

**MEMORANDUM OF UNDERSTANDING MOU 22-##  
BETWEEN THE INCORPORATED COUNTY OF LOS ALAMOS  
AND RIO ARRIBA COUNTY**

**THIS MEMORANDUM OF UNDERSTANDING** (hereinafter "MOU") is made and entered into by and between the Incorporated County of Los Alamos (hereinafter "LAC") and Rio Arriba County (hereinafter "Rio Arriba") to be effective for all purposes as of November, 11, 2022. LAC and Rio Arriba are sometimes referred to in this MOU individually as "Party" or "party" and collectively as "Parties" or "parties."

**WHEREAS**, LAC cannot succeed without a healthy region; and

**WHEREAS**, in 2005, LAC created the Progress Through Partnering Program in response to the strategic goal of improving intergovernmental relations within Northern New Mexico; and

**WHEREAS**, the Parties are each local governments in Northern New Mexico and are created and existing pursuant to the Constitution and laws of the State of New Mexico; and

**WHEREAS**, LAC desires to continue its Progress Through Partnering Program by creating a Regional Strategic Projects Fund (hereinafter "RSPF") to support Rio Arriba's Strategic Projects, as defined below, through the distributions made from the RSPF by LAC through LAC's annual budgeting process; and

**WHEREAS**, approval of this MOU by LAC's and Rio Arriba's governing body expresses LAC's and Rio Arriba's understanding of this collaborative endeavor.

**NOW, THEREFORE**, this MOU serves to memorialize the understanding of the Parties regarding how the funds distributed by LAC through the RSPF and LAC's annual budgeting process will be used to support Rio Arriba's Strategic Projects and is not intended to create any binding contractual obligations between the Parties as no consideration is provided by either Party. This is an entirely voluntary undertaking between the Parties.

**A. DEFINITIONS**

1. The term "Capital Improvement Project" or "Capital Project" means:
  - (a) Constructing, purchasing, furnishing, equipping, rehabilitating, making additions to or making improvements to one or more public buildings or purchasing or improving their sites or grounds including, but not necessarily limited to, acquiring and improving parking and storage lots, or any combination of the foregoing;
  - (b) Constructing, acquiring or improving public parking lots, structures or facilities, or any combination of the foregoing;

(c) Constructing, acquiring, extending, enlarging, bettering or otherwise improving storm sewers, drainage facilities and erosion control facilities including, but not necessarily limited to, the acquisition of rights-of-way, or any combination of the foregoing;

(d) Reconstructing existing alleys, streets, roads or bridges, or laying off, opening, constructing or otherwise acquiring new alleys, streets, roads, bridges, or traffic-control facilities including, but not necessarily limited to, the acquisition of rights-of-way, or any combination of the foregoing, but shall not include major street maintenance; and

(e) Acquiring, constructing, purchasing, equipping, furnishing, making additions to, renovating, rehabilitating, beautifying or otherwise improving public parks, public recreational or cultural buildings or facilities or purchasing or improving their sites or grounds, or any combination of the foregoing.

2. The term "public building" means building owned by the Party and shall include, but is not necessarily limited to, fire stations, criminal justice facilities, libraries, museums, senior and youth centers, auditoriums, community centers, events centers, convention halls, hospitals, mental and behavioral health centers, buildings for administrative officers, city/county halls and garages for repairing and maintaining county/city vehicles and equipment or housing but does include utility facilities.

3. The term "Strategic Project(s)" means any Capital Improvement Projects, Capital Projects, Social Services Projects, and Strategic Project Position(s), as defined herein and related to the RSPF funds subject to this Agreement.

4. The term "Social Services Project" are projects with a finite scope and duration for a certain period of time not to exceed three (3) years, that address the health and social needs of the community and include programs and services that are designed to improve the well-being of individuals, families, and communities.

5. The term "Strategic Project Position(s)" means employment position(s) created or filled by the Regional Partner(s) to support its strategic goals for a certain period of time not to exceed three (3) years. The salary(s) of such position(s) may be fully funded to include the total annual compensation to include all salary and benefits through the RSPF funds appropriated by LAC to Rio Arriba. Strategic Project Position(s) shall be employees of Rio Arriba and shall not be considered an employee, contractor or agent of LAC for any purpose.

## **B. SCOPE OF MOU**

1. This MOU outlines the Parties' understanding of the how the RSPF monies may be used to support Rio Arriba's Strategic Projects;

2. As part of LAC's annual budgeting process, LAC's commits to considering what amount, if any, may be appropriated for the forthcoming fiscal year from the RSPF to support Rio Arriba's Strategic Projects.

3. Within thirty (30) days of the adoption of the LAC's Annual Budget for the forthcoming fiscal year, LAC commits to notifying Rio Arriba of the amount of RSPF funds allocated by LAC.

4. The Parties understand and agree that any RSPF funds distributed by LAC to Rio Arriba shall be used only for Strategic Projects, as defined herein, shall not be used in any way that violate Federal, State or local laws, including the State of New Mexico Constitution, specifically but not limited to, Sections 12 and 14 of Article IX of the State of New Mexico Constitution, and shall be accounted for separately.

5. The Parties understand and agree that LAC is not a fiscal agent of any kind to Rio Arriba or for the RSPF funds appropriated to Rio Arriba.

6. The Parties understand and agree that the appropriation of funds by LAC through its annual budgeting process to support Rio Arriba's Strategic Projects is a matter of legislative discretion, and that this MOU does not, and cannot, create or impose any legal or contractual duty of any kind whatsoever on LAC to appropriate current or future funds through its annual budgeting process to support Rio Arriba's Strategic Projects. All RSPF funds are contingent upon sufficient appropriations granted by LAC.

#### **C. TERM AND EFFECTIVE DATE**

Each Party shall submit this MOU to its governing body for approval of the understanding expressed in this document. Upon approval and execution of this MOU by each Party, this collaborative and voluntary endeavor shall commence and shall continue until November 11, 2025 unless sooner terminated as provided herein.

#### **D. TERMINATION**

Each Party understands and agrees that this endeavor is a voluntary collaboration of the Parties that creates no binding contractual obligations and is based entirely on the good faith of the Parties to work collaboratively through the understanding expressed herein for the benefit northern New Mexico. Either party can withdraw from this collaboration with or without cause, and each Party agrees to provide written notice to the other parties of its withdrawal.

#### **E. NOTICE**

Any notices required under this Agreement shall be made in writing, postage prepaid to the following addresses, or subsequent dutifully notified changes to such, and shall be deemed given upon hand delivery, verified delivery by telecopy (followed by copy sent by United States Mail), or three (3) days after deposit in the United States Mail:

LAC:

County Manager  
Incorporated County of Los Alamos  
100 Central Avenue  
Suite 350  
Los Alamos, New Mexico 87544

Rio Arriba County:  
Rio Arriba County  
149 State Road 162  
Tierra Amarilla, New Mexico 87575

#### **F. LIABILITY**

1. Each Party acknowledges and understands that each Party shall be solely responsible for fiscal or other sanctions including but not limited to any award of damages or penalties imposed because of its own violation of requirements applicable to the performance under this MOU.

2. Each Party acknowledges and understands that each Party shall be liable for its own actions or inactions in accordance with any controlling law, rule or regulation and nothing herein shall be deemed a waiver, indemnity or to otherwise create or affect liabilities between the parties.

3. Each Party acknowledges that no Party to this MOU shall be responsible for the liability incurred as a result of the other Party's acts or omissions in connection with this MOU or in performance under this MOU.

4. This MOU contains the understanding between the Parties only and shall not create or confer on any other person or entity any right or benefit, substantive or procedural, enforceable at law or otherwise against the named parties, their officers, directors, employees, agents, representatives, attorneys, contractors, subcontractors, consultants, or advisors.

5. Each Party acknowledges that any liability incurred in connection with this MOU is subject to the immunities and limitations of the New Mexico Tort Claims Act, Sections 41-4-1. et. seq., NMSA 1978 as amended. This paragraph is intended only to define liabilities between the Parties hereto and is not intended to modify, in any way, the Parties' liabilities as governed by common law or the New Mexico Tort Claims Act. No provision of this MOU modifies and/or waives any provision of the New Mexico Tort Claims Act.

#### **G. MISCELLANEOUS PROVISIONS**

1. This MOU is made under and shall be governed by the laws of the State of New Mexico, without regard to any conflicts of law principles that would require the application of the law of any other jurisdiction.

2. Pursuant to NMSA 1978 § 14-16-7, this MOU may be signed by electronic signature. This document may be executed in counterparts, each of which shall be deemed an original.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Understanding on the date(s) set forth below:

ATTEST

INCORPORATED COUNTY OF LOS ALAMOS

By: \_\_\_\_\_

Naomi D. Maestas  
County Clerk

By: Steven Lynne

3/16/2023

Steven Lynne  
County Manager

Date

APPROVED AS TO FORM:



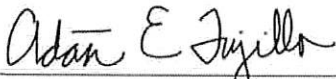
J. Alvin Leaphart, County Attorney

RIO ARRIBA COUNTY

By: Jeremy G. Maestas

Jeremy G. Maestas, County Manager

APPROVED AS TO FORM:



Adán E. Trujillo, Attorney for Rio Arriba County