REC DATE: 11/16/11 REC TIME: 08:58 AM Zlm
COLFAX COUNTY,NM RAYETTA M. TRUJILLO-COUNTY CLERK DOC# 201103242

Ordinance No. 2011-01

AN ORDINANCE PERTAINING TO ECONOMIC DEVELOPMENT; ADOPTING AN ECONOMIC DEVELOPMENT PLAN; DESCRIBING TARGETED BUSINESS AND INDUSTRY; ESTABLISHING CRITERIA TO DETERMINE ELIGIBILITY FOR AID; DESCRIBING THE INFORMATION REQUIRED IN AN ECONOMIC DEVELOPMENT APPLICATION; DESCRIBING THE PROCEDURE TO VERIFY APPLICATION INFORMATION; DESCRIBING THE PROJECT PARTICIPATION AGREEMENT; DESCRIBING THE PROCEDURES FOR HANDLING PROJECT REVENUES; IDENTIFYING OTHER REVENUE SOURCES USED TO SUPPORT ECONOMIC DEVELOPMENT PROJECTS; IDENTIFYING LOCAL RESOURCES AVAILABLE FOR ECONOMIC DEVELOPMENT PROJECTS; DETAILING THE MINIMUM BENEFITS REQUIRED FROM A QUALIFYING ENTITY; AND DESCRIBING THE SAFEGUARDS OF PUBLIC FUNDS THAT WILL BE ENSURED.

BE IT ORDAINED by the Board of County Commissioners of Colfax County, New Mexico:

Section 1. Findings. It is in the public interest of Colfax County, New Mexico, to afford all reasonable assistance which is permitted by the authority vested in the County Commission to assist the communities of Colfax County and neighboring counties to obtain new economic and industrial development projects. This assistance benefits the public Colfax County by affording employment opportunities, by furnishing new means of income, and in general by improving the economic environment of Colfax County.

It is difficult for municipalities and counties in New Mexico to attract and retain businesses capable of enhancing the local and state economy without the resources necessary to compete with other states and locales. Municipalities and counties may need to be able to provide land, buildings and infrastructure as a tool for basic business growth and the introduction of basic business ventures into the state. It is in the best interest of the state, municipalities and counties to encourage local or regional solutions to economic development. The access to public resources needs to be carefully controlled and managed for the continued and future benefit of the citizens of Colfax County, New Mexico.

It is the purpose of this ordinance to implement the Local Economic Development Act, Section 5-10-1 through 5-10-13 NMSA 1978, the 1994 constitutional amendment to Article 9, Section 14 of the Constitution of New Mexico to allow public support of economic development to foster, promote and enhance local economic development efforts while continuing to protect against the unauthorized use of public money and other public resources. This act also allows municipalities and counties to enter into joint powers agreements to plan and support regional economic development projects.

Section 2. Economic Development Goals, Strategies and Priorities. The goals, strategies and priorities in the Colfax County Economic Development Plan were developed from public input in numerous economic development planning processes.

A. Goal: Work with existing businesses to improve the general business climate in order that they may be successful in retaining employees and creating new jobs through expansion.

1. Strategies (short-term)

a. Demonstrate regional support of local businesses

b. Develop a detailed database about local establishments

c. Address short-term local business problems

2. Strategies (long-term)

a. Retain and increase local employment base by increasing the competitiveness of local establishments

b. Develop a strategic plan for future economic development

c. Continue local Business Retention & Expansion Program efforts

d. Identify expansion opportunities that bring new jobs to Colfax County

B. Goal: Recruit business and industry to expand the local economy and increase employment.

1. Strategies

a. Target marketing efforts to prospective businesses that complement and diversify existing agriculture, railroad, mining, manufacturing, cultural, and recreational industries.

b. Market industrial sites at various communities throughout the county.

c. Recruit alumni from County schools to return to Colfax County to pursue business and professional opportunities while enjoying the excellent quality of life.

C. Goal: Develop adequate infrastructure for growth and development.

1. Strategies

a. Assist municipalities with improvements and modernization of municipal water and electric utility systems.

b. Continue to improve and develop area highways, streets and roads.

c. Develop and improve community recreational facilities.

d. Encourage the expansion of the transportation system in Colfax County and its neighbors.

e. Improve solid waste disposal and recycling opportunities throughout the region.

f. Enhance high speed and broadband telecommunications systems throughout Colfax County.

Section 3. Targeted Businesses and Industry. The economy of Colfax County has historically been supported by four basic industries: agriculture, mining, recreation and railroad. Emerging industries, such as renewable energy, information technologies, and highway transportation will be added as new sectors in Colfax County's economic development efforts. Colfax County will focus on new or expanding industries which enhance these base sectors, as well as other light to moderately heavy industries which would further diversify the County's economy.

Section 4. Criteria to Determine Eligibility for Aid. Applicants for aid through this ordinance must be a corporation, limited liability company, partnership, joint venture syndicate, association or other person that is one of the following:

A. An industry for the manufacturing, processing or assembling of any agricultural or manufactured products.

B. A commercial enterprise for storing, warehousing, distributing or selling products of agriculture, mining or industry, other than as provided in Paragraph 4.D. below, but not including any enterprise for sale of goods or commodities at retail or for distribution to the public of electricity, gas, water or telephone or other services commonly classified as public utilities.

C. A business in which all or part of the activities of the business involves the supplying of services to the general public or governmental agencies or to a specific industry or customer, other than as provided in Paragraph 4.D. below, but not including businesses primarily engaged in the sale of goods or commodities at retail.

D. A telecommunications sales enterprise that makes the majority of its sales to persons outside New Mexico.

Section 5. Information Required to Determine that Applicant is Financially Solvent and Committed to the Community. The Colfax County Manager or designee will receive and evaluate applications. The evaluation shall determine the financial feasibility of the project, the financial strength, reputation and competence of the applicant, a cost/benefit analysis of the project. The evaluation of proposals shall be done by the Colfax County Manager or a qualified third party. For the purposes of this ordinance a third party is defined as the New Mexico Economic Development Department, a bank, or other institution possessing the requisite knowledge, skills and resources to conduct the analysis.

The applicant shall prepare a detailed application in writing in the format established by the County Commission. The application shall be accompanied by an application fee, in an amount to be established from time to time by resolution of the County Commission. The application shall be delivered to the Colfax County Manager for initial review and processing. The County Commission may establish a committee to perform an initial review of applications. Proceeds from the application fees will be deposited in a special account, which shall be used solely for the purpose of funding the activities of the County's economic development plan, and which is hereby earmarked for that purpose. In no event shall any part of any application fee be refundable to the applicant, regardless of the cost of processing the application.

Section 6. Procedure to Verify Application Information. All applications for economic development projects requesting economic assistance from the county shall undergo a cost/benefit and financial feasibility analysis. This analysis shall be conducted by the Colfax County Manager or a qualified third party, as defined herein. The analysis shall include, at minimum, the financial feasibility of the project, the financial strength, reputation, and competence of the applicant, the cost/benefit analysis of the project, the ratio of public money to private money invested in the project, and the estimated schedule for return on the county's investment. The analysis shall demonstrate the number of jobs created, the types of jobs created, total expected payroll at startup through ten years, and the anticipated impact on local tax rolls.

Upon receipt of an application for county assistance the County Manager shall forthwith cause an investigation of the applicant and of the matters contained in the application, which shall include an investigation of at least the following factors:

A. Determine whether the project can be lawfully instituted, constructed or operated with the county assistance proposed in the application.

B. Determine the financial and management ability of the applicant (and if the applicant is a subsidiary of another firm owning a majority of stock in the applicant, the parent firm), and its ability to perform the duties which will be imposed upon the applicant as a result of the application.

C. Evaluate the financial feasibility of the project.

D. Verify the fact that the project will serve the public benefit of the citizens of Colfax County.

E. Insure that the project will be capable of achieving those purposes stated in the application, including applicant's cost benefit analysis to the community.

F. Insure that the project conforms to the Colfax County Economic Development Plan.

G. Develop any other information the County Commission may deem necessary for a full review of the economic development project application.

Upon completion of the investigation, the County Manager shall formulate a written report concerning the application and shall submit it to the Colfax County Commission. The written report shall summarize the findings of the investigation and shall conclude with a recommendation to the County Commission. The decision to fund the proposed project shall be made solely by the County Commission.

Section 7. The Project Participation Agreement. Upon approval by the Colfax County Commission, the County and the applicant will enter into a project participation agreement which shall set out:

A. The contributions to be made by each party to the participation agreement.

B. The security provided to the County by the qualifying entity in the form of a lien, mortgage or other indenture and the pledge of the qualifying business's financial or material participation and cooperation to guarantee the qualifying entity's performance pursuant to the project participation agreement.

C. A schedule for project development and completion, including measurable goals and time limits for those goals.

D. Provisions for performance review and actions to be taken upon a determination that project performance is unsatisfactory.

E. Specific procedures to determine success and methods for recouping investment in the event an economic development project is determined to be unsuccessful, or if a qualifying entity seeks to leave the area.

Section 8. Project Revenues. County revenues dedicated or pledged for funding or financing of economic development projects under this ordinance shall be deposited in a separate account. Separate accounts shall be established for each separate project. Money in the special account shall be expended only for economic development project purposes, which may include the payment of necessary professional services contracts.

Section 9. Other Revenue Sources. If revenue sources other than those of the County are used to support an economic development project, the source and amount of any such funding must be disclosed.

Section 10. County Resources Available. Available resources the County may offer qualifying businesses include:

A. Land the County is willing to lease, sell or grant.

B. Buildings the County is willing to lease, sell or grant.

C. Infrastructure the County is willing to build, extend or expand.

D. Financial Resources Available

1. Industrial Revenue Bonds

2. Local Economic Development Act revenues

Section 11. Minimum Benefit Required from a Qualifying Entity. The County may require any or all of the following criteria as a minimum benefit from a qualifying entity in order to provide economic development assistance.

A. Number and type of jobs created.

B. Proposed payroll.

C. Repayment of loans, if any.

D. Purchase by the qualifying basic business of County-provided land, buildings or infrastructure.

E. Public-to-private investment ratio. The amount of private dollars invested in a project must be at least twice the amount of public dollars invested in the economic development project.

F. Direct local tax base expansion.

G. Serves the public benefit of the citizens of Colfax County or neighboring counties, or municipality within the region, as determined and approved by the County Commission.

Section 12. Safeguards of Public Resources. If a qualifying entity ceases operation, relocates or otherwise defaults or reneges on its contractual or implied obligations to the County, the County will recover any costs, land, buildings or other thing of value. The Project Participation Agreement shall contain a specific term to establish default provisions and remedies for recoupment of public resources.

PASSED, APPROVED AND ADOPTED this 15th day of November, 2011.

APPROVED: November 15, 2011,

Colfax County Board of Commissioners

BOARD OF COUNTY COMMISSIONERS OFFICIAL SEAL COLFAX COUNTY

By: ______________________
Chair

By: ______________________
Vice Chair

By: ______________________
Member

REC DATE: 11/16/11 REC TIME: 08:58 AM PAGE: 7
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BOARD OF COUNTY COMMISSIONERS OFFICIAL SEAL COLFAX COUNTY

Attest:

Rayetta M Trujillo

Clerk of the board