

**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 _____.
- 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;

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

iv. The economic benefits of SFBC's expansion, including the 74 new jobs, represent adequate return on the public investment of \$250,000 plus the value of the waived 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 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 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.

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; and

c. 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. 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:

County Clerk

APPROVED AS TO FORM:

Gregory S. Shaffer, County Attorney