

**REGIONAL COALITION OF LANL COMMUNITIES
LEGAL SERVICES AGREEMENT
WITH
LONG, KOMER & ASSOCIATES, P.A.**

THIS AGREEMENT is made and entered into by and between the Regional Coalition of LANL Communities ("RCLC") and Long, Komer & Associates, P.A. ("LKA"). The effective date of this Agreement shall be the date when it is executed by RCLC.

1. SCOPE OF SERVICES

The required legal services will cover, but are not limited to:

- Establish, implement and communicate goals, objectives, policies and procedures in accordance with the Joint Powers Agreement.
- Provide legal advice and handle legal issues regarding various aspects of coalition business.
- Work with outside counsel on legal issues.
- Assure that all legal advice and counseling are consistent with the Joint Powers Agreement and with applicable law.
- Pursue or defend litigation, both judicial and administrative, as necessary and appropriate, including preparation and filing of pleadings, conducting discovery, witness preparation, investigation, settlement negotiation and appearances at hearings and/or trials.
- Provide legal advice to the Board of Directors on topics related to the areas of assignment and assists by drafting, editing and reviewing key documentation, such as contract specifications.
- Minimize liability of RCLC by providing legal assistance in the implementation and administration of programs and services of RCLC.
- Perform legal research, prepare briefs and prosecute or defend appeals as directed.
- Communicate and coordinate with other jurisdictions regarding legal matters in which RCLC has an interest; negotiate matters involving RCLC participation, including contracts and settlement of litigation; coordinate legal issues between RCLC and other jurisdictions.

- Attend meetings and hearings, agenda sessions and other meetings, as may be requested by the Board of Directors; attend board and commission meetings and hearings, as may be requested by the Board of Directors
- Establish and maintain effective working relationships with federal, state, tribal and local government officials, employees, court officials, the public and private sector entities and individuals.
- Maintain confidentiality of all privileged information

2. STANDARD OF PERFORMANCE; EXPERTISE; LICENSES

A. LKA must possess the personnel, experience and knowledge necessary to perform the services described in the Scope of Services of this Agreement. LKA must maintain a license to practice law in the State of New Mexico and must obtain and maintain all applicable business and professional license and registration required by law.

B. LKA agrees to obtain and maintain a license to practice law in the State of New Mexico and throughout the term of this Agreement, all applicable professional and business licenses required by law, for itself, its employees, agents, representatives and subcontractors.

3. COMPENSATION

A. RCLC agrees to compensate LKA for its services according to the fee schedule attached hereto as Exhibit A, plus New Mexico gross receipts tax, which fee schedule may be modified from time to time upon written approval of RCLC, together with reimbursement pursuant to the Government mileage and per diem rate for travel expenses or actual expenses incurred in the course of performance of this Agreement.

B. Compensation for services rendered shall be payable upon presentation by LKA of detailed invoices describing the services rendered herein and the hourly utilization for each such service. Services rendered herein shall be paid within thirty (30) days of the date of such statement. The time records provided shall be available for inspection by RCLC. RCLC shall

have the right to audit billings both before and after payment.

C. LKA shall be responsible for the payment of all New Mexico Gross Receipts taxes due pursuant to the compensation paid herein, and for any and all other individual income taxes or other taxes due as a result of LKA's performance of services herein.

4. APPROPRIATIONS

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by RCLC for the performance of this Agreement. If sufficient appropriations and authorization are not made, this Agreement shall terminate upon written notice being given by RCLC to LKA. RCLC's decision as to whether sufficient appropriations are available shall be accepted by LKA and shall be final.

5. TERM AND EFFECTIVE DATE

This Agreement shall be effective when signed by RCLC and terminate on October 18, 2020. This Agreement may be renewed annually in one (1) year increments by amendment to this Agreement in accordance with Paragraph 18, AMENDMENT, herein and contingent upon satisfactory performance and funding availability.

6. TERMINATION

A. This Agreement may be terminated by RCLC upon 10 days written notice to LKA.

In the event of such termination:

(1) LKA shall render a final report of the services performed up to the date of termination and shall turn over to RCLC original copies of all work product, research or papers prepared under this Agreement.

(2) If payment has not already been made, LKA shall be paid for services rendered and expenses incurred through the date LKA receives notice of such termination.

7. STATUS OF LKA; RESPONSIBILITY FOR PAYMENT OF EMPLOYEES AND SUBCONTRACTORS

A. LKA and its subcontractors, agents and employees are independent contractors performing professional services for RCLC and are not employees of RCLC. LKA, and its agents and employees, shall not accrue leave, retirement, insurance, bonding, use of RCLC vehicles, or any other benefits afforded to employees of RCLC as a result of this Agreement.

B. LKA shall be solely responsible for payment of wages, salaries and benefits to any and all employees of LKA retained by LKA in the performance of the services under this Agreement.

8. CONFIDENTIALITY

Any confidential information provided to or developed by LKA in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by LKA without the prior written approval of RCLC.

9. CONFLICT OF INTEREST

LKA warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. LKA further agrees that in the performance of this Agreement no persons having any such interests shall be employed.

10. ASSIGNMENT; SUBCONTRACTING

LKA shall not assign or transfer any rights, privileges, obligations or other interest under this Agreement, including any claims for money due, without the prior written consent of RCLC.

LKA shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of RCLC.

11. RELEASE

LKA, upon acceptance of final payment of the amount due under this Agreement, releases RCLC, its officers, officials and employees, from all liabilities, claims and obligations whatsoever arising from or under this Agreement. If not completed at the time of final payment, LKA shall remain obligated to complete the Scope of Services and other obligations of this Agreement. LKA agrees not to purport to bind RCLC to any obligation not assumed herein by RCLC unless LKA has express written authority to do so, and then only within the strict limits of that authority.

12. INSURANCE

A. LKA shall procure insurance policies that are acceptable to the Agency and maintain these policies in full force and effect during the entire term of this Agreement. Upon request, LKA shall furnish RCLC copies of certificates of required insurance in a form satisfactory to RCLC.

These policies shall include at least:

1. Professional Liability Insurance. LKA shall procure and maintain during the term of this Agreement professional liability insurance in an amount of not less than \$1,000,000 per occurrence, including defense costs. Such insurance shall have no greater than a \$25,000 deductible unless a different form of security is specifically accepted in writing by RCLC. The amount of any deductible shall be stated in writing.

2. **Comprehensive General Liability.** LKA shall procure and maintain during the life of this Agreement a comprehensive general liability and automobile insurance policy with liability limits in amounts not less than \$1,000,000 combined single limit of liability for bodily injury, including death, and property damage in any one occurrence. Said policies of insurance shall include coverage for all operations performed for RCLC by LKA Possible Future Increase in Limit Amounts. RCLC may require the LKA to increase the maximum limits of any insurance coverage if events during the term of this Agreement increase the potential legal exposure of RCLC.

13. **INDEMNIFICATION**

General Indemnification. To the greatest extent permitted by law, LKA shall indemnify, hold harmless and defend RCLC and its respective elected officials, officers, employees, agents, volunteers and representatives from all losses, damages, claims or judgments, including payments of all attorneys' fees and costs on account of any suit, judgment, execution, claim, action or demand whatsoever arising from LKA's performance or non-performance under this Agreement as well as the performance or non-performance of LKA's employees, agents, representatives and subcontractors or any tier.

Indemnification for Professional Acts, Errors or Omissions. Except for professional acts, error or omissions that are the result of established gross negligence or willful misconduct on the part of LKA, or its employees, agents, representatives or sub-consultants, the General Indemnification shall not apply to professional acts, errors or omissions unless covered by Professional Liability insurance required in this Agreement.

14. NEW MEXICO TORT CLAIMS ACT

Any liability incurred by RCLC in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, § 41-4-1, *et seq.*, as amended. RCLC and their "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

15. THIRD-PARTY BENEFICIARIES

By entering into this Agreement, the parties do not intend to create any right, title or interest in or for the benefit of any person other than RCLC and LKA. No person shall claim any right, title or interest under this Agreement or seek to enforce this Agreement as a third-party beneficiary of this Agreement.

16. RECORDS, DOCUMENT CONTROL AND AUDIT

A. LKA shall maintain, throughout the term of this Agreement and for a period of three years thereafter, all records that relate to the scope of services provided under this Agreement.

B. Detailed records that indicate the date, time and nature of services rendered shall also be retained for a period of three years after the term of this agreement expires. These records shall be subject to inspection by RCLC. RCLC shall have the right to audit the billing both before and after payment to LKA. Payment under this Agreement shall not foreclose the right of RCLC to recover excessive or illegal payments.

17. APPLICABLE LAW; CHOICE OF LAW; VENUE

LKA shall abide by all applicable federal and state laws and regulations, and all ordinances, rules and regulations of RCLC. In any action, suit or legal dispute arising from this Agreement,

LKA agrees that the laws of the State of New Mexico shall govern. Any action or suit commenced in the courts of the State of New Mexico shall be brought in the First Judicial District Court.

18. AMENDMENT

This Agreement shall not be altered, changed or modified except by an amendment in writing executed by the parties hereto.

19. SCOPE OF AGREEMENT

This Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the services to be performed hereunder, and all such agreements, covenants and understandings have been merged into this Agreement. This Agreement expresses the entire Agreement and understanding between the parties with respect to said services. No prior agreement or understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

20. NON-DISCRIMINATION

During the term of this Agreement, LKA shall not discriminate against any employee or applicant for an employment position to be used in the performance of services by LKA hereunder, on the basis of ethnicity, race, age, religion, creed, color, national origin, ancestry, sex, gender, sexual orientation, physical or mental disability, medical condition, or citizenship status.

21. SEVERABILITY

In case any one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

22. NOTICES

Any notices requests, demands, waivers and other communications given as provided in this Agreement will be in writing and will be deemed to have been given if delivered in person (including by Federal Express or other personal delivery service), or mailed by certified or registered mail, postage prepaid, and addressed to the following addresses:

RCLC: Henry Roybal
RCLC Board Chair
Regional Coalition of LANL Communities
112 W. San Francisco St., Suite 312
Santa Fe, NM 87501
hproybal@santafecountynm.gov

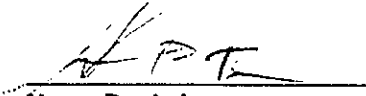
LKA: Nancy R. Long
Long, Komer & Associates
PO Box 5098
Santa Fe, NM 87502-5098
Nancy@longkomer.com

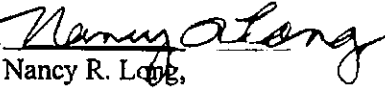
Any such notice sent by registered or certified mail, return receipt, shall be deemed to have been duly given and received seventy-two (72) hours after the same is so addressed and mailed with postage prepaid. Notice sent by recognized overnight delivery service shall be effective only upon actual receipt thereof at the office of the addressee set forth above, and any such notice delivered at a time outside of normal business hours shall be deemed effective at the opening of business on the next business day. Notice sent by email shall be effective only upon actual receipt of the original unless written confirmation is sent by the recipient of the email stating that the notice has been received, in which case the notice shall be deemed effective as of the date specified in the confirmation. Any party may change its address for purposes of this paragraph by giving notice to the other party as herein provided. Delivery of any copies as provided herein shall not constitute delivery of notice hereunder.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth below.

Regional Coalition of LANL Communities

Long, Komer & Associates, P.A

By: 
Henry Roybal
RCLC Chair

By: 
Nancy R. Long,
Partner

Date: 10/29/19

Date: _____

Exhibit A

Fee Schedule

RCLC shall pay compensation to LKA based upon hourly rates for provision of legal and administrative services. Such services shall be tracked and billed in one-tenth (0.01) hour increments to be paid as follows:

The following attorneys shall be paid as hourly rate as stated:

- NancyR. Long, Partner \$195
- Jonas M. Nohoum, Associate \$175
- Vicki R. Marco, Certified Paralegal \$110
- Jane Clifford, Certified Paralegal \$110

Invoices shall be submitted to RCLC and include the following detailed information:

- Dates
- Attorney and/or paralegal
- Description of billed services
- Number of billed hours
- Hourly rate
- Total Fees
- NM Gross Receipts Tax