



## INCORPORATED COUNTY OF LOS ALAMOS SERVICES AGREEMENT

This **SERVICES AGREEMENT** ("Agreement") is entered into by and between the **Incorporated County of Los Alamos**, an incorporated county of the State of New Mexico ("County"), and **Los Alamos National Bank**, locally owned and operated by Trinity Capital Corporation, a New Mexico corporation ("Contractor" or "LANB"), to be effective for all purposes February 1, 2019.

**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. 19-27 (the "RFP") on October 28, 2018, requesting proposals for Lockbox Services, as described in the RFP; and

**WHEREAS**, Contractor timely responded to the RFP by submitting a response dated November 19, 2018 ("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**, the Board of Public Utilities approved this Agreement at a public meeting held on January 16, 2019; and

**WHEREAS**, Contractor shall provide the Services, as described below, to County.

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

### **SECTION A. SERVICES:** Contractor shall provide Lock Box Services as follows:

1. **Contractor Services for Utilities and County Assessor.** Contractor shall provide Lockbox Services for the collection of monthly County utility customer payments and County Assessor semi-annual property tax payments (collectively, the "Payments") as follows:
  - a. Maintain the existing lockbox at the Los Alamos Town Site U.S. Postal Service office where customers can mail in their payments and remittance slips. Rental fees for the Lock Box shall be paid by LANB, yet shall be reimbursable by County upon submission by LANB of a paid rental receipt from the Post Office. Such reimbursement is in addition to and is not included in the Compensation for this Agreement.
  - b. Perform at least one (1) pickup of Payments from the Lock Box each business day and, before the beginning of the next business day, deposit Payments to County's designated bank account.
  - c. Provide daily secure electronic reporting of collections and deposits to County in a format specified by County that includes, at a minimum, customer's Identification and Account numbers, and the total amount paid. In addition, Contractor shall

provide other data from the remittances as required and specified by County so that County may electronically post receipts to customer accounts.

- d. Contractor shall receive Payments at all of Contractor's branch offices in Los Alamos and White Rock during normal business hours. During the following hours in the lobby and drive through facilities, Contractor tellers shall receive Payments from and provide Payment receipts to County customers:

Branch Office:	Location:	Lobby Hours:	Drive Through:
Los Alamos	1200 Trinity Drive	<ul style="list-style-type: none"> <li>Monday – Thursday, 9:00 a.m. to 5:00 p.m., local time;</li> <li>Friday 9:00 a.m. to 6:00 p.m., local time; and</li> <li>Saturday 9:00 a.m. to 12:00 p.m., local time.</li> </ul>	<ul style="list-style-type: none"> <li>Monday – Friday, 7:30 a.m. to 6:00 p.m., local time; and</li> <li>Saturday 9:00 a.m. to 12:00 p.m., local time.</li> </ul>
White Rock	77 Rover Blvd.	<ul style="list-style-type: none"> <li>Monday – Thursday, 9:00 a.m. to 5:00 p.m., local time; and</li> <li>Friday 9:00 a.m. to 6:00 p.m., local time.</li> </ul>	<ul style="list-style-type: none"> <li>Monday – Friday, 9:00 a.m. to 6:00 p.m., local time.</li> </ul>

- e. In addition, Contractor shall receive Payments and provide receipts twenty-four (24) hours per day, seven (7) days per week at the following Contractor owned locations within Los Alamos County:

ATM	Address:
LANB Main Office Drive-Up ATM #1	1200 Trinity Drive, Los Alamos
LANB Main Office Drive-Up ATM #2	1200 Trinity Drive, Los Alamos
The Former Ed's Market ATM Location	1183 Diamond Drive, Los Alamos
Metzger's Hardware ATM Location	128 State Rd. 4, White Rock
Main Office Lobby ATM Location	1200 Trinity Drive, Los Alamos
Smith's Grocery ATM Location	31 Sherwood Blvd., White Rock
LANB White Rock Branch ATM	77 Rover Blvd., White Rock
LANL Otowi Bldg./TA-3 ATM Location	Otowi Building, Los Alamos
Los Alamos Medical Center ATM Location	3917 West Road, Los Alamos

\*County understands and agrees that Contractor's ATMs may be out of service or be unavailable for servicing or from actions which are outside of the control of Contractor, or may be accessible only during normal operating hours of the independent location owner or operator, for locations not owned or operated by Contractor.

**2. DELIVERABLES:** Contractor shall provide daily secure electronic reporting of collections and deposits to County in a format specified by County that includes, at a minimum, the customer's Identification and Account numbers, and the total amount paid. In addition, Contractor shall provide other data from the remittances as required and specified by the County so that County may electronically post receipts to customer's accounts.

**SECTION B. TERM:** The term of this Agreement shall commence February 1, 2019, and shall continue through January 31, 2023 unless sooner terminated, as provided herein. At County's sole option the Agreement may be renewed for up to three (3) consecutive one-year periods, unless sooner terminated, as provided therein.

**SECTION C. COMPENSATION:**

- 1. Amount of Compensation.** County shall pay compensation for performance of the Services in an amount not to exceed ONE HUNDRED FORTY TWO THOUSAND EIGHT HUNDRED DOLLARS (\$142,800.00), for the entire term of this Agreement including any renewals, and which amount does not include applicable New Mexico gross receipts taxes ("NMGRT") and does not include reimbursement of Lock Box rental fees paid by Contractor to the United States Postal Service. Compensation shall be paid monthly for services rendered in the amount of ONE THOUSAND SEVEN HUNDRED DOLLARS (\$1,700.00) each month, and in accordance with the annual rate schedule set out in Exhibit "A," attached hereto and made a part hereof for all purposes. Should the Services Agreement terminate early for whatever reason, County shall remit compensation as specified only for months or partial months during which services were performed.
- 2. Monthly Invoices.** Contractor shall submit itemized invoices to County's Utilities Deputy Manager referencing this Agreement, date of service, amount of compensation due, amount of any NMGRT, and total amount payable. Payment of undisputed amounts shall be due and payable thirty (30) days after County's receipt of the invoice.

**SECTION D. TAXES:** Contractor shall be solely responsible for timely and correctly billing, collecting and remitting all NMGRT 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 meets 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.

**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, 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:

Deputy Utilities Manager – Finance & Administration  
Incorporated County of Los Alamos  
1000 Central Avenue, Suite 130  
Los Alamos, New Mexico 87544

Contractor:

Mark S. Pike, Vice President  
Los Alamos National Bank  
1200 Trinity Drive  
Los Alamos, New Mexico 87544

**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.

**IN WITNESS WHEREOF,** the parties have executed this Agreement on the date(s) set forth opposite the signatures of their authorized representatives to be effective for all purposes on the date first written above.

**ATTEST**

**INCORPORATED COUNTY OF LOS ALAMOS**

\_\_\_\_\_  
**NAOMI D. MAESTAS**  
COUNTY CLERK

BY: \_\_\_\_\_  
**TIMOTHY A. GLASCO, P.E.**                      **DATE**  
UTILITIES MANAGER

**Approved as to form:**

\_\_\_\_\_  
**J. ALVIN LEAPHART**  
COUNTY ATTORNEY

**LOS ALAMOS NATIONAL BANK, LOCALLY OWNED AND  
OPERATED BY TRINITY CAPITAL, A NEW MEXICO  
CORPORATION**

BY: \_\_\_\_\_  
**NAME:** \_\_\_\_\_ **DATE**  
**TITLE:** \_\_\_\_\_

Exhibit "A"  
Compensation Rate Schedule  
AGR19-27

<b>Cost Category</b>	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>	<b>Year 4</b>	<b>Year 5</b>	<b>Year 6</b>	<b>Year 7</b>
<b>Lockbox Annual Fee</b>	\$20,400.00	\$20,400.00	\$20,400.00	\$20,400.00	\$20,400.00	\$20,400.00	\$20,400.00