



**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 **Viking II, Inc.**, a New Mexico corporation ("Contractor"), collectively (the "Parties"), to be effective for all purposes September 25, 2024 ("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. 24-72 ("RFP") on May 9, 2024, requesting proposals for Water Distribution Backflow Prevention ("BFP") and Cross Connection Control ("CCC") Program Services as described in the RFP; and

**WHEREAS**, Contractor timely responded to the RFP by submitting a response dated June 4, 2024 ("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 September 18, 2024; and

**WHEREAS**, the County Council approved this Agreement at a public meeting held on September 24, 2024; 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:**

- 1) Generally.** Contractor shall provide County Water Distribution BFP/CCC Program Maintenance (the "Program") services as described herein ("Services"). Contractor shall provide trained, qualified, and experienced personnel, plus all necessary labor, tools, equipment, materials, licenses, and supplies to perform Services in accordance with all applicable County, state, federal, and industry laws, rules, regulations, standards, and industry best practices, which include, but are not limited to the most recent versions of the State of New Mexico Water Regulations, the Uniform Plumbing Code, the American Water Works Association Manual M14, Department of Public Utilities ("DPU") Construction Standards and DPU Rules and Regulations, as may be amended from time to time.

**2) Program Assistance.**

- a) Contractor shall perform BFP surveys of new businesses upon County request and shall send detailed survey results to County and the new business customer.
- b) When follow-up BFP inspections are determined by County to be required to verify Program compliance, Contractor shall, upon County Request, perform the following follow-up inspection Services:
  - i) Visit the business location to review correction of non-compliant survey results;
  - ii) Update database customer information such as new owner or point-of-contact, changes in plumbing, fire protection, or lawn/landscaping irrigation systems;
  - iii) Meet with customers on site to review and explain compliance issues; and
  - iv) Meet with customer's contractor before any installation of BFP equipment to review installation requirements and to verify if BFP system selection is correct.
- c) Contractor shall perform backflow prevention assembly testing, inspections, and necessary repairs for County-owned BFPs upon County request. If repairs are proposed by Contractor to be charged on a time and materials basis, a written estimate approved by County prior to the work being performed shall be submitted by Contractor for any repair exceeding FIVE HUNDRED AND 00/100 DOLLARS (\$500.00), including all time and materials estimated. Contractor shall perform said repair services at the hourly BFP Repair Labor rates set forth in Exhibit A, attached hereto and made a part hereof for all purposes.
- d) BFP testing shall be performed by a tester certified and approved by County.
- e) In the event that County decides, at County's sole option, to transition away from Contractor hosting and administering the Program at any time throughout the term of this Agreement, Contractor shall provide all paper and electronic files, databases, programming notes, etc. to County. Contractor shall assist in the transition to a County administered Program up to a limit of one hundred twenty (120) hours provided by Contractor, at the hourly rates set forth in Exhibit A.
- f) Contractor shall assist County with BFP licensing, training, and certification requirements for County personnel, including but not limited to:
  - i) Registering County BFP testers and verifying their license and training requirements;
  - ii) Issuing certification cards to approved BFP testers; and
  - iii) Maintaining annual calibration records of certified tester's test gauges.

**3) Provision and Management of a Program Compliance Database ("Database").**

Contractor shall provide to County, manage, and support a cloud-based hosted Database, developed, owned, operated and hosted by Contractor, through which County can maintain and generate various reports on Program inspections, compliance data, and other records.

- a) **County Technology Standards.** Database shall conform to the applicable County requirements for hybrid or cloud/hosted solutions as defined in the Los Alamos County Technology Standards provided in Exhibit B, attached hereto and made a part hereof for all purposes.
- b) **Database Program and Format.** Contractor's Database shall be developed and maintained using the latest version of Claris FileMaker Pro, and in a format customized by Contractor as desired by and agreed upon by County. Contractor may, throughout the

term of this Agreement, change the program used to develop and maintain the Database, provided all Services as described herein are maintained, there is minimal interruption to County's ability to access and maintain the data, the Contractor notifies County Project Manager in writing at least ninety (90) days prior to the change, and County Project Manager approves of the change and anticipated length of interruption in writing. In this event, Contractor shall provide to County, at no additional cost, any implementation services and training County deems necessary to use the modified Database.

**c) Database Functionality and Management.**

- i) Contractor's Database shall, throughout the term of this Agreement, provide the following minimum functionality, or substantial equivalent:
  - (1) Ability to track customer information including name, address and point of contact information.
  - (2) BFP information including manufacturer, model, serial number, size and location.
  - (3) BFP assembly information including manufacturer, model, size, serial number, location, test month, installation compliance and replacement BFP.
  - (4) BFP test information including passed test results, tester information, and calibration report of test gauge.
  - (5) Reports including Test Report Forms, Installation Drawings, Survey Forms, and Certified Tester Application Forms information regarding type, location, and ownership of all backflow prevention devices.
  - (6) Ability to notify customers via email of survey findings, BFP testing notification and noncompliance notices.
  - (7) Ability to include other data points as deemed appropriate and agreed upon between Contractor and County.
- ii) Contractor shall develop, as agreed upon in consultation with County, and maintain a set of forms for field inspections, customer notifications (initial, test result, fees, and charges, etc.) and other Program administrative needs.
- iii) Contractor shall provide an email notification system to enable efficient contact of County customers required to be in the Program. Email notifications may be in-lieu of hardcopy regular postal service delivery mail of correspondence necessary for the administration of the Program as agreed upon between Contractor and County. Contractor shall send annual BFP test notifications by email to County customers.
- iv) Contractor shall provide a test tag system, approved by County, for field placement of tags on BFP equipment indicating date, time, inspector and inspection result of each individual BFP assembly inspected by Contractor.
- v) Contractor shall maintain in the Database records of original and follow-up BFP surveys and initial and annual test records for all BFPs.
- vi) Contractor shall input into the Database test results of all BFP tests.
- vii) Contractor shall perform all modifications of the Database as necessary and agreed upon between Contractor and County. A Program review of the Database structure and functioning shall be completed annually by Contractor and County to assess the efficiency and effectiveness of County's Program. Contractor shall provide all Program Survey & Testing Data Entry Services and shall perform all Program information

updates of the Database as the work is performed or at least monthly.

d) **Use and Users.**

- i) Authorized County users shall, at a minimum, be able to access the Database via local personal computer (PC)-based internet browsers and the internet through secure internet connections and protocols. Database shall have the ability to keep and maintain account usernames and passwords in a secure manner using industry standard encryption algorithms.
- ii) Contractor shall ensure that the Database is web enabled and can be accessed at all times by a minimum of two (2) County personnel, as designated by the County Project Manager, using Google Chrome.

e) **Warranty.** Contractor shall, at a minimum, warrant that the Database shall be without material defects for the term of this Agreement. If Database does not perform as warranted, Contractor shall use reasonable efforts, consistent with industry standards to cure the material defects or provide County with a functional equivalent at no additional cost.

f) **Data Security and Ownership.**

- i) At a minimum, Contractor shall maintain adequate security and disaster recovery protocols. Contractor's Cloud Service Provider ("CSP") and data center shall be located within the United States. Contractor shall maintain and keep up-to-date Database's Secure Sockets Layer ("SSL") Certificate.
- ii) Contractor shall perform all backups of the Database with backups occurring hourly, daily, and weekly. Backup data shall be stored on a redundant server or other hardware located in at least one site separate from the main servers.
- iii) All data that: (i) is owned by County; and (ii) uploaded into the Database shall remain owned by County. County is responsible for the accuracy and legality of all such data and shall represent and warrant the right to use and manage all data in connection with its use of the Database. Use of the Database confers no ownership rights to the Contractor and County materials and data may be used by the Contractor only as necessary to provide contracted Services.
- iv) Upon County request, and upon termination of this Agreement, Contractor shall provide within forty-eight (48) hours a complete copy of the Database to County, in a format acceptable to County such as MS Excel, MS Access, SQL Server, Open Database Connectivity ("ODBC"), etc.

g) **Maintenance and Support Services and Service Level Agreement.** Contractor shall provide the following minimum maintenance and support of the Database.

- i) Contractor shall use commercially reasonable efforts to ensure the Database is available with the uptime percentage of 99.9%.
- ii) Contractor shall provide unlimited Database maintenance and customer support throughout the term of this Agreement, including but not limited to troubleshooting access to Database data or formatting and printing reports. Support shall be provided,

at a minimum, Monday through Friday, during normal business hours 8:00 to 5:00 p.m. Mountain Time via phone and e-mail. If the Contractor's contact information changes anytime during the term of this Agreement Contractor shall notify County Project Manager in writing within forty-eight (48) hours and shall provide all new pertinent contact information necessary for County to request and receive maintenance and support.

- iii) Contractor shall respond to County's support requests within two (2) business days. If Contractor is unable to immediately determine the reason for the issue or is unable to immediately determine a solution, Contractor shall continue to work with the County Project Manager and troubleshoot until the issue is resolved. Throughout this process, Contractor shall clearly communicate to the County Project Manager anticipated steps to resolve the issue and an estimated timeline for resolution.
- iv) Contractor may, throughout the term of this Agreement, implement upgrades or feature enhancements to improve Database functionality. Contractor may perform routine upgrades, enhancements, or modifications that do not impact County Database access or functionality on a daily basis without prior notification to County. Notwithstanding Section 3(b) related to changes to the Database program used to develop the Database, Contractor shall communicate to County in writing via e-mail all non-routine upgrades, enhancements, or Database modifications that may impact County access or functionality during normal business hours and shall inform County of any anticipated downtime. Contractor shall, as practical and able, implement these non-routine upgrades, enhancements or Database modifications at lower use access times in the evenings, weekends, or holidays, which does not require prior notification to County.

**4) Possible Future Implementation of Integrated Systems.** If the County, anytime during the term of this Agreement implements new software that must integrate with the Contractor's Database, Contractor shall work with County to ensure integration between County's new systems and Contractor's Database, if integration is possible, and shall provide other implementation services that may be necessary for integration. Contractor shall provide an estimate upon County request and shall perform said services at the hourly Integration and Migration rates specified in Exhibit A.

**SECTION B. TERM:** The term of this Agreement shall commence September 25, 2024, and shall continue through September 24, 2031, unless sooner terminated, as provided herein.

**SECTION C. COMPENSATION:**

- 1. Amount of Compensation.** County shall pay compensation for performance of the Services in an amount not to exceed FOUR HUNDRED SIXTEEN THOUSAND FIVE HUNDRED AND 00/100 DOLLARS (\$416,500.00), which amount does not include applicable New Mexico gross receipts taxes ("NMGRT"). Compensation shall be paid in accordance with the rate schedule set out in Exhibit A.
- 2. Total Not-To-Exceed Compensation Amount (C)(1).** The Parties understand that County can only utilize Contractor's Services, as specified herein, throughout the term of this Agreement, in a manner that does not surpass the total not-to-exceed compensation amount for Services originally estimated by County and specified herein, unless approved by Amendment to this Agreement. The Parties agree that they shall work in good faith to amend the not-to-exceed compensation amount, if applicable, to accommodate any additional

Services that may exceed the originally estimated not-to-exceed compensation. Any increase to the not-to-exceed compensation amount provided herein, must be authorized by an Amendment to this Agreement, which must be approved by the Board of Public Utilities and County Council, as required by County Ordinance. This provision shall not be construed to conflict with County's discretion to determine when Contractor's Services are needed or to conflict with the agreed-upon rates stated herein. It is the sole responsibility of Contractor to ensure that all work performed, inclusive of materials and supplies, does not exceed the current not-to-exceed amount of the Agreement or any subsequent Amendment. Any work performed under this Agreement by Contractor where the costs exceed the then current not-to-exceed amount, inclusive of materials and supplies, is not a just and lawful debt payable to Contractor.

- 3. Monthly Invoices.** Contractor shall submit itemized invoices monthly to County's Project Manager showing 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 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. Contractor shall provide any other records requested by the County for response to Public Records Inspection requests under NMSA 1978, Chapter 14, Article 2.

**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 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; provided, however, that the Party failing to perform shall (i) as soon as possible, inform the other Party of the occurrence of the circumstances preventing or delaying the performance of its obligations, and describe at a reasonable level of detail the circumstances causing such delay, and (ii) exert reasonable efforts to eliminate, cure, or overcome any of such causes and to resume performance of its Services with all possible speed. In such event, the non-performing Party may be excused from any further performance or observance of the obligation(s) so affected for as long as such circumstances prevail and such Party continues to use its best efforts to recommence performance or observance whenever and to whatever extent possible without delay.

**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 Utilities 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 Utilities 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. Upon termination of this agreement, Contractor shall provide all data to County as specified in Section A(3)(f)(iv) herein.
- 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:** Unless otherwise provided in this Agreement, any notices required under this Agreement shall be made in writing. Notices shall be sent via 1) hand-delivery; 2) registered or certified mail; 3) a nationally recognized overnight courier service; or 4) electronic mail (with copy by mail or courier). All notices shall be sent to each party at the addresses set out in this section or any address later provided by such party in writing, with postage prepaid by the sender, and shall be deemed delivered upon hand delivery, verified proof of delivery by courier, or three (3) days after deposit in the United States Mail.

County:  
Project Manager – Gas, Water, Sewer  
Superintendent  
Incorporated County of Los Alamos  
101 Camino Entrada, Building 5  
Los Alamos, New Mexico 87544  
E-mail: sammy.maestas@lacnm.us

Contractor:  
President  
Viking II, Inc.  
3300 Princeton, #29 NE  
Albuquerque, New Mexico 87107  
E-mail: nstarr@viking2.com

With a copy to:  
County Attorney's Office  
1000 Central Avenue, Suite 340  
Los Alamos, New Mexico 87544  
E-mail: ~attorney@lacnm.us

**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. 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.

**SECTION AD. 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 C. 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.



**Exhibit A  
Compensation Rate Schedule  
AGR24-72**

Contractor shall, throughout the term of this Agreement, provide Services at the rates specified herein.

| <b>COST CATEGORY</b>   | <b>UNIT</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>   |
|--|--|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|
|  |  | 8/28/24-8/27/25 | 8/28/25-8/27/26 | 8/28/26-8/27/27 | 8/28/27-8/27/28 | 8/28/28-8/27/29 | 8/28/29-8/27/30 | 8/28/30-8/27/31 |
| <b>Monthly Database Management and Support</b>                             | Per Month  | \$2,500.00      | \$2,500.00      | \$2,500.00      | \$2,500.00      | \$2,500.00      | \$2,500.00      | \$2,500.00      |
| <b>BFP Assembly Testing</b>  | Each   | \$300.00        | \$300.00        | \$300.00        | \$350.00        | \$350.00        | \$390.00        | \$390.00        |
| <b>BFP Surveys and Follow-up</b>   | Each   | \$300.00        | \$300.00        | \$300.00        | \$350.00        | \$350.00        | \$390.00        | \$390.00        |
| <b>Hourly Rates for BFP Repair Labor</b>                                   | Per Hour   | \$300.00        | \$300.00        | \$300.00        | \$350.00        | \$350.00        | \$390.00        | \$390.00        |
| <b>Hourly Rates for Optional Future System Integrations and Migrations</b> | Per Hour   | \$225.00        | \$225.00        | \$225.00        | \$225.00        | \$225.00        | \$225.00        | \$225.00        |
| <b>Materials and Supplies - Inventory</b>                                  | Materials and parts used by Contractor while providing Services under this Agreement that are taken out of Contractor's inventory and used for said Services, shall be billed directly to County at current (time of use) fair-market replacement cost.                  |                 |                 |                 |                 |                 |                 |                 |
| <b>Materials and Supplies – Non-inventory</b>                              | Materials and parts purchased by Contractor while providing Services under this Agreement, that are not maintained in Contractor's inventory and used for said Services, shall be billed to County at actual cost with a copy of the invoice from Contractor's supplier. |                 |                 |                 |                 |                 |                 |                 |

**Exhibit B**  
**County Technology Standards Requirements for On-Premise, Hybrid, or Cloud/Hosted**  
**Solutions**  
**AGR24-72**

|  | <b>STANDARD REQUIREMENT</b>   | <b>APPLICABLE YES OR N/A</b> |
|--|---|------------------------------|
| Server Operating system (OS)<br><b>(On-Premises)</b> | Microsoft (MS) Windows Server 2019, 64 bit or current (Standard and Datacenter). Contractor software must be maintained to run on a supported platform service level as defined by Microsoft at the latest stable patch level. Departments will be responsible for licensing costs and must request cost estimates from Information Management (IM) Division.   | N/A                          |
| Server Hardware<br><b>(On-Premise)</b>               | <b>Preferred:</b> Use of County VMware server platform. Environment design must be submitted and reviewed by IM Division for acceptance. Proposals shall include required hardware and licensing of VMware, operating system, and proposed application-based requirements. Application with a proven Virtual installation template is preferred.<br><br>Physical Server minimum hardware specifications consist of: Multi Socket/Multi Core processor Intel or AMD based server (standalone or blade server as determined by Los Alamos County IM Division with a minimum 64 GB RAM and RAID capability. Contractor software must be maintained to run on a supported platform service levels as defined by Microsoft at the latest stable patch level. | N/A                          |
| Network Infrastructure                               | See LAC Standards and Specifications for Building and Campus Distribution Systems Version 3 (Primarily used for building construction purposes).  | N/A                          |
| Network<br><b>(On-Premise)</b>                       | Supported network protocol is TCP/IP (IPv4). Standards based NIC rated at 100/1000/10G copper or fiber is supported. If considering a 10G connection County IT network group shall be consulted to ensure equipment compatibility and availability at proposed site. Additional hardware cost, may be required of the project, based on project requirements, equipment and availability. The County uses Cisco technology as its default network equipment standard. Solutions shall be compatible with Cisco Network Technology.  | N/A                          |
| Remote Network Access<br><b>(On-Premise)</b>         | Direct remote access to the County network and server environment shall be done using the County's Cisco AnyConnect SSH VPN. Once a VPN connection is established end-point connections are supported via Microsoft RDP. Operator support accounts shall be set up in accordance with the adopted Los Alamos County IT Usage and Security Policy #1210.   | N/A                          |

|  |   |     |
|--|---|-----|
| LAC Network Account Privilege <b>(On-Premise &amp; Hosted)</b> | Desktop Client Software shall function for end users with standard user privileges. user cannot install software and shall not have administrative rights.  | N/A |
| Desk Hardware <b>(On-Premise &amp; Hosted)</b>                 | Physical unit minimum hardware requirements consist of: Intel core i5 based processor, minimum 8 GB RAM, Intel integrated graphics 1280 capable video minimum, display port, input or HDMI, 4 USB 2/3 ports.<br><br>Support deployment onto Virtual Desktop Infrastructure (VDI) platform, specifically cloud-based platforms from Microsoft Azure, Amazon Web Service (AWS) or Google Cloud Platform.  | YES |
| Desktop OS <b>(On-Premise &amp; Hosted)</b>                    | Microsoft Windows 10 at current Service Pack (SP).  | YES |
| Internet Browser <b>(On-Premise &amp; Hosted)</b>              | Internal County Network: Google Chrome and Edge, at its latest version, are the installed browsers on county devices. Google Chrome is the county standard. New web Applications must be based on HTML5. Applications requiring Internet Explorer, Microsoft Silverlight, Java and Flash are not supported. Web applications requiring .NET framework shall not be considered. IM Division shall be consulted for compatibility issues prior to considering new application purchases requiring Java.   | YES |
| Database Software Products <b>(On-Premise)</b>                 | Supported database software is Microsoft (MS) SQL server version 2016 through current. New MS SQL Server product installations will require review, purchasing of licenses, appropriate hardware, and maintenance in support of proposed project or instance install to the County MS SQL Server Environment. MS SQL server software for new implementations shall be at/within the Microsoft certified support release level or current. Server components for proposed projects require review and purchasing as part of the project initiative. Operator software must be maintained to run on a supported platform service level as defined by Microsoft. <ul style="list-style-type: none"> <li>• Passwords are not permitted to be transported in clear/plain text.</li> <li>• Vendor implementation shall not use the SA password for user level functions. SA passwords shall be maintained by the County DBA.</li> <li>• Only database instances can be installed on the County MS-SQL Environment. If a vendor software component install is necessary on the database server, a standalone installation will be required.</li> <li>• Vendor software must use standard Access &amp; Connection architecture for accessing databases on the County MS-SQL Environment.</li> <li>• Applications based on Microsoft Access are not supported. Applications based on SQLEXPRESS version should be reviewed and the limitation understood by the customers and the vendor.</li> </ul> | N/A |

|  |  |     |
|--|--|-----|
|  | Hosted solutions shall be compliant with or provide a method to provide the County with database exports in the MS-SQL Server format.  |     |
| Internet: Collaboration and Web Publishing<br><b>(On-Premise &amp; Hosted)</b> | Use of Internet apps or links shall be considered in collaboration with the Los Alamos Information Management Division Applications group for review to ensure that compatibility and Internet publishing protocols have been satisfied prior to formation of any agreement or installation.   | YES |
| Intranet: Collaboration and Web Publishing<br><b>(On-Premise &amp; Hosted)</b> | Microsoft SharePoint Online is the basis for the County's Intranet. Any products that will integrate or utilize the County's Intranet site shall require a compatibility consultation with IM Division before purchase and implementation. Operator software shall be maintained to run on supported platform service levels as defined by Microsoft and/or the Intranet site vendor. Proposed Intranet software products shall be accompanied by roadmap for compatibility with MS SharePoint Online.   | YES |
| Productivity Software<br><b>(On-Premise &amp; Hosted)</b>                      | Los Alamos County uses Microsoft M365 Office Suite at its most recent version and service pack. Operator software using the Office suite must be maintained to run on supported platform service levels as defined by Microsoft.   | N/A |
| Email<br><b>(On-Premise &amp; Hosted)</b>                                      | Microsoft M365 with hub transport for relay. If SMTP relay access from on premise vendor specific software is necessary, permission to use the County Email exchange shall be obtained prior to contracting or purchase of the software or solution. If SMTP relay access from hosted vendor specific software is necessary, preference is for SMTP relay to be hosted by vendor. The vendor specific solution must be supported and maintained to relay off County email domain and directed to hand off the email message to another mail server that can get the message closer to its intended recipient in accordance with service levels as defined by Microsoft for the M365 product. | N/A |
| Geographic Information Standards (GIS)<br><b>(On-Premise &amp; Hosted)</b>     | The County uses strictly ArcGIS products by Esri for GIS. Desktop software for end users includes ArcGIS Desktop and ArcGIS Pro. GIS web services are provided as REST endpoints from ArcGIS Server using Internet Information Services (IIS). Our enterprise geodatabase is managed using ArcSDE with Microsoft SQL Server. Supported versions are one or two iterations behind the latest ESRI-supported release. The preferred method for applications to interact with GIS is via REST services. Web applications must be hosted in either ArcGIS Online or ArcGIS Portal.   | N/A |
| Mobile Devices   | Shall conform to Los Alamos County Mobile Policy #1240. Mobile devices requiring Intranet access must be secured through the County Mobile Device Management System.   | N/A |

|  |  |            |
|--|--|------------|
| <p><b>Security &amp; SSL<br/>(On-Premise &amp; Hosted)</b></p> | <p>Intranet devices must be capable with multi-factor authentication (MFA) using the County’s current MFA systems. Any requirements for access to ports from the Internet into the County Network shall be approved via a technical review by the IM Division before product(s) purchase and implementation. Cisco Secure EndPoint Antivirus and Antispyware Enterprise software are used on all intranet computing devices; vendor solutions shall work in conjunction with stated antivirus products.</p> <p>SSL (Secure Socket Layer) encryption is required for both internal and external facing web applications.</p> <p>Enterprise-wide applications shall be capable of Active Directory integration for user authentication and utilize County’s MFA.</p> <p>Devices requiring wireless access must a) be domain integrated or b) have the ability to accept captive portal agreement (a web page that the user of a public-access network is obliged to view and interact with before access is granted).</p>  | <p>N/A</p> |
| <p><b>Records</b></p>  | <p>Shall conform to Los Alamos County Records and Information Governance Policy #0310</p>  | <p>N/A</p> |
| <p><b>E-Signature</b></p>                                      | <p>Shall conform to Los Alamos County E-signature Policy #1220.</p>  | <p>N/A</p> |
| <p><b>Hosted/Cloud Based Services</b></p>                      | <ul style="list-style-type: none"> <li>• Los Alamos County is interested in taking advantage of Anything as a Service (XaaS) opportunity available through Cloud Service Providers (CSP), in Government Cloud (GCC) where required. CSP data centers must be located within the United States.</li> <li>• Enterprise-wide applications shall be capable of Active Directory integration for user authentication and utilize County’s MFA.</li> <li>• Data centers must be FedRAMP certified for SaaS solutions procured by departments if they also store or may store Los Alamos National Laboratory (LANL) critical infrastructure data for County operations. Departments must verify with LANL authority to confirm that this requirement is applicable to the LANL information to be stored.</li> <li>• Ownership of County data held in the CSP solution shall remain with the County of Los Alamos. County may have on-demand access to the data for export/download or have the data delivered by request by the CSP with a maximum 48-hour compliance window. Exports shall be in MS-SQL format.</li> </ul> | <p>YES</p> |



**Exhibit C**  
**Confidential Information Disclosure Statement**  
**AGR24-72**

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:

|                        | <b>Contractor</b> | <b>County</b>                    |
|------------------------|-------------------|----------------------------------|
| <b>Name:</b>           |                   | Sammy Maestas                    |
| <b>Title:</b>          |                   | Gas, Water, Sewer Superintendent |
| <b>Address:</b>        |                   | 101 Camino Entrada               |
| <b>City/State/Zip:</b> |                   | Los Alamos, New Mexico 87544     |
| <b>Email:</b>          |                   | sammy.maestas@lacnm.us           |

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.