



## INCORPORATED COUNTY OF LOS ALAMOS SERVICES AGREEMENT

This **SERVICES AGREEMENT** (this "Agreement") is entered into by and between the **Incorporated County of Los Alamos**, an incorporated county of the State of New Mexico ("County"), and **Sancre Productions LLC**, a New Mexico limited liability company ("Contractor"), to be effective for all purposes December 18, 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. 20-28 (the "RFP") on October 27, 2019, requesting proposals for Production of the Los Alamos Summer Concert Series, as described in the RFP; and

**WHEREAS**, Contractor timely responded to the RFP by submitting a response dated November 14, 2019 ("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 County Council approved this Agreement at a public meeting held on December 17, 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:**

#### **1. Contractor deliverables**

- a. During each year of this Agreement, Contractor shall use a combination of sponsorship funds, donations, and County funds to arrange, schedule, and provide fifteen (15) family-friendly and free-to-the-public concert performances in Los Alamos County, with five (5) of the concerts targeted to draw at least 5,000 (five thousand) spectators. The Los Alamos Summer Concert Series shall be scheduled by Contractor for the dates specified in Exhibit "B," attached hereto and made a part hereof for all purposes. Additional concert performances may be provided at Contractor's expense, contingent upon County approval, and after providing County the appropriate insurance and payment of facility rental for additional said concert performances.
- b. Los Alamos Summer Concert Series performances shall be held at Ashley Pond, unless an alternate location is determined and provided by County, and will commence no later than 7:00 p.m., and end no later than 10:00 p.m. If necessary, one break, not to exceed thirty (30) minutes, is allowable. In the event of possible displacement due to maintenance or construction at the designated location of a concert(s), the parties, upon request of either, will meet and confer regarding the subject of possible displacement. County and

Contractor shall attempt to find a new location for the Services to be provided for the time that the Premises is under maintenance or repair.

- c. Contractor shall provide County, for final approval, a completed "Upcoming Season Plan," using the Cost Summary Report (Exhibit "D") as a template, listing all Los Alamos Summer Concert Series performance details by April 15 for each year. All concert performance details shall be approved by County prior to Contractor's booking of any performers. If bookings must change due to unforeseen circumstances, modifications must be approved by County.
- d. Contractor shall supplement County funding for the Los Alamos Summer Concert Series through means that include but are not limited to acquiring sponsorships and collecting donations.
- e. For each year of the Agreement, Contractor shall work with County on site plan(s) for the Los Alamos Summer Concert Series, which will include designated areas for which Contractor is responsible as defined in Exhibit "C," attached hereto and made a part hereof for all purposes. County may withdraw, at its sole discretion, the use of any of the areas of responsibility from Contractor with thirty (30) days written notice. At its sole discretion, County may, but is not required to, designate additional or substitute space for the use by Contractor for the purpose of providing the Services, but such additional space is subject to the same right of withdrawal with notice.
- f. Contractor shall attend regular meetings with County staff to plan for weekly concerts.
- g. Contractor shall provide all logistical needs, including but not limited to, transportation, lodging, equipment (including sound), food, and beverage, for performers, sponsors and Contractor's physical areas of responsibility designated on site plans.
- h. Contractor shall provide personnel sufficient in number to set up, conduct, and take down each concert performance. Cleanup of Contractor's areas of responsibility, as designated on Exhibit "C," shall conclude no later than 1:00 a.m. immediately following each concert. Cleanup must be done in a quiet and efficient manner.
- i. Contractor shall be responsible for the safety and behavior of all persons in the stage area as shown on Exhibit "C" during the setup, conduction, and take-down of the performance. Any necessary security personnel shall be provided by Contractor.
- j. Contractor shall work with County to cross-promote the events in the Los Alamos Summer Concert Series. Cross-promotion of events may include, but is not limited to, flyers, social media, videos, radio ads, press releases, and pre-recorded concert media. All promotion shall promote the "Los Alamos Summer Concert Series" by name. All promotional materials must be approved by the County prior to media and public distribution. All Los Alamos Summer Concert Series promotional material, whether produced by County or Contractor, is property of County.
- k. Contractor shall share any media packages provided by scheduled performers with County upon receipt.
- l. During each year of this Agreement, Contractor shall provide County with a "Season Recap" report, using the Cost Summary Report (Exhibit "D") as a guide, detailing actual costs and contributions of the concert season within thirty (30) days of the final concert.
- m. Contractor shall coordinate and oversee an area, designated on site plans (Exhibit "C"), to be used for a beer garden. Contractor shall submit Los Alamos County Facility Alcohol Use Permits applications to cover the dates of the Los Alamos Summer Concert Series and obtain alcohol dispenser signatures for each subcontractor. Contractor shall also ensure application includes server permit numbers, names, and expiration dates,

certificates of liability insurance for each sub-contractor, as described in Section I herein Contractor shall ensure subcontractors complete the permit application process with New Mexico Alcohol and Gaming Division for each Friday of the concert series. Contractor shall provide any necessary barrier or fencing for the area as required by the State of New Mexico or other applicable regulatory body.

- n. Contractor shall ensure there is no driving or parking on the grassy areas within the Contractor's designated areas of responsibility (Exhibit "C").

**2. County provided in-kind services.** For each concert during the Los Alamos Summer Concert Series identified in Exhibit "B," County will provide the following in-kind services:

- a. Emergency services during concerts;
- b. Public transit before and after concerts;
- c. Traffic control;
- d. Port-a-potties;
- e. County information tent and staffing;
- f. Management of vendors, to include businesses, organizations, and individuals selling and/or distributing information, food, non-alcoholic beverages, goods, and raffle tickets to concert attendees, as well as providers of inflatable or carnival games;
- g. Performer meet and greet assistance; and
- h. Performer-based marketing assistance.

If County procures signage, curtains, or carpets for the stage area during the term of the Agreement, Contractor will be responsible for the setup and takedown of those items for the Los Alamos Summer Concert Series events.

**SECTION B. TERM:** The term of this Agreement shall commence December 18, 2019, and shall continue through September 30, 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.**

For the calendar year 2020 Los Alamos Summer Concert Series, County shall pay compensation for the performance of Services in an amount not to exceed SIXTY-EIGHT THOUSAND FOUR HUNDRED DOLLARS (\$68,400.00), WHICH DOES NOT INCLUDE applicable New Mexico gross receipts taxes ("NMGR") and which shall be paid in accordance with the rate schedule set out in Exhibit "A," attached hereto and made a part hereof for all purposes.

Total compensation for performance of the Services, including all possible extensions, in an amount not to exceed FIVE HUNDRED EIGHT THOUSAND FIVE HUNDRED DOLLARS (\$508,500), which amount does not include applicable NMGR. Compensation shall be paid in accordance with the rate schedule set out in Exhibit "A," attached hereto and made a part hereof for all purposes.

- a. Up to 40% of contractual total for the concert season year may be billed to County by Contractor prior to first concert and after coordination services (pre-planning, marketing, and contracting of concert performers) for the series have taken place.

- b. Upon successful completion of each concert, Contractor shall invoice County for 1/15<sup>th</sup> of remaining compensation due for the current concert season.
2. **Invoices.** Contractor shall submit itemized invoices to County's Project Manager showing amount of compensation due, amount of any NMGR, 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 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 the 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 the 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 shall 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 the 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:

Community Services Director  
Incorporated County of Los Alamos  
1000 Central Avenue, Suite 310  
Los Alamos, New Mexico 87544

Contractor:

Pablo Irlando-Wildman, CEO  
Sancre Productions  
P.O. Box 275  
San Cristobal, New Mexico 87564

**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:** \_\_\_\_\_  
**HARRY BURGESS** **DATE**  
**COUNTY MANAGER**

**Approved as to form:**

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

**SANCRE PRODUCTIONS LLC, A NEW MEXICO**  
**CORPORATION**

**BY:** \_\_\_\_\_  
**PABLO IRLANDO-WILDMAN** **DATE**  
**CEO**

**EXHIBIT "A"**  
**AGR20-28**  
**Compensation Rate Schedule**

For the calendar year 2020 Los Alamos Summer Concert Series, County shall pay compensation for the performance of Services in an amount not to exceed SIXTY-EIGHT THOUSAND FOUR HUNDRED DOLLARS (\$68,400.00), which amount does not include applicable New Mexico gross receipts taxes ("NMGRT"). Up to TWENTY-SEVEN THOUSAND THREE HUNDRED SIXTY DOLLARS (\$27,360) may be invoiced by Contractor to County prior to first concert and after coordination services (pre-planning, marketing, and contracting of concert performers) for the series have taken place. Upon successful completion of each concert, Contractor shall invoice County for 1/15<sup>th</sup> of remaining compensation due.

With Council approval during annual budget hearings for fiscal years 2021 through 2024, and possible extension periods through 2027, Council may increase the budget for this Agreement. If an increase to the budget for this Agreement is not approved by Council, there shall be no budget increase for this Agreement for that year. Any subsequent increases will be calculated from the current compensation amount, regardless of whether the previous year increased or not.

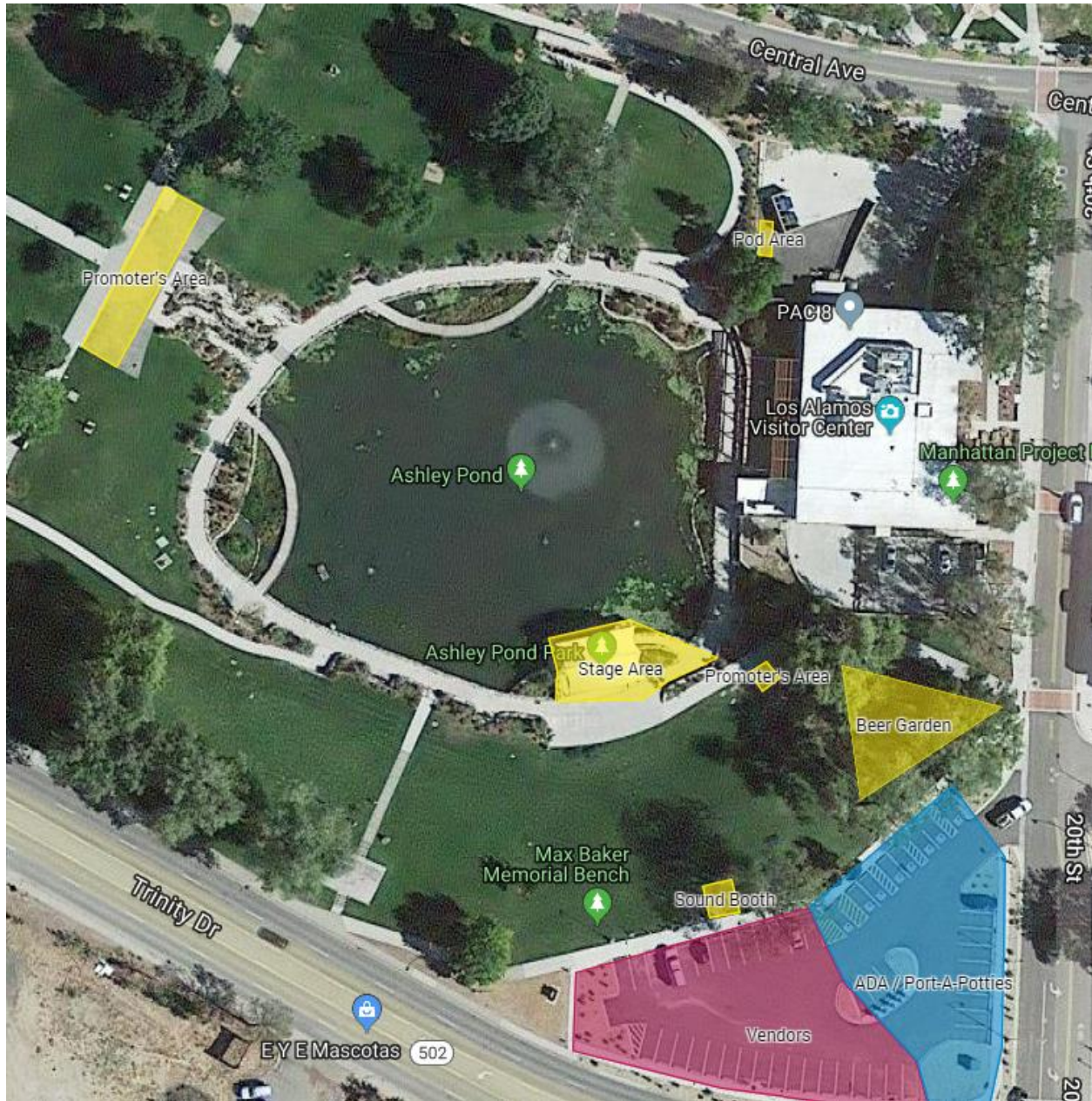


**Exhibit "B"**  
**AGR20-28**  
**Los Alamos Summer Concert Series Dates 2020-2026**

ALL CONCERTS START NO LATER THAN 7:00 PM AND END BY 10:00 PM

LOS ALAMOS SUMMER CONCERT SERIES 2020-2023			renewal years 2024-2026		
2020 EVENTS	Mem. Day Weekend	5/22/2020	2021 EVENTS	Mem. Day Weekend	5/21/2021
		5/29/2020		Mem. Day Weekend	5/28/2021
		6/5/2020			6/4/2021
		6/12/2020			6/11/2021
		6/19/2020			6/18/2021
		6/26/2020			6/25/2021
		7/3/2020			7/2/2021
		7/10/2020			7/9/2021
		7/17/2020			7/16/2021
		7/24/2020			7/23/2021
		7/31/2020			7/30/2021
		8/7/2020			8/6/2021
		8/14/2020			8/13/2021
		8/21/2020			8/20/2021
		8/28/2020			8/27/2021
2022 EVENTS		5/20/2022	2023 EVENTS	Mem. Day Weekend	5/26/2023
	Mem. Day Weekend	5/27/2022			6/2/2023
		6/3/2022			6/9/2023
		6/10/2022			6/16/2023
		6/17/2022			6/23/2023
		6/24/2022			6/30/2023
		7/1/2022			7/7/2023
		7/8/2022			7/14/2023
		7/15/2022			7/21/2023
		7/22/2022			7/28/2023
		7/29/2022			8/4/2023
		8/5/2022			8/11/2023
		8/12/2022			8/18/2023
		8/19/2022			8/25/2023
		8/26/2022		Labor Day Weekend	9/1/2023
2024 EVENTS			2025 EVENTS	Mem. Day Weekend	5/23/2025
					5/30/2025
					6/6/2025
					6/13/2025
					6/20/2025
					6/27/2025
				*	7/4/2025
					7/11/2025
					7/18/2025
					7/25/2025
					8/1/2025
					8/8/2025
					8/15/2025
					8/22/2025
				Labor Day Weekend	8/29/2025
2026 EVENTS			2026 EVENTS	Mem. Day Weekend	5/22/2026
					5/29/2026
					6/5/2026
					6/12/2026
					6/19/2026
					6/26/2026
					7/3/2026
					7/10/2026
					7/17/2026
					7/24/2026
					7/31/2026
					8/7/2026
					8/14/2026
					8/21/2026
					8/28/2026

**Exhibit "C"**  
**AGR20-28**  
**Concert Site Plan for Ashley Pond**



Contractor is responsible for areas in yellow to include stage area, beer garden, and four areas Contractor may choose to utilize if desired: concrete pad to west of pond, sound booth (equipment to be provided by Contractor), 10x10 area near stage and sidewalk, and space for storage pod (not provided by County).

**Exhibit "D"**  
**AGR20-28**  
**Los Alamos Summer Concert Series Cost Summary Report**  
**(Upcoming Season Plan and Season Recap)**

*This document is due from Contractor on April 15 of each calendar year in the Agreement.*

Each date to include 7:00 – 10:00 p.m. performances (no more than 30 minutes total for breaks during this time)

Five concerts must be mega concerts likely to draw 5,000 or more attendees. Put asterisks by mega headliners below.

All concerts will be played at Ashley Pond, unless otherwise determined by County.

1	2	3	4	5	6	7	8	9	10	11
	Concert Dates	Music Genre	Proposed Headliner	Proposed Opener	Performance Costs (such as band fees, performer food & beverage, hotel, travel, security, sound, lighting.)	Series-Related Costs (may average costs over 15 shows)	TOTAL COST (columns 6 + 7)	Amount of County Funds Applied (column total not to exceed contract award)	Amount of Donations and Sponsorship Funds Applied	TOTAL FUNDS APPLIED (columns 9 + 10)
1	5/22/2020									
2	5/29/2020									
3	6/5/2020									
4	6/12/2020									
5	6/19/2020									
6	6/26/2020									
7	7/3/2020									
8	7/10/2020									
9	7/17/2020									
10	7/24/2020									
11	7/31/2020									
12	8/7/2020									
13	8/14/2020									
14	8/21/2020									
15	8/28/2020									
				TOTAL						

***In 2020, a larger scale concert shall NOT be scheduled for August 7<sup>th</sup>.***