



# Sample Project Participation Agreement





PROJECT PARTICIPATION AGREEMENT

The Town of Carrizozo, New Mexico (the Town) and \_\_\_\_\_, a New Mexico \_\_\_\_\_ Corporation (the Project Party), agree:

**Recitals:**

Pursuant to the Local Economic Development Act, Sections 55-10-1 to 5-10-13, NMSA 1978 (LEDA), the Town adopted Ordinance # 02008-05 (the LEDA Ordinance), authorizing the Town to consider applications for economic development assistance; and Ordinance # \_\_\_\_\_ approving an Economic Development project.

The Project Party has submitted an application to the Town for assistance under the LEDA Ordinance. In the Application, the project Party has proposed that the project acquire \_\_\_\_\_

\_\_\_\_\_ (the site), which it will own and develop in accordance with

the Application for Development Incentives Plan. The application also proposed that the Town act as fiscal agent for approximately \_\_\_\_\_ granted by the \_\_\_\_\_ through the Department of Development.

The Project Party will then develop the property using the grant moneys for build a \_\_\_\_\_

The Town has adopted Ordinance # \_\_\_\_\_ finding that the Project Party is a qualifying entity as defined in Section 5-10-3(G) NMSA 1978 and approving this Project Participation agreement as meeting the requirements of LEDA

**Contribution by the Town:** In order to implement the Project, the Town will act as Fiscal Agent and Project Management to the Project Entity after certification.

**Substantive Contribution from the Project Party.** The Project Party will materially participate by acting as developer and taking responsibility for the economic development. The terms and obligations of the parties under the Ordinance and the Application are incorporated into the Agreement by this reference.

**Security Provided to the Town:** The Town will require a Special Warranty Deed to be placed in Escrow (such escrow funded by the Project Party) transferring the property and all development to the Town should the Project Party cease operation during the term of this agreement with the clawback. Carrizozo Works, Inc. will review project timeline and progress annually until the five year anniversary of this agreement.

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

**Miscellaneous:** This Agreement binds and insures to the benefit of the Town and the Project Party and their respective successors and assigns. The 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. The Agreement may be executed in any number of counterparts, each of which is governed by and is to be construed in accordance with the laws of the State of New Mexico, without giving effect to its choice-of-law principles.

**Term of Participation agreement:** Will be agreed upon through the Carrizozo Works, Inc. recommendations to the Town by the \_\_\_\_\_ (anniversary date) until the fifth year anniversary - \_\_\_\_\_.

Adopted by the Carrizozo Town Council on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Mayor of the Town of Carrizozo

Attest:

\_\_\_\_\_  
Clerk of the Town of Carrizozo



## Sample Ordinance Authorizing Project Participation

ORDINANCE NUMBER \_\_\_\_\_

AN ORDINANCE OF THE TOWN OF CARRIZOZO, NEW MEXICO AUTHORIZING THE EXECUTION OF A MEMORANDUM OF UNDERSTANDING WITH THE NEW MEXICO ECONOMIC DEVELOPMENT DEPARTMENT FOR ASSISTANCE WITH \_\_\_\_\_ AND AUTHORIZATION OF A PROJECT PARTICIPATION AGREEMENT WITH \_\_\_\_\_

WHEREAS, the Town of Carrizozo has passed Ordinance 2008-05, Relating to Economic Development Planning; and

WHEREAS, the purpose of the Economic Development Plan 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;" and

WHEREAS, Carrizozo Works, Inc. of the Town of Carrizozo has reviewed the Request for Economic Development Incentives provided by \_\_\_\_\_ and has made its recommendation to accept funds from the New Mexico Economic Development Department \_\_\_\_\_; and

WHEREAS, \_\_\_\_\_ meets the requirements as stated in Ordinance 2008-05 Section 4.2 *qualifying entity*, and

WHEREAS, the State of New Mexico Economic Development Department desires to support the (list specifics of project) in Carrizozo, New Mexico through its 200\_ Capital Outlay Fund by entering into a Memorandum of Understanding with the Town of Carrizozo to contribute \$ \_\_\_\_\_ toward (list specifics of project); and

WHEREAS, the Carrizozo Town Council chooses to enter into an agreement with \_\_\_\_\_ in the form of a Project Participation Agreement.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE TOWN OF CARRIZOZO, NEW MEXICO:

**Section 1.** That the Mayor is authorized to execute on behalf of the Carrizozo Town Council a Memorandum of Understanding with the State of New Mexico Economic Development Department to accept \$ \_\_\_\_\_ under Ordinance 2009-05 to be used specifically for (list specifics of project); and

**Section 2.** That the Mayor is authorized to execute on behalf of the Carrizozo Town Council a Project Participation Agreement with (list persons from the Company who will sign) delineating (list specifics of project).

**Section 3.** Repealer. All ordinances or parts of ordinances or provisions of the Carrizozo Town Code in conflict or inconsistent herewith be, and the same hereby are repealed to the extent only of such conflict or inconsistency, and as to all other ordinances, this ordinance is hereby made cumulative. This repealer shall not be construed to revive any ordinance or parts of any ordinance heretofore repealed.

**Section 4.** Severability. If any section, paragraph, clause or provision of this ordinance shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any other part of this ordinance.

**Section 5.** Effective date. This ordinance shall be effective five days after publication.

PASSED, ADOPTED, AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 200\_.

\_\_\_\_\_  
Mayor

CITY SEAL

ATTEST:

\_\_\_\_\_  
Clerk