



**INCORPORATED COUNTY OF LOS ALAMOS
AGREEMENT
FOR ENGINEERING SERVICES AND WELL
DRILLING AND DEVELOPMENT**

This **AGREEMENT** (this "Agreement," or "Contract") is entered into by and between the **Incorporated County of Los Alamos**, an incorporated county of the State of New Mexico ("County"), and Wilson and Company, Inc., a Kansas corporation ("Contractor"), to be effective on May 3, 2017.

WHEREAS, the County purchasing agent determined in writing that the use of competitive sealed bidding was either not practical or not advantageous to County for procurement of the Services, and County issued Request for Proposals No. RFP 17-30 (the "RFP") on December 14, 2016, requesting proposals for Otowi 2 Water Supply Well Design, Drilling and Development in connection with the new Otowi 2 potable water supply well; and

WHEREAS, Contractor timely responded to the RFP by submitting a response dated February 23, 2017 ("Contractor's Response"; and

WHEREAS, based on the evaluation factors set out in the RFP, Contractor was the successful Offeror for the services listed in the RFP; and

WHEREAS, County desires to have Contractor provide services for the design, drilling and development of the new Otowi 2 Water Supply Well, in accordance with the Design approach and Construction Approach sections of the Contractor's Response, with a minimum sustainable yield of 1,000 gallons per minute, and drilled to a depth between 2,300 and 2,500 feet, hereinafter referred to as the "Project"). The wellhead site is located at the designated site, west of NMHWY 4, in Los Alamos Canyon, Santa Fe County (hereinafter referred to as the "Property"); and

WHEREAS, the Board of Public Utilities approved this Agreement at a public meeting held on April 19, 2017; and

WHEREAS, the County Council approved this Agreement at a public meeting held on May 2, 2017;

NOW, THEREFORE, for and in consideration of the premises and the covenants contained herein, County and Contractor agree as follows:

SECTION A. SCOPE OF SERVICES

SECTION A.1. GENERAL

- a) Throughout this SECTION. A. SCOPE OF SERVICES, the terms “services,” “work,” and “project,” are used interchangeably.
- b) This is a performance-based Agreement. Contractor is responsible for verifying the work of its subcontractors. Contractor’s progress schedule, including benchmarks, milestones and deliverables, are attached as **Exhibit “C,” “Project Schedule.”**
- c) Any review of the Contractor’s Services by County does not relieve the Contractor of its obligations under this Agreement.
- d) Services include detailed design, drilling, development and pump testing of the new Otowi 2 Water Supply Well, (“O2W”) located in Los Alamos Canyon on a U.S. Department of Energy (DOE) owned site off State Road NM4, approximately 0.5 miles from its intersection with State Road NM502. Contractor shall utilize its professional team, including its subcontractors, to develop the necessary drawings and technical specifications for approval by pertinent regulatory agencies, accomplish drilling execution by a properly licensed drilling execution operator (from well’s pilot hole to reaming, casing, full development, flow and quality testing), coordinate with relevant regulatory agencies, and accomplish verification of well drilling and development in compliance with all specifications, for the new O2W to be equipped and ready to operate as part of County’s water supply system.
- e) As Contractor deems applicable, construction segments of this Agreement shall follow the standards described in Department of Public Utilities (DPU) Construction Standards, which can be found at:
<ftp://files.losalamosnm.us/utl/DPU%20Construction%20Standards/>.
- f) County and Contractor agree that performance delays due to unknown geological conditions not reasonably anticipated by either party shall not be the responsibility of the Contractor.
- g) Various forms for use during the performance and administration of this Agreement are attached as **Exhibit “E,” “Forms,”** and include:
 - 1) Notification of Award
 - 2) Acceptance of Notice of Award
 - 3) Performance Bid
 - 4) Payment (Labor and Materials Bond)
 - 5) Notice to Proceed
 - 6) Acceptance of Notice to Proceed
 - 7) Change Order
 - 8) Payment Application
 - 9) Affidavit of Payment and Release of Liens

SECTION A.2. ENGINEERING

Task 1. Site Survey: Contractor shall ensure verification of the O2W property boundaries within fourteen (14) days of County's Authorization to Proceed ("CAP"), and submit such to County's Project Manager ("PM").

TASK 2. Topographic Base Mapping: Contractor shall perform topographic base mapping to one-foot contours of the O2W site, as necessary for fine site grading, drawn in CADD (Civil 3-D) format. Contractor shall submit completed topographic map to PM in electronic format within thirty (30) days of CAP.

Task 3. Coordinate Underground Utility Locates: Contractor shall coordinate underground utility locates at the O2W site. This Task, 1C., shall be completed within ten (10) days from date of CAP, and Contractor shall submit copy of written coordination to PM.

Task 4. Civil Construction Drawings: Contractor shall prepare and seal all drawings deemed necessary by Contractor to address all elements of a finalized site development that will envelop the new wellhead, including security fencing. At minimum, the drawings shall include the following:

- a) General Sheets
- b) Site Civil Design
- c) Well Section and Details
- d) Typical Civil Details

Contractor shall submit copy in electronic form to PM within sixty (60) days of CAP.

Task 5: Construction Specifications: Contractor shall provide supplemental technical specifications necessary to administer well drilling and site development operations. These specifications will, at minimum, include the following:

- a) Summary of Work, Contract Considerations, Technical Specifications, Coordination and Meetings, Quality Control, Regulatory Requirements, Construction Facilities and Temporary Controls, Construction Mobilization/Demobilization, Clean-up, and Project Closeout.
- b) Rough Grading, Well Drilling.
- c) Concrete Forms and Accessories, Concrete Reinforcement, Cast-in place Concrete.
- d) Security Fencing.

Contractor shall submit electronic copies of these documents to PM within sixty (60) days of CAP.

Task 4. Regulatory Agency Submittal: Prior to starting construction of the O2W well, Contractor shall prepare and submit relevant documentation to the New Mexico Environment Department – Drinking Water Quality Bureau (NMED-DWQB). The submittal packages shall include, at minimum, the following:

- a) Complete Application
- b) Sealed Engineering Drawings and Technical Specifications
- c) Design Summary Report
- d) Hydrogeologic Assessment
- e) Contaminant Inventory
- f) Requirements for Primary and Secondary Contaminant Water Quality Testing

- g) Coordination with NMED-DWQB
- h) Review Comment Reply

Contractor shall submit written proof of submittals to PM within sixty (60) days of CAP.

Task 5. New Mexico Office of the State Engineer (NMOSE) Well Permit: Contractor shall prepare and submit relevant documentation, including a complete Plan of Operations as may be required by NMOSE. Additionally, Contractor shall address any review comments from NMOSE and assist County on matters related to NMOSE well permit. Contractor shall submit electronic copies of relevant documentation to PM within sixty (60) days of CAP.

Task 6. Discharge Permits: In the performance of this task, Contractor shall perform all necessary work in connection with the requirements for discharging waters resulting from well testing and development. Contractor shall file a Notice of Intent ("NOI") and/or file an application for a temporary National Pollutant Discharge Elimination System ("NPDES") permit with United States Environmental Protection Agency ("USEPA"). Contractor shall closely coordinate with Department of Energy ("DOE"), as well as the City and County of Santa Fe, in connection with any discharge into Los Alamos Canyon. Contractor shall submit electronic copies of relevant documentation to PM within sixty (60) days of CAP.

Task 7. Construction Administration/Management: Contractor shall provide services to include the following items:

- a) Facilitation of Construction Progress Meetings
- b) Site Visits and Construction Progress Review
- c) Verification of Quantities and Preparation of Pay Applications
- d) Review Needs/Requests for Design Changes
- e) Substantial/Final Completion Inspection of Drilling and Development Operations, Punch-listing and Recommendation for County Acceptance
- f) Shop Drawing Review and Assembly
- g) Project Closeout, Final Payment Request Preparation and Submittal to County

Task 8: Project Records Assembly and Management: Contractor shall provide project records assembly and management services to include the following:

- a) Preparation of written and photo documentation of all site activities, methods used by driller, quantities and volumes of material used throughout the execution of the well drilling and development.
- b) Documentation of nature and quality of water produced during well development.
- c) Contractor shall submit all records to PM in electronic form prior to close out of the Project.

Task 9. Final Log Report: Contractor shall provide full and accurate documentation, for the record, of final well conditions (as-built), geophysical and lithologic logs, sieve analysis, development procedures, test pumping data, calculated aquifer hydraulic properties, data interpretation, recommendations for maximum pumping rate and corresponding pumping water level. Contractor shall first present the report to County in draft form, County will review, and following acceptance by County, final form shall be submitted by Contractor within thirty (30) days of completing well drilling and development operations.

SECTION A.2. WELL DRILLING AND DEVELOPMENT

Throughout the execution of Well Drilling and Development portion of the O2W project, Contractor shall provide a written weekly progress report to County PM. Contractor shall provide justification for any deviations between actual progress and scheduled progress as described in Exhibit "C," "Progress Schedule."

Task 1. Implementation of Approved Storm Water Pollution Prevention Plan (SWPPP): Contractor shall provide services to include installation, maintenance and daily inspection of all Best Management Practice ("BMP") items, in compliance with the SWPPP for the duration of the project.

Task 2. Site Preparation and Improvements: Contractor shall perform all work, including any preparation work necessary for safe drilling rig, appurtenant equipment and material access.

Task 3. Drilling and Development Operations: Contractor shall use drilling methodology and drill the pilot hole, followed by reaming, casing, screen installation, gravel pack installation and proper grouting, all as specified in the design document.

SECTION B. TERM: This Agreement shall commence on May 3, 2017 and shall continue until December 31, 2019, with the option to renew for one (1) additional year, unless sooner terminated as provided in Section R. The dates may only be changed by a written Change Order between Contractor and County.

SECTION C. COMPENSATION:

- 1. Amount of Compensation:** The County shall pay the Contractor compensation as described in Exhibit "D," "Project Cost," in an amount not to exceed TWO MILLION FIVE HUNDRED EIGHTY THREE THOUSAND SIX HUNDRED NINETY FOUR DOLLARS (\$2,583,694.00), plus applicable NMGR, and adjusted by approved Change Orders.
- 2. Invoicing:** Invoices shall be submitted using Contractor's Application and Certification for Payments Forms ("Application for Payment"). Contractor shall submit a detailed breakdown of the unit costs associated with all well drilling and development items, as a function of depth.

SECTION D. TAXES: Contractor shall be solely responsible for timely and correctly billing, collecting and remitting all NMGR levied on the amounts payable under this Agreement.

SECTION E. STATUS OF CONTRACTOR, STAFF, AND PERSONNEL: This Agreement calls for the performance of services by Contractor as an independent contractor. Contractor is not an agent or employee of County and will not be considered an employee of County for any purpose. Contractor, its agents or employees shall make no representation that they are County employees, nor shall they create the appearance of being employees by using a job or position title on a name plate, business cards, or in any other manner, bearing County's name or logo. Neither Contractor nor any employee of Contractor shall be entitled to any benefits or compensation other than the compensation specified herein. Contractor shall have no authority to bind County to any agreement, contract, duty or obligation. Contractor shall make no representations that are intended to, or create the appearance of, binding County to any agreement, contract, duty, or obligation. Contractor shall have full power to continue any outside employment or business, to employ and discharge its employees or associates as it deems appropriate without interference from County; provided, however, that Contractor shall at all times during the term of this Agreement maintain the ability to perform the obligations in a professional, timely and reliable manner.

SECTION F. STANDARD OF PERFORMANCE: Contractor agrees and represents that it has and will maintain the personnel, experience and knowledge necessary to qualify it for the particular duties to be performed under this Agreement. Contractor shall perform the Services described herein in accordance with a standard that exceeds the industry standard of care for performance of the Services.

SECTION G. DELIVERABLES AND USE OF DOCUMENTS: All deliverables required under this Agreement, including material, products, reports, policies, procedures, software improvements, databases, and any other products and processes, whether in written or electronic form, shall remain the exclusive property of and shall inure to the benefit of County as works for hire; Contractor shall not use, sell, disclose, or obtain any other compensation for such works for hire. In addition, Contractor may not, with regard to all work, work product, deliverables or works for hire required by this Agreement, apply for, in its name or otherwise, any copyright, patent or other property right and acknowledges that any such property right created or developed remains the exclusive right of County. Contractor shall not use deliverables in any manner for any other purpose without the express written consent of County.

SECTION H. EMPLOYEES AND SUB-CONTRACTORS: Contractor shall be solely responsible for payment of wages, salary or benefits to any and all employees or contractors retained by Contractor in the performance of the Services. Contractor agrees to indemnify, defend and hold harmless County for any and all claims that may arise from Contractor's relationship to its employees and subcontractors.

SECTION I. INSURANCE: Contractor shall obtain and maintain insurance of the types and in the amounts set out below throughout the term of this Agreement with an insurer acceptable to County. Contractor shall assure that all subcontractors maintain like insurance. Compliance with the terms and conditions of this Section is a condition precedent to County's obligation to pay compensation for the Services and Contractor shall not provide any Services under this Agreement unless and until Contractor has met the requirements of this Section. County requires Certificates of Insurance or other evidence acceptable to County that Contractor has met its obligation to obtain and maintain insurance and to assure that subcontractors maintain like insurance. Should any of the policies described below be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. General Liability Insurance and Automobile Liability Insurance shall name County as an additional insured.

1. **General Liability Insurance:** ONE MILLION DOLLARS (\$1,000,000.00) combined single limit per occurrence; TWO MILLION DOLLARS (\$2,000,000.00) aggregate.
2. **Workers' Compensation:** In an amount as may be required by law. County may immediately terminate this Agreement if Contractor fails to comply with the Worker's Compensation Act and applicable rules when required to do so.
3. **Automobile Liability Insurance for Contractor and its Employees:** ONE MILLION DOLLARS (\$1,000,000.00) combined single limit per occurrence; TWO MILLION DOLLARS (\$2,000,000.00) aggregate on any owned, and/or non-owned motor vehicles used in performing Services under this Agreement.
4. **Professional Liability Insurance:** Contractor shall maintain Professional Liability Insurance, as may be applicable to the particular profession or service to be provided, with a limit of not less than \$1,000,000 each Claim, with a \$2,000,000 annual aggregate, without any restrictive "negligent act, negligent error, or negligent omission" clause, and with coverage extending for a three (3) year period from completion of this contract, against any and all claims which may arise from the Contractor's negligent performance of work described herein.

SECTION J. RECORDS: Contractor shall maintain, throughout the term of this Agreement and for a period of six (6) years thereafter, records that indicate the date, time, and nature of the services rendered. Contractor shall make available, for inspection by County, all records, books of account, memoranda, and other documents pertaining to County at any reasonable time upon request.

SECTION K. APPLICABLE LAW: Contractor shall abide by all applicable federal, state and local laws, regulations, and policies and shall perform the Services in accordance with all applicable laws, regulations, and policies during the term of this Agreement. In any lawsuit or legal dispute arising from the operation of this Agreement, Contractor agrees that the laws of the State of New Mexico shall govern. Venue shall be in the First Judicial District Court of New Mexico in Los Alamos County, New Mexico.

SECTION L. NON-DISCRIMINATION: During the term of this Agreement, Contractor shall not discriminate against any employee or applicant for an employment position to be used in the performance of the obligations of Contractor under this Agreement, with regard to race, color, religion, sex, age, ethnicity, national origin, sexual orientation or gender identity, disability or veteran status.

SECTION M. INDEMNITY: Contractor shall indemnify, hold harmless and defend County, its Council members, employees, agents and representatives, from and against all liabilities, damages, claims, demands, actions (legal or equitable), and costs and expenses, including without limitation attorneys' fees, of any kind or nature, arising from Contractor's performance hereunder or breach hereof and the performance of Contractor's employees, agents, representatives and subcontractors.

SECTION N. FORCE MAJEURE: Neither County nor Contractor shall be liable for any delay in the performance of this Agreement, nor for any other breach, nor for any loss or damage arising from uncontrollable forces such as fire, theft, storm, war, geological conditions that could not have reasonably been identified in advance of drilling operations, or any other force majeure that could not have been reasonably avoided by exercise of due diligence.

SECTION O. NON-ASSIGNMENT: Contractor may not assign this Agreement or any privileges or obligations herein without the prior written consent of County.

SECTION P. LICENSES: Contractor shall maintain all required licenses including, without limitation, all necessary professional and business licenses, throughout the term of this Agreement. Contractor shall require and shall assure that all of Contractor's employees and subcontractors maintain all required licenses including, without limitation, all necessary professional and business licenses.

SECTION Q. PROHIBITED INTERESTS: Contractor agrees 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 its services hereunder. Contractor further agrees that it will not employ any person having such an interest to perform services under this Agreement. No County Council member or other elected official of County, or manager or employee of County shall solicit, demand, accept or agree to accept a gratuity or offer of employment contrary to Section 31-282 of the Los Alamos County Code.

SECTION R. TERMINATION:

1. **Generally.** County may terminate this Agreement with or without cause upon ten (10) days prior written notice to Contractor. Upon such termination, Contractor shall be paid for Services actually completed to the satisfaction of County at the rate set out in Section C. Contractor shall render a final report of the Services performed to the date of termination and shall turn over to County originals of all materials prepared pursuant to this Agreement.
2. **Funding.** This Agreement shall terminate without further action by County on the first day of any County fiscal year for which funds to pay compensation hereunder are not appropriated by County Council. County shall make reasonable efforts to give Contractor at least ninety (90) days advance notice that funds have not been and are not expected to be appropriated for that purpose.

SECTION S. NOTICE: Any notices required under this Agreement shall be made in writing, postage prepaid to the following addresses, 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:

County:

Patricio Guerrerortiz, PE
Incorporated County of Los Alamos
Department of Public Utilities
1000 Central Avenue, STE 130
Los Alamos, New Mexico 87544

Contractor:

Brian Ambrogi, PE
Wilson and Company, Inc.
2600 The American Road
STE 100
Rio Rancho, New Mexico 87124

SECTION T. INVALIDITY OF PRIOR AGREEMENTS: This Agreement supersedes all prior contracts or agreements, either oral or written, that may exist between the parties with reference to the services described herein and expresses the entire agreement and understanding between the parties with reference to said services. It cannot be modified or changed by any oral promise made by any person, officer, or employee, nor shall any written modification of it be binding on County until approved in writing by both County and Contractor.

SECTION U. CAMPAIGN CONTRIBUTION DISCLOSURE FORM: A Campaign Contribution Disclosure Form was submitted as part of the Contractor's Response and is incorporated herein by reference for all purposes. This Section acknowledges compliance with Chapter 81 of the Laws of 2006 of the State of New Mexico.

SECTION V. WARRANTIES: The Contractor warrants to the County that all materials and equipment furnished under this Agreement will be new, and that all Work will be of good quality, free from improper workmanship and defective materials and in general accordance with the Plans and Specifications. The Contractor agrees to correct all Work performed by it under this Agreement which proves to be defective in material and workmanship within a period of eighteen (18) months from the date of delivery or twelve (12) months after the date of Substantial Completion, whichever comes later. County will give Contractor written notice of each defect promptly after discovery. In addition, the Contractor shall extend to the County all warranties received from subcontractors and material men.

SECTION W. SUPPLEMENTAL CONDITIONS FOR WELL DRILLING AND DEVELOPMENT:

SECTION W.1. Materials, Services and Facilities

- 1) Materials and equipment shall be so stored as to insure the preservation of their quality and fitness for the Work. Stored materials and equipment to be incorporated in the Work shall be located so as to facilitate prompt inspection.
- 2) Manufactured articles, materials, and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned as directed by the manufacturer.
- 3) Materials and equipment shall be of good quality and new.
- 4) Contractor shall, if required, furnish evidence of the quality of any materials.
- 5) Where applicable, materials shall be delivered to the site in original packaging with labels and trademarks intact, and such labels and trademarks shall remain intact until used.

SECTION W.2. Protection of Work, Property and Persons

- 1) The Contractor will be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. All apparatus, equipment and construction shall meet all requirements of all federal, state and local laws applicable to including but, not limited to labor and safety laws.
- 2) In emergencies affecting the safety of persons or the Work or property at the site or adjacent thereto, the Contractor, without special instruction or authorization from the County, shall act to prevent threatened damage, injury or loss. Contractor will give the County prompt written notice of any significant changes in the Work or deviations from the Contract Documents caused thereby and a Change Order shall thereupon be issued covering the changes and deviations involved.

SECTION W.3. Changes in the Work

- 1) The County may at any time, as the need arises, order changes within the scope of the Work without invalidating the Agreement. If such changes increase or decrease the amount due under the Contract Documents, or in the time required for performance of the Work, an equitable adjustment shall be authorized by Change Order.
- 2) Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any Work performed that is not required by the original Contract Documents or as amended or modified except in the case of an emergency, which shall be defined as an event or situation which could affect the safety or protection of persons or the Work, or property,

real or personal, at the site or on related construction and staging areas and roads, or property adjacent thereto.

SECTION W.4. Job Site Conditions

- 1) Contractor is responsible for compliance with applicable federal regulations with regard to hazardous waste, as defined in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time; storm water or storm water management; protected species and archeological sites as applicable.
- 2) Contractor shall reseed disturbed areas in accordance with County requirements as described in DPU Construction Standards, which can be found at <ftp://files.losalamosnm.us/utl/DPU%20Construction%20Standards/>.
- 3) Contractor shall be responsible for all areas of the project used by the Contractor, subcontractors, suppliers or other involved in performance of the services to be performed in the Contract. Contractor shall have the right to exclude all persons who have no purpose or function related to the performance or inspection of the services, except personnel employed by the County or other governmental agencies. Contractor may require all persons on the site of the work to observe all regulations the Contractor requires of the Contractor's employees. Contractor will exert full control over the site and personnel with respect to use, safety and preservation of property and the existing facilities, except for controls as reserved to County or others.
- 4) Contractor shall confine construction equipment, the storage of materials and equipment and the operations of workers to the site defined in the Easement Document, attached as Exhibit "B".
- 5) Contractor shall be responsible for all materials brought to the job sites by Contractor, subcontractors or anyone else Contractor is responsible for.
- 6) Volatile, hazardous or dangerous wastes shall be properly stored and covered metal containers. The Contractor shall promptly remove all spilled or splattered materials from surfaces to prevent marring, staining, or damage. All wastes shall be disposed of in compliance with applicable anti-pollution laws and local ordinances. Adequate clean-up will be evaluated prior to applications for progress payment.
- 7) The County shall have the right to enter the premises for the purpose of doing work not covered by the Agreement. This provision shall not be construed as relieving the Contractor of the sole responsibility for the care and protection of the Work or the restoration of any damaged Work except such as may be caused by agents or employees of the County.
- 8) County may perform other work related to the Project at the site by County's own employees or let other direct contracts therefore.

- 9) Contractor shall not endanger any work of others by cutting, excavating or otherwise altering their work and will only cut or alter their work with the written consent of County and the others whose work will be affected.
- 10) Gas and Oil Storage, Service Areas – County's Project Manager shall approve the location of any equipment areas, gas and oil storage areas, and service areas. Contractor shall clear all areas of brush, litter, grass and all other flammable debris for a radius of 50 feet.
- 11) Prevention of Oil Spills – If Contractor maintains storage facilities or uses flammable or combustible liquids in the project area, Contractor will provide to the Fire Marshall an operational plan that addresses the use and appropriate measures which will address spill containment and clean-up. Pollutants such as fuels, lubricants and other harmful materials shall not be discharged on the ground.
- 12) Contractor, at its sole expense, shall immediately take action to contain and clean up all petroleum product spills on or in the vicinity of the project which are caused by Contractor's employees directly or indirectly as a result of subcontractor operations. Contractor will be held liable for all damages and costs of additional labor, equipment, supplies, and transportation deemed necessary by the County for the containments and cleanup of petroleum product spills caused by Contractor's employees or resulting from subcontractor operations. Contractor shall immediately report all petroleum product spills to the County.
- 13) Control of Sources of Ignition - When Contractor uses any process that requires an ignition source, Contractor must provide a plan outlining the process and prior approval must be granted by the Fire Marshall before any ignition source is used within the project area.
- 14) Contractor shall conduct all activities associated with this project in such a manner that there will not be any adverse impact to archeological sites, trails, identified natural features, fences, gates, public and private property.
- 15) Contractor shall be responsible for all damage to property and to persons, including third parties that occur as a result of its or its agent's or employee's or subcontractor or subcontractor's employees fault or negligence.
- 16) In the event of interruption to utility services because of accidental breakage or as a result of lines being exposed or unsupported, Contractor shall promptly notify County and shall cooperate with County in the restoration of services.
- 17) Contractor shall protect all streets, public highways, private roads and sidewalks, including overhead protection where required, and shall make all necessary repairs for damage thereto during course of the work at Contractor's own expense.
- 18) Contractor shall provide proper protection of all old work, furnishings and fixtures likely to be damaged. When exterior openings are made to existing structures or buildings, they shall be weather and water tight at the end of the day's work.

- 19) Any work damaged by failure to provide protection shall be removed and replaced with new work at Contractor's expense.
- 20) There is no potable water at the construction site.
- 21) The Contractor shall provide temporary sanitary facilities and shall be responsible for their care and maintenance during the project. The temporary sanitary facilities shall be removed immediately upon acceptance of the project by the County.
- 22) Contractor shall remove all snow and ice as may be required for the proper protection and prosecution of the work and access to job site.
- 23) Contractor shall provide all shoring, bracing and sheathing as required for safety and for proper execution of the work and have same removed when work is completed.
- 24) Contractor shall provide installation and maintenance of necessary precautions to protect all persons on the site, including members of the general public, from injury or harm, including but not limited to posting of appropriate warning signs in hazardous areas.
- 25) Contractor shall at all times provide protection against weather (rain, winds, storms, frost, floods or heat) so as to maintain all work, materials, apparatus, and fixtures free from injury or damage. At the end of the day's work, all new work likely to be damaged shall be protected.
- 26) During cold weather, Contractor shall protect all work from damage. If low temperatures make it impossible to continue operations safely in spite of cold weather precautions, Contractor shall cease work and so notify County.
- 27) Contractor shall provide and maintain in working order all fire protection measures required by OSHA and National Fire Protection Association standards. Fires shall not be built on the premises.
- 28) Contractor shall be responsible for coordinating the temporary installation of any utilities needed for the performance of the Work.
- 29) Should concealed conditions encountered in the performance of the Work below the surface of the ground or should concealed or unknown conditions in an existing structure be at variance with the conditions indicated by the Construction Documents, or should unknown physical conditions below the surface of the ground of an unusual nature or should concealed or unknown conditions in an existing structure of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Agreement, be encountered, the Contractor shall promptly, and before such conditions are materially disturbed, notify the County of such conditions. The County shall promptly, and within two (2) working days of receipt of Contractor's notice of such conditions, investigate the conditions. Such notice to County may be oral with written confirmation of such conditions from Contractor to follow. In the event the County reasonably finds that such conditions are so at

variance or do so materially differ, then the Cost of the Work and/or the Construction Schedule shall be equitably adjusted by Change Order in accordance with Section AA hereof, upon claim by Contractor made within thirty (30) days after the first observance of the conditions.

- 30) No claim of the Contractor under this clause shall be allowed unless the Contractor has given the notice required in Number 1 above; provided, however, the time prescribed therefore may be extended by the County.
- 31) No claim by the Contractor for an equitable adjustment hereunder shall be allowed if asserted after Final Payment under this Agreement.

SECTION W.6. Easements and Additional Land

- 1) Prior to the beginning of any work, the County shall obtain, delineate and provide descriptions of all easements necessary for use by Contractor in performing the Work.
- 2) The Contractor shall provide at the Contractor's own expense and without liability to the County any additional land and access thereto that the Contractor may desire for temporary construction facilities or for storage of materials.
- 3) Access road from NM4 shall be via restricted access gate and DOE dirt road. Gate shall remain closed at all times and access road will be maintained free of Work-related obstructions.

SECTION W.7. Additional Requirements

- 1) Wage Decision LA 17-0204-H, issued by the New Mexico Department of Workforce Solutions, shall apply to this project has been uploaded onto the County's FTP site, and is attached as Exhibit "A."
- 2) Each certified payroll shall have the correct Wage Rate Decision Number printed clearly on the first page. The Contractor and all Subcontractors shall also submit certified payrolls. Prior to the issuance of a Certificate of Payment, the Contractor shall determine that a certified payroll has been submitted to the State Labor Commission as provided for by State law and that all other provisions applicable to and relating to the payment of wages to artisans, draftsmen and laborers has been abided by and that said payments have been made in accordance with established scales as furnished by the State Labor Commission for this particular contract. In addition, the Contractor will not be allowed to split an individual worker(s) time/wages between crafts/laborer classifications.

SECTION X. LICENSES, PERMITS, LAWS, AND REGULATIONS:

- 1) Contractor shall maintain all required licenses, including without limitation all necessary professional and business licenses, throughout the term of this Agreement. Contractor shall require and shall assure that all of Contractor's employees and subcontractors maintain all required licenses, including without limitation all necessary professional and business licenses.
- 2) Contractor shall comply with all laws, rules, and regulations (Federal, State and local) in effect as of the date hereof, pertaining to the Work, and it shall give such

notices and obtain such permits and licenses except as may otherwise be obtained by County as may be necessary to comply with said laws, rules and regulations. The Contractor shall submit copies of such permits and licenses to the County.

- 3) Contractor understands and agrees that certain aspects of the Work require interpretations of governmental codes, statutes and regulations by Contractor's professional consultants (i.e., architect, engineer, etc.). In the event that such interpretation is determined to be unacceptable to governmental authorities having jurisdiction over the Work and, as a consequence, Contractor is then ordered or directed by such authorities to redesign, correct and reconstruct items of work, the cost of such re-design, correction or reconstruction shall not be charged to County.

SECTION Y. PERFORMANCE AND PAYMENT BONDS: Contractor shall provide County with a Performance Bond and a Payment Bond naming County as Obligee in an amount equal to one hundred percent (100%) of the Contract Price inclusive of NMGR and drawn on a Surety licensed to do business in New Mexico in a form satisfactory to County to secure a proper compliance with this Agreement within ten (10) days of the Contractor's execution of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date(s) set forth opposite the signatures of their authorized representatives.

**ATTEST
INCORPORATED COUNTY OF LOS ALAMOS**

**NAOMI D. MAESTAS
COUNTY CLERK**

BY: _____ **DATE**
**TIMOTHY A. GLASCO, PE
UTILITIES MANAGER**

Approved as to form:

**J. ALVIN LEAPHART
COUNTY ATTORNEY**

**WILSON AND COMPANY, INC., A KANSAS
CORPORATION**

BY: _____

TITLE: _____

DATE: _____



STATE OF NEW MEXICO
NEW MEXICO DEPARTMENT OF
WORKFORCE SOLUTIONS
Labor Relations Division,
121 Tijeras Ave NE, Suite 3000
Albuquerque, NM 87102
www.dws.state.nm.us

AGR17-30 Exhibit "A"

Wage Decision Approval Summary

1) Project Title: Otowi 2 Well Design Drilling and Development
Requested Date: 02/02/2017
Approved Date: 02/03/2017
Approved Wage Decision Number: LA-17-0204-H

Wage Decision Expiration Date for Bids: 06/03/2017

2) Physical Location of Jobsite for Project:
Job Site Address: MM 0.25, NM HWY 4
Job Site City: Los Alamos
Job Site County: Los Alamos

3) Contracting Agency Name (Department or Bureau): Los Alamos County
Contracting Agency Contact's Name: Patricio Guerreortiz
Contracting Agency Contact's Phone: (505) 663-1907 Ext.

4) Estimated Contract Award Date: 03/22/2017

5) Estimated total project cost: \$2,310,000.00
a. Are any federal funds involved?: No
b. Does this project involve a building?: No
c. Is this part of a larger plan for construction on or appurtenant to the property that is subject to this project?: No
d. Are there any other Public Works Wage Decisions related to this project?: No
e. What is the ultimate purpose or functional use of the construction once it is completed?: Develop a new potable water supply well for the customers of Los Alamos County Utilities

6) Classifications of Construction:

Classification Type and Cost Total	Description
Highway Engineering (H) Cost: \$2,310,000.00	design, drill and develop 2500' deep, 16-inch diameter casing potable water supply well.

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Exhibit "B"
Easement Document
Separate Document in Contract (O) Drive

AGR17-30
Exhibit "C"
Project Schedule
Will be added as soon as clarification is submitted by Wilson

Exhibit "D"
Project Cost
Separate Document in Contract (O) Drive

Exhibit "E"
Forms
Separate Document in (O) Drive
