget for the county.
b. Detailed budget information must be included, such as funding source, amounts and justification.

c. Detailed salary and benefit for new full-time equivalents (FTE's) must be included. The request must be approved by the staff of the Human Resources Division for each new FTE request.

1. Projected Expenditures:

a. Indicate Fiscal Year(s) affected – the current fiscal year and the following three fiscal years, where applicable
b. Indicate: "A" if current budget and level of staffing will absorb the costs
"N" if new, additional, or increased budget or staffing will be required
c. Indicate: "R" if recurring annual costs
Indicate: "NR" if one-time, non-recurring costs, such as start-up, contract or equipment costs
d. Attach additional projection schedules if four years does not adequately project revenue and costs patterns.
e. Costs may be netted or show as an offset if some cost savings are projected (please explain further in Section 3 Narrative)
f. Please provide additional fiscal impact information for years 3 and 4 in the Expenditure/Revenue Narrative.
g. This form allows for information related to two fiscal years. Please note *info* relation to other fiscal years in narrative 3.

Exp. Classification	FY 2015	"A" or "N"	"R" or "NR"	FY 2016	"A" or "N"	"R" or "NR"	Funds affected
Salary and Benefits	$0	A	NR	$0	A	NR	Special Revenue _
Maintenance	$0	A	NR	$0	A	NR	Special Revenue _
Other Operating	$0	A	NR	$0	A	NR	Special Revenue _
Contractual Services	$0	A	NR	$0	A	NR	Special Revenue _
Capital Requirements	$0	A	NR	$0	A	NR	Special Revenue _
Total	$0			$0			

*Any indication that additional staffing would be required must be reviewed and approved in advance by the County Manager by attached memo before release of FIR to the Board of County Commissioners (BCC).
** For salary and benefit information contact the Finance Division, or attach the <u>New FTE Request</u> form to provide necessary information.

2. Revenue Sources:

a. To indicate new revenues and/or
b. Required for costs for which new expenditure budget is proposed above in item 1.
c. Please provide additional fiscal impact information for years 3 and 4 in the Expenditure/Revenue Narrative.

Type of Revenue	FY 2015	"R" or "NR"	FY 2016	"R" or "NR"	Funds Affected
n/a	$0	NR	$0	NR	Special Revenue _
Total	$0		$0		

3. Expenditure/Revenue Narrative:

Explain expenditures, grant match requirements, justify salary and benefit costs for new FTE request, detail capital and operating uses, etc. Explain revenue source(s). Include revenue calculations, grant(s) available, anticipated date of receipt of revenues/grants, etc. (Attach supplemental page, if necessary). Also, provide expanded information for fiscal year three and four impact for both revenue and expenditures.

No additional expenditures or immediate revenues will be received from approval of this ordinance. The only impact would be on the face value of the paper assets, the affordability liens, that the County retains. Assuming 10 affordable homes are sold per year with an average lien of $50,000, retention of the liens, rather than forgiveness of the face value over 10 years, would create an annual asset value increase of $50,000 ($5,000 value per yr. times 10 affordable homes)

Section D. General Narrative

1. Conflicts:

Does this proposed ordinance/resolution duplicate/conflict with/companion to/relate to any County code, approved ordinance or resolution, other adopted policies and legislation? Include details of county adopted ordinances/resolutions and dates. Summarize the relationships, conflicts or overlaps.

The proposed ordinance would eliminate provisions of Ordinance 2012-1 and would restore original provisions of Ordinance 2006-02 which addressed the issue of affordability liens.

2. Consequences of Not Enacting This Ordinance/Resolution:

Are there consequences of not enacting this ordinance/resolution? If so, describe.

Not enacting this ordinance would result in the elimination of the face value of new affordability liens over a ten year period, which would encourage speculation and flipping of real estate and the loss of long-term affordability, all of which is counter to the goal of inclusionary zoning.

3. Technical Issues:

Are there incorrect citations of law, drafting errors or other problems? Are there any amendments that should be considered? Are there any other alternatives which should be considered? If so, describe.

This ordinance would eliminate a section of Ordinance 2012-1 which had an unintended math error. This amendment would restore the original language from Ordinance 2006-02 which enabled the inclusionary zoning program, and which was based on the Community College District Affordable Housing Ordinance and Regulations.

4. Community Impact:

Briefly describe the major positive or negative effects the ordinance/resolution might have on the community including, but not limited to, businesses, neighborhoods, families, children and youth, social service providers and other institutions such as schools, churches, etc.

This ordinance would preserve long-term affordability of the affordable housing stock so that original subsidies can be assumed in the future by income qualified buyers at the time of resale of the affordable homes.

No file attached | No file attached | No file attached

Henry P. Roybal
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3

Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

TO: Santa Fe County Board of County Commissioners

FROM: David Griscom, Economic Development Manager DG

Via: Penny Ellis-Green, Growth Management Director PEG
Katherine Miller, County Manager KM

RE: Ordinance No. 2015-, the Santa Fe Brewing Company Local Economic Development Act (LEDA) Project Ordinance.

DATE: December 22, 2014

Background and Evaluation of Applicant

Santa Fe Brewing Company is planning to expand its existing brewing facility on Highway 14. The brewery began operations in 1988 in Galisteo, NM with a handful of employees and has since grown into a regional beer producer with 41 employees. The Brewery has outgrown its capacity to supply the demand, and its new expansion plans are to enhance its ability to meet those market demands, including sales in national and international beer markets.

Santa Fe Brewing Company has submitted its expansion plans for master plan approval by Santa Fe County.

At its November 25, 2014 meeting, the Board of County Commissioners (Board) approved a Memorandum of Understanding between the County of Santa Fe and the City of Santa Fe, pursuant to which the City would allow the Brewing Company's wastewater to be discharged, via a County wastewater collection system, into the City's wastewater collection and treatment system.

Santa Fe Brewing Company has applied to Santa Fe County for economic assistance pursuant to the Local Economic Development Act (LEDA), NMSA 1978, Chapter 5, Article 10 and Santa Fe County Economic Development Ordinance, Ordinance No. 2014-7. Pursuant to Ordinance 2014-7, Sec. V, D, Santa Fe County staff has evaluated the qualifications, management stability, and commitment on behalf of the Brewing Company and determined that the Brewing Company meets all criteria.

LEDA

Staff has evaluated the project and determined that Santa Fe Brewing Company is qualified for economic assistance pursuant to LEDA. The New Mexico Economic Development Department

("NM EDD") has similarly determined that the Brewery is qualified for LEDA funds. The Brewery initially requested $500k in LEDA support from NM EDD for the following scope of work:

- Design, Construction, and Implementation of a state of the art wastewater treatment system to treat all the Brewery's effluent.

The total cost of the project is $435,788, and NM EDD will provide $250k towards that total cost, and the balance will be procured through a line of credit with a local bank.

The process would work as follows. If the Board approves of the proposed ordinance, the County would make formal application to NM EDD for a $250,000 LEDA grant for the project. If NM EDD approves of the grant, NM EDD and the County would enter into an intergovernmental agreement pursuant to which NM EDD makes the grant to the County. Once the intergovernmental agreement is executed, the County and Santa Fe Brewing Company would enter into the project participation agreement. Thereafter, Santa Fe Brewing Company would submit reimbursement requests to the County, who would in turn seek funds from NM EDD with which to reimburse Santa Fe Brewing Company.

Separately, the Santa Fe Brewing Company has requested that Santa Fe County waive its application and development review fees as its contribution towards this LEDA project. The proposed ordinance would expressly authorize the Land Use Administrator to do so, since there is no language in any existing ordinance that would allow such a waiver.

Economic Development Impact

With the planned expansion, production capacity at the Brewery will ramp up from 17,000 barrels of beer (2013) to 80,000 barrels of beer (2020). Sales are projected to ramp up from $4.2 million (2013) to $17 million (2020). The Brewery plans to have 105 employees on its payroll by January 1, 2020, an increase of approximately 64 new direct jobs. The expansion and additional jobs would create the following in tax revenue:

SFBC Taxes Paid in NM	2009	2013	2017	2020
NM Excise Tax	8,125	77,000	80,000	100,000
State Gross Receipts Tax	7,500	25,700	90,875	115,000
State Payroll Tax	42,000	80,000	170,000	300,000
Property Tax	9,000	9,000	19,000	19,000
Total	**66,625**	**191,700**	**359,875**	**534,000**

Substantive Contribution Required from Santa Fe Brewing Company within the Project Participation Agreement

The project participation agreement or PPA is the contract between the Santa Fe Brewing Co and Santa Fe County. The contract includes the following economic development requirement: Santa Fe Brewing Company must have on its payroll a total of 105 employees by January1, 2020, as documented by its biannual reports to the County as well as NM Dept. of Workforce Solutions reports. This represents an increase of approximately 64 new jobs over its current employment figures.

In addition, throughout the term of the Project Participation Agreement, Santa Fe Brewing Company will be required to:

- Pay when due all local, state, and federal taxes, including property taxes; and
- Continually maintain a County business license.

Fiscal Impact Report (FIR)

A FIR is attached. The primary fiscal impact, should the Board agree to it, is waiving future application and development review fees. The indirect impact is staff time in reviewing and processing requests for reimbursement, monitoring compliance with the Project Participation Agreement, and pursuing enforcement actions in the event of Santa Fe Brewing Company's default.

Recommended Changes to Proposed Ordinance, PPA, and Security Agreement. Since December 9, 2014, when the Board authorized the publication of title and general summary, Staff has identified some recommended changes to the relevant documents. Those changes are reflected via track changes in Attachment A. By way of general overview:

- Staff filled in some blanks, such as contact information for notices and Santa Fe Brewing Company's address;
- Staff recommends some changes to make the documents internally consistent, such as consistently stating that the number of new jobs to be created is 64;
- Staff recommends some additional changes to strengthen the security being provided for the economic development assistance as well as the remedies available to the County in the event of default;
- Staff recommends language changes to emphasize that the fee waiver does not include impact fees; and
- Staff recommends a provision that makes clear that adoption of the proposed ordinance does not obligate the County to approve any land use application filed under the Land Development Code or Sustainable Land Development Code.

The substantive change of note is to reduce the maximum amount of the Security Agreement from $350,000 to $300,000. This change is agreeable to NM EDD, and may make it easier or cheaper for Santa Fe Brewing Company to obtain financing. In staff's opinion, $300,000 is adequate to secure the amounts likely to be due the County in an event of default, including collection costs and interest.

Staff Recommendation

Staff recommends that the Board of County Commissioners adopt Ordinance 2015-xxx, the Santa Fe Brewing Company Local Economic Development Act (LEDA) Project Ordinance.

Packet Material

Attached to this memorandum are the following:

Attachment 1- Proposed Ordinance

Exhibit A to the Proposed Ordinance is the Project Participation Agreement

Attachment 2 to the Project Participation Agreement is the Security Agreement

Attachment 2- LEDA application

Attachment 3- FIR

1.13.15 Public Hearing Draft

THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

ORDINANCE NO. 2015-_____

THE SANTA FE BREWING COMPANY
LOCAL ECONOMIC DEVELOPMENT ACT (LEDA) PROJECT ORDINANCE

IT IS HEREBY ORDAINED by the Board of County Commissioners of Santa Fe County as follows:

1. SHORT TITLE. This Ordinance shall be cited as the "Santa Fe Brewing Company LEDA Ordinance" and shall be referred to herein as "the Ordinance" or "this Ordinance."

2. AUTHORITY. This Ordinance is enacted pursuant to N.M. Const., art. IX, Section 14(D) , LEDA, and the Santa Fe County Economic Development Ordinance, Ordinance No. 2014-7.

3. DEFINITIONS.

a. "Board" means the Board of County Commissioners of the County.

b. "County" means Santa Fe County.

c. "EDD" means the New Mexico Economic Development Department.

d. "LEDA" means the Local Economic Development Act, NMSA 1978, Chapter 5, Article 10.

e. "Project" means the expansion of SFBC's beer manufacturing capacity and related storage, warehousing, and distributing capacity through the construction of buildings and infrastructure at the Property, including an on-site wastewater treatment system for SFBC's wastewater.

f. "Property" means the real property located at 35 Fire Place, Santa Fe, NM 87508

g. "SFBC" means Santa Fe Brewing Company, a New Mexico corporation.

4. FINDINGS.

a. SFBC has submitted an application for economic assistance pursuant to Section V(C) of the Santa Fe County Economic Development Ordinance, Ordinance No. 2014-7.

b. The Board has reviewed the application and hereby determines that the Project warrants the economic assistance set forth in this Ordinance and the attached Project Participation Agreement based upon the following, among other, factors:

i. SFBC is a qualifying entity under LEDA, in that it is "an industry for the manufacturing, processing or assembling of agricultural or manufactured products" (NMSA 1978, § 5-10-3(I)(1));

ii. SFBC is an expanding business;

EXHIBIT
1

iii. SFBC has agreed to make a substantive contribution to the County economy in the form of ~~74~~ 64 new jobs by January 1, 2020;

iv. The economic benefits of SFBC's expansion, including the ~~74~~ 64 new jobs, represent adequate return on the public investment of $250,000 plus the value of the waived application and development review fees;

v. The economic assistance to be provided under this Ordinance and Project Participation Agreement is permissible under LEDA, in that it represents direct or indirect assistance for infrastructure and buildings for the Project; and

vi. Except for the waiver of application and development review fees, the economic assistance for the Project will be provided by a LEDA grant to the County from EDD.

5. **APPROVAL OF PROJECT AND PROJECT PARTICIPATION AGREEMENT.** Subject to the contingencies set forth in Section 7 of this Ordinance, the Board hereby approves of the Project and the Project Participation Agreement attached hereto as Exhibit A; provided, however, the County Manager is authorized to negotiate and agree to on behalf of the County non-substantive changes to the Project Participation Agreement.

6. **ECONOMIC ASSISTANCE TO BE PROVIDED.** Subject to the provisions of this Ordinance and the Project Participation Agreement, the County shall provide the following economic assistance to SFBC for the Project:

a. $250,000, via a LEDA grant from EDD to the County, to plan, design, and construct an on-site wastewater treatment system for SFBC's wastewater; and

b. for development applications necessary for the Project submitted after the effective date of the Project Participation Agreement but before the termination of the Project Participation Agreement, the County shall waive all otherwise applicable application and development review fees due under the Land Development Code or Sustainable Land Development Code and Ordinance No. 2008-12 and any future ordinance establishing application or development review fees under the Land Development Code or Sustainable Land Development Code. Notwithstanding anything in the Land Development Code, Ordinance No. 2008-12,- the Sustainable Land Development Code, or other ordinance to the contrary, the Land Use Administrator is hereby authorized to waive such application and development review fees in accordance with this Ordinance and the Project Participation Agreement. For the avoidance of doubt, the application and development review fees authorized to be waived hereunder do not include impact fees.

7. **CONTINGENCIES.** The economic assistance to be provided under this Ordinance and the Project Participation Agreement are contingent upon the following:

a. EDD's approval of the County's application for a $250,000 LEDA grant for the Project;

b. EDD and the County entering into an Intergovernmental Agreement, pursuant to which EDD grants $250,000 to the County for the Project;

~~b.~~c. SFBC receiving final development plan approval for the Project; and

~~c.~~d. The City of Santa Fe and County entering into an agreement pursuant to which the City agrees to allow the County to discharge SFBC's wastewater into the City's wastewater collection and treatment system.

These contingencies must be met by December 31, 2015, or the County's approval of the Project and Project Participation Agreement is void.

8. DELEGATION OF AUTHORITY TO THE COUNTY MANAGER. The Board hereby delegates to the County Manager the authority to:

a. sign on behalf of the County all applications and other documents required to be submitted to EDD for purposes of applying for a LEDA grant for the Project;

b. execute on behalf of the County an Intergovernmental Agreement between the County and EDD pursuant to which EDD grants $250,000 to the County for the Project; and

c. execute on behalf of the County the Project Participation Agreement attached hereto as Exhibit A; provided, however, the County Manager is authorized to negotiate and agree to non-substantive changes to the Project Participation Agreement.

9. PROJECT REVENUE FUND. The County Manager shall cause to be established the SFBC LEDA Grant Fund, in which all revenue and expenditures associated with the Project shall be accounted. Any unexpended balance remaining in the SFBC LEDA Grant Fund as of the date set forth in the Intergovernmental Agreement between the County and EDD shall revert to EDD.

10. SEVERABILITY. If a provision of this Ordinance or its application to any person or circumstance is held 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 this Ordinance are severable.

11. NO EFFECT ON DEVELOPMENT APPLICATIONS. The adoption of this Ordinance does not obligate the Board, any County committee, or County staff to approve any application for or issue any development approval or development permit under the Land Development Code or Sustainable Land Development Code. Each such application shall be evaluated on its merits without regard to this Ordinance.

~~11~~12. EFFECTIVE DATE. This Ordinance shall become effective thirty (30) days after it is recorded in the Office of the County Clerk.

PASSED, APPROVED AND ADOPTED THIS ____ DAY OF _____, 2015.

THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

By:____________________________________

Robert A. Anaya, Chair

ATTEST:

____

Geraldine Salazar
County Clerk

APPROVED AS TO FORM:

____
Gregory S. Shaffer
County Attorney

LEDA PROJECT PARTICIPATION
AGREEMENT FOR SANTA FE BREWING
COMPANY PROJECT

This Project Participation Agreement ("Agreement" or "PPA") is entered into by and between Santa Fe County, New Mexico ("the County") and Santa Fe Brewing Company, a New Mexico corporation ("the Project Party" or "SFBC"), as of the date it is signed by both parties.

1. Recitals.

A. Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Santa Fe Brewing Company LEDA Ordinance~~Santa Fe County Ordinance No. 2015-~~ .

B. Pursuant to LEDA, the County adopted the Santa Fe County Economic Development Ordinance, Ordinance No. 2014-7, authorizing the County to consider applications for economic assistance.

C. The Project Party has submitted an application to the County for economic assistance under the Santa Fe County Economic Development Ordinance. In the application, the Project Party has proposed that:

- The County grant $250,000 to the Project Party to plan, design, and construct an on-site wastewater treatment system to treat all the Project Party's wastewater at the Property.

- The County waive all otherwise applicable application and development review fees for development applications necessary for the expansion of the Project Party's manufacturing and related storing, warehousing and distributing facilities.

D. The County has adopted the Santa Fe Brewing Company LEDA Ordinance~~Ordinance No. 2015-___~~, finding, among other things, that the Project Party is a qualifying entity as defined in Section 5-10-3(I)(1) NMSA 1978 and approving this Agreement.

2. Economic Assistance to be Provided.

A. The County shall provide $250,000 to the Project Party to plan, design, and construct an on-site wastewater treatment system to treat all the Project Party's wastewater at the Property. This funding shall come from, and is contingent upon the County's receipt of, a $250,000 LEDA Grant from EDD.

B. For development applications necessary for the expansion of the Project Party's manufacturing and related storing, warehousing, and distributing facilities and related infrastructure submitted after the effective date of this Agreement but before the termination of this Agreement, the County shall waive all otherwise applicable application and development review fees due under the Land Development Code or Sustainable Land Development Code and Ordinance No. 2008-12 and any future ordinance establishing application or development review fees under the Land Development Code or Sustainable Land Development Code. For the avoidance of doubt, the application and development review fees authorized to be waived hereunder do not include impact fees.

3. Substantive Contribution of the Project Party. Per the Economic Impact statement in

Attachment 1 and in accordance with NMSA 1978, § 5-10-10(B), the Project Party agrees to provide the following substantive contribution in exchange for the economic development assistance set forth in Paragraph 2: SFBC shall have on its payroll a total of 105 employees employed within Santa Fe County by January 1, 2020, as documented by its biannual reports to the County as well as required filings with the New Mexico Department of Workforce Solutions. This represents an increase of 64 jobs above its payroll as of ~~_______________.~~ January 5, 2015.

4. General Terms and Conditions. The economic assistance to be provided under this Agreement is expressly conditioned upon the following general terms and conditions:

a. The County Utility Department Director must approve of the design documents for the on-site wastewater treatment system in writing, in advance of construction.

b. The Project Party shall keep the County Utility Department Director fully informed as to the progress of the planning, designing, and construction of the on-site wastewater treatment system to treat all the Project Party's wastewater at the Property and shall permit the County Utility Department Director and other County representatives to inspect all work at reasonable times, provided the County provides the Project Party with at least twenty-four hours advance notice of its intention to do so. The Project Party shall provide the County with a construction schedule for the on-site wastewater treatment system and shall update that construction schedule at least weekly to ensure meaningful inspections can be scheduled.

c. Within fifteen days of the on-site wastewater treatment system being fully installed and operational, the Project Party shall permit the County Utility Department Director or designee to conduct a final inspection. The County Utility Department Director shall accept the infrastructure if all design parameters have been met and the infrastructure has been installed in a workmanlike manner.

d. The on-site wastewater treatment system shall be the property of the Project Party. In no event shall the County be liable to the Project Party or its guests for any damage resulting from design or other defects in the construction or installation of the infrastructure.

e. Maintenance and operation of the on-site wastewater treatment system shall be the Project Party's sole responsibility.

f. All conditions set forth in the Intergovernmental Agreement between the County and the EDD concerning the LEDA grant for the Project must be complied with. Without limiting the generality of the foregoing, all expenses for which the Project Party seeks reimbursement under this Agreement must be capital expenditures for the plan, design, and construction of the on-site wastewater system that are properly reimbursable under the Intergovernmental Agreement and appropriation providing funds for the LEDA grant from EDD to the County~~;~~.

g. Expenditures for which SFBC seeks reimbursement under this Agreement must be made by the earlier of the date set forth in the Intergovernmental Agreement between the County and EDD or the end of the expenditure period set forth in law for the appropriation providing funds for the LEDA grant from EDD to the County.

~~g.~~h. The Project Party must obtain any necessary permits and other approvals from the New Mexico Department of Environment and City of Santa Fe concerning the on-site wastewater treatment system.

5. <u>Events of Default; Recovery of Proportionate Share of Economic Development Assistance.</u>

a. The following are Events of Default (i) entitling the County to terminate this Agreement; (ii) causing the amounts set forth in subparagraph b of this Section 5 to be immediately due and payable <u>upon demand</u>; and (iii) entitling the County to execute its rights under the Security Agreement:

i. The failure of SFBC to create 64 new jobs by January 1, 2020;

ii. The failure of SFBC to pay when due all local, state, and federal taxes, including property taxes;

iii. The failure of SFBC to continually maintain a County business license;

iv. Breach of any covenant or agreement or warranty by SFBC to the County, whether such covenant, agreement, or warranty is set forth in this Agreement or the Security Agreement;

v. Any attempt by SFBC to sell, transfer, or otherwise encumber its Accounts, as defined in the Security Agreement, without first obtaining written consent of the County and EDD;

vi. Abandonment of the Property by SFBC;

vii. The filing, execution or occurrence of:

a) A petition in bankruptcy by or against SFBC which remains undismissed or unstayed for sixty (60) calendar days;

b) A petition or answer seeking a reorganization, composition, readjustment, liquidation, dissolution or other relief of the same or different kind under any provision of the federal Bankruptcy Code, 11 U.S.C., which remains undismissed or unstayed for sixty (60) calendar days;

c) Adjudication of SFBC as a bankrupt or insolvent, or insolvency in the bankruptcy equity sense which remains undischarged or unstayed for sixty (60) calendar days;

d) An assignment by SFBC for the benefit of creditors, whether by trust, mortgage or otherwise;

e) A petition or other proceeding by or against SFBC for the appointment of a trustee, receiver, guardian, conservator or liquidator with respect to all or substantially all of SFBC's property which remains undischarged or unstayed for sixty (60) calendar days; or

f) SFBC's dissolution or liquidation, or the taking of possession of SFBC's property by any governmental authority in connection with dissolution or liquidation; or

viii. A reasonable determination by the County that the collateral in the Security Agreement is inadequate or in danger of being impaired or threatened from any cause whatsoever.

b. Should an Event of Default occur and should SFBC have not fully met its substantive contribution under Paragraph 3 of this Agreement as of the date of the Event of

Default, the following amounts shall be immediately due and payable from SFBC to the County upon demand:

i. a proportionate share of the economic assistance provided through the date of the Event of Default, calculated as follows: the amount due shall equal (i) the amount of economic assistance provided through the date of the Event of Default multiplied by (ii) the recovery percentage, where the recovery percentage is equal to 1 minus the quotient derived by dividing the number of new jobs actually created as of the date of the Event of Default or 64, whichever is less, by 64. By way of example, if $250,000 of economic assistance had been provided to SFBC as of the date of the Event of Default and SFBC had created 50 new jobs as of the date of the Event of Default, the amount immediately due and payable from SFBC to the County would be $54,687.50; that is, $250,000 x (1-(50/64)); ~~and~~

ii. interest on the amount due under Section 5(b)(i) from the date of the Event of Default through the date of payment by SFBC at the prime rate on the date of the Event of Default as published by the Wall Street Journal; and

iii. any and all costs and fees incurred by the County in enforcing this Agreement or the Security Agreement or collecting amounts due from Santa Fe Brewing under this Agreement or the Security Agreement, including reasonable attorney's fees.

6. Security Provided by SFBC. Contemporaneously with its execution of this Agreement, SFBC shall execute and deliver to the County a Security Agreement in substantially the form as the Security Agreement attached hereto as Attachment 2.

7. Requests for Reimbursement. This section governs SFBC's requests for reimbursement from the LEDA Grant for expenditures to plan, design, and construct an on-site wastewater treatment system to treat all the Project Party's wastewater at the Property ("Reimbursable Expenditures").

a. SFBC shall submit Requests for Reimbursement to the County's Economic Development Manager.

b. SFBC may seek reimbursement of Reimbursable Expenditures no more frequently than once per month.

c. SFBC may only seek reimbursement of Reimbursable Expenditures that its has already paid, as evidenced by cashed checks or other proof of payment satisfactory to the County.

d. All requests for reimbursement must be made on forms provided by the County, be submitted in accordance with procedures developed by the County, and be supported by such documentation as the County may reasonably require.

e. Submission of a request for reimbursement constitutes SFBC's express representation and warranty that all conditions precedent to its reimbursement have been met and that there exists no Event of Default, as defined in Section 5 of this Agreement.

f. The County shall complete the requisite review of each request for reimbursement within fifteen days of receipt of each request. When additional documentation is necessary to support the request for reimbursement, the County shall notify SFBC of the need in writing within the fifteen day review period. The County shall have an additional fifteen days to review any additional documentation supplied by SFBC.

g. If the County rejects a request for reimbursement, the County shall notify SFBC of the rejection and the reasons therefore. If the County approves of the request for reimbursement, reimbursement shall be mailed to SFBC within thirty days of the County's receipt of LEDA Grant funds from EDD.

8. Term: Early Termination: Limitation on Damages.

a. This Agreement shall be effective upon the date it is executed by both parties. It shall terminate on January 1, 2020, unless the County terminates the agreement early:

i. Due to an Event of Default as defined in Section 5 of this Agreement;

ii. Pursuant to Section 16 of this Agreement; or

iii. Due to SFBC having met its substantive contribution by creating 64 new jobs prior to January 1, 2020.

The County shall provide written notice of early termination to SFBC and EDD in accordance with Section 17 of this Agreement.

b. In the event of early termination, the County's sole liability shall be to reimburse the Project Party for expenditures made prior to the effective date of termination that are properly reimbursable under this Agreement and the Intergovernmental Agreement between EDD and the County for the LEDA grant. WITHOUT IN ANY WAY LIMITING THE GENERALITY OF THE FOREGOING, IN NO EVENT SHALL THE COUNTY BE LIABLE TO THE PROJECT PARTY FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES OF ANY KIND OR NATURE, WHETHER LIABILITY FOR SUCH DAMAGES IS ASSERTED ON THE BASIS OF CONTRACT, TORT, OR OTHER THEORY, AND REGARDLESS OF WHETHER THE COUNTY HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES PRIOR TO EXECUTION OF THIS AGREEMENT.

9. Reporting and Review. By May 15 and November 15 of each year during the term of this Agreement, the Project Party will submit to the County, and the County will review and provide to EDD, a project report in such format and containing such information and supporting documentation as the County may reasonably require. At a minimum, each project report shall include the following: a 1-page narrative on project progress and a jobs spreadsheet listing all employees, their titles, and salaries as of the last day of the month preceding the project report. Project report must be supported by any reports and documentation from the New Mexico Department of Workforce Solutions, including form ES-903, demonstrating the headcount of the operation.

10. Ratification. The County and the Project Party hereby ratify all actions consistent with this Agreement that the County or the Project Party or their respective agents may have taken in furtherance of the Project.

11. Miscellaneous. This Agreement binds and inures to the benefit of the County and the Project Party and their respective successors and assigns. This Agreement may be amended or modified, and the performance by any party of its obligations hereunder may be waived, only in a written instrument duly executed by the parties. This Agreement may be executed in any number of counterparts, each of which is an original and all of which taken together constitute one instrument. This Agreement is governed by and is to be construed in accordance with the substantive laws of the State of New Mexico, without giving effect to its choice-of-law

principles.

12. No Commitment of County Funds. Project Party acknowledges and agrees that the LEDA grant from EDD to the County is the sole and exclusive source of reimbursement for expenditures it occurs to plan, design, or construct the on-site wastewater treatment system to treat all the Project Party's wastewater at the Property. In no event shall the County be obligated to reimburse the Project Party unless it receives LEDA grant funds from EDD with which to do so.

13. Merger and Integration Clause. This Agreement contains the entire agreement of the parties with respect to the subject matter hereof. This Agreement supersedes any prior agreements, understandings, or negotiations, whether written or oral.

14. Written Amendments Required. This Agreement may only be amended in writing, which written amendment must be duly executed by all parties.

15. Representations and Warranties of SFBC. SFBC hereby represents and warrants as follows:

a. SFBC is a New Mexico corporation, duly organized and in good standing;

b. The person signing this Agreement has the authority to bind SFBC to the terms hereof;

c. This Agreement and the actions contemplated hereunder do not conflict with SFBC's Articles of Incorporation, Bylaws, any agreement to which SFBC is a party, any law or regulation applicable to SFBC, or any court order to which SFBC is bound; and

d. Once duly executed by all parties, this Agreement shall be valid and enforceable against SFBC according to its terms.

16. Termination Clauses Related to Intergovernmental Agreement and LEDA Grant.

a. The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the Legislature of New Mexico for the performance of this Agreement. If sufficient appropriations and authorization are not made by the Legislature, the County may immediately terminate this Agreement by giving the Project Party written notice of such termination. The County's decision as to whether sufficient appropriations are available shall be accepted by the Project Party and shall be final. The Project Party hereby waives any rights to assert an impairment of contract claim against the County or EDD or the State of New Mexico in the event of immediate or Early Termination of this Agreement by the County or EDD.

b. This Agreement is funded in whole or in part by funds made available under an EDD Grant Agreement. Should EDD early terminate the grant agreement, the County may early terminate this Agreement by providing the Project Party written notice of such termination. In the event of termination pursuant to this paragraph, the County's only liability shall be to pay the Project Party for acceptable goods delivered and services rendered before the termination date.

17. Notices. All notices required to given in writing shall be sent by facsimile or regular mail, addresses as follows:

If to County:

County Manager
102 Grant Avenue
PO Box 276
Santa Fe NM 87504-0276
Facsimile: (505) 995-2740

with a copy to

County Economic Development Manager
102 Grant Avenue
PO Box 276
Santa Fe NM 87504-0276
Facsimile: (505) 820-1394

If to SFBC:

Brian Lock
35 Fire Place
Santa Fe NM 87508
Facsimile: (505) 424-1184

~~with a copy to~~

In the case of mailings, notices shall be deemed to have been given and received upon the date of the receiving party's actual receipt or five calendar days after mailing, whichever shall first occur. In the case of facsimile transmissions, the notice shall be deemed to have been given and received on the date reflected on the facsimile confirmation indicating a successful transmission of all pages included in the writing.

A party may change the person or address to which notice shall be sent by giving the other party written notice of such change in accordance with this paragraph.

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SANTA FE COUNTY

_______________________________ _______________

Katherine Miller, County Manager Date

Approved As To Form:

____

Gregory S. Shaffer, County Attorney

ACKNOWLEDGMENT

State of New Mexico)
) ss.
County of Santa Fe-)

This instrument was acknowledged before me on ______________________________ by Katherine Miller as the County Manager of Santa Fe County.

____

Notary Public

My commission expires: ___________________________

SANTA FE BREWING COMPANY

_______________________________ _______________

(Signature of Authorized Officer) Date

Its: _______________________

(Title of Authorized Officer)

ACKNOWLEDGMENT

State of New Mexico)
) ss.
County of Santa Fe.)

This instrument was acknowledged before me on ______________________________ by _______________________ as the __________________ of Santa Fe Brewing Company.

____

Notary Public

My commission expires: ___________________________

Attachment 1

LEDA Santa Fe Brewing Company Economic Impact Statement Regarding Proposed Expansion/Sewer Connection

Santa Fe Brewing Company (SFBC), located at 35 Fire Place in Santa Fe, has grown aggressively over the past 5 years and will reach maximum, practical capacity of the present 12,800 sq. ft. building within the next 12 to 18 months. Please note the attached Reference Table that outlines both historical and forecast growth for SFBC's business. The present brewing facility is currently served by a commercial Water Well, County Water, and utilities providing electricity (supplemented by a solar installation on the building roof) as well as natural gas. However, there is no sewer service available which creates a financial penalty for SFBC approaching $75,000 annually.

SFBC is in the final stage of determining how it can best meet growing market demand for its products. One option SFBC has explored is to contract with another craft brewing company, located in either Colorado or Texas, for a portion of its output and use that product to meet growing market demand for SFBC products. This path is financially attractive in that it reduces capital investment risk and would accelerate the addition of incremental capacity, although it will result in some loss of control over the brewing process.

From SFBC's perspective, the preferred alternative is to initiate a 1 or 2 phase expansion at the present brewery production location, ultimately adding about 63,500 sq. ft. of building space with project investment of $8 million depending on the ability to build out in just 1 phase. Employment growth at SFBC would approximate 65 jobs plus the employment created in the construction sector during the project duration. This would result in 105 ultimate jobs at SFBC and SFBC continuing to expand its demonstrated commitment to Santa Fe and the State of New Mexico. Some steps have been taken to make this a potentially feasible option including acquisition of an adjacent 3.5 acre property (necessary for the expansion) and a firm financing commitment from a financial institution. The ultimate capacity once both phases are complete would be 200,000 Barrels a year.

In the event that there would be 2 phases, phase I of the two step project would begin late this year/early next year and include a new building to house a laboratory, a waste water treatment plant, packaging hall, loading dock, a beer garden, an expanded tasting room at the brewery, a new tasting room in Albuquerque, and office / event space. Phase I investment would approximate $5 million ($2.2 million for new equipment and $2.8 million in building construction) and will create approximately 30 new jobs. If SFBC were able to combine phase 1 and 2 the additional investment would be $3 million and would include an additional 27,000 square foot building for storage and finished product.

If the project was split into 2 phases, phase II of the project would kick off in either 2016 or 2017 with total capital spending estimated at $3 million ($1 million for a new brew house and $2 million for additional building space) and will create approximately 35 jobs.

The purpose of this application is two- fold. First, it is imperative to the success of this project that SFBC's facility be connected to the sewer line running along Hwy. 14. The cost penalty to SFBC in managing waste water effluent in the present configuration is the most significant competitive disadvantage faced by SFBC relative to other craft brewers. The 3.5 acre plot acquired in the past 6 months will enable direct access to an existing sewer line without the necessity of acquiring easement rights. A sewer connection will remove SFBC's competitive cost disadvantage, one that presently amounts to nearly $70,000 annually. Timing is <u>important</u>. The decision to proceed with expansion at the present site vs. contracting with another craft brewer hinges upon a commitment to allow SFBC immediate sewer connection.

Second, as a part of the sewer connection request, SFBC has budgeted $435,000 for a new, comprehensive waste water treatment system. The treatment system will be designed and installed by VM Technology, a company with extensive experience in this field. Test results, illustrating a positive environmental impact, for the treatment system are included in this proposal. The request for a direct grant from the State of New Mexico, was approved, and will improve the overall project economics toward selecting the option to expand at SFBC's present site as opposed to entering into a contract brewing arrangement with a craft brewer in Colorado or Texas.

Finally, an expansion of the scope outlined in this document will enable SFBC to expand geographically beyond the 9 states now served by the company into new domestic and international markets. This will increase the flow of dollars into the State of New Mexico from consumers located outside the state, creating a net positive impact upon New Mexico's economy.

SFBC Expansion Economic Impact Reference Table

	2009	**2013**	**2017 Forecast**	**2020 Forecast**	**2025 Forecast**
SFBC Production Capacity	9,500 BBL	17,000 BBL	42,000 BBL	80,000 BBL	200,000 BBL
SFBC Sales Revenue	1,449,000	4,269,000	9,000,000	17,000,000	42,000,000
SFBC Employee Population					
Production	8	13	23	30	40
Sales/Marketing/Admin	7	8	18	40	55
Retail Servers	3	10	25	35	50
Total	**18**	**31**	**66**	**105**	**145**
SFBC Taxes Paid in NM					
NM Excise Tax	8,125	77,000	80,000	100,000	225,000
State Gross Receipts Tax	7,500	25,700	90,875	115,000	145,000
State Payroll Tax	42,000	80,000	170,000	300,000	440,000
Property Tax	9,000	9,000	19,000	19,000	19,000
Total	**66,625**	**191,700**	**359,875**	**534,000**	**829,000**

Attachment 2

SECURITY AGREEMENT

This Security Agreement is made this _____ day of January, 2015, by Santa Fe Brewing Company, a New Mexico corporation ("Santa Fe Brewing" or "SFBC").

Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in Santa Fe County Ordinance No. 2015- and that certain Project Participation Agreement ("PPA") by and between Santa Fe Brewing and the County.

For and in consideration of the economic assistance provided to SFBC for the Project by EDD and the County pursuant to the PPA, Santa Fe Brewing agrees as follows:

1. Santa Fe Brewing hereby grants to EDD and the County a Security Interest in Santa Fe Brewing's current and after-acquired Accounts. For the purposes of this Security Agreement, Accounts shall have the same meaning as NMSA 1978, § 55-9-102(A)(2) and includes all Accounts which Santa Fe Brewing now has or may have in the future.

2. This Security Agreement secures to the County and EDD the repayment of all amounts that may become due pursuant to and under the PPA and this Security Agreement, up to a maximum amount of three hundred ~~fifty~~ thousand dollars ($~~350~~300,000).

3. This Security Agreement will continue in effect until discharged in writing by the County and EDD.

4. Santa Fe Brewing represents and warrants that it is the sole owner of the Accounts subject to this Security Agreement and has not given or offered any interest in them to any other party.

5. Santa Fe Brewing will not sell, transfer, or otherwise encumber its Accounts without first obtaining written consent of the County and EDD. Any attempted sale, transfer, or encumbrance of its Accounts without the prior written consent of the County and EDD shall be null and void and without effect.

6. In the event that Santa Fe Brewing owes any money to the County or EDD under and pursuant to the PPA and this Security Agreement, the County shall have the following rights with respect to the Accounts:

a. The County may notify any account debtor of the County's interest in Santa Fe Brewing's Accounts and direct the account debtor to make payment directly to the County. Santa Fe County may endorse on Santa Fe Brewing's behalf any checks received from its account debtors.

b. The County may demand, collect, endorse, receive and give a receipt for, compromise, settle and handle suits or other proceedings involving the Accounts in Santa Fe Brewing's name.

c. The County may take any action it feels is necessary in order to take possession of the Accounts, including performing any part of a contract or endorsing it in Santa Fe Brewing's name.

d. The County may take action or pay money, on Santa Fe Brewing's behalf, to preserve or protect the Accounts. The County may treat such payments made or the reasonable value of services performed as advances to be added to the principal amount due from Santa Fe Brewing and secured by this Security Agreement.

e. The County, as a secured party, shall have all rights and may take any other action with respect to the Accounts allowed under the Uniform Commercial Code, NMSA 1978, Chapter 55, Article 9.

7. This Security Agreement constitutes a security agreement, as defined under the Uniform Commercial Code, NMSA 1978, Chapter 55, Article 9. ~~Santa Fe County may prepare and file an UCC1 Financing Statement and sign the same on Santa Fe Brewing's behalf.~~

8. Santa Fe Brewing agrees to execute, deliver, file, and record all such notices, affidavits, assignments, financing statements such as an UCC1 Financing Statement, and other instruments that, in the judgment of the County, are necessary to evidence and validate the security interest created hereby. Should Santa Fe Brewing refuse to timely do so, Santa Fe County may do so on Santa Fe Brewing's behalf.

9. Santa Fe Brewing hereby irrevocably appoints Santa Fe County as its attorney-in-fact for purposes of doing all actions and exercising all remedies authorized under this Security Agreement, the PPA, or at law or equity.

~~7.~~10. This Security Agreement shall be governed by the substantive laws of New Mexico, without regard to its choice of law rules.

11. Upon demand, Santa Fe Brewing shall reimburse the County any and all costs and fees incurred by the County in enforcing the PPA or this Security Agreement or collecting amounts due from Santa Fe Brewing, including reasonable attorney's fees. All such costs and fees shall be treated as an advance and shall constitute additional indebtedness secured by this Security Agreement.

12. In the event the Accounts are insufficient to repay the County all amounts due under the PPA or this Security Agreement, Santa Fe Brewing shall be liable for any deficiency.

13. Remedies Cumulative, Concurrent and Nonexclusive. The County shall have all rights, remedies and recourses granted in the PPA and this Security Agreement and available at law or in equity (including the Uniform Commercial Code), which rights (a) shall be cumulative and concurrent; (b) may be pursued separately, successively or concurrently against Santa Fe Brewing or against the Accounts, or against anyone or more of them, at the sole discretion of the County; (c) may be exercised as often as occasion therefor shall arise, and the exercise or failure to exercise any of them shall not be construed as a waiver or release thereof or of any other right, remedy or recourse, and (d) are intended to be, and shall be, nonexclusive. No action by the County in the enforcement of any rights, remedies or recourse under the PPA or this Security Agreement or otherwise at law or in equity shall be deemed to cure any default by Borrower.

~~8.~~14. Santa Fe Brewing will at all times keep accurate and complete records of the Accounts, and the County, or any of its agents, shall have the right at all reasonable times to examine, inspect, and make extracts from Santa Fe Brewing's books and records and to arrange for verification of accounts directly with account debtors or by other methods.

[THIS SPACE LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, the undersigned have signed and sealed this Security Agreement this _____ day of January, 2015.

Santa Fe Brewing Company

By: ________________________ (signature)

Name: ______________________ (printed)

Its: _________________________ (title)

Address: _____________________________

STATE OF NEW MEXICO)
)
COUNTY OF SANTA FE)

The foregoing instrument was acknowledged before me this _____ day of January, 2015, by _______________ (name), ___________________ (title) of Santa Fe Brewing Company, a New Mexico corporation, on behalf of the corporation.

____
Notary Public

My Commission Expires:

NEW MEXICO
ECONOMIC
DEVELOPMENT DEPARTMENT

LEDA- Capital Outlay

PROJECT APPLICATION
Fiscal Year 2015

The purpose of the Plan is to identify the project area and to present the plan and the uses to which the proceeds of the LEDA funds will be put if issued. This Plan is presented to demonstrate to the County/City, what the public benefits of this project are and to help the County/City evaluate its merit in comparison to other projects submitted. The applicant and its agent will endeavor to provide the County/City any additional information reasonably requested.

EXHIBIT
2

APPLICANT INFORMATION

Legal Name	Santa Fe Brewing Co.
Trade Name (dba)	N/A
Project Name if different from above	Expansion including Waste Water Treatment System
Address	35 Fire Place
City, State, Zip	Santa Fe, NM. 87508
Phone	505-424-3333
Fax	505-424-1184
Primary Contact Person	Brian Lock
Federal Tax ID #	85-0437725
NM State Tax and Rev. #	02-306363-007
City/County Business License #	14-00110306
NAICS Code(s)	312120
This business is organized as a:	__C-Corporation _X_S-Corporation __LLC __Partnership __Proprietorship

Please attach copies of (where applicable):

___X____ Incorporation Papers

___X____ By-laws

___X____ Resumes of all principals (owners, partners, directors or officers)

A) Project Information:

A1. Description of Proposed Development, its product and its timeline.

Santa Fe Brewing Company (SFBC) produced nearly 17,000 barrels of craft beer in 2013, growth of about 22% vs. 2012 production volume. This placed SFBC as the 110th largest craft brewer in the United States, an industry with more than 1,300 participants.

Craft beer industry sales volume growth in the range of 12 to 18% annually continues to account for all growth in the USA beer market. In recent years, SFBC sales volume has grown more rapidly than the industry through a combination of rapid growth in existing markets, expansion into new geographic markets, and the introduction of craft beer packaged in cans. For example, SFBC has grown more than 30% per year in its home market of New Mexico, while expanding into Kansas, Missouri, and Nevada in 2012-2013 and Louisiana in 2014. Sale of craft beer in cans, introduced in 2010, now accounts for nearly 50% of SFBC sales. The market opportunity coupled with SFBC's production facility nearing maximum capacity, has led management to commit to an expansion of the business.

This LEDA application outlines the conclusions reached by management and summarizes the capital requirements necessary to expand SFBC and improve efficiency with the goal of lowering production cost per unit of craft beer produced. The plan will require financing support from our bank partner, New Mexico Bank & Trust and Enchantment Land Certified Development Corporation (that has secured a commitment for Small Business Administration loan guarantees). The spending is staged in a way that stair steps growth, consistent with past practice at SFBC. The complete plan will be executed only when prior steps have been successfully implemented. Plan highlights are outlined below:

1. Capital spending in 2014 and 2015 will range from $500,000 to $1 million per year with the investment primarily in infrastructure improvements and the present brewing system, resulting in a rise in capacity by about 10,000 barrels to a level of 27,000 barrels annually. More than 80% of the 2014-15 equipment purchases will be utilized in a later expansion into a new building. About $315,000 was spent on the purchase of land adjacent to the existing brewery site.
2. During the next two years, SFBC will prove the earning capability of the present brewing system and be able to track craft beer industry development, raising confidence in a more significant expansion. The investment necessary to implement the longer term 2015-17 plan will be in the $10 million range (new building, new brewing system, new canning line).
3. This staged approach has the following advantages:
    - SFBC will be able to satisfy growing customer demand and continue increasing craft beer market share.
    - Manufacturers of craft beer production and packaging equipment are introducing new, more capital cost effective systems. By starting the

major expansion in 2015, this plan will enable SFBC management to assess the new equipment and make better investment decisions.

- Present staff will have more experience operating equipment purchased in the next 2 years, reducing the amount of training necessary as part of the major expansion.
- LEDA grant funds will be deployed in the early stages of this expansion to configure a water treatment facility and enable sewer connection that will put in place necessary infrastructure to support the expansion (total spending on the water treatment facility and sewer connection costs will approximate $550,000).
- A higher SFBC earnings level will be in place by 2015 when the major expansion is undertaken. This will help generate sufficient debt coverage when sizeable borrowing takes place to fund building construction and new equipment purchases.

A2. Provide a detailed scope of work that is specific to the funding request/award and what the funds will be used for.

LEDA grant funds will be deployed in the early stages of this expansion to configure a water treatment facility and enable sewer connection that will put in place necessary infrastructure to support the expansion (total spending on the water treatment facility and sewer connection costs will approximate $550,000).

A3. Detailed information:

- ### Executive Summary; Business description and history

Ownership History

1. Founded in 1988 by Mike Levis (first microbrewery in the state of New Mexico)
2. Acquired by 4 partners in 1996 (Dave Forester, Ty Levis, Brian Lock, Carlos Muller)
3. Brian Lock bought out partners in 2003 / continues as 100% owner of SFBC

Plant Location History

1. Levis Ranch in Galisteo, NM 1988 to 1996
2. Leased building on Frontage Road in Santa Fe from 1996 to 2004
3. Present location at 35 Fire Place from 2005 to present

Equipment / Capacity Evolution

1. From 1988 to 2005 operated as a small brew house with manual bottling and limited financial resources
2. From 2006 to present achieved major equipment reconfiguration: new 12,000 sq. ft. building, installed previously owned 30 barrel brew house (2005), previously owned automated bottling line (2005), automated canning line (2010), incremental fermentation and brite tanks as needed

3. Brewery production capacity has expanded as follows:
    - 1996 = 1,000 barrels
    - 2003 = 2,000 barrels
    - 2006 = 5,000 barrels
    - 2011 = 12,000 barrels
    - 2013 = 20,000 barrels (est. 23,000 barrel maximum in present building)

Product line expansion has evolved from initial Santa Fe Pale Ale to present offering that includes 3 retail bottled products in six pack carriers (Pale Ale, Porter, Nut Brown), 2 year round 6 pack carriers with cans (IPA and Java Stout), 4 seasonal canned beers (Black IPA, Irish Red Ale, Pilsner, Oktoberfest), and specialty beers such as anniversary beers, barrel aged, and limited edition beers.

Distribution from 1988 to 2003 was direct from SFBC to customers in northern New Mexico. In 2004 sales were initiated statewide in New Mexico through a distributor and additional distributors were added since 2004 to enter other out of state markets. In addition to New Mexico (67.7% of sales volume), SFBC now sells its beers through distributors in Texas (11.4%), Colorado (8.2%), Kansas / Missouri (4.7%), Oklahoma (3%), Arizona (2%), and Nevada (initial shipment in June 2013). In addition, direct retail sales take place through a tasting room at the brewery and the SFBC Tap House in Eldorado, NM (opened in 2011).

- ## Infrastructure Development/Needs

The SFBC is currently trucking its waste water and byproducts from the brewing process to the City of Santa Fe's waste water treatment facility near the airport, costing approximately $75,000 per year in additional costs. The SFBC will need to interconnect a new sewer line into the Abajo lift station, currently owned by the Turquoise Trail Master Association.

- ## Market analysis and strategy

The craft beer market is highly fragmented. More than 1,300 companies participate in the craft beer market segment and in total account for less than 10% of total beer market volume. Large commodity beer producers and imported beers control 90% of the market but have flat to declining sales volumes as market share has been lost to craft brewers.

In recent years beer consumers have become more discerning in selecting their beer of choice and craft beer producers have benefited from this trend as their beers are generally considered to offer higher quality, more varieties, and provide a stronger "connection" with the consumer. Beer industry analysts forecast that this trend will continue suggesting that craft beer market growth will exceed 10% annually with resulting increased market share.

Outlined below are some of the significant challenges faced by all craft beer producers:

- Access to distribution for their products. There is a limit to the number of beers that a given distributor can carry. The same applies to retail shelf space and tap handles in on site locations.
- Availability of capital necessary to continually upgrade / expand craft beer brewing and packaging equipment in an effort to meet growing demand.
- A passion for beer and business acumen do not always go hand in hand, sometimes resulting in marginal financial performance for some craft brewers. This will lead to some fallout the number of industry participants.

Santa Fe Brewing Company has a number of advantages in navigating this competitive environment:

- There is a "cache" to the name Santa Fe Brewing Company that is nationally recognized.
- Some SFBC distributors have multiple state presence and desire to add our beers in states where we do not presently participate. As SFBC capacity expands, there will be ability to meet this demand by expanding our geographic distribution footprint.
- "In House" distribution will grow through the addition of a third SFBC tap house to be located in Albuquerque.
- Tourism is a major business in New Mexico. As visitors come to our state and are exposed to SFBC beers, they begin to look for these beers upon their return home increasing awareness of our products.
- SFBC is beginning to grow hops on leased land north of Santa Fe. These will be used in producing craft beers that will be marketed as beer produced with "estate grown hops".
- Finally, SFBC packaging is distinctive and creates a very positive shelf presence.

• Summary of competition

See above (Market Analysis)

• Tax Reporting Status

See exhibit 1.

• Effect on Existing Industry and Commerce During and After Construction

SFBC will hire local companies, including Klinger Construction Company, Summit Electric, Dahl Plumbing. Approximately 20 construction jobs in the construction phase will be created.

• Land Acquisition

In late December 2013 SFBC acquired 3 lots adjacent to the existing brewery located at 35 Fire Place. Currently the lots are in process to be consolidated and include the existing brewery so there will be one large lot. After the build out the entire SFBC complex will be roughly 68,000 square feet. Address is 35 Fire Place, Santa Fe, NM. 87508.

- ## Local Purchasing

SFBC acquired a 7.5 acre plot of land in Rinconada, NM. In late 2013 to start growing their own hops. These hops will be utilized in the brewing process starting in 2015. SFBC also sources it's labels and stickers from a local company in Albuquerque, Stix-On labels. SFBC sources its case trays for cans and also mother cases for bottles from Supply One in Albuquerque.

- ## Water Conservation

With the installation of a new state-of-the-art waste water treatment system, the SFBC will reduce the amount of effluent that will ultimately flow into the City's waste water facility. Water is reused multiple times in the brewery process.

- Relocation of Individual or Businesses

This project does not anticipate any relocation of any individuals or businesses.

- ## Construction Schedule

9-30-14 – Complete Building plans

10-8-14 – Submit plans to CRDC (Community College District Review)

11-15-14 – Submit plans to the BCC (Board of County Commissioners)

12-15-14 – Receive Building Permit

1-5-15 – Break ground on building out Phase 1

4-15-15 – Complete construction of 20,000 square foot packaging hall

5-10-15 – Install new canning line

9-15-15 – Finish construction of new tasting room and beer garden

11-15-15 – Complete phase 2 construction with additional 27,000 square feet for finished product storage

1-30-16 – Install new brew house

- ## Organizational chart

See exhibit 2.

- ## Any document or record that the local governing body, in its sole discretion, deems necessary.

Santa Fe County does not need any additional documentation.

B) Financial Information

B1. Detailed assumptions for business and proposed projects; pro--forma cash flow analysis; three year projected income statements, whichever is applicable

See exhibit 3.

B2. Financial statements with independent audits, if available, or Tax returns, for the past three years.

See exhibit 1.

B3. City/County business license number/proof or statement that registration will pursued or secured.

City License – 14-00110306
County Permit # - 96-4380

B4. Does the amount requested reasonably represent the money needed to complete the project?

The total cost of the wastewater treatment equipment is $435,788; $250k will cover approximately 57% of cost of the total cost.

B5. If a gap exists, please define/explain options being pursued or solution to fund that gap. Pursue Line of Credit with NM Bank & Trust for $500,000.

B6. Provide schedule of funding commitments and any term/commitment letters.

See exhibit 4 (NM Bank and Trust letter).

B7. What is the equity investment from the applicant?

Equipment equity, valued at $2.5 million.

B8. What is the collateral/security to be pledged to the funds awarded?

Lien against the Santa Fe Brewing Company Accounts, as defined in the Uniform Commercial Code, for $350,000 for the duration of the agreement.

B9. What is the method of appraisal for stated security?

Professional appraisal.

Funding Type	Source	Amount
Equity Investment	Equipment	2,500,000
City funding	N/A	N/A
Bank Loans	New Mexico Bank & Trust	1,150,000

Cash down and % it represents of the total project costs	Funds related to the build out. $125,000	125,000
Other Loans	NM Finance Authority	750,000
Other Sources	ELCDC	350,000
	TOTAL	4,875,000

C) History and Background

C1. Explain the commitment to build, operate, and/or manage the project?

Brian Lock is the President of SFBC and will continue to run the day to day operations of the business. Alfonz Viszolay will be the project manager for the expansion, including the waste water treatment facility.

C2. Any officers ever filed for bankruptcy?

No

C3. List Current officers and directors

Brian Lock - President

C4. Applicant or any of its officers ever defaulted on any loans or financial obligation?

No

C5. Does the applicant have any loans or other financial obligations on which payments are not current?

No

D) Community Aspects

D1. At the community level, what are the infrastructure needs, not yet in place or in process that will affect this project's application?

The SFBC needs a new sewer connection with the City of Santa Fe. Anticipate submitting MOU and proper documentation to City of Santa Fe Public Works Committee in November, and City Council in December.

D2. What specific incentives are being REQUESTED from the COMMUNITY (e.g. parcel of land, building lease, waiver of fees, utility access/extension)?

Waiver of building development permit fees.

Property Tax Abatements _____   Industrial Revenue Bonds _____
Infrastructure t_____   Access to Loan Funds _____
Tax Increment Financing_____   Grey Water_____
Other Customized Incentives _____
Other __

D3. What specific incentives are being PROVIDED from the COMMUNITY (e.g. parcel of land, building lease, waiver of fees, utility access/extension)?
If the Board of County Commissioners agrees to it, the County will waive the building development permit fees.

E) Job Creation/Performance

E1. Outline the number and types of jobs to be created.
105 jobs by January 1,2020.

E2. Outline the proposed pay scale and payroll proposed by the entity.
From $30,000 to $80,000 salary positions. SFBC pays at a minimum the County's minimum wage of $10.66 per hour for hourly employees.

E3. Outline the benefits offered to the employees, including but not limited to health care and retirement?
401 K, Profit Sharing, and Performance related bonuses.

E4. Outline any efforts being made or proposed by the applicant to employment opportunities to people within the local employment pool.
SFBC hires predominantly local employees from the Santa Fe employment pool.

JOB RETENTION INFORMATION (IF APPLICABLE)

Job Retention Information – (If Applicable)		2014	**Number of Retained / Impacted**	2017	2019
Job Title or Type	**Estimated Pay Scale**	**At Start Up**	**Beginning of Year 2**	**Beginning of Year 3**	**Beginning of Year 5**
Sales Rep.	$32,000	5	8	12	24
Tasting Room Bartenders	$30,000	10	20	24	32
Production employees Packaging/Brewers/Cellarman	$35,000	18	22	26	32
Management	$50,000	8	8	10	17

Total Number of Jobs Created --------------------------------58 --------- ---72 - 105
Total Estimated Payroll --------------------------------$750,000---------$1,238,000 2,422,000

F) Impacts (environmental, fiscal, economic, etc.)

F1. Outline any impacts to the environment, positively or negatively
Positive result will be the waste water treated to the point of reuse for irrigation purposes and or sent to the City sewer in a pre-treated form.

F2. Status of permitting/regulatory matters needed for project
The WWRT has agreed to send a positive recommendation to the City Public Utilities Committee, accompanied by a draft MOU between the City and the County, to take the effluent. County is working on taking over Abajo lift station from Turquoise Trail Master Association.

By request, NMEDD can provide the Economic Impact Analysis to address the impact to the local tax base, the school system, etc.) __x__Yes ____No

Any supplemental documents that are submitted to support the application are to be included with this application and noted as "exhibit 1, 2" etc.

A review of the application and its contents will be completed by EDD and the local entity; applicant will be advised of any missing or supplemental information needed.

NEW MEXICO ECONOMIC DEVELOPMENT DEPARTMENT AUTHORIZATION FOR EXAMINATION AND RELEASE OF INFORMATION

Santa Fe Brewing Company hereby grants permission to the New Mexico Economic Development Department to conduct a review, full disclosure, and release of any and all information authorized pursuant to federal and state law. The purpose for obtaining and examining the information is to construct a record of the company's personal and professional history to ensure it meet the requirements the New Mexico Economic Development Department has established for recipients of State funds. The company understand the investigation will be conducted by the New Mexico Economic Development Department, the New Mexico Department of Public Safety, or their contractors, and the results of the investigation will only be supplied to the New Mexico Economic Development Department.

Santa Fe Brewing Company hereby grants the New Mexico Economic Development Department permission to obtain any information in its background pertaining to any credit (to include obtaining a copy of my credit report), education, investigation, arrest and/or conviction of it or its principals in any criminal or civil matter. The company also authorizes an employee of the New Mexico Economic Development Department, as its authorized representative, to obtain from the New Mexico Taxation and Revenue Department and/or the Department of Workforce Solutions any tax information that is in any way related to a company Santa Fe Brewing Company owns or has invested in. Santa Fe Brewing Company hereby directs you to release such information upon the request of this bearer. Santa Fe Brewing Company hereby releases you as custodian of such records for any criminal justice, law enforcement or court agency, including its officers and employees, or related personnel, both individually and collectively, from any and all liability for damages of whatever kind, that may at any time result to the New Mexico Economic Development Department or the State of New Mexico because of compliance with this authorization and request to release information; or any attempt to comply with it.

1. The information reviewed, disclosed, and/or released may be used by the New Mexico Economic Development Department for any lawful purpose and/or to determine the company's suitability to receive funds from the State of New Mexico.

2. Santa Fe Brewing Company hereby releases the providers and users of the information collected pursuant to this authorization from any liability under state or federal privacy laws and further release the New Mexico Economic Development Department, its contractors, agents, and/or employees from any liability which may be incurred as a result of the collection and use of information.

3. Santa Fe Brewing Company understands that it may revoke this authorization in writing at any time.

*** PLEASE INCLUDE A PHOTO COPY OF THE INDIVIDUAL'S PHOTO ID.***

FULL NAME: ______________________
SIGNATURE: ______________________

TITLE: __________________________
COMPANY: _______________________

SSN: ______________________________
DOB: ____________________________

DATE: ____________________________

Scribed and sworn to me on this ______ day of
20____, of _______ County, New Mexico

Signed ______________________________

My Commission expires:______________

Notary Public

This form is filed by each taxpayer to the Department of Workforce Solutions and is the form needed by the reporting applicant for job numbers. Self - reporting documents or statements are not accepted.

EMPLOYER'S QUARTERLY WAGE
AND CONTRIBUTION REPORT
ES903A

DO NOT WRITE IN THIS SPACE

DATE RECEIVED

SCHEDULE A

WORKFORCE SOLUTIONS DEPARTMENT, P.O BOX 2281, ALBUQUERQUE, NM 87103-2281 PHONE (505) 841-2000

RETURN THIS REPORT [illegible] NONE

EMPLOYER'S NUMBER	TOTAL TAX RATE
QUARTER ENDING	DUE DATE
FEDERAL IRS NUMBER	FIELD CODE
CRS IDENTIFICATION NUMBER	

1. TOTAL WAGES (TOTAL COLUMN 12)........ $
2. DEDUCT EXCESS WAGES (TOTAL COLUMN 13)........ $
3. TAXABLE WAGES (ITEM 1 LESS ITEM 2)........ $
4. TOTAL TAX DUE (TAXABLE WAGES X TOTAL TAX RATE).. $
5. INTEREST DUE (1% PER MONTH AFTER DUE DATE)........ $
6. LATE REPORT PENALTY (ADD $50.00)........ $
7. LATE PAYMENT PENALTY (ADD 5% OF TAX DUE OR $25.00 WHICHEVER IS GREATER)........ $
8. AMOUNT OF ENCLOSED REMITTANCE........ $
9. INDICATE IF WAGES WERE SUBMITTED VIA WEB FILING OR DISKETTE (CIRCLE ONE) WEB DISKETTE

UI Compensation Fund Tax Rate %
State UI Trust Fund Tax Rate %
UI Total Tax Rate %

See Instructions for completing form ES-903A, Item 4, for tax distribution

UI Annual Taxable Wage Base 2008
(Each Employee) $19,900.00

FOR EACH MONTH OF THIS QUARTER, REPORT IN THE BOXES BELOW THE NUMBER OF COVERED WORKERS WHO WORKED DURING OR RECEIVED PAY FOR THE PAYROLL PERIOD WHICH INCLUDED THE 12TH OF THE MONTH.

1ST MTH.	2ND MTH.	3RD MTH.

PAGE ____ OF ____

IF ADDITIONAL SPACE IS NEEDED FOR SCHEDULE B, ATTACH THE SUPPLEMENTAL PAGE AND COMPLETE THE PAGE NUMBER INFORMATION ON EACH PAGE.

SCHEDULE B

10. EMPLOYEE SOCIAL SECURITY NUMBER	11. NAME OF EMPLOYEE	12. GROSS WAGES FOR THIS QUARTER	13. THIS QUARTER'S EXCESS WAGES	14. STATE INCOME TAX WITHHELD	15. WC FEE DUE

SANTA FE COUNTY
FISCAL IMPACT REPORT (FIR)

This Fiscal Impact Report (FIR) shall be completed for each proposed ordinance or resolution as to its direct impact upon the County's operating budget and is intended for use by staff of the Human Resources and Finance Divisions, the County Manager and the governing body of Santa Fe County. Ordinances/resolutions with a fiscal impact must be reviewed by the Finance Division Director or the Budget Administrator. Ordinances/resolutions with proposed staffing increases must be reviewed and approved by the Human Resources staff and approved by the County Manager before presentation to the Board of County Commissioners (BCC).
Please refer to the instructions on how to complete this form.

Section A. General Information

☑ Ordinance ☐ Resolution ☐ Other
A single FIR may be used for related ordinances and/or resolutions.

Short Title(s):	Santa Fe Brewing Company LEDA Project Ordinance
Reviewing Division(s):	
Person Completing FIR:	David Griscom
Date: 12/19/2014	Phone: 2728

Section B. Summary

Briefly explain the purpose and major provisions of the ordinance/resolution.
The Santa Fe Brewing Company Local Economic Development Act (LEDA) Project will enable SFBC to use $250k from NM Economic Development Department to plan, design, and construct an on-site wastewater treatment system for SFBC's wastewater; additionally, the Ordinance will allow Santa Fe County to waive all Master Plan permit fees, totaling $14,860.

Section C. Fiscal Impact

NOTE: Financial information on this FIR does not directly translate into a Santa Fe County budget increase.

a. The item must be presented to the Finance Division for analysis and recommendation as a potential request to increase the existing budget for the county.
b. Detailed budget information must be included, such as funding source, amounts and justification.
c. Detailed salary and benefit for new full-time equivalents (FTE's) must be included. The request must be approved by the staff of the Human Resources Division for each new FTE request.

1. Projected Expenditures:

a. Indicate Fiscal Year(s) affected – the current fiscal year and the following three fiscal years, where applicable

EXHIBIT 3

b. Indicate: "A" if current budget and level of staffing will absorb the costs
"N" if new, additional, or increased budget or staffing will be required
c. Indicate: "R" if recurring annual costs
Indicate: "NR" if one-time, non-recurring costs, such as start-up, contract or equipment costs
d. Attach additional projection schedules if four years does not adequately project revenue and costs patterns
e. Costs may be netted or show as an offset if some cost savings are projected (please explain further in Section 3 Narrative)
f. Please provide additional fiscal impact information for years 3 and 4 in the Expenditure/Revenue Narrative.
g. This form allows for information related to two fiscal years. Please note *info* relation to other fiscal years in narrative 3.

Exp. Classification	FY 15	"A" or "N"	"R" or "NR"	FY	"A" or "N"	"R" or "NR"	Funds affected
Salary and Benefits							Select or type...
Maintenance							Select or type...
Other Operating	$14,860		NR				Select or type...
Contractual Services	$85.61		NR				Select or type...
Capital Requirements							Select or type...
Total	$14,945.61						

*Any indication that additional staffing would be required must be reviewed and approved in advance by the County Manager by attached memo before release of FIR to the Board of County Commissioners (BCC).
** For salary and benefit information contact the Finance Division, or attach the New FTE Request form to provide necessary information.

2. Revenue Sources:
a. To indicate new revenues and/or
b. Required for costs for which new expenditure budget is proposed above in item 1.
c. Please provide additional fiscal impact information for years 3 and 4 in the Expenditure/Revenue Narrative.

Type of Revenue	*FY*	*"R" or "NR"*	*FY*	*"R" or "NR"*	*Funds Affected*
				Sel	Select or type...
Total	$0		$0		

Insert item

3. Expenditure/Revenue Narrative:
Explain expenditures, grant match requirements, justify salary and benefit costs for new FTE request, detail capital and operating uses, etc. Explain revenue source(s). Include revenue calculations, grant(s) available, anticipated date of receipt of revenues/grants, etc. (Attach

supplemental page, if necessary). Also, provide expanded information for fiscal year three and four impact for both revenue and expenditures.

By waiving Santa Fe County's building development permit fees as part of the LEDA project, Santa Fe Brewing Company will save $14,860 in permit fees and expenses related to the planned Brewery expansion. This would be SF County's financial contribution to the LEDA project.

Section D. General Narrative

1. Conflicts:

Does this proposed ordinance/resolution duplicate/conflict with/companion to/relate to any County code, approved ordinance or resolution, other adopted policies and legislation? Include details of county adopted ordinances/resolutions and dates. Summarize the relationships, conflicts or overlaps.

Waiving the permit fees will conflict with the County's Permit and Review Fee Ordinance, 2008-12, which details all permit fees to be charged for development projects.

2. Consequences of Not Enacting This Ordinance/Resolution:

Are there consequences of not enacting this ordinance/resolution? If so, describe.

Select or type...

The Brewing Company may not receive the LEDA support from NM EDD of $250k, and thus be unable to proceed on construction of the new wastewater facility.

Select or type...

Select or type...

Select or type...

3. Technical Issues:

Are there incorrect citations of law, drafting errors or other problems? Are there any amendments that should be considered? Are there any other alternatives which should be considered? If so, describe.

Select or type...

N/A

4. Community Impact:

Briefly describe the major positive or negative effects the ordinance/resolution might have on the community including, but not limited to, businesses, neighborhoods, families, children and youth, social service providers and other institutions such as schools, churches, etc.

This ordinance will facilitate the creation of jobs- the Brewing Company is planning on having 105 employees on its payroll by Jan 1. 2020

Click here to attach a file | Click here to attach a file | Click here to attach a file

[Save & Close]

Click here to sign this section

Select or type...