

**NOVATION
OF
INCORPORATED COUNTY OF LOS ALAMOS
SERVICES AGREEMENT NO. 19-25**

This **NOVATION OF CONTRACT ("Novation")** is entered into by and between the **Incorporated County of Los Alamos**, an incorporated county of the State of New Mexico ("County"), **IIA Lifting Services, Inc.** an Arizona corporation, and **CraneCare, Inc.**, a New Mexico corporation, collectively ("the Parties"), to be effective for all purposes January 1, 2024.

WHEREAS, County entered into Service Agreement No. AGR19-25 with CraneCare, Inc. on February 1, 2019, which is incorporated herein by reference for all purposes ("Agreement") for Lifts and Cranes Inspection, Maintenance and Repair; and

WHEREAS, in 2018 CraneCare, Inc. was acquired by IIA Lifting Services, Inc.; and

WHEREAS, on January 1, 2024, IIA Lifting Services, Inc. and CraneCare, Inc. ("Exiting Contractor") will merge into a single entity, IIA Lifting Services, Inc., ("Contractor" and "Assignee"); and

WHEREAS, Exiting Contractor desires to assign and transfer the Agreement to Contractor, and Contractor wishes to accept the assignment, transfer, and assumption of all the rights, interests, covenants, obligations, and liabilities of Exiting Contractor according to the terms of the Agreement and following the terms and conditions of this Novation; and

WHEREAS, the Council of the Incorporated County of Los Alamos ("County Council") finds that a Novation of the Agreement from the Exiting Contractor to the Contractor is in the best interest of County; and

WHEREAS, the Services are ongoing, County and Contractor wish to extend the term of the Agreement as allowed for in the original terms and conditions; and

WHEREAS, the original not to exceed compensation amount of the Agreement of ONE HUNDRED THOUSAND AND 00/100 DOLLARS (\$100,000.00) was an estimate of total compensation for the services based on County's projected use and costs for Services; and

WHEREAS, County has thus far spent THIRTY-THREE THOUSAND FOUR HUNDRED TWENTY-EIGHT AND 34/100 DOLLARS (\$33,428.34); and

WHEREAS, County wishes to increase the not to exceed compensation amount by FIFTY THOUSAND DOLLARS (\$50,000.00) should the need for a major repair of a lift or crane occur during the extended term of the Agreement; and

WHEREAS, County Council approved the Novation of the Agreement at a public meeting held on December 5, 2023.

NOW, THEREFORE, for good and valuable consideration, County, Contractor, and Exiting Contractor acknowledge, agree, and stipulate as follows:

1. On January 1, 2024, Contractor will assume all assets and liabilities of the Exiting Contractor, including the Agreement.
2. Contractor shall be bound by all obligations, terms and conditions created by the Agreement between Exiting Contractor and County.
3. Contractor shall be bound by and perform all duties, obligations, and work required by the Agreement in strict accordance with the terms and conditions of the Agreement.
4. Contractor shall assume all past and future duties, obligations, liabilities created under the Agreement by the Exiting Contractor as if the Contractor were the Exiting Contractor when the Agreement was originally entered.
5. Exiting Contractor confirms the transfer of all assets and liabilities to Contractor and waives any claim or right that it may have against County with respect to the Agreement.
6. The Parties agree that all payments previously made by County to the Exiting Contractor, and all other previous actions taken by County under this Agreement, shall be considered to have discharged those parts of the County's obligations under the Agreement.
7. Delete **SECTION B. TERM** in its entirety and replace it with the following:
SECTION B. TERM: The term of this Agreement shall commence February 1, 2019, and shall continue through December 31, 2026, unless sooner terminated, as provided herein.
8. Delete **SECTION C. COMPENSATION** in its entirety and replace it with the following:
 1. **Amount of Compensation.** County shall pay compensation for performance of the Services in an amount not to exceed ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000.00), throughout the entire term of this Agreement including any renewals, and which amount does not include applicable New Mexico gross receipts taxes ("NMGR"), but does include parts billed on an as-needed basis at actual invoice price without markup, but does include travel costs. Compensation shall be paid in accordance with the rate schedule set out in Exhibit "A," attached hereto and made a part hereof for all purposes.
 - a. If an overnight stay in Los Alamos County is required, Contractor shall get prior approval from County. If an overnight stay is approved by County, a per diem rate of THIRTY DOLLARS (\$30.00) per day plus actual lodging fees shall apply in accordance with County's Travel Policy.
 - b. Separate or additional inspections requested by County shall incur a four (4) hour trip charge of TWO HUNDRED EIGHTY-FIVE DOLLARS (\$285.00).
 2. **Quarterly Invoices.** Contractor shall submit itemized invoices to County's Project Manager identifying Services performed, corresponding rates, any parts and supplies used in the repairs, amount of compensation due, amount of any NMGR, and the total amount payable. Payment of undisputed amounts shall be due and payable thirty (30) days after County's receipt of the invoice.
9. Contractor's obligations to provide Services under the Agreement and this Novation shall be subject to the following:

- a. Contractor shall obtain and maintain insurance of the types and in the amounts set out in **SECTION I. INSURANCE** of the Agreement with an insurer acceptable to County. Assignee shall assure that all subcontractors maintain like insurance.
- b. Assignee must submit a Campaign Contribution Disclosure Form with this Novation, attached as Exhibit A.

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 the Agreement or this Novation unless and until it has met the requirements of this provision.

10. Delete **SECTION S. NOTICE** in its entirety and replace it with the following:

SECTION S. NOTICE: Any notices required under this Agreement shall be made in writing, postage prepaid to the following addresses, and shall be deemed given upon hand delivery, verified delivery by telecopy (followed by copy sent by United States Mail), or three (3) days after deposit in the United States Mail:

County:

Facilities Manager
Incorporated County of Los Alamos
101 Camino Entrada, Building 1
Los Alamos, New Mexico 87544

Contractor:

Mike Jolly, Operations Manager
Industrial - IA
3600 Osuna Road, NE, Suite 321
Albuquerque, New Mexico 87109

11. Delete **SECTION U. CAMPAIGN CONTRIBUTION DISCLOSURE FORM** in its entirety and replace it with the following:

SECTION U. CAMPAIGN CONTRIBUTION DISCLOSURE FORM: A Campaign Contribution Disclosure Form is attached with this Novation as Exhibit A and is incorporated herein by reference for all purposes. Contractor must submit this form with this Agreement.

12. Add four (4) new Sections titled "V," "W," "X," and "Y."

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

SECTION W. 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 enforceable; and (ii) all other provisions of this Agreement shall remain in effect.

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

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

Except as expressly modified by this Novation, the other terms and conditions of the Agreement remain unchanged and in effect.

IN WITNESS WHEREOF, the Parties have executed this **NOVATION OF CONTRACT** 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

CRANECARE, INC., A NEW MEXICO CORPORATION

BY: _____
CHRISTOPHER NIEBUHR **DATE**
CEO

IIA LIFTING SERVICES, INC., AN ARIZONA CORPORATION

BY: _____
JASON SCRAGE **DATE**
CHIEF OPERATING OFFICER

Exhibit A
CAMPAIGN CONTRIBUTION DISCLOSURE FORM
AGR19-25-A1

Any prospective contractor seeking to enter into a contract with the Incorporated County of Los Alamos must file this form disclosing whether they, a family member or a representative of the prospective contractor has made a campaign contribution to an applicable public official during the two (2) years prior to the date on which prospective contractor submits a proposal or, in the case of a sole source or small purchase contract, the two (2) years prior to the date prospective contractor signs the contract, if the aggregate total of contributions given by the prospective contractor, a family member or a representative of the prospective contractor to the public official exceeds TWO HUNDRED FIFTY DOLLARS (\$250.00) over the two (2) year period.

THIS FORM MUST BE FILED BY ANY PROSPECTIVE CONTRACTOR WHETHER OR NOT THEY, THEIR FAMILY MEMBER, OR THEIR REPRESENTATIVE HAS MADE ANY CONTRIBUTIONS SUBJECT TO DISCLOSURE.

The following definitions apply:

“Applicable public official” means a person elected to an office or a person appointed to complete a term of an elected office, who has the authority to award or influence the award of the contract for which the prospective contractor is submitting a competitive sealed proposal or who has the authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive proposal.

“Campaign Contribution” means a gift, subscription, loan, advance or deposit of money or other things of value, including the estimated value of an in-kind contribution, that is made to or received by an applicable public official or any person authorized to raise, collect or expend contributions on that official’s behalf for the purpose of electing the official to either statewide or local office. “Campaign Contribution” includes the payment of a debt incurred in an election campaign, but does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee.

“Contract” means any agreement for the procurement of items of tangible personal property, services, professional services, or construction.

“Family member” means a spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law of:

- (a) a prospective contractor, if the prospective contractor is a natural person; or
- (b) an owner of a prospective contractor.

“Pendency of the procurement process” means the time period commencing with the public notice of the request for proposals and ending with the award of the contract or the cancellation of the request for proposals.

“Person” means any corporation, partnership, individual, joint venture, association or any other private legal entity.

“Prospective contractor” means a person who is subject to the competitive sealed proposal process set forth in the Procurement Code or is not required to submit a competitive sealed proposal because that person qualifies for a sole source or a small purchase contract.

“Representative of a prospective contractor” means an officer or director of a corporation, a ☐ member or manager of a limited liability corporation, a partner of a partnership or a trustee of a trust of the prospective contractor.

DISCLOSURE OF CONTRIBUTIONS: (Report any applicable contributions made to the following - COUNTY COUNCILORS: Theresa Cull; Denise Derkacs; Melanee Hand; Susie Havemann; Keith Lepsch; David Reagor; and Randal Ryti.)

| Contribution Made By: | | | |
|-------------------------------------|----------------------------|----------------------------|-----------------------------|
| Relation to Prospective Contractor: | | | |
| Name of Applicable Public Official: | | | |
| Contribution(s) Date(s) | Contribution Amount(s): | Nature of Contribution(s): | Purpose of Contribution(s): |
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(Attach extra pages if necessary)

Please check the box next to the applicable statement.

| | |
|--------------------------|---|
| <input type="checkbox"/> | CONTRIBUTIONS IN THE AGGREGATE TOTAL OVER TWO HUNDRED FIFTY DOLLARS (\$250.00) WERE MADE to an applicable public official by me, a family member or representative, and I have disclosed those contributions. |
| <input type="checkbox"/> | NO CONTRIBUTIONS IN THE AGGREGATE TOTAL OVER TWO HUNDRED FIFTY DOLLARS (\$250.00) WERE MADE to an applicable public official by me, a family member or representative. |

Signature

Date

Title (position)