

## **AGREEMENT FOR PROFESSIONAL ECONOMIC DEVELOPMENT SERVICES**

This Economic Development Agreement (“Agreement”) is entered into by and between the City of Rio Communities (the “City”), and Albuquerque Regional Economic Alliance (“AREA”), a New Mexico non-profit corporation (each a “Party” and collectively referred to as the “Parties”). The Agreement shall be effective (“Effective Date”) upon signature of both Parties.

**WHEREAS**, the Parties acknowledge and agree that any previous contract relating to the subject matter herein is terminated and replaced with this Agreement.

**NOW, THEREFORE**, in consideration of the mutual promises contained herein, the City and AREA agree as follows:

### **I. RESPONSIBILITIES OF AREA**

- A. MISSION:** AREA is an economic development organization working through a public-private partnership of local businesses and governments to retain, attract, grow, and create sustainable businesses in the four-county region
- B. GOALS:** AREA is guided by and strategically focused on the following specific long-range goals:
  - 1. **BUILD NATIONAL IDENTITY AS A PREMIER LOCATION FOR BUSINESS** to grow & diversify industry, jobs, and investments
  - 2. **ATTRACT, RETAIN AND ALIGN TALENT** to strengthen our regional competitiveness
  - 3. **ELEVATE THE REGION** to achieve regional, inclusive economic growth
- C. AREA ACTION PLAN:** In accordance with the responsibilities set forth above and subject to the availability of adequate funding, AREA shall implement strategic action plans adopted by its Board of Directors, Economic Development Professionals Advisory Council and Public Sector Advisory Council. The City shall be entitled to provide input on these action plans through its participation in these advisory groups as specified in Sections II.A, II.B and II.C. of this Agreement. The City acknowledges and agrees that AREA may, in its reasonable judgment in accordance with its own practices and procedures, substitute, change, reschedule, cancel, or defer certain activities as required by a result of changing market conditions, funding availability, or other circumstances beyond AREA’s reasonable control.
- D. SCOPE OF WORK:** The Scope of Work is to be completed within the time frames required by the City. AREA is responsible for the end project and will work with the City to collectively establish and work within an agreed upon framework of “regional project recruitment” and within an education and outreach capacity to avoid duplication and support the requirements of regional collaboration. All partners shall make their best efforts to minimize costs to the City.

1. **REPRESENTATION & REPORTING:** AREA will provide regular reports to the City detailing its progress in implementing such plans through the Advisory Councils and at public programs and meetings upon request.
2. **LEAD GENERATION:** AREA will provide responses to client inquiries with regional data on behalf of the City, conduct targeted outbound lead generation efforts, host of site selection consultant tours; execute bi-monthly site selection consultant informational blasts; coordinate and execute inbound and outbound press trips; and align with the local brokerage community through formal partnerships.
  - a. AREA will outline any cost to be incurred by the City to create collateral materials for inclusion into lead generation marketing efforts.
  - b. AREA will provide industry cluster advantage information for the regional partner area and articulate a plan for highlighting differences and advantages of each regional partner.
  - c. AREA will work as the City's funded and designated economic development entity on all regional solicitations or partnership required to support regional recruitment efforts. General solicitations within the City to support regional recruitment efforts will also be coordinated among other economic development representatives and agencies as requested by the City.
3. **COMMERCIAL SPACE DEVELOPMENT:** AREA will focus efforts on marketing to national developers and real estate investment trusts (REIT's) to attract new investment and speculative development to the region and will work to create a regional site readiness program.
4. **CONSULTATIVE AND DATA SERVICES SUPPORT:** AREA will provide the City and its assigned representative(s) access to its online jobs board, SizeUp business intelligence software, ABQSites.com property database, demographic and community profiles, labor analytics database, economic impact modeling and metro-comparable analysis tools. AREA will also prepare and also deliver annual updates, reports and insights on topics such as competitiveness and economic indicators.
5. **PARTICIPATION IN MARKETING EVENTS:** Representative(s) of the City shall be entitled to participate in AREA's marketing events provided that such participation shall not be at AREA's additional expense.
6. **PROVISION OF ASSISTANCE:** When requested and appropriate, AREA will use its best efforts to provide assistance and support to the City's economic development staff and designees for business location prospects identified and qualified by the City and assist the City with presentations to prospects in the City or corporate locations. These efforts include working in partnership with the State of New Mexico Economic Development Department (NMEDD) and the New Mexico Partnership.
7. **REPORTING:** AREA will provide timely updates on the number of Public Sector partner investment commitments and representatives. AREA staff will provide and

present at a public meeting of the City as requested as well as a annual report to included regional economic impact of strategic initiative results as contracted.

## II. ADDITIONAL AGREEMENTS OF THE PARTIES

- A. ECONOMIC DEVELOPMENT PROFESSIONALS ADVISORY COUNCIL REPRESENTATION:** AREA will organize and lead this advisory council, which will develop and follow set protocol for issues such as: business attraction, retention, and expansion; external marketing and communications; and existing business retention and expansion. This council will meet no less than six (6) times per year. The City shall also appoint one (1) economic development professional from its staff, local economic development partner organization, or other qualified community member, subject to the approval of AREA, to represent the City on AREA's Economic Development Professionals Advisory Council. The City shall submit its appointment(s) in writing to the AREA President & CEO within thirty (30) days of the Effective Date of this agreement.
- B. PUBLIC SECTOR ADVISORY COUNCIL:** The City may appoint one (1) representative to the council as part of this Agreement. This council shall include one (1) representative, either an elected official or chief administrative officer, for each public sector entity in good standing with the Corporation for the purposes of regional collaboration and alignment and will meet no less than two (2) times per year. The City shall submit its nomination in writing to the AREA President & CEO within thirty (30) days of the Effective Date of this agreement.
- C. PERFORMANCE TARGETS:** Specific performance targets shall be established by AREA's Board of Directors and shall be used to evaluate and report progress on AREA's implementation of strategic action plans. AREA will provide regular reports to the City detailing its progress in implementing such plans through the Advisory Councils and at public programs and meetings upon request. As required by a result of changing market conditions, funding availability, or other circumstances beyond AREA's reasonable control, these performance targets may be revised with the approval of the Board of Directors. Performance targets for the 2022 calendar year are attached as Exhibit A.

## III. RESPONSIBILITIES OF THE CITY

- A. STAFF SUPPORT OF AREA'S EFFORTS:** The City shall provide staff support to AREA's economic development efforts as follows:
1. The City shall provide an official economic development representative to represent the City on the Economic Development Professionals Advisory Council, which advises AREA's President & CEO and Board of Directors. This representative may be a staff member with the City or a community representative serving in an economic development capacity on the City's behalf.
  2. The City shall use its best efforts to respond to special requests by AREA for specific information about the City within the time frame specified in such request.
  3. In all joint transactions, the City will work cooperatively with AREA to improve the City's competitiveness and market readiness to support the growth and expansion of targeted industries.

**B. RECOGNITION OF AREA:** The City agrees to recognize AREA as the City's officially designated four-county regional economic development organization.

**C. COMPENSATION:**

1. The City agrees to pay \$0.36 per capita annually, as determined by the most current US Census estimate of 4,702 resident, for services to be provided by AREA to the City pursuant to the Agreement. For the fiscal year ending on June 30, 2023, this amount is calculated to \$1,692.72.
2. Nothing herein shall preclude the City from contracting separately with AREA for services to be provided in addition to those to be provided hereunder, upon terms and conditions to be negotiated by the City and AREA.
3. AREA shall submit the invoice for services to be provided to the City within the first 30 days of the new fiscal year. The City is entitled to receive annual audit reports for AREA and financial reports at Board of Directors meetings held at least three (3) times per year.

**D. COOPERATION:**

1. The purpose of this Agreement is to set forth the regional economic development program that AREA agrees to undertake, the support that the City agrees to provide, the respective roles of AREA and the City, and the payments of the City to AREA for the City's fiscal year beginning July 1, 2022 and ending June 30, 2023.
2. The parties acknowledge that AREA is a cooperative organization effort between AREA, business leaders, and communities within the greater Albuquerque region. Accordingly, the City and AREA covenant and agree to work together in a productive and harmonious manner, to cooperate in furthering AREA's goals for the fiscal year.
3. The City agrees to work with AREA, as necessary or appropriate, to revise the performance measures, benchmarks, and/or goals for the current agreement.

**IV. GENERAL PROVISIONS**

**A. INDEMNIFICATION AND HOLD HARMLESS:** AREA hereby agrees to hold harmless, indemnify and defend the City, its officers, agents, and employees from and against any and all liability, suits, actions, claims, damages, attorney's fees, and costs arising out of or resulting from AREA's and/or any of their subcontractors' employees', agents, or officers' conduct, performance, act(s), error(s), or omission(s) relating in any manner whatsoever to this Agreement. Provided, however, nothing in this Agreement shall be construed to require AREA to defend, indemnify, and hold harmless the City, its officers, agents, and employees from and against any liability, suits, actions, claims, damages, and attorney's fees resulting from the negligence of the City, its officers, agents, and employees.

**B. INSURANCE:** AREA shall procure and maintain for the duration of this Agreement, at AREA's own cost and expense, insurance against claims for injuries to persons or damages

to property which may arise from or in connection with this Agreement by AREA, its agents, representatives, employees, or contractors.

- C. EQUAL EMPLOYMENT OPPORTUNITY:** During the performance of this Agreement, AREA will not discriminate against any employee or applicant for employment because of race, color, religion, creed, sex (including pregnancy, childbirth, and related medical conditions), sexual orientation and identity, national origin, ancestry, age, genetic information, citizenship, medical condition or illness, AIDS/HIV, ethnic background, physically or mentally disabled, retaliation, criminal record, military or veteran status, marital status, or political activities or affiliations, status as a victim of domestic violence, sexual harassment, assault, or stalking. AREA also makes reasonable accommodations for handicapped and disabled employees. Finally, AREA prohibits the harassment of any individual on any basis listed above, or any other consideration made unlawful by federal, state or local laws. All such discrimination is unlawful and will not be tolerated.
- D. NONLIABILITY OF OFFICIALS AND EMPLOYEES:** No member, official, or employee of the City will be personally liable to AREA, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to AREA or successor, or on any obligation under the terms of this Agreement. No member, official, or employee of AREA will be personally liable to the City, or any successor in interest, in the event of any default or breach by AREA or for any amount which may become due to the City or successor, or on any obligation under the terms of this Agreement.
- E. NOTICE:** Any notice or other communication provided for herein or given hereunder to a Party hereto shall be in writing or delivered by electronic transmission, as designated by each Party, using the contact information below. Notices or communications in writing shall be given in person, by overnight courier, or by mail (registered or certified mail, postage prepaid, return-receipt requested) to the respective Parties. Notices or communications may be delivered by electronic mail or facsimile, as designated by each Party, in a manner that creates a record that is capable of being retained, retrieved, and reviewed, and that may thereafter be rendered into clearly legible tangible form, unless or until either party revokes consent of use of that means of transmission for communications or either Party is unable to deliver communications by that means.

If to AREA:  
Danielle Casey, President & CEO  
Albuquerque Regional Economic Alliance  
201 3rd Street NW #1900  
Albuquerque, NM 87111

If to the City:

- F. OWNERSHIP OF WORK PRODUCT:** City acknowledges and agrees that all work product prepared by or created by AREA for, arising from, related to, or incorporated in the services to be provided by AREA to the City including, without limitation, all ideas, concepts, inventions, expressions, information, material, works of authorship, plans, programs, programming code, systems, work notes, drafts, specifications, design

documents, flow charts, software programs, analyses, data, surveys, print copy, artwork, plates, photo negatives and positives, boards, preliminary outlines, sketches, letters, invoices, proposals, databases, and reports (collectively, “Work Product”) shall be owned solely and exclusively by AREA, including without limitation, all corrections, modifications, and derivative works to such Work Product. The Work Product shall be considered AREA’s Confidential Information. All final deliverables to the City such as annual reports, marketing materials, completed analyses or studies, presentations or other City specific collateral shall be considered shared ownership between AREA and the City.

**G. REPRESENTATIONS AND WARRANTIES:** The Parties each represent and warrant as follows:

1. Each Party has full power, authority, and right to perform its obligations under the Agreement.
2. This Agreement is a legal, valid, and binding obligation of each Party, enforceable against it in accordance with its terms (except as may be limited by bankruptcy, insolvency, moratorium, or similar laws affecting creditors’ rights generally and equitable remedies).
3. Entering into this Agreement will not violate the charter or bylaws of either Party or any material contract to which that Party is also a party or any law applicable to a Party.

**H. RELATIONSHIP OF THE PARTIES; BENEFICIARIES:** Nothing in this Agreement will be deemed to create an agency, employment, partnership, fiduciary or joint venture between the Parties. No Party (nor any agent or employee of that Party) shall make any representations or warranties or incur any liability on behalf of the other Party. There are no third-party beneficiaries of this Agreement.

**I. MODIFICATIONS:** No amendment, change, or modification of this Agreement shall be valid unless in writing and signed by both Parties.

**J. ASSIGNMENT:** This Agreement and the services contemplated hereunder are personal to AREA and the City and neither Party shall have the right or ability to assign, transfer, or subcontract any rights or obligations under this Agreement without the advanced written consent of the other Party. This Agreement will be binding upon and inure to the benefit of the parties hereto, their successors, and assigns.

**K. GOVERNING LAW:** This Agreement shall be governed by the laws of the State of New Mexico.

**L. COUNTERPARTS/ELECTRONIC SIGNATURES:** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument. For purposes of this Agreement, use of a facsimile, e-mail, or other electronic medium shall have the same force and effect as an original signature.

**M. SEVERABILITY:** Whenever possible, each provision of this Agreement will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal, or unenforceable in any respect

under any applicable law or rule in any jurisdiction, such invalidity, illegality, or unenforceability will not affect any other provision or any other jurisdiction, but this Agreement will be reformed, construed, and enforced in such jurisdiction as if such invalid, illegal, or unenforceable provisions had never been contained herein.

- N. **TERM:** The term of this agreement is one year, ending on June 30, 2023; however, should there be no change to the terms, the agreement shall be considered automatically extended until such times as either the City or AREA notifies the other party that they wish to terminate the agreement in the upcoming fiscal year.
- O. **TERMINATION;** Either the City or AREA may choose not to extend the agreement in the upcoming fiscal year by notifying the other party, in writing, at least 30 days prior to the beginning of that fiscal year.
- P. **ENTIRE AGREEMENT, WAIVERS, AND AMENDMENTS:** This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof.

All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the City or AREA, and all amendments hereto must be in writing and signed by the appropriate authorities of the parties hereto.

**IN WITNESS WHEREOF**, the City and the Contractor have executed this Agreement as of the date first above written:

City of Rio Communities:

Albuquerque Regional Economic Alliance:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Danielle Casey, President & CEO

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
Date

Approved as to form:

\_\_\_\_\_  
City of Rio Communities Attorney

\_\_\_\_\_  
Date

## EXHIBIT A

### 2022 Targeted Metrics

In accordance with its annual Action Plan and metrics as set by its Board of Directors, AREA will also provide an annual report and presentation to the City related to the following measures and performance metrics for the 2022 calendar year:

#### ACTIVITY / RESULTS MEASURES

- Increase in overall lead generation and qualified projects
- 40+ visits with existing businesses annually
- 2 annual site selector tours in region
- Launch of Industry Advisory Councils
- Year over year increase of overall earned and paid media impressions, with 15% growth targets
- Two+ positive national media articles per year
- 30+ companies promoting hundreds of roles on ABQ.org job board and thousands of potential workers reached - in and out of market
- Development of new speculative commercial space

<b>Performance Metric</b> (3 years of operation results for metrics related to economic impact)	<b>2022 Agreement Goal</b>	<b>2022 Stretch Goal</b>	<b>FY 2021 Actuals (estimated)</b>
Payroll Generated	\$250 m	\$275 m	\$200 m
Direct Jobs Created/ Retained	1,200	1,600	646
Induced Jobs	600	750	740
New Leads Generated	150	160	124
New Qualified Projects	40	45	26
Company Assists	10	12	Not tracked
Direct Economic Impact	\$25 m	\$30 m	\$20.6 m
Total Economic Impact	\$300 m	\$350 m	\$842
Overall ROI to Community	50:1	75:1	175:1