



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 **PAC-8, Incorporated**, a New Mexico non-profit corporation ("Contractor"), to be effective for all purposes November 11, 2020.

WHEREAS, the County Purchasing Agent determined in writing that the use of competitive sealed bidding was either not practical or not advantageous to County for procurement of the Services and County issued Request for Proposals No. 21-11 (the "RFP") on July 30, 2020, requesting proposals for Cablecasting of County Council Meetings and Videotaping Training and Production Services, as described in the RFP; and

WHEREAS, Contractor timely responded to the RFP by submitting a response dated August 27, 2020 ("Contractor's Response"); and

WHEREAS, based on the evaluation factors set out in the RFP, Contractor, as the sole proposer, was the successful Offeror for the services listed in the RFP; and

WHEREAS, the County Council approved this Agreement at a public meeting held on November 10, 2020; and

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

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

SECTION A. SERVICES:

1. Contractor Services. For each year of the Agreement, Contractor shall:

- a. Provide equipment and staff to cable cast every Council meeting and Budget Hearing in its entirety during the Term of this Agreement and includes scheduling and programming the broadcast using the Leightronix MiniT Pro Event Manager™ or similar program on the County's public access cable ("PAC") television station using cable lines owned by Comcast pursuant to the Comcast franchise agreement for the purpose of:
 - 1) Receiving a broadcast signal from the County for live cablecasting;
 - 2) Rebroadcast each County Council meeting twice before the next Council meeting, or at times as selected by County; each meeting shall be broadcast in its entirety. As part of the rebroadcast, Contractor shall import the meetings into Adobe Premiere Pro, removing non-meeting footage, encoding, and exporting the footage and then transferring it to the video server and scheduling the shows to replay; and
 - 3) Broadcasting to the Los Alamos community of County-sponsored information and events using a video broadcast "bulletin board." The County shall provide community information which Contractor shall update bulletin board at least two (2) times per

week. Contractor shall remove expired or old announcements at the end of each month. Contractor shall publish the community event bulletin information, at minimum, from 5 p.m. to 6 p.m. MST on weekdays between scheduled programs.

- b. Provide Video Production Services to County, at County's written request, at the per-hour and total annual rates as found in Exhibit B, Part B of this Agreement. "Video Production Services" includes, but is not limited to Contractor providing: camera technician, operating camera, microphones, tripods, lights, and other necessary equipment, and shall include editing technician, importing footage into Adobe Premiere Pro or similar program for editing, using filters special effects, transitions, graphics, effect controls and choosing and purchase of musical rights or permissions.
- c. The County shall pay Contractor the per student amount as found Exhibit B, Part B of this Agreement for Video Training Services. "Video Training Services" includes, but is not limited to Contractor providing: planning and scheduling classes, training teachers, publicizing classes, making sure equipment is available and working, and supervising classes.
- d. Contractor shall update their website weekly that will include the schedule of TV programs, schedule of classes and links to recent video productions. Contractor shall also disseminate information to the public using their FaceBook page. Contractor's schedule shall also be listed in the Los Alamos Daily Post.

2. Deliverables. Contractor shall provide:

- a. Quarterly progress reports, in a format provided by County, covering each three (3) month period of term of the Agreement, with the first period beginning April 2021. The reports shall include financial and programmatic information related to the programs, events, and services provided by Contractor, who shall furnish the reports to the County Project Manager within thirty (30) days after the end of each reporting period.
- b. A copy of an annual financial review performed by an independent party with acknowledged financial experience, no later than September 30 of each year. This review shall include, at a minimum, all financial records relating to the Agreement Term. A copy of the Contractor's most recent financial audit performed by an accountant or accounting firm may be accepted in lieu of the financial review.
- c. Information regarding applications for grants or solicitations for other funding sources related to this Agreement and the status of the applications or solicitation efforts.

3. Premises.

- a. County shall provide Contractor with the non-exclusive use of Rooms B28-B34 in the basement of the Los Alamos Community Building located at 475 20th Street, Los Alamos, New Mexico 87544 (all hereinafter referred to as the "Premises") during the term of this Agreement.
- b. The Premises may only be used for office, video/TV studio, class, or meeting space to support the Services as outlined in Section A.1 of this Agreement, provided however, that County may withdraw, at its sole discretion, the provision of the Premises to Contractor with thirty (30) days written notice without terminating this Agreement. At its sole discretion, County may designate, in writing, additional space for use by Contractor, but such additional space is subject to the same right of withdrawal with notice. Any additional space assigned to Contractor shall be included in the term "Premises" for purposes of this Agreement. County may assign a different premises or space or relocation of Contractor to another location within County facilities, based on the needs of County, with thirty (30) days written notice to Contractor.

- c. A diagram of the location of the Premises is attached to this Agreement as Exhibit "A."
- d. Unless County notifies Contractor, in writing otherwise, Contractor, its employees, members, volunteers and activity patrons are granted a non-exclusive right to use, in common with others, the parking spaces, drives, walks, entrance ways and restrooms located on County property in which the Premises is located.
- e. Contractor shall not permit anyone other than Contractor's employees, members, volunteers, contractors, agents and activity patrons to use the premises, except as expressly provided in this Section A.3. Contractor shall not impose a charge for the use of the premises or any part of the premises by Contractor's employees, members, volunteers or activity patrons; provided, however, that nothing in this paragraph shall prohibit Contractor from offering programs, classes or providing other activities contemplated hereunder, requiring payment for the program, class or activity, and paying an instructor, facilitator, or other person to run or manage the class or activity.
- f. County shall provide security and supervision of the Premises and portions of any related facilities assigned for Contractor's use, subject to County's policies.
- g. County shall provide all reasonable labor, services, supplies and materials required for the upkeep, maintenance, and repair of the Premises, including custodial and janitorial services. The level of custodial and janitorial services deemed reasonable shall be the same level of service provided for other similar County facilities according to guidelines prepared annually by County Facilities Division. Copies of the current guidelines shall be provided upon request.
- h. County shall pay all reasonable charges for water, electricity, gas, sewer, refuse, and other utilities attributable to the Premises. Contractor shall be responsible for and pay any and all telecommunication charges and equipment, including installation, monthly charges or fees, cost of lines, phones, cable TV, internet services, computers and all other related telecommunications equipment. Contractor shall not arrange for the installation of any telecommunications services, lines, or equipment without prior written consent from County.
- i. The Premises may be altered, modified, or improved from time to time by County or its agents, at the sole discretion of County.
- j. Contractor shall not make any alterations, additions or improvements to the Premises, or to any County property contained thereon, without the prior written consent of County. Title to all alterations, additions or improvements to the Premises shall vest in County, except as otherwise authorized in writing by County.
- k. To protect the health and safety of the public or any person or persons using or occupying the Premises, and to minimize danger from all hazards to life and property, Contractor shall take all reasonable precautions in connection with its use of the Premises and shall comply with all health, safety and fire protection rules, laws, regulations and requirements of County, and any other pertinent regulatory body. Upon written request from the Contractor, County reserves the sole right to determine if circumstances warrant cancellation of an event, or if an alternate activity may be substituted. Contractor shall make decisions regarding hours of operation during inclement weather and shall disseminate that information to the public as quickly as possible using local news media and social media.
- l. Smoking and vaping in the building and in the Premises are prohibited. It shall be the responsibility of Contractor to enforce this prohibition within the enclosed or public premises used or occupied by Contractor during the Term of this Agreement in accordance with the provisions of Chapter 18 Article IV of the Code of the Incorporated County of Los Alamos.

- m. County is the owner of any keys to the Premises or other space on County property and shall have the right to inspect the work and activities of Contractor in connection with its use of the Premises at such times and in such a manner as County may deem reasonably appropriate. County reserves the right to enter the premises for building maintenance and repair at such times and in such a manner as County deems necessary. No keys to the Premises shall be provided by Contractor, or at the request of Contractor, to any other party. Any individual authorized to have a key to the Premises shall maintain the key within his or her control at all times. Contractor is prohibited from copying keys to the Premises and a violation of this provision shall constitute grounds for immediate termination of this Agreement. Contractor may request from County keys to the Premises and provide those keys to individuals authorized to receive them in accordance with County's approved Key Policy – Cultural Service Contractors (Index #1701) (the "Key Policy"). Contractor shall assure that all individuals responsible for keys issued to them comply fully with the Key Policy.
- n. Contractor must comply with all applicable laws, rules, and regulations, including obtaining and necessary licenses, permits, or authorizations from responsible entities.

SECTION B. TERM: The term of this Agreement shall commence November 11, 2020, and shall continue through June 30, 2021, with the option to renew for an additional six (6) one-year periods at the County's sole option under the same terms and conditions, 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 THREE HUNDRED THIRTY-TWO THOUSAND NINE HUNDRED TWENTY-SEVEN AND 66/100 DOLLARS (\$332,927.66) which amount does not include applicable New Mexico gross receipts taxes ("NMGRT"). Compensation shall be paid in accordance with Part A and B of Exhibit "B," attached hereto and made a part hereof for all purposes.
- 2. **Monthly Invoices.** Contractor shall submit itemized monthly invoices 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 will not be considered an employee of County for any purpose. Contractor, its agents or employees shall make no representation that they are County employees, nor shall they create the appearance of being employees by using a job or position title on a name plate, business cards, or in any other manner, bearing County's name or logo. Neither Contractor nor any employee of Contractor shall be entitled to any benefits or compensation other than the compensation specified herein. Contractor shall have no authority to bind County to any agreement, contract, duty or obligation. Contractor shall make no representations that are intended to, or create the appearance of, binding County to any agreement, contract, duty, or obligation. Contractor shall have full power to continue any outside employment or business, to employ and discharge its employees or associates as it deems appropriate without interference from County; provided, however, that Contractor shall at all times

during the term of this Agreement maintain the ability to perform the obligations in a professional, timely and reliable manner.

SECTION F. STANDARD OF PERFORMANCE: Contractor agrees and represents that it has and will maintain the personnel, experience and knowledge necessary to qualify it for the particular duties to be performed under this Agreement. Contractor shall perform the Services described herein in accordance with a standard that exceeds the industry standard of care for performance of the Services.

SECTION G. DELIVERABLES AND USE OF DOCUMENTS: All deliverables required under this Agreement, including material, products, reports, policies, procedures, software improvements, databases, and any other products and processes, whether in written or electronic form, shall remain the exclusive property of and shall inure to the benefit of County as works for hire; Contractor shall not use, sell, disclose, or obtain any other compensation for such works for hire. In addition, Contractor may not, with regard to all work, work product, deliverables or works for hire required by this Agreement, apply for, in its name or otherwise, any copyright, patent or other property right and acknowledges that any such property right created or developed remains the exclusive right of County. Contractor shall not use deliverables in any manner for any other purpose without the express written consent of County.

SECTION H. EMPLOYEES AND SUB-CONTRACTORS: Contractor shall be solely responsible for payment of wages, salary or benefits to any and all employees or contractors retained by Contractor in the performance of the Services. Contractor agrees to indemnify, defend and hold harmless County for any and all claims that may arise from Contractor's relationship to its employees and subcontractors.

SECTION I. INSURANCE: Contractor shall obtain and maintain insurance of the types and in the amounts set out below throughout the term of this Agreement with an insurer acceptable to County. Contractor shall assure that all subcontractors maintain like insurance. Compliance with the terms and conditions of this Section is a condition precedent to County's obligation to pay compensation for the Services and Contractor shall not provide any Services under this Agreement unless and until Contractor has met the requirements of this Section. County requires Certificates of Insurance or other evidence acceptable to County that Contractor has met its obligation to obtain and maintain insurance and to assure that subcontractors maintain like insurance. Should any of the policies described below be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. General Liability Insurance and Automobile Liability Insurance shall name County as an additional insured.

1. **General Liability Insurance:** ONE MILLION DOLLARS (\$1,000,000.00) per occurrence; TWO MILLION DOLLARS (\$2,000,000.00) aggregate.
2. **Workers' Compensation:** In an amount as may be required by law. County may immediately terminate this Agreement if Contractor fails to comply with the Worker's Compensation Act and applicable rules when required to do so.
3. **Automobile Liability Insurance for Contractor and its Employees:** ONE MILLION DOLLARS (\$1,000,000.00) combined single limit per occurrence; TWO MILLION DOLLARS (\$2,000,000.00) aggregate on any owned, and/or non-owned motor vehicles used in performing Services under this Agreement.

SECTION J. RECORDS: Contractor shall maintain, throughout the term of this Agreement and for a period of six (6) years thereafter, records that indicate the date, time, and nature of the

services rendered. Contractor shall make available, for inspection by County, all records, books of account, memoranda, and other documents pertaining to County at any reasonable time upon request.

SECTION K. APPLICABLE LAW: Contractor shall abide by all applicable federal, state and local laws, regulations, and policies and shall perform the Services in accordance with all applicable laws, regulations, and policies during the term of this Agreement. In any lawsuit or legal dispute arising from the operation of this Agreement, Contractor agrees that the laws of the State of New Mexico shall govern. Venue shall be in the First Judicial District Court of New Mexico in Los Alamos County, New Mexico.

SECTION L. NON-DISCRIMINATION: During the term of this Agreement, Contractor shall not discriminate against any employee or applicant for an employment position to be used in the performance of the obligations of Contractor under this Agreement, with regard to race, color, religion, sex, age, ethnicity, national origin, sexual orientation or gender identity, disability or veteran status.

SECTION M. INDEMNITY: Contractor shall indemnify, hold harmless and defend County, its Council members, employees, agents and representatives, from and against all liabilities, damages, claims, demands, actions (legal or equitable), and costs and expenses, including without limitation attorneys' fees, of any kind or nature, arising from Contractor's performance hereunder or breach hereof and the performance of Contractor's employees, agents, representatives and subcontractors.

SECTION N. FORCE MAJEURE: Neither County nor Contractor shall be liable for any delay in the performance of this Agreement, nor for any other breach, nor for any loss or damage arising from uncontrollable forces such as fire, theft, storm, war, or any other force majeure that could not have been reasonably avoided by exercise of due diligence.

SECTION O. NON-ASSIGNMENT: Contractor may not assign this Agreement or any privileges or obligations herein without the prior written consent of County.

SECTION P. LICENSES: Contractor shall maintain all required licenses including, without limitation, all necessary professional and business licenses, throughout the term of this Agreement. Contractor shall require and shall assure that all of Contractor's employees and subcontractors maintain all required licenses including, without limitation, all necessary professional and business licenses.

SECTION Q. PROHIBITED INTERESTS: Contractor agrees that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of its services hereunder. Contractor further agrees that it will not employ any person having such an interest to perform services under this Agreement. No County Council member or other elected official of County, or manager or employee of County shall solicit, demand, accept or agree to accept a gratuity or offer of employment contrary to Section 31-282 of the Los Alamos County Code.

SECTION R. TERMINATION:

1. **Generally.** County may terminate this Agreement with or without cause upon ten (10) days prior written notice to Contractor. Upon such termination, Contractor shall be paid for Services actually completed to the satisfaction of County at the rate set out in Exhibit B. Contractor

shall render a final report of the Services performed to the date of termination and shall turn over to County originals of all materials prepared pursuant to this Agreement.

- 2. Funding.** This Agreement shall terminate without further action by County on the first day of any County fiscal year for which funds to pay compensation hereunder are not appropriated by County Council. County shall make reasonable efforts to give Contractor at least ninety (90) days advance notice that funds have not been and are not expected to be appropriated for that purpose.

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

County:

Julie Habiger, Project Manager
Incorporated County of Los Alamos
1000 Central Ave, Suite 350
Los Alamos, New Mexico 87544

Contractor:

Dave Schiferl, President
PAC-8, Incorporated
475 20th Street, Suite E
Los Alamos, New Mexico 87544

SECTION T. INVALIDITY OF PRIOR AGREEMENTS: This Agreement supersedes all prior contracts or agreements, either oral or written, that may exist between the parties with reference to the services described herein and expresses the entire agreement and understanding between the parties with reference to said services. It cannot be modified or changed by any oral promise made by any person, officer, or employee, nor shall any written modification of it be binding on County until approved in writing by both County and Contractor.

SECTION U. CAMPAIGN CONTRIBUTION DISCLOSURE FORM: A Campaign Contribution Disclosure Form was submitted as part of the Contractor's Response and is incorporated herein by reference for all purposes. This Section acknowledges compliance with Chapter 81 of the Laws of 2006 of the State of New Mexico.

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

SECTION W. DUPLICATE ORIGINAL DOCUMENTS: This document may be executed in counterparts, each of which shall be deemed an original.

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

ATTEST

INCORPORATED COUNTY OF LOS ALAMOS

NAOMI D. MAESTAS
COUNTY CLERK

BY: _____
HARRY BURGESS **DATE**
COUNTY MANAGER

Approved as to form:

/s/ Kevin J. Powers, for

J. ALVIN LEAPHART
COUNTY ATTORNEY

PAC-8, INCORPORATED, A NEW MEXICO NONPROFIT CORPORATION

BY: _____

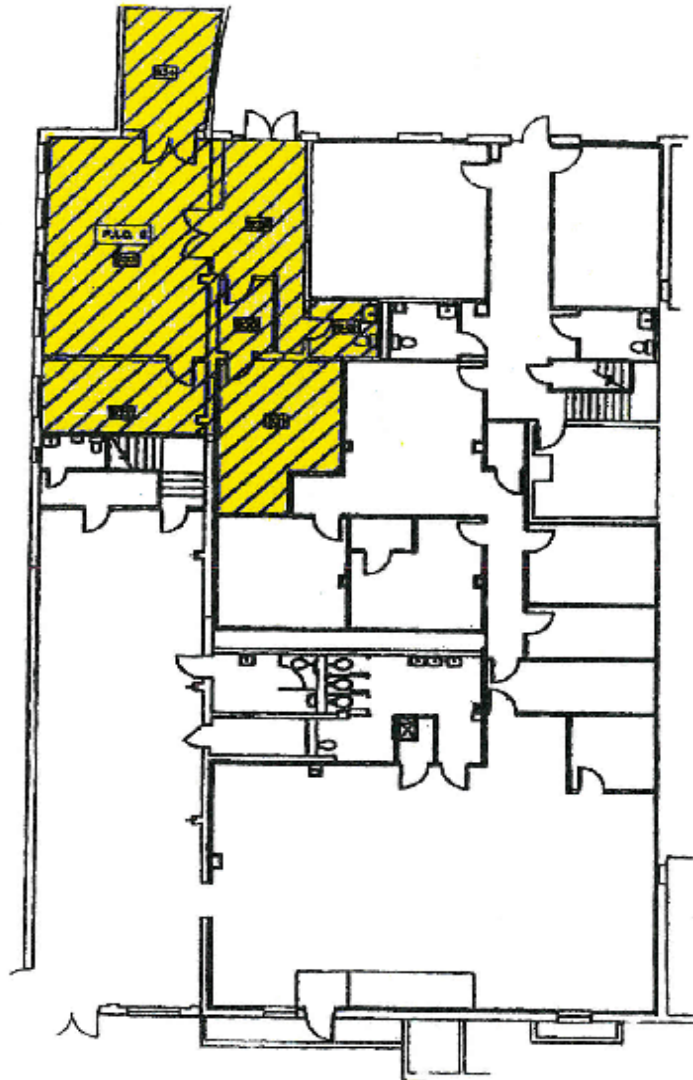
NAME: _____


TITLE: _____

DATE: _____

Exhibit "A"
AGR21-11

Premises for PAC-8*



 = PAC-8 Premises

*Actual size and area may vary slightly from the above image.

**Exhibit “B”
Compensation Rate Schedule
AGR21-11**

<i>Part A. Monthly (fixed) charges</i>	Year One (1) Fiscal Year 2021		Year Two (2) FISCAL YEAR 2022		Year Three (3) FISCAL YEAR 2023		Year Four (4) FISCAL YEAR 2024		Year Five (5) FISCAL YEAR 2025		Year Six (6) FISCAL YEAR 2026		Year Seven (7) FISCAL YEAR 2027			Notes:
	Monthly	Annually	Monthly	Annually	Monthly	Annually	Monthly	Annually	Monthly	Annually	Monthly	Annually	Monthly	Annually		
Cablecast Council Meetings	\$2,916.67	\$35,000.00	\$3,004.17	\$36,050.00	\$3,094.29	\$37,131.50	\$3,187.12	\$38,245.45	\$3,282.73	\$39,392.81	\$3,381.22	\$40,574.59	\$3,482.65	\$41,791.83	\$268,186.18	1
Cmty Bulletin Board	\$500.00	\$6,000.00	\$515.00	\$6,180.00	\$530.00	\$6,360.00	\$546.00	\$6,552.00	\$563.00	\$6,756.00	\$580.00	\$6,960.00	\$597.00	\$7,164.00	\$45,972.00	1
Replay Council Meetings	\$250.00	\$3,000.00	\$257.50	\$3,090.00	\$265.25	\$3,183.00	\$273.17	\$3,278.00	\$281.42	\$3,377.00	\$289.83	\$3,478.00	\$298.50	\$3,582.00	\$22,988.00	1
Subtotals	\$3,666.67	\$29,333.33	\$3,776.67	\$45,320.00	\$3,889.54	\$46,674.50	\$4,006.29	\$48,075.45	\$4,127.15	\$49,525.81	\$4,251.05	\$51,012.59	\$4,378.15	\$52,537.83	\$322,479.51	2
<i>Part B. Additional Services</i>	Rate	Annual	Rate	Annual	Rate	Annual	Rate	Annual	Rate	Annual	Rate	Annual	Rate	Annual		
Video Production - per hour	\$60.00	\$300.00	\$60.00	\$600.00	\$65.00	\$650.00	\$65.00	\$650.00	\$70.00	\$700.00	\$70.00	\$700.00	\$75.00	\$750.00	\$4,350.00	1, 3, 6
Video Training - per student	\$10.00	\$600.00	\$10.00	\$850.00	\$10.30	\$875.50	\$10.61	\$901.77	\$10.93	\$928.82	\$11.26	\$956.68	\$11.59	\$985.38	\$6,098.15	1, 4, 5, 6
Subtotal		\$900.00		\$1,450.00		\$1,525.50		\$1,551.77		\$1,628.82		\$1,656.68		\$1,735.38		
TOTAL CONTRACT Part A, B		\$30,233.33		\$46,770.00		\$48,200.00		\$49,627.21		\$51,154.63		\$52,669.28		\$54,273.21	\$10,448.15	
TOTAL CONTRACT 7 Yrs.															\$332,927.66	

Notes:

1. 3% increase annually - subject to annual budget allocation request approved by Council.
2. Year One Total is amended to deduct July through October due to delay in contract (total \$16,188. already expended as a bridge PO against PIO budget).
3. Upon request of by County, not to exceed ten (10) hours at the defined rate per hour, per contract year. Exception: See note 6.
4. The County shall pay to Contractor the per student amount for each enrolled video training student which shall not exceed eighty-five (85) students per year, at the defined rate per student enrolled, per contract year. Exception: See note 6.
5. Proof of student enrollment required to invoice.
6. Limits video production hours to five (5) students, and compensates for up to sixty (60) students in the remainder of Year One of the contract due to time delay and COVID.