



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 **Western Technologies**, an Arizona corporation ("Contractor"), to be effective for all purposes June 28, 2023 ("Effective Date").

WHEREAS, the County Purchasing Officer 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. 23-73 ("RFP") on April 13, 2023, requesting proposals for On-Call Geotechnical and Construction Materials Testing, as described in the RFP; and

WHEREAS, Contractor timely responded to the RFP by submitting a response dated April 27, 2023 ("Contractor's Response"); and

WHEREAS, based on the evaluation factors set out in the RFP, Contractor was one (1) of five (5) successful offerors for the services listed in the RFP; and

WHEREAS, the County Council, as part of a multiple-source award, approved this Agreement, AGR23-73a, AGR23-73b, AGR23-73c, and AGR23-73e at a public meeting held on June 27, 2023; and

WHEREAS, the aggregate compensation between this Agreement and Agreements AGR23-73a, AGR23-73b, AGR23-73c, and AGR23-73e shall not exceed the sum of TWO MILLION DOLLARS (\$2,000,000.00), excluding New Mexico gross receipts taxes ("NMGRT"); and

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

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

SECTION A. SERVICES: Upon County's request, Contractor shall provide On-Call Geotechnical and Construction Materials Testing services as specified herein ("Services"). All Services shall be assigned on an On-Call basis, through Task Orders issued by the County Project Manager, as described in "Task Order Process" herein. County provides no guarantee for frequency or volume of Services to be provided for any given time period throughout the term of this Agreement. Contractor is solely responsible for the means, methods, and processes for completing the agreed upon Services. Project schedules, price, and completion dates shall be determined on a project-by-project basis as outlined in an Approved Task Order, and shall be dependent upon the urgency of the Services. Contractor may be requested to perform any or all of the Services identified below and as will be agreed to in the Approved Task Order(s):

A. Geotechnical Investigation and Laboratory Testing: Contractor shall provide foundation and geologic/geotechnical exploration in accordance with the procedures, requirements and

guidelines outlined in the latest edition of the New Mexico Department of Transportation ("NMDOT") Geotechnical Design Guide ("Manual"). The geotechnical exploration and laboratory testing shall include at least the following:

1. For roadway, soil sampling and testing during construction, Contractor shall represent the two (2) foot prism of finished subgrade.
2. For bridge elements, one (1) soil boring and/or rock core shall be completed at each abutment and each pier element. At the abutments the borings should be taken to a depth of eighty (80) feet. At the piers, the borings should be taken to a depth of one hundred (100) feet. Lesser depths of exploration will be acceptable with the presence of bedrock or very dense soil strata.
3. For retaining walls, one (1) soil boring and/or rock core shall be completed every two hundred (200) feet with no less than two (2) borings completed per wall. Borings should be taken to a depth of twice the height of the walls.
4. For drainage or utility structures and trenches, the need for borings will be determined on a site-by-site basis.
5. Perform required lab testing and soil classifications as required by the Manual. Lab testing may require consolidation and tri-axial testing of undisturbed samples if clay soils are encountered, direct shear tests, or rock core point load and unconfined compression tests.
6. For roadway design, the results of borings/cores shall determine a Designated Design R-Value (ability of a soil medium to resist lateral spreading due to an applied vertical load, such as tire loads), for each independent project. Additionally, based on a project-by-project basis County will determine a number of R-Values (T-190) and NMDOT Charted R-Values needed for the internal pavement design.
7. For roadways, a recommended pavement design based on the results determined by the lab testing.

B. Laboratory and Field-Testing During Construction: Contractor shall perform on a day-to-day basis, Quality Control ("QC"), Quality Assurance ("QA"), and Independent Assurance ("IA") support during construction. QC is best described as the control of day-to-day testing operations during construction for the placement of construction materials in conformance with the Project's plans and specifications. QA is best described as the periodic sampling, testing, inspection, and other activities to determine compliance with design specifications and eligibility for payment and make Acceptance decisions in conformance with the Project's plans and specifications. IA is a construction management tool in which a third party, not directly responsible for QC or QA, provides an independent assessment of the work, materials, and the reliability of test results obtained from QC and QA testing.

1. Required field sampling and testing services shall include, but are not limited to the following: field density tests using a nuclear densometer (trench bedding and backfill, subgrade, base, Hot Mix Asphalt a.k.a. HMA), concrete compressive strengths, concrete slump, concrete air-entrainment, concrete unit weight, modified proctor, standard proctor, sieve analysis, Atterberg limits, HMA Superpave (most common) and conventional lab testing, material source acceptance testing, determination of the strength of soil-lime or soil-cement mixtures, and R-Values.
2. Required sampling and testing of construction materials for source acceptance services shall include, but are not limited to the following: concrete and asphalt aggregates, cement, asphalt binder, hydrated lime, reinforcing steel tensile strength, base materials, engineered fill, foundation material and/or subgrade material including lime or cement mixtures, bedding material, and HMA.

3. Contractor shall be required to attend design team meetings, preconstruction meetings, weekly construction project meetings, and pre-paving operation conferences.
4. Coordination and involvement. Contractor shall be expected to work with a general contractor's schedule as it relates to the appropriate time to observe work activities, obtain samples, and conduct testing.
5. Construction projects, under the terms of the respective contracts, may be subject to pay adjustments based on the quality of hot mix asphalt materials, in-place density of the hot mix asphalt materials, and the record compressive strength of Portland cement concrete in accordance with project specifications. As part of quality control, Contractor may be tasked to core both top and lower mats for representative lot-acceptance. Contractor shall input the test results into the latest NMDOT Composite Price Factor ("CPF") for non-Quality Level Assurance ("QLA") spreadsheets for hot mix asphalt less than 20,000 tons being produced.
6. Observation and documentation. Contractor shall observe and document the quality of materials and their placement/installation during construction that would include any visits to batch plant or source pit locations.
7. Sampling or Testing. Whether performed during the project design or construction phase, County may require traffic control management and devices. Depending on either of these situations, these services may be provided by the general contractor, or Contractor. Traffic Control Services shall only be performed by those possessing a nationally recognized traffic control plan, and installation and management of traffic control devices for the duration of their use. Contractor shall call for utility locates using NM One Call service and complete any and all required permits. Permits include traffic control and excavation. County will waive County permit fees and will compensate for traffic control. Operations shall be coordinated with the general contractor to avoid any conflict within an established work zone.
8. Return condition of sampled locations: Contractor or its subcontractor shall be responsible for the proper patching of core holes using County accepted patching materials as well as final site clean-up (i.e. filling holes, sweeping tracked areas, leveling wheel ruts caused by sampling operation, etc.) once sampling operations are completed.

C. Deliverables: The County will issue Task Orders. The timing and format of such deliverables shall be mutually agreed upon and included in each Task Order. When tasked, the following deliverables shall include any single or combination of the following:

1. Contractor shall provide the results on test reports and shall include a "pass" or "fail" description associated with the quality criteria identified in the construction contracts, the most current NMDOT or AWWA Specifications, International Building Code ("IBC"), and as determined by the County Project Manager or Engineer of Record. Soil Classifications are reported as American Association of State Highway and Transportation Officials ("AASHTO") method unless otherwise specified within the assigned Task Order. Hot Mix Asphalt ("HMA") laboratory testing is to follow AASHTO test procedures for conformance to Superpave design requirements unless otherwise specified within the Task Order.
2. Contractor's geotechnical investigation reports shall include remedies or solutions to soil-foundation problems identified. Reports shall specify the required test results as requested by the Project Manager or Engineer of Record.
3. Contractor's field documentation or daily records must be specific to quality and description of construction materials and their placement/installation methods (e.g. field test reports documenting weather conditions, discussions with a Project Manager,

Engineer of Record, and/or a general contractor, and shall provide any pertinent information on the work being performed such as recommended roll patterns to achieve proper density).

4. Contractor shall provide a NMDOT CPF (Composite Price Factor) for non-QLA (Quality Level Assurance) completed for each lot of HMA placed.

D. Laboratory: Contractor shall maintain participation in the AASHTO Materials Reference Laboratory ("AMRL") Accreditation Program, including laboratory assessments by AMRL and Concrete Reference Laboratory ("CCRL") as well as proficiency sample testing, which helps to ensure accuracy of results and conformance to established standards of practice. Technicians performing tests on soils, aggregates and aggregate gradations shall be certified by Technician Training Certification Program ("TTCP") or ACI Concrete Laboratory Level I or Asphalt Institute ("AI"), National Center for Asphalt Technology ("NCAT"), and the National Institute for Certification in Engineering Technologies ("NICET"). Technicians performing strength tests on hardened concrete must be certified as an ACI Level I Laboratory Technician or by TTCP for Compressive Strength Testing of Concrete. Certifications shall be provided to County as requested.

E. TASK ORDER PROCESS.

1. All Services shall be performed by Task Order. County shall make reasonable efforts to generally provide at least two (2) weeks' notice to Contractor for the Services required under any Task Order. The Task Order shall be priced by Contractor on a regular five (5) day schedule, Monday through Friday, forty (40) hours per week, unless otherwise agreed by both Parties.
2. County's Project Manager shall request the Services of Contractor for individual or multiple projects through a Request for Quote(s). Each Request for Quote shall identify the Services required, generally describe the project and provide a timeline for Project completion. A Request for Quote may be as detailed as County finds necessary to assure appropriate oversight of the Services to be performed. The Compensation Rate Schedule is included as Exhibit A. A sample Quote is included as Exhibit B, and a sample Task Order is provided in Exhibit C, attached hereto and made a part hereof for all purposes.
3. Upon the County's issuance of a Request for Quote, Contractor shall provide a written, itemized Quote for the Services requested by the Project Manager ("Quote"). The Quote shall provide, in writing, the proposed reimbursable material costs, labor hours, and labor type necessary to complete the Task Order. Cost shall conform to the rates described in Exhibit A, attached hereto and made a part hereof for all purposes, as a not-to-exceed price. Any proposed progress billing and payment shall be provided by Contractor in the Quote and is subject to approval by the Project Manager. Preparation and work performed to prepare Quotes shall be considered incidental to the awarded Agreement and not compensable.
4. If Contractor's Quote is signed by Contractor and acceptable to County, the Project Manager shall provide Contractor with written approval ("Approved Task Order"). After receipt of the Approved Task Order, County and Contractor shall schedule the Services. Contractor is only authorized to begin work on any particular phase / task only upon receipt of the Approved Task Order. Contractor shall be required to begin using the requirements detailed in the Approved Task Order and move through the various design phases. Approved Task Orders shall be numbered sequentially (TO1, TO2, etc.)
5. The Approved Task Order shall be adjusted only upon the written agreement of the County after a finding that a change to the Approved Task Order is necessary and justifiable and

only if the increase in expenses is below the approved maximum cap. Contractor's failure to reasonably estimate the cost of completing the task in the first instance shall not be a justification for modifying the Approved Task Order. Modifications to the maximum amount for the Approved Task Order shall be agreed upon by County prior to Contractor continuing the performance of Services. Modifications shall follow the previous nomenclature with letters following (TO1A, TO1B, etc.). In no event shall the total of the maximum amount for all Approved Task Orders for On-Call Engineering Services provided in this Agreement and AGR23-73a, AGR23-73b, AGR23-73c, and AGR23-73e exceed the maximum aggregate amount of compensation set forth in this Agreement. Unanticipated events, such as natural phenomena, shall not form the basis for additional compensation to Contractor.

6. Contractor must take any and all actions to timely complete the Services agreed to in the Approved Task Order, including but not limited to subcontracting the Services. Costs for any Sub-contractors are the responsibility of the Contractor.
7. This Agreement shall not provide Contractor with a guarantee that County will accept Contractor's Quotes and award Contractor Approved Task Orders. County reserves the right, at its sole discretion, to separately quote or bid any project. County's issuance of a Request for Quote is not a guarantee of work to Contractor. County, at its sole discretion, shall determine when Contractor's Services are required and shall issue written Request for Quotes as needed.
8. The amount payable by County shall in every instance be based on time actually spent and services satisfactorily rendered or as the percentage at the payment schedule applicable to the phase, in an amount not to exceed the maximum amount shown on the Approved Task Order by phase. "Satisfactorily rendered" includes but is not limited to items such as timeliness of the various deliverables, completeness, re-work needed to bring the submitted packages up to desired completeness, etc.
9. Contractor may be required to attend Council and other public meetings. The County shall identify the meetings in the Request for Quotes and the Contractor shall include the costs for attendance, based on the hourly rates identified in Exhibit A. In the event that it is determined after issuance of the Approved Task Order that meeting attendance is required, County shall inform Contractor of such, and Contractor shall bill the County, accordingly, based on the hourly rates identified in Exhibit A.

SECTION B. TERM: The term of this Agreement shall commence June 28, 2023, and shall continue through June 27, 2030, unless sooner terminated, as provided herein.

SECTION C. COMPENSATION:

1. Amount of Compensation.

- a. County shall pay compensation for performance of the Services in accordance with the Rate Schedule set out as Exhibit A, "Compensation Rate Schedule."
- b. Compensation for any one Approved Task Order shall not exceed the Approved Task Order amount, which amount shall not include applicable New Mexico gross receipts taxes ("NMGRT").
- c. Compensation for all Agreements, AGR23-73a, AGR23-73b, AGR23-73c, AGR23-73d, and AGR23-73e, over the term of the Agreements, shall not exceed a combined total of TWO MILLION DOLLARS (\$2,000,000.00), including reimbursable expenses and excluding NMGRT.

- 2. Reimbursable Expenses.** County shall pay compensation for approved reimbursable expenses at actual cost with no markup for required third party services or according to the rates provided in Exhibit A, "Compensation Rate Schedule." Reimbursable expenses shall be paid as follows:
- a. Per Diem:
County shall compensate Contractor in accordance with County policy for overnight stays if required and approved by the Project Manager. County shall not reimburse for meals unless incurred as part of approved overnight stays.
 - b. Mileage:
County shall compensate Contractor at the current Federal Rate. The rate shall apply from the Contractor's point of operation to the County specific project site and/or between County-specific project sites.
 - c. Other Reimbursable Expenses:
County shall reimburse expenses such as reproductions, copies, special equipment or materials at cost as described in Exhibit A, "Compensation Rate Schedule."
- 3. Invoices.** Contractor shall submit itemized invoices to County's Project Manager indicating Approved Task Order number, Services performed, dates and times Services were performed, any reimbursable expenses, 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 shall 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 shall 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, stating 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 shall 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) per occurrence; ONE MILLION DOLLARS (\$1,000,000.00) 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; ONE MILLION DOLLARS (\$1,000,000.00) 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. DUTY TO ABIDE: 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.

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. CHOICE OF LAW: The interpretation and enforcement of this Agreement shall be governed by and construed in accordance with the laws of the State of New Mexico.

SECTION N. VENUE, FORUM NON-CONVENIENS, EXCLUSIVE STATE JURISDICTION: County and Contractor knowingly, voluntarily, intentionally, and irrevocably agree that any and all legal proceedings related to this Agreement, or to any rights or any relationship between the parties arising therefrom, shall be solely and exclusively initiated, filed, tried, and maintained in the First Judicial District Court of the State of New Mexico. County and Contractor each expressly and irrevocably waive any right otherwise provided by any applicable law to remove the matter to any other state or federal venue, consents to the jurisdiction of the First Judicial District Court of the State of New Mexico in any such legal proceeding, waives any objection it may have to the laying of the jurisdiction of any such legal proceeding. County and Contractor also agree that this term is a material inducement for each to enter this Agreement, and that both County and Contractor warrant and represent that each have had the opportunity to review this term with legal counsel.

SECTION O. WAIVER OF JURY TRIAL: In the event of any action or proceeding, (including without limitation, any claim, counterclaim, cross-claim or third party claim) arising out of or, relating to this Agreement, or the transaction contemplated by this Agreement, County and Contractor KNOWINGLY, VOLUNTARILY, INTENTIONALLY, AND IRREVOCABLY WAIVE ANY RIGHT TO A JURY TRIAL, and agree that a court shall determine and adjudicate all issues of law and fact with a jury trial being expressly waived. County and Contractor also agree that this waiver of a jury trial was a material inducement for each to enter this Agreement, and that both County and Contractor warrant and represent that each have had the opportunity to review this jury waiver with legal counsel.

SECTION P. INDEMNITY: Contractor shall indemnify, defend, and hold harmless County, its Council members, employees, agents, and representatives, from and against all liability, claims, demands, actions (legal or equitable), damages, losses, costs, or expenses, including attorney fees, of any kind or nature, to the extent that the liability, claims, demands, actions, damages, losses, costs, and expenses are caused by, or arise out of, the negligent acts or omissions of the Contractor or Contractor's officers, employees, agents representatives, and subcontractors in the performance or breach of the Services under this Agreement.

SECTION Q. 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 R. NON-ASSIGNMENT: Contractor shall not assign this Agreement or any privileges or obligations herein, and shall not novate this Agreement to another without the prior written consent of the County Manager.

SECTION S. 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 T. 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 shall 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 U. TERMINATION:

1. **Generally.** The County Manager 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 V. 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:

Project Manager
Incorporated County of Los Alamos
1000 Central Avenue, Suite 160
Los Alamos, New Mexico 87544

Contractor:

Andrew Cuaderes, Albuquerque Area Manager
Western Technologies
8305 Washington Place, NE
Albuquerque, New Mexico 87113

With a copy to:

County Attorney's Office
1000 Central Avenue, Suite 340
Los Alamos, New Mexico 87544

SECTION W. 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 authorized representatives of County and Contractor. In the event of any conflict between the terms, conditions, and provisions of this Agreement, and the terms, conditions and provisions of any exhibits or attachments, the terms, conditions and provisions of this Agreement shall control and take precedence.

SECTION X. NO IMPLIED WAIVERS: The failure of County to enforce any provision of this Agreement is not a waiver by County of the provisions, or of the right thereafter, to enforce any provision(s).

SECTION Y. SEVERABILITY: If any provision of this Agreement is held to be unenforceable for any reason: (i) such provision shall be reformed only to the extent necessary to make the intent of the language and purpose of the Agreement enforceable; and (ii) all other provisions of this Agreement shall remain in effect so long as the substantive purpose of the Agreement is possible.

SECTION Z. 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.

SECTION AA. LEGAL RECOGNITION OF ELECTRONIC SIGNATURES: Pursuant to NMSA 1978 § 14-16-7, this Agreement may be signed by electronic signature.

SECTION AB. DUPLICATE ORIGINAL DOCUMENTS: This document may be executed in two (2) counterparts, each of which shall be deemed an original.

SECTION AC. CONFIDENTIAL INFORMATION: Any confidential information of one party that is provided to the other party during the term of this Agreement shall be kept confidential and shall not be made available to any individual or organization in accordance with the Confidential Information Disclosure Statement in Exhibit D. The Confidential Information Disclosure Statement shall be completed by Contractor as a condition precedent and submitted as part of this Agreement. Its terms shall govern as if fully set forth herein.

SECTION AD. NEGOTIATED TERMS: This Agreement reflects negotiated terms between the parties, and each party has participated in the preparation of this Agreement with the opportunity to be represented by counsel, such that neither party shall be considered to be the drafter of this Agreement or any of its provisions for the purpose of any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Agreement.

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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: _____
STEVEN LYNNE **DATE**
COUNTY MANAGER

Approved as to form:

J. ALVIN LEAPHART
COUNTY ATTORNEY

WESTERN TECHNOLOGIES, AN ARIZONA
CORPORATION

BY: _____
ANDREW CUADERES **DATE**
ALBUQUERQUE AREA MANAGER

Exhibit A
COST SUMMARY SHEET
AGR23-73d

Category 1: General Staff –The following unit rates for project rated time including travel to and from the project site shall be determined by the Offeror	Rate measure	Cost Year 1	Cost Year 2	Cost Year 3	Cost Year 4	Cost Year 5	Cost Year 6	Cost Year 7
Principal Engineer	\$/hour	\$175.00	\$180.00	\$185.00	\$190.00	\$195.00	\$200.00	\$215.00
Registered Professional Engineer/Geologist	\$/hour	\$155.00	\$160.00	\$165.00	\$170.00	\$175.00	\$180.00	\$195.00
Staff Eng./Geologist	\$/hour	\$115.00	\$120.00	\$125.00	\$130.00	\$135.00	\$145.00	\$155.00
Senior Engineering Technician (includes field sampling and field testing)	\$/hour	\$79.00	\$82.00	\$85.00	\$88.00	\$92.00	\$98.00	\$102.00
Engineering Technician (includes field sampling and field testing)	\$/hour	\$74.00	\$77.00	\$80.00	\$83.00	\$85.00	\$88.00	\$93.00
Draftsman	\$/hour	\$65.00	\$68.00	\$71.00	\$74.00	\$77.00	\$80.00	\$83.00
Typist/Data Entry Specialist	\$/hour	\$55.00	\$58.00	\$61.00	\$64.00	\$67.00	\$70.00	\$73.00
Field Engineer	\$/hour	\$115.00	\$120.00	\$125.00	\$130.00	\$135.00	\$145.00	\$155.00
Category 2: Reimbursables – Charges shall be made on an hourly, mileage, or daily rate where applicable. Travel expenses and per diem for meals may be billed at actual cost per the Travel Guidelines as detailed below.	Rate measure	Cost Year 1	Cost Year 2	Cost Year 3	Cost Year 4	Cost Year 5	Cost Year 6	Cost Year 7
Administrative Invoice Processing Fee for Outside Services or Materials	\$/hour	\$65.00	\$68.00	\$71.00	\$74.00	\$77.00	\$80.00	\$83.00
Mileage for any vehicle	\$/mile	\$0.45	\$0.50	\$0.55	\$0.60	\$0.65	\$0.70	\$0.75
Copies	\$/page	\$1.00	\$1.00	\$1.00	\$1.00	\$1.00	\$1.00	\$1.00
Other	Explain							

Category 3a: Special Services and Inspection – Quoted based on Project Scope	Rate measure	Cost Year 1	Cost Year 2	Cost Year 3	Cost Year 4	Cost Year 5	Cost Year 6	Cost Year 7
Compaction Control of Engineered Structural Fill	\$/hour	\$74.00	\$77.00	\$80.00	\$83.00	\$85.00	\$88.00	\$93.00
Concrete Inspection and Control	\$/hour	\$115.00	\$120.00	\$125.00	\$130.00	\$135.00	\$140.00	\$145.00
Trench Compaction Inspection and Control	\$/hour	\$74.00	\$77.00	\$80.00	\$83.00	\$85.00	\$88.00	\$93.00
Bituminous Plant Calibration	\$/hour	\$150.00	\$155.00	\$160.00	\$165.00	\$170.00	\$175.00	\$180.00
Concrete or Asphalt coring	\$/hour	\$170.00	\$175.00	\$180.00	\$185.00	\$190.00	\$195.00	\$200.00
Windsor Probe	\$/Each	\$115.00	\$120.00	\$125.00	\$130.00	\$135.00	\$140.00	\$145.00
Reinforcing Steel Inspection and Control	\$/hour	\$115.00	\$120.00	\$125.00	\$130.00	\$135.00	\$140.00	\$145.00
Bolt and Weld Connection Inspection and Control	\$/hour	\$125.00	\$130.00	\$135.00	\$140.00	\$145.00	\$150.00	\$155.00
Fire Proofing Testing Onsite	\$/hour	\$125.00	\$130.00	\$135.00	\$140.00	\$145.00	\$150.00	\$155.00
Vibration Monitoring	\$/hour	\$225.00	\$230.00	\$240.00	\$250.00	\$260.00	\$270.00	\$280.00
Video Recording	\$/hour	\$225.00	\$230.00	\$240.00	\$250.00	\$260.00	\$270.00	\$280.00
Composite Price Factor (CPF) Determination for Asphalt Materials-non QLA	\$/Lot	\$115.00	\$120.00	\$125.00	\$130.00	\$135.00	\$140.00	\$145.00
Pay Adjustment Factor based on record compressive strength of Portland cement concrete	\$/Lot	\$115.00	\$120.00	\$125.00	\$130.00	\$135.00	\$140.00	\$145.00
Category 3b: Laboratory Tests – Soils	Rate measure	Cost Year 1	Cost Year 2	Cost Year 3	Cost Year 4	Cost Year 5	Cost Year 6	Cost Year 7
Moisture – Density Relation Test Standard Proctor (ASTM D-698)	\$/Each	\$125.00	\$130.00	\$135.00	\$140.00	\$145.00	\$150.00	\$155.00
Moisture – Density Relation Test Modified Proctor (ASTM D-1557)	\$/Each	\$130.00	\$135.00	\$140.00	\$145.00	\$150.00	\$155.00	\$160.00
Sieve Analysis (3" through #200) (ASTM C-136)	\$/Each	\$75.00	\$80.00	\$85.00	\$90.00	\$95.00	\$100.00	\$105.00
Plasticity Index (Atterberg	\$/Each	\$120.00	\$125.00	\$130.00	\$135.00	\$140.00	\$145.00	\$150.00

Limits)(ASTM D-4318)								
Hydrometer Analysis (ASTM D-422)	\$/Each	\$180.00	\$185.00	\$190.00	\$195.00	\$200.00	\$205.00	\$210.00
Moisture Content	\$/Each	\$20.00	\$21.00	\$22.00	\$23.00	\$24.00	\$25.00	\$26.00
FHA Soil Volume Change Meter	\$/Each	N/A	N/A	N/A	N/A	N/A	N/A	NA
Percent Consolidation	\$/Each	\$70.00	\$75.00	\$80.00	\$85.00	\$90.00	\$95.00	\$100.00
Time Rated Consolidation (ASTM D-2435)	\$/Each	\$120.00	\$125.00	\$130.00	\$135.00	\$140.00	\$145.00	\$150.00
Direct Shear (ASTM D-3080)	\$/Each	\$425.00	\$430.00	\$435.00	\$440.00	\$445.00	\$450.00	\$500.00
Permeability (Constant or Falling Head), Undisturbed	\$/Each	\$800.00	\$810.00	\$820.00	\$830.00	\$840.00	\$850.00	\$860.00
Permeability (Constant or Falling Head), Remolded	\$/Each	\$900.00	\$920.00	\$940.00	\$960.00	\$980.00	\$1000.00	\$1020.00
Unconsolidated Undrained Triaxial Shear (ASTM D-2850)	\$/Each	\$2500.00	\$2520.00	\$2540.00	\$2560.00	\$2580.00	\$2600.00	\$2620.00
Unconfined Compression, Undisturbed (ASTM D-2166)	\$/Each	\$100.00	\$105.00	\$110.00	\$115.00	\$120.00	\$125.00	\$130.00
Unconfined Compression, Remolded (ASTM D-2166)	\$/Each	\$150.00	\$155.00	\$160.00	\$165.00	\$170.00	\$175.00	\$180.00
Density of Undisturbed Ring Sample	\$/Each	\$70.00	\$73.00	\$76.00	\$79.00	\$82.00	\$85.00	\$88.00
California Bearing Ratio (CBR) (ASTM D1883) Includes the Moisture Density Relation/Proctor	\$/Each	\$800.00	\$810.00	\$820.00	\$830.00	\$840.00	\$850.00	\$860.00
Specific Gravity - #10 Fraction) (ASTM D-854)	\$/Each	\$125.00	\$130.00	\$135.00	\$140.00	\$145.00	\$150.00	\$155.00
Sample Prep (Laboratory)	\$/Each	\$65.00	\$68.00	\$71.00	\$74.00	\$77.00	\$80.00	\$83.00
Soil pH(ASTM G-51)	\$/Each	\$75.00	\$78.00	\$81.00	\$84.00	\$87.00	\$90.00	\$93.00
Soil Resistivity (ASTM G-57)	\$/Each	\$75.00	\$78.00	\$81.00	\$84.00	\$87.00	\$90.00	\$93.00
One Dimensional Swell (ASTM 4546)	\$/Each	\$150.00	\$155.00	\$160.00	\$165.00	\$170.00	\$175.00	\$180.00
R-Values (AASHTO T190-98)	\$/Each	\$700.00	\$720.00	\$740.00	\$760.00	\$780.00	\$800.00	\$820.00
Category 3c: Laboratory Tests - Concrete	Rate measure	Cost Year 1	Cost Year 2	Cost Year 3	Cost Year 4	Cost Year 5	Cost Year 6	Cost Year 7
Compressive Strength Tests (Curing &	\$/Each	\$20.00	\$22.00	\$24.00	\$26.00	\$28.00	\$30.00	\$32.00

Gapping)								
Concrete Cylinders & Cubes (ASTM C-39)	\$/Each	\$5.00	\$6.00	\$7.00	\$8.00	\$9.00	\$10.00	\$11.00
Hold Cylinders not Tested	\$/Each	\$5.00	\$6.00	\$7.00	\$8.00	\$9.00	\$10.00	\$11.00
Flexural Strength (Beams) (ASTM C-78)	\$/Each	\$55.00	\$60.00	\$65.00	\$70.00	\$75.00	\$80.00	\$85.00
Concrete Cores (ASTM C-39)	\$/Each	\$30.00	\$32.00	\$34.00	\$36.00	\$38.00	\$40.00	\$42.00
Single use Cylinder Molds	\$/Each	\$5.00	\$6.00	\$7.00	\$8.00	\$9.00	\$10.00	\$11.00
Concrete Mix Design	\$/Each	\$3500.00	\$3550.00	\$3600.00	\$3650.00	\$3700.00	\$3750.00	\$3800.00
Less Aggregate Tests/negotiable	\$/Each	\$2000.00	\$2050.00	\$2090.00	\$2140.00	\$2190.00	\$2240.00	\$2300.00
Cement treated Base Mix Design	\$/Each	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Category 3d: Laboratory Tests-Asphalt	Rate measure	Cost Year 1	Cost Year 2	Cost Year 3	Cost Year 4	Cost Year 5	Cost Year 6	Cost Year 7
Asphalt Concrete Pavement Analysis (includes extraction, gradation, Marshall unit weight, flow, stability, calculation of air voids and voids filled per set of 3 Marshalls)	\$/Each	\$565.00	\$575.00	\$585.00	\$595.00	\$605.00	\$615.00	\$620.00
Asphalt Concrete Mix Design	\$/Each	\$5500.00	\$5600.00	\$5700.00	\$5800.00	\$5900.00	\$6000.00	\$6050.00
Lab Verification of Asphalt Mix Design	\$/Each	\$1500.00	\$1520.00	\$1540.00	\$1560.00	\$1580.00	\$1600.00	\$1620.00
Retained Stability of Bituminous Mixture (ASTM D-1075)	\$/Each	\$700.00	\$720.00	\$740.00	\$760.00	\$780.00	\$800.00	\$820.00
Extraction & Gradation of Bituminous Mixture (ASTM D-2172)	\$/Each	\$200.00	\$210.00	\$220.00	\$230.00	\$240.00	\$250.00	\$260.00
Unit Weight, Stability & Flow (ASTM D-1559)	\$/Each	\$275.00	\$280.00	\$285.00	\$290.00	\$295.00	\$300.00	\$305.00
Asphalt Core Density and Length (ASTM D-2726)	\$/Each	\$50.00	\$52.00	\$54.00	\$56.00	\$58.00	\$60.00	\$62.00
Maximum Theoretical Specific Gravity (ASTM D-2041)	\$/Each	\$90.00	\$93.00	\$96.00	\$99.00	\$102.00	\$105.00	\$108.00

Gyratory Specimens (AASHTO T-312)	\$/Each	\$300.00	\$305.00	\$310.00	\$315.00	\$320.00	\$325.00	\$330.00
OGFC Mix Design	\$/Each	\$3600.00	\$3650.00	\$3700.00	\$3750.00	\$3800.00	\$3850.00	\$3900.00
Super Pave Mix Design	\$/Each	\$7500.00	\$7600.00	\$7700.00	\$7800.00	\$7900.00	\$8000.00	\$8500.00
Category 3e: Laboratory Tests-Aggregate	Rate measure	Cost Year 1	Cost Year 2	Cost Year 3	Cost Year 4	Cost Year 5	Cost Year 6	Cost Year 7
Clay Lumps - Friable Particles (ASTM C-142)	\$/Each	\$100.00	\$102.00	\$104.00	\$106.00	\$108.00	\$110.00	\$112.00
Organic Impurities (ASTM C-40)	\$/Each	\$100.00	\$102.00	\$104.00	\$106.00	\$108.00	\$110.00	\$112.00
Sand Equivalent (ASTM 0-2419)	\$/Each	\$100.00	\$102.00	\$104.00	\$106.00	\$108.00	\$110.00	\$112.00
Fractured Face Count + #4	\$/Each	\$40.00	\$42.00	\$44.00	\$46.00	\$48.00	\$50.00	\$52.00
Fractured Face Count + #10	\$/Each	\$40.00	\$42.00	\$44.00	\$46.00	\$48.00	\$50.00	\$52.00
Los Angeles Abrasion (ASTM C-1 31)	\$/Each	\$125.00	\$129.00	\$133.00	\$137.00	\$141.00	\$145.00	\$150.00
Magnesium or Sodium Sulfate Soundness (ASTM C-88)	\$/Each	\$200.00	\$205.00	\$210.00	\$215.00	\$220.00	\$225.00	\$230.00
Specific Gravity & Absorption (Coarse or Fine Aggregate) (ASTM C-127, C-128)	\$/Each	\$125.00	\$130.00	\$135.00	\$140.00	\$145.00	\$150.00	\$155.00
Unit Weight (ASTM C-29)	\$/Each	\$25.00	\$27.00	\$29.00	\$31.00	\$33.00	\$35.00	\$37.00
Lightweight Pieces (ASTM C123)	\$/Each	\$100.00	\$102.00	\$104.00	\$106.00	\$108.00	\$110.00	\$112.00
Flat and Elongated pieces	\$/Each	\$50.00	\$55.00	\$60.00	\$65.00	\$70.00	\$75.00	\$80.00
Aggregate Correction Factor (ASTM C-231)	\$/Each	\$125.00	\$130.00	\$135.00	\$140.00	\$145.00	\$150.00	\$155.00
Uncompacted Void Content (Fine Agg.) (ASTM C-1252)	\$/Each	\$100.00	\$105.00	\$110.00	\$115.00	\$120.00	\$125.00	\$130.00
Category 4a: Drilling and Sampling (Sub surface investigation using CME-55, CME-45, CM-75 Drill Rig or equivalent)	Rate measure	Cost Year 1	Cost Year 2	Cost Year 3	Cost Year 4	Cost Year 5	Cost Year 6	Cost Year 7
*Crew Travel	Per Mile	\$6.50	\$6.75	\$7.00	\$7.25	\$7.50	\$7.75	\$8.00
Auger drilling and Sampling	\$/day	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Support Vehicle	\$/day	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Other	Explain							
Category 4b: Coring and Sampling (Pavement surfacing and subgrade soil profiles using core drilling equipment)	Rate measure	Cost Year 1	Cost Year 2	Cost Year 3	Cost Year 4	Cost Year 5	Cost Year 6	Cost Year 7
*Crew Travel	Explain	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Core drilling and Sampling	\$/day	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Support Vehicle	\$/day	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Other	Explain							

***Travel Guidelines**

Offeror's travel expenses shall be charged at actual cost. Copies of all travel expenses must accompany invoices submitted to County and shall only include the following:

1. The most economical means of transportation shall be used, commercial airlines coach fare rates;
2. Business-related tolls and parking fees;
3. Rental car, taxi service or shuttle services;
4. Mileage shall be reimbursed at the standard mileage rate for business miles driven as established from time to time by the Internal Revenue Service or minimum of .45 cents per mile;
5. Hotel or motel lodging;
6. Meals, per Los Alamos County Travel Policy, currently \$60.00 per diem daily;
7. Internet connectivity charges;
8. Any other reasonable costs directly associated with conducting business with County.
9. If reimbursement for lodging or airfare is sought and no receipt is furnished by Contractor showing the actual cost, the travel expense shall be deemed unreasonable and un-reimbursable.

Travel Expenses not allowed are as follows:

1. Entertainment; in-room movies, games, etc. and
2. Alcoholic beverages, mini bar refreshments or tobacco products.

**Exhibit B
CONTRACTOR'S QUOTE
AGR23-73d**

COST SUMMARY PART 1 - GENERAL				
1. NAME OF PROJECT:			2. PROJECT #:	
3. NAME OF CONTRACTOR:			4. DATE OF PROPOSAL:	
5. ADDRESS OF CONTRACTOR:		6. TYPE OF SERVICE TO BE FURNISHED:		
		A. WORK ELEMENT:		
PART 2 – COST SUMMARY BASIC SERVICES				
7. DIRECT LABOR (specify categories)	ESTIMATED HOURS	HOURLY RATE	ESTIMATED COST	TOTALS
DIRECT LABOR TOTAL:				
SUPPLEMENTAL SERVICES				
8. SUBCONTRACTS (Identify & purpose)			ESTIMATED COST	
SUBCONTRACTOR TOTAL:				
9. TRAVEL			ESTIMATED COST	
A. Mileage:				
B. Per Diem: (Ref. LAC Travel Guidelines)				
TRAVEL TOTAL:				
10. OTHER REIMBURSABLE COSTS			ESTIMATED COST	
OTHER REIMBURSABLE TOTAL:				
SUBTOTAL ITEMS 7-10:				
11. GROSS RECEIPTS				
12. TOTAL PRICE				
13. SIGNATURE OF PREPARER	OWNER'S REVIEW BY		TITLE	

**Exhibit C
SAMPLE TASK ORDER
AGR23-73d**

AGR23-73d

Company Name: Western Technologies

Vendor Number _____

On-Call Geotechnical and Construction Testing Services

Date Prepared:

Task Order No.:

Project Title:

Job Cost #:

Project Manager Assigned:

Phone:

Contract Manager: Karen Henderson

Department: Public Works – Engineering and Project Management

Vendor Contact:

Location of Work:

Scope of Work including Estimated Quantities:

Start Work Date:

Attachments:

Estimated Total Cost: (not to exceed amount):

Final payment shall be based on actual field measured quantities.

Current Contract Value	\$	Plus GRT
Estimated Value of all task orders to date, including this task order:	\$	Plus GRT
Remaining Contract Value:	\$	Plus GRT

SIGNATURE PAGE

Original Task Order

Project Manager	Date
Project Manager	

Principal	Date
Design Team	

Karen Henderson	Date
Contract Manager	

Eric Ulibarri	Date
County Engineer	

Juan Rael	Date
Public Works Director (if over \$3,000.00)	

Steven Lynne	Date
County Manager (if TO value is \$10,000 or more)	

=====

Task Order Revision (as applicable)

Project Manager	Date
Project Manager	

Principal	Date
Design Team	

Karen Henderson	Date
Contract Manager	

Eric Ulibarri	Date
County Engineer	

Juan Rael	Date
Public Works Director (if over \$3,000.00)	

Steven Lynne	Date
County Manager (if TO value is \$10,000 or more)	

Exhibit D
Confidential Information Disclosure Statement
AGR23-73d

The Incorporated County of Los Alamos is a governmental entity subject to certain disclosure laws including, but not limited to, the New Mexico Inspection of Public Records Act, NMSA 1978, §§ 14-2-1, et seq. Nothing in this Agreement is intended to diminish or expand the application of any applicable disclosure laws to any proprietary or confidential information.

This Confidential Information Disclosure Statement ("Statement") defines obligations and waivers related to Confidential Information disclosed pursuant to the above referenced Agreement between County and Contractor. County and Contractor agree to the following:

1. Statement Coordinator – Each party designates the following person as its Statement Coordinator for coordinating the disclosure or receipt of Confidential Information:

Contractor: Andrew Cuaderes, Albuquerque Area Manager
Western Technologies
8305 Washington Place, NE
Albuquerque, New Mexico 87113
Email: a.cuaderes@wt-us.com

County: Public Work Department
1000 Central Avenue, Suite 160
Los Alamos, New Mexico 87544

2. Definitions:

- a) **Confidential Information** - any form of information, in any format, disclosed by the Discloser to the Recipient and identified in writing as confidential.
- b) **Discloser** - the party disclosing Confidential Information.
- c) **Exception** – An exception is satisfied if the Confidential Information disclosed: (i) was in Recipient's possession prior to receipt from Discloser, (ii) is publicly known or readily ascertainable by legal means, (iii) is lawfully received by Recipient from a third party without a duty of confidentiality, (iv) is disclosed by Discloser to a third party without a duty of confidentiality on the third party, (v) is independently developed or learned by Recipient, or (vi) is disclosed by Recipient with Discloser's prior written approval.
- d) **Recipient** – the party receiving Confidential Information.

3. Obligations – Recipient shall protect and ensure its participating subcontractors, agents, or associates shall protect all Confidential Information by using the same degree of care, but no less than a reasonable degree of care, to prevent the unauthorized use, dissemination, or publication of the Confidential Information as Recipient uses to protect its own information of a like nature. If any person or entity requests or demands, by subpoena or otherwise, all or any portion of the Confidential Information provided by one party to another, the party receiving such request shall immediately notify the Discloser of such request or demand. The party receiving the request or demand shall independently determine whether the information sought is subject to disclosure under applicable law including the New Mexico Inspection of Public Records Act. If the party receiving the request or demand determines that the information is subject to disclosure, it shall notify the Discloser of its intent to permit the disclosure with sufficient time to permit the Discloser to invoke the jurisdiction of an appropriate court or administrative body to raise any legitimate objections or defenses it may have to the disclosure. In the absence of an appropriate order prohibiting the disclosure, the party receiving the request or demand shall permit and proceed with the disclosure without incurring any duty, obligation or liability to the Discloser.