

STATE OF NEW MEXICO
CATRON COUNTY
RESERVE, NEW MEXICO 87830

ORDINANCE 001-2008

**AN ORDINANCE ADOPTING AN ECONOMIC DEVELOPMENT PLAN
PURSUANT TO THE NEW MEXICO LOCAL ECONOMIC DEVELOPMENT
ACT, ESTABLISHING APPLICATION REQUIREMENTS, AND
AUTHORIZING THE COUNTY OF CATRON TO ENTER INTO JOINT
POWERS AGREEMENTS WITH LOCAL GOVERNMENTS, CONSISTENT
WITH THE PROVISIONS OF THE CATRON COUNTY COMPREHENSIVE
LAND PLAN**

WHEREAS, the County of Catron is a political subdivision of the State of New Mexico and existing under the laws of the State of New Mexico (“State”); and

WHEREAS, Article 9, Section 14 of the State Constitution permits counties to create new job opportunities by providing land, buildings or infrastructure for facilities to support new or expanding business, provided that adequate safeguards are employed to protect public monies and resources; and

WHEREAS, pursuant to the Local Economic Development Act, Sections 5-10-1 through 5-10-13 NMSA 1978 (“Act”), no assistance may be provided until a county has adopted by ordinance an economic development plan, or a comprehensive plan which includes an economic development component, which plan may be specific to a single economic development goal or strategy or may include several goals or strategies; and

WHEREAS, the County of Catron desires to adopt an economic development plan and encourage economic development of areas within its limits by use of authority available under the Act; and

WHEREAS, the County of Catron desires to foster economic development and to take advantage of State economic incentives while protecting the custom and culture of the County.

**BE IT ORDAINED BY THE GOVERNING BODY OF THE COUNTY OF
CATRON, NEW MEXICO:**

Section 1. ECONOMIC DEVELOPMENT PLAN

- 1.1 Short Title.
This Ordinance may be cited as the “Local Economic Development Act Plan Ordinance,” or “LEDA Ordinance”.

Section 2. Authority.

- 2.1 The Economic Development Plan Ordinance is enacted pursuant to the statutory authority conferred upon municipalities to allow public support of economic development (N.M. Stat. Ann. Section 5-10-1 through Section 5-10-13-1978). This Ordinance is adopted as part of, and shall be consistent with other provisions of the County’s Comprehensive Land Plan.

Section 3. Purpose.

- 3.1 The purpose of the Economic Development Plan/Ordinance is to allow public support of economic projects to foster, promote and enhance local economic development efforts while continuing to protect against the unauthorized use of public money and other public resources. Further, the purpose of the ordinance is to allow the County to enter into one or more joint powers agreement with other local governments to plan and support regional economic development projects.

- 3.2 **Local Economic Development Act.**

Local governments are allowed to provide direct or indirect assistance to qualifying business for furthering or implementing economic development plan and projects, furthermore local and regional governments have the authority to contribute assets to development projects.

Catron County shall have authority pursuant to this Ordinance and the Economic Development Plan to exercise the full powers permitted under the Act, except as specifically provided in this Ordinance. It is the intent of the County to evaluate the form and extent of aid provided to qualifying entities (as defined in the Act), the security to be provided to the County and other details of each economic development project on a case by case basis as provided for in this Ordinance.

In order to conserve the County’s financial resources, the County shall attempt, to the extent reasonable and practicable, to provide aid to qualifying entities in the form of the use of land, buildings, and infrastructure already owned by the County. The County may consider offering all forms of assistance allowed under this Ordinance as amended from time to time; however the County has no obligation to offer any

specific type or level of assistance. The imposition of a local options tax is permissible, and must be approved by eligible Catron County voters through referendum.

Eligible Uses: Counties may impose infrastructure gross receipts tax and dedicate the revenue for economic development projects up to a total of .1255% (in two .0625% increments).

Section 4. Definitions as used in the Economic Development Plan Ordinance:

4.1 ***Economic development project*** means the provision of direct or indirect land, buildings or other infrastructure; public works improvements essential to the location assistance to a qualifying business and include the purchase, lease, grant, or construction, reconstruction, improvement or other acquisition or conveyance of expansion of a qualifying business; and payments for professional services contracts necessary for local or regional governments to implement a plan or project.

4.2 ***Qualifying entity*** means an existing or proposed corporation, limited liability company, partnership, joint venture, syndicate, association or other person that is one or combination of two or more of the following:

- A. An industry for 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, but other than provided in Paragraph (D) of this subsection, not including any enterprise for sale of goods or commodities at retail or for the 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 to government agencies or to a specific industry or customer, but, other than provided in Paragraph (D) of this subsection, not including business 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 of New Mexico.

4.3 ***Project participation agreement*** means an agreement between a qualifying entity and the County whereby the County provides assistance (pursuant to the provisions of Section 3.2) to an

economic development project in exchange for the benefits received as set forth in this section.

4.4 **Governing body** means the County Commissioners of Catron.

Section 5. Economic Development

5.1 **GENERAL:** The County recognizes that Economic Development is a necessary component for a growing county. The creation of additional and higher paying jobs is of high importance for the improvement of the quality of life for Catron County Citizens. Additional business in the County helps add to, stabilize, and diversify the County's revenues. In consideration of the above mentioned facts, the County of Catron shall form an Economic Development Board (EDB). In forming this board, it is vitally important to represent the economic and cultural diversity of our great County.

APPOINTMENT: The Economic Development Board shall consist of eight (8) board members. Seven (7) of these members shall have voting authority and be dedicated to and filled by persons in the following positions:

- A. The Chairman of the Board of County Commissioners, or in his/her absence, another County Commissioner,
- B. The Mayor of the Village of Reserve or his/her designee,
- C. One representative from the Catron County Citizens Group,
- D. One representative from the Catron County Planning Committee,
- E. Three representatives from the business community (one from each Commission District),
- F. The County Manager (non-voting),
- G. These confirmed appointments shall serve terms of two years, with any subsequent renewals for additional two-year terms to coincide with the County Commission Organizational Meeting held on the first Commission meeting following each General County Election. The Chairman shall also fill vacancies with Commission confirmation as they arise from time to time.

The County Manager shall sit as the eighth, ex-officio (non-voting) member of this board, and shall serve in an advisory capacity.

ORGANIZATION: Every two years, on the first board meeting, the Economic Development Board (EDB) shall have an organizational meeting to elect officers. These officers shall consist of a Chairperson and a Vice-Chairperson. The chairperson shall be the point person for the board and shall provide the contact for all state agencies, and shall report on a quarterly basis to the County Commission during regularly scheduled County Council meetings. The Vice-Chairperson, shall serve in this capacity if the Chairperson is unavailable.

DUTIES:

- A. The EDB shall be the oversight board for the official economic development organization (EDO) charged with the representation of the County of Catron on all economic development efforts outside of municipalities, and is hereby designated to meet and negotiate with prospects. This board shall make any necessary recommendations to the County Commission.
- B. The Catron County Citizens Group is designated as the official economic development organization.
- C. Every two years the EDB shall recommend a two-year community business plan developed by the EDO that shall establish goals to attract capital investment and business relocation, while supporting existing businesses and improving the community's quality of life. The plan must include an analysis of strengths, weaknesses, threats, and opportunities, specify targeted industries, specify resources for resource development, and identify any possible incentives to offer prospective businesses.
- D. Every two years, the EDO shall develop and publish a land & business inventory available to prospects.
- E. The EDO shall develop a business retention/expansion program.
- F. The EDO shall complete an annual NM Economic Development Department Community Profile for submission to the state.
- G. The EDO shall present a semiannual report to the EDB and the County Commission on quarterly completed board activities.

FISCAL RESPONSIBILITIES: The County shall act as the fiscal agent for all normal and customary office-related supplies, personnel, and grants that the board may need or receive, provided it is used for the benefit of the County. In addition, a line item in the General Fund shall be established under the heading of "Economic Development" and such expenditures and revenues shall be budgeted by the County Manager and

approved by the County Commission prior to expenditure of funds. The County Manager shall provide secretarial services to transcribe, print, and distribute minutes associated with board meetings.

- 5.2 The County, after approval of the governing body, may assist Economic Development Projects in the provisions of land, buildings and infrastructure provided that all the requirements of this ordinance are met. The County may provide land, buildings or infrastructure it already owns. The County, at its discretion, may also contribute to the payment of costs for professional service contracts such as Industry feasibility studies and planning and design services needed to implement a project.

Section 6. Application Review:

- 6.1 The governing body assigns the Catron County Manager the following responsibilities with regard to the economic development plan for the County of Catron:
 - A. Reviewing and making recommendations to the governing body on applications for assistance for economic development projects; and,
 - B. Reviewing and making recommendations to the governing body on applications for industrial revenue bonds (IRB'S).

Section 7. Application Requirements:

- 7.1 Any qualifying entity meeting the definition set forth in subsection 4.2 may propose an economic development project to the County. Meeting the definition of a qualifying entity does not create any obligation on the part of the County of Catron.
- 7.2 Applications from qualifying entities shall be submitted to the County of Catron on forms provided by the County.
- 7.3 Applications shall contain the following information for business applicants.
 - A. Identification information:**
 - 1) Complete name and address of entity;
 - 2) Incorporation papers with by-laws;
 - 3) List of board of directors and executive director, with addresses; and resumes of all directors and officers.

4) Resumes of all directors and officers.

B. Evidence of financial solvency (personal statement of principals):

- 1) Financial statement (income statement and balance sheets) for the past three years;
- 2) Federal tax number, New Mexico State Taxation and Revenue number and County business license;
- 3) Projected income statement for at least three years.

C. Evidence of organizational capacity:

- 1) Brief history of the entity;
- 2) Organizational chart of the entity;
- 3) Business plans for the entity and proposed project (shall include pro-forma cash flow analysis);

D. The project participation agreement and any other pertinent information shall be forwarded to the governing body for final consideration at a public meeting.

Section 8. Applicable Review Criteria:

8.1 Applications for economic development projects requesting economic assistance from the County, which meet the policies and objectives of the County's economic development plan, shall receive priority.

Examples include, but are not limited to:

- A. Resource based industries (e.g. farming, ranching, forest products, mining, recreation/tourism)
- B. Manufacturing firms (including intellectual property such as computer software);
- C. Projects, which enhance the exporting capacity of companies and/or provide goods and services, which currently have to be imported into Catron County;
- D. Private companies seeking to build, expand or relocate facilities;
- E. Private companies which provide facilities or services which enhance the ability of Catron County businesses to operate;

- F. Organizations, which assist business start-ups or bring small companies together to increase their competitive abilities. This must involve a tangible project, which shall create jobs and promote an industry. Examples include, but are not limited to:
 - i. Business incubators;
 - ii. Art incubators or coalition (e.g. a performing arts coalition seeking construction rehearsal or performance facilities);
 - iii. Public markets for farmers, gardeners, crafts, etc.; and,
 - iv. Organizations which foster economic development by promoting work force development efforts such as apprenticeships or other job training programs;
- G. Projects in industry clusters listed above are particularly encouraged, but others are eligible to apply as well. The intention is to retain flexibility in the use of incentives; and,
- H. Qualifying entities with existing contracts or projects with the County when this plan is adopted may propose a restructuring of their projects as an economic development project.

8.2 All applications for economic development projects requesting economic assistance from the County shall submit a cost benefit analysis. Preparing a cost benefit analysis shall be the responsibility of the applicant. The County retains the right to specify a format and methodology for the cost-benefit analysis. County Manager shall review and approve the methodology used. The source and rationale for any multiplier effects shall be identified. The cost-benefit analysis shall show when the County shall recoup the value of its investment. The analysis shall address the following:

- A. The number and type of jobs to be created, both temporary construction jobs and permanent jobs (by the New Mexico Office of Workforce Solutions job category);
- B. Pay scale of jobs;
- C. Determination of which jobs are expected to be filled locally and which shall be filled by transfers from other facilities or recruited from outside the Catron area;
- D. Total payroll expected at start-up and after one year;
- E. Anticipated impact on local tax base; and,
- F. Anticipated impact on local school systems.

- 8.3 All applicants for economic development projects requesting economic assistance from the County shall require the same review required of industrial revenue bond applications. This review shall focus on environmental and community impacts of proposed projects. Special attention shall be given to job training and career advancement programs and policies. Projects shall demonstrate a strong commitment to providing career opportunities for Catron area residents. Cultural impacts of projects shall also be considered.
- 8.4 Any qualifying entity seeking assistance is encouraged to prepare and make available a job training and career development plan for their employees.
- 8.5 All applicants for economic development projects requesting economic assistance from the County shall clearly demonstrate the benefits, which shall accrue to the community as a result of the donation of public resources. The County has considerable flexibility in determining what is considered as adequate benefits. Benefits such as providing components or production capabilities, which enhance a targeted industry cluster, or addressing critical deficiencies in regional economy, may be recognized. The benefits claimed of any proposal shall receive careful scrutiny. However, it is the intent of this ordinance to be flexible in the evaluation of these benefits, and to recognize the qualitative as well as quantitative impact of a proposal.
- 8.6 All applicants for economic development projects requesting assistance from the County shall clearly demonstrate how the qualifying entity is making a substantive contribution. The contribution shall be of value and may be paid in money, in-kind services, jobs, expanded tax base, property or other thing or service of value for the expansion or improvement of the economy. The County retains flexibility in defining the “substantive contributions”. The benefits identified in the previous paragraphs may be accepted as adequate contributions on their own, or as cash donations may be required. Assistance in providing affordable housing to its employees or the community at large may also qualify. Determination of what constitutes an acceptable contribution for a given project shall be at the discretion of the governing body.

Section 9. Public Safeguards:

- 9.1 All economic development projects receiving assistance from the County shall be subject to an annual performance review conducted by the County. This review shall evaluate whether the project is attaining the goals and objectives set forth in the project participation agreement. This review shall be presented to the governing body for their consideration. The governing body at a public hearing may terminate assistance to the economic development project by provisions set forth in the agreement, which terminates the agreement and specifies the disposition of all assets and obligations of the project.
- 9.2 The County shall retain a security interest, which shall be specific in the project participation agreement. The type of security given shall depend upon the nature of the economic development project and assistance provided by the County. Types of security may include, but are not limited to:
- A. Letter of credit in the County's name;
 - B. Performance bond equal to the County's contribution;
 - C. A mortgage or lien on the property or equipment;
 - D. Pro-rated reimbursement of investment if company reduces work force or leaves the community before the term agreed to; and
 - E. Other security agreeable to both parties.
- 9.3 Should a qualifying entity move, sell, lease or transfer a majority interest in the economic development project before the expiration of the project participation agreement, the County retains the right to deny any and all assignments, sales, leases or transfers of any interests in the economic development project until adequate assurances are made that the transferee, assignee or lessee is a qualifying entity and that the terms of the agreement shall be satisfied by the transferee, assignee or lessee. At its discretion, the County may choose to deny said assignment, lease or transfer or may negotiate a new agreement with the new operator, or the County may reclaim the facility and enter into an agreement with the new qualifying entity.
- 9.4 Any qualifying entity seeking assistance from public resources shall commit to operate in accordance with its project participation agreement for a minimum of ten years from the date the ordinance is adopted and the governing body passes the project participation agreement.

Section 10. Project Participation Agreement:

- 10.1 The qualifying entity shall prepare with the County a project participation agreement. This agreement is the formal document, which states the contribution and obligation of all parties in the economic development project. The agreement must state the following items:
- A. The economic development goals of the project;
 - B. The contribution of the County and the qualifying entity;
 - C. The specific measurable objectives upon which the performance review shall be read;
 - D. A schedule for project development and goal attainment;
 - E. The security being offered for the County's investment;
 - F. The procedures by which a project may be terminated and the County's investment recovered; and,
 - G. The time period for which the County shall retain an interest in the project. Each project agreement shall have a "sunset" clause after which the County shall relinquish interest in and oversight of the project.
- 10.2 Each project participation agreement shall be subject to review and approval by the governing body at a public hearing.

Section 11. Termination: The Governing body may terminate this ordinance and the County's economic development plan and any or all project participation agreements undertaken under its authority. Termination shall be by ordinance at a public hearing or in accordance with the terms of the project participation agreement. If an ordinance or a project participation agreement is terminated, all contract provisions of the project participation agreement regarding termination shall be satisfied. Upon termination of the ordinance or any project participation agreement, any County monies remaining in the County project accounts shall be transferred to the County's general fund.

Section 12. Joint Regional Projects: The County may engage in economic development projects involving one or more other government entities for projects, which encompass more than one municipality or County. In such instances, the relevant governing bodies shall adopt a joint powers

agreement. This agreement shall establish the application criteria and the terms of all project participation agreements. Criteria established under a joint powers agreement shall be consistent with the provisions of this ordinance.

**ADOPTED BY THE GOVERNING BODY OF THE COUNTY OF
CATRON ON THE 3RD DAY OF SEPTEMBER, 2008.**

**BOARD OF COUNTY COMMISSIONERS
CATRON COUNTY, NEW MEXICO**

/s/
Ed Wehrheim, Chairman

ATTEST:

/s/
Sharon Armijo, Catron County Clerk

/s/
Allen Lambert, Member

/s/
Hugh B. McKeen, Member