



AGR24-44



LOS ALAMOS

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 **R and M Construction, LLC.**, a New Mexico limited liability corporation ("Contractor"), collectively (the "Parties"), is executed on the date set forth opposite the signature of the authorized representative of the Parties, and is deemed to be effective on the date approved by County Council.

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. 24-44 ("RFP") on June 1, 2024, requesting proposals for Los Alamos Ice Rink Refrigeration System Replacement and Mechanical Room Upgrades, as described in the RFP; and

WHEREAS, Contractor timely responded to the RFP by submitting a response dated June 27, 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 County Council approved this Agreement at a public meeting held on August 6, 2024; and

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

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

SECTION A. DEFINITIONS: In addition to any other terms elsewhere defined in this Agreement, the following terms are defined for the purpose of this Agreement. Where a definition is not defined, the standard meaning applies:

1. The terms "Contract" and "Agreement" are interchangeable when used throughout.
2. The terms "Services," "Construction Services," "Work," and "Project" are used interchangeably.
3. The term "Substantial Completion" shall be defined as at the time when the installed chiller has been demonstrated to be capable of making a skateable sheet of ice.
4. The term "Engineer" shall be defined as the licensed professional engineer subcontracted to the Contractor.

SECTION B. SUBJECT MATTER:

Contractor shall perform the Work, and shall furnish all materials, equipment, tools, labor and all supplies, appliances, and appurtenances necessary to complete the Project in accordance with the terms of the Agreement and the solicitation documents. The term "Agreement" or "Contract"

includes all the terms, conditions and obligations. The Work shall be performed in accordance with the Agreement, which shall be interpreted to give full effect to all the terms and conditions herein. In the event of a conflict in the terms and provisions of the Agreement, the terms and provisions of the Agreement shall control in the following order:

1. Change Orders;
2. Amendments;
3. Addenda;
4. Agreement;
5. Notice to Contractors;
6. Special Conditions;
7. General Conditions;
8. Technical Specifications;
9. Contract drawings

SECTION C. Amount of Compensation. County shall pay compensation for performance of the Project in an amount not to exceed TWO MILLION, SEVEN HUNDRED EIGHT THOUSAND, SIX HUNDRED NINETY-EIGHT AND 19/100 DOLLARS (\$2,708,698.19), plus or minus the amounts of any executed Change Order(s) 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, "Compensation Rate Schedule," attached hereto and made a part hereof for all purposes.

SECTION D. SERVICES:

Contractor shall provide design, equipment and construction of a successfully commissioned refrigeration system for the Los Alamos Ice Rink. Project activities are described below, and in Exhibit B, "Specifications", and Exhibit C, "Construction Book." The Project shall be conducted in the following phases:

1. **Phase 1 Project Initiation/Kickoff Meeting:** Contractor shall, within ten (10) business days from the Effective Date of this Agreement, schedule a Kickoff Meeting with the County's Project Manager ("Project Manager") and designated County staff ("County Project Team") at a date, time and format agreed upon by both Parties. Contractor shall provide a proposed written agenda. As part of the Kickoff Meeting, the Parties shall, at a minimum:
 - a. Establish a mutually agreed upon Project Schedule to accomplish key tasks with durations for each task, including, at a minimum, design phases in summer 2024, ordering of long lead time components in summer 2024, begin chiller production in autumn 2024, chiller quality control and testing in winter 2024, delivery of chiller to ice rink in spring 2025, and start-up of chiller for ice production and skateable ice in autumn 2025.
 - b. Review construction phase-related forms as shown in Exhibit C.
 - c. Establish a mutually agreed upon staging area, review and initiate execution of License Agreement for Staging Area, an example of which is shown on Exhibit "D," License Agreement for Staging Area.

- d. Review the Services scope of work and identify any Project issues that may need to be addressed during the course of the Project. Identify requirements for preliminary design.
 - e. Establish communication protocols, meeting frequency, and meeting format. Develop requirements for periodic status reporting and evaluation. Develop a preliminary schedule for Contractor to perform the Work, including, at a minimum, preliminary design, full design, construction of the chiller, mechanical room upgrades, on site installation of equipment, and commissioning.
 - f. Identify document format and data transfer methods between Contractor and Project Manager related to the performance of this Agreement.
 - g. Contractor shall provide detailed and complete written documentation of this meeting, Project Plan and preliminary Project Schedule to County within ten (10) business days of the meeting.
2. **Phase 2 Preliminary Design:** Contractor shall, within two (2) weeks following the kickoff meeting, prepare and present a preliminary design for County feedback and approval, and approximately thirty (30%) percent level construction drawings.
3. **Phase 3 Design Development**
- a. Within two (2) weeks following County approval of the preliminary design, Contractor shall initiate a full design of the system.
 - b. Following County's written approval of design, and within time agreed to by County, Contractor shall provide County Project Manager:
 - 1) Fifty (50%) percent level construction drawings
 - 2) Updated Project Schedule
4. **Phase 4 Construction Documents**
- a. Within two (2) weeks following County's written acceptance of the final design, Contractor shall initiate one hundred (100%) percent level construction documents .
 - b. Following County's review and written acceptance of the final construction documents, Contractor shall prepare and provide a written final Project Schedule.
5. **Phase 5 Construction**
- Contractor shall:**
- a. Obtain all required permits.
 - b. Provide upgrades to mechanical room to ensure conformance with ANSI/IIAR 2-2021 and ASHRAE 15 safety codes, including, but not limited to masonry, framing, mechanical work, lighting, electrical and plumbing.
 - c. Construct and install a factory-built chiller to ensure successfully commissioned ammonia refrigeration system is completed and operational, as specified in Exhibit B.
 - d. Succeed in procuring all equipment, materials and supplies.
 - e. Connect all equipment with necessary piping as designed.
 - f. Insulate all cold and warm piping according to drawings.
 - g. Install wiring and conduit for electrical system, including power wiring for all motors and control wiring.

- h. Connect main electrical supply to the chiller.
- i. Paint all equipment.
- j. Install ammonia refrigerant.
- k. Initiate, power-up and start up the system.
- l. Provide construction administration
- m. Provide construction services
- n. Provide "record" drawings development.
- o. Provide service and maintenance manuals
- p. Provide Construction Phase Deliverables including:
 - 1) Schedule inspections with the authority having jurisdiction
 - 2) Construction of Project
 - 3) Final approved shop drawings and submittal package
 - 4) As-built drawings in AutoCAD format
 - 5) Request for Information (RFI) records as applicable
 - 6) Engineering Supplemental Instructions (ESI) records as applicable
 - 7) Manuals
 - 8) Record drawings
 - 9) Service and maintenance manuals submittal

6. Phase 6 Commissioning and Close Out Services

Contractor shall:

- 1) Ensure commissioning is performed at the appropriate stages in the Project and provide a certificate of operation according to design performance.
- 2)
- 3) Perform systems testing data and submit performance reports.
- 4) Perform resolution of performance issues.
- 5) Prepare and submit written quality control and quality assurance documentation in electronic format.
- 6) Prepare and submit as-built plans in AutoCAD format and PDF format, and systems and service maintenance manuals in PDF format. electronic format.
- 7) Provide on-site training for County staff for a minimum of twenty (20) hours, including instructions on the safe operation of the system, use of systems and service manuals, shutdown procedures of the system after the ice season has finished, and proper function of all control and alarm systems.
- 8) Provide written training materials in PDF format, electronic format, and a minimum of one (1) recorded video training session.
- 9) Provide assistance in preparing an Emergency Preparedness Plan, Process Hazard Assessment, or related documents.

SECTION E. CONTRACT TIME AND COMPLETION TERMINATION:

- 1. Work shall start on or after the date specified on the Notice to Proceed. The Work shall achieve Substantial Completion by October 24, 2025. The Project shall achieve Final Completion by December 26, 2025. The calendar day period between substantial completion and final completion dates is for the sole purpose of completing or resolving any punch list type issues or items discovered. Pending County's written approval of final design, the substantial completion and final completion dates may only be changed by

amendment to this Agreement or by approved written consensual use of the Change Order process.

2. This contract shall terminate upon County's issuance of Notice of Final Completion, provided however, that Contractor's warranty obligations and any warranties listed within the Technical Specifications for materials, equipment, systems and/or labor supplied through the Contractor for the execution of the Work shall survive the termination of this Contract until such time as County determines that Contractor's warranty obligations have been fulfilled and County has specifically released Contractor, in writing or by the individual warranty expirations, from such obligations. The issuance of Notice of Final Completion or the release of surviving Contractor obligations shall not be deemed a waiver of any claim the County may have against Contractor arising from Contractor's performance under this Contract.

SECTION F. PAYMENTS:

1. **Monthly Invoices.** Contractor shall submit itemized monthly invoices for non-construction related tasks to County's Project Manager showing the work completed and 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. For Construction related invoices, Contractor shall submit Pay Applications in a form acceptable to County Project Manager and described in Exhibit E, showing amount of compensation due, and amount of any applicable NMGR. Payment of undisputed amounts for construction shall be due and payable within twenty-one (21) days after County's receipt of the invoice.

2. Progress Payments.

- a. Contractor shall submit (but not more often than once a month), to the County for review an Application and Certification for Payment as shown herein, filled out and accompanied by such supporting documentation as is required by the Agreement and also as the County may reasonably require. The County has seven (7) calendar days to review the Application for Progress Payment either to accept or reject. If application is rejected, Contractors shall resubmit a new Application for Progress Payment. Upon any re-submittal of Application for Progress Payment, the twenty-one (21) calendar day timeframe is reinstated. These applications for payments shall be based on the performance of the Work in accordance with the Contract Documents. Contractor shall submit Earned Value Curve if required by the Project Manager with each Application for Payment,
- b. Contractor warrants and guarantees that title to all work, material and equipment covered by an Application for Progress Payment, whether incorporated in the Project or not, will pass to County at the time of payment free and clear of all liens, claims, security interests and encumbrances.
- c. Prior to Substantial Completion, the County with the concurrence of the Contractor may use any completed or substantially completed portions of the Work. Such use shall not constitute an acceptance of such portions of the Work.
- d. As provided herein, County may refuse to make payment of the full amount requested by the Contractor. County will provide Contractor with written notice (with copy to Engineer) stating the reasons for such action.
- e. If payment is requested and approved by the Project Manager on the basis of materials and equipment not incorporated in the Work, but delivered and suitably stored at the site or at another location agreed to in writing, the Application for Progress Payment shall also

- be accompanied by such data, (receipts, invoices, packing lists, delivery tickets, etc.) satisfactory to County and will establish County's title to the material and equipment and project. Contractor is responsible for all loss or damage to stored materials.
- f. In the event that agreement between the County or County's designee and Contractor cannot be reached, the County will pay the portion not in question and attempt to reach agreement on those portions not in agreement in the next billing cycle.
 - g. Payment may be made by mutually agreed upon method.
 - h. County has full power to withhold payment and the release of Contractor's Performance, Labor and Materials Bonds until the Contractor shall satisfy the County that it has fully settled or paid for all labor performed and materials, supplies, equipment rentals and services used from the respective suppliers and subcontractors involved, and to withhold payment equal to liquidated damages as accepted payment for liquidated damages.
 - i. County, at its sole discretion, may require an Affidavit of Payment and Release of Liens with every Application for payment.
 - j. Unless otherwise specified in the Solicitation Documents as a Notice of Extended Payment, permitting the County to make payments within a period not to exceed 45 days, payments shall be made within twenty-one (21) calendar days from receipt of an undisputed request in accordance with the New Mexico Prompt Payment Act, NMSA 1978, Sections 57-28-1 et seq.
 - k. Final Application for Payment
 - k.1. The final Application for Progress Payment shall include a notarized Affidavit of Payment and Release of Liens.
 - k.2. After Contractor has completed all such corrections to the satisfaction of the County and delivered in accordance with the Contract Documents all maintenance and operating instructions, all materials including but not limited to spare parts, lubricants, etc., as required by Contract Documents, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, Notice of Termination for National Pollutant Discharge Elimination System (NPDES), marked up record documents showing work as constructed (as-builts) and video tapes, Contractor may make application for final payment following the procedure for progress payments. The final Application for Progress Payment shall be accompanied (except as previously delivered) by all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required, consent of surety, if any, to final payment, and complete and legally effective releases or waivers (satisfactory to County) of all liens arising out of or filed in connection with the Work. If any subcontractor or supplier fails to furnish such release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to County to indemnify County against any lien.
 - l. Final Payment and Acceptance
 - l.1. On the basis of the Contractor's Engineer's and County's observation of the Work during construction and final inspection and Engineer's review of the final Application for Progress Payment and accompanying documentation as required by the Contract Documents, Engineer recommends to County that the Work has been completed and Contractor's other obligations under the Contract Documents have been fulfilled, County shall process final payment. Otherwise, County will return the Application to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application.
 - m. The final payment by the County signifies that the Work has been accepted by the County under the conditions of the Contract Documents.

- m.1. The acceptance by the Contractor of final payment shall be and shall operate as a release to the County of all claims and all liability to the Contractor other than claims in stated amounts as may be specifically expected by the Contractor for all things done or furnished in connection with this Work and for every act and neglect of the County and others relating to or arising out of this Work. Any payment, however, final or otherwise, shall not release the Contractor or the Contractor's sureties from any obligations under the Solicitation documents or the Performance Bond and Labor and Materials Bond.
- m.2. The making and acceptance of Final Payment shall constitute a waiver of all claims by the Contractor against the County other than those previously made in writing and still unsettled.

3. Payment To Mechanics and Laborers – Contractor agrees to make prompt payment to its subcontractors and suppliers for work performed under the Contract within seven (7) days after receipt of payment from the County and to pay all mechanics and laborers in accordance with NMSA 1978, Section 57-28-5 NMSA, as applicable. Contractor shall obtain from each supplier of services or materials used in the performance of the Contractor's obligations under this Contract a written release and waiver of all liens against the County and Project. Such releases and waivers of lien shall be submitted to the County with the final Application for Progress Payment and may be required with each Application for Payment at the County's sole discretion.

Additionally, all sub-contractors shall require that their sub-contractors and suppliers make prompt payment to their sub-contractors and suppliers for amounts owed for work performed on the construction project within seven (7) days after receipt of payment from the County, Contractor or sub-contractors

If the Contractor or sub-contractors fail to pay the Contractor's or sub-contractor's subcontractor and suppliers by first-class mail or hand delivery within seven (7) days of receipt of payment, the Contractor or subcontractor shall pay interest to the subcontractors and suppliers beginning on the eighth day after payment was due, computed at one and one-half percent of the disputed amount per month or fraction of a month until payment is issued. These payment provisions apply to all tiers of contractors, subcontractors and suppliers.

SECTION G. LIQUIDATED DAMAGES FOR DELAY OF COMPLETION

1. Should the Contractor fail to complete the work within the time agreed upon in the Agreement, Contractor will be assessed ONE THOUSAND AND NO/100 DOLLARS (\$1,000.00) per day for each calendar day beyond the Substantial, and/or Final Completion dates, including all executed change orders. In view of the difficulty of estimating the damage, this amount is fixed by and agreed to by the Parties as the amount of liquidated damages that the County will suffer and Contractor shall pay by reason of such default and not by way of penalty.
2. Delays –
 - a. If the Contractor is delayed at any time in the progress of the Work by any act or neglect by the County, or by changes in the Work, or by labor disputes, fire, unusual delay in transportation, unusual weather, adverse soil conditions other than was described in a geotechnical survey, unavoidable loss by the Contractor, delays specifically authorized by the County, or by unforeseeable or unavoidable causes beyond the Contractor's control, avoidance, or mitigation, and without the fault or negligence of the Contractor or subcontractor or supplier at any tier, then the Contract Time may be extended by Change Order for such reasonable time

as the overall completion of the Work, as the County may in its sole discretion determine that such event has delayed the Critical Path of the County approved schedule and Completion of the Work, only if the Contractor complies with the notice and documentation requirements set forth below.

- b. Contractor shall provide a written notice of delay which may result in a request for an extension of time to the County, within ten (10) calendar days from the date the Contractor knew or should have known of the facts giving rise to the delay. The notice shall indicate the cause of the delay, the anticipated length of the delay, and the probable effect of such delay upon the progress of the Work. If the cause of the delay is continuous, the Contractor must give written notice to County every month at the same time it submits the updated schedule and/or progress report to the County with the Progress Payment Application. County will review Contractor's notice of delay and request for extension of Contract Time, determine its timeliness and alleged facts giving rise to the delay as alleged by Contractor. The County may in its sole discretion determine if the Contract Time should be extended.
- c. Within fifteen (15) calendar days after the elimination of any such delay, the Contractor shall submit a formal Change Order request for an extension of time for such delay. The written request for time extension shall state the cause of the delay, the number of days extension requested, and such analysis and documentation of the schedule of the project and other documentation to demonstrate a delay in the Critical Path of the Work.
- d. If the Contractor does not comply with the notice and documentation requirements set forth above, the Contractor shall have waived its right to a claim for delay. Contractor's submission of a notice of delay to County is not a guarantee that County will grant the requested extension of the Contract Time.

SECTION H. 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 I. 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 J. 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 K. 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 L. 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 M. 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, Automobile Liability Insurance, Property, Fire and All Risk Insurance, and Professional 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; ONE MILLION DOLLARS (\$1,000,000.00) aggregate on any owned, and/or non-owned motor vehicles used in performing Services under this Agreement.
4. **Property, Fire and All Risk Insurance:** Contractor shall purchase and maintain until final payment, property insurance upon the Work at the site and any staging or storage areas, to the full insurable value thereof. This insurance shall insure against the perils of "all risk" insurance for physical loss and damage, and shall include damages, losses, and expenses arising out of or resulting from any insured loss or incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers, architects, attorneys, and other professional). If not covered under the "all risk" insurance, Contractor shall purchase and maintain similar property insurance on portions of the Work stored on and off the site or in transit when such portions of the Work are to be included in an Application for Payment.

5. **Professional Liability Insurance**, with a limit of not less than ONE MILLION DOLLARS (\$1,000,000.00) each Claim, with a ONE MILLION DOLLAR (\$1,000,000.00) annual aggregate, and sufficient to provide coverage for a three (3) year period from completion of this contract, against any and all claims which may arise from the Contractor's negligent performance of work described herein.

SECTION N. 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 the Project and County at any reasonable time upon request.

SECTION O. 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 P. 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 Q. 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 R. 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 S. 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 T. 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 U. 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 V. 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 W. 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 X. 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 Y. 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 Z. 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:

Miguel Jimenez
Incorporated County of Los Alamos
1000 Central Avenue, Suite
Los Alamos, New Mexico 87544
E-mail: miguel.jimenez@lacnm.us

Contractor:

Robert Sanchez, Owner/Vice President
R and M Construction LLC
PO Box 1026
Alcalde, NM 87511
E-mail: robert@rmconstructionnm.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 AA. 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 BB. 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 CC. 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 DD. 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 EE. LEGAL RECOGNITION OF ELECTRONIC SIGNATURES: Pursuant to NMSA 1978, Section 14-16-7, this Agreement may be signed by electronic signature.

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

SECTION GG. 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.

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

Naomi D. Maestas 8/9/2024
NAOMI D. MAESTAS
COUNTY CLERK

INCORPORATED COUNTY OF LOS ALAMOS

BY: *Anne W. Laurent* 8/9/2024
ANNE W. LAURENT **DATE**
COUNTY MANAGER

**Approved as to form:**

Thomas Wyman for 8/8/2024
J. ALVIN LEAPHART
COUNTY ATTORNEY

**R AND M CONSTRUCTION LLC, A NEW MEXICO
LIMITED LIABILITY CORPORATION**

BY: *Robert Sanchez* 8/12/2024
DATE

ROBERT SANCHEZ
OWNER/VICE-PRESIDENT

Exhibit A
COMPENSATION RATE SCHEDULE
AGR24-44

Description	QTY	Unit Price	Total
Design and construction of an ammonia refrigeration system and mechanical room upgrades and building upgrades to meet Code requirements.	1 each		\$1,989,585.00
Project Manager/Supervisor/Overhead and Expense	1 each	L.S.	\$200,000.00
Building Permit Fees	1 each	L.S.	\$4,900.00
General Liability/Workers Comp	1 each	L.S.	\$17,500.00
Builders Risk Policy	1 each	L.S.	\$7,900.00
Payment and Performance Bond	1 each	L.S.	\$44,397.70
Sub Total			\$2,264,282.70
Contingency			\$ 444,415.49
Total Not to Exceed Amount			\$2,708,698.19
NMGRT excluded			

**EXHIBIT B
SPECIFICATIONS
AGR24-44**

REFRIGERATION DESIGN CRITERIA

1. Operational Season: 5 months per year, generally October 15th – February 28th/29th
2. Geographical Region: Los Alamos, New Mexico
3. Ice Rink Size: 200' x 85'
4. Ice Thickness: Maintained at 1 ¼" thick
5. Refrigeration System:
 - a. Total Cooling Capacity: 155 Tons
 - b. Primary Refrigerant: Custom skid – R-717
 - c. Secondary Refrigerant: 22% Calcium Chloride
 - d. Ambient Design Conditions: 60°F dry bulb
 - e. Arena Space Conditions: 60°F
 - f. Electrical Service: Single power point connection – 600 amps
 - g. Controls: Custom chiller: Beyond Cool™ rink control system
 - h. Warranties: Custom chiller Compressors & Pumps two (2) years, Vessels five (5) years, and all other applicable warranties on components
6. Waste Heat Reclaim and Supplementals Heating System:
 - a. Total capacity: 250 MBH
 - b. Subfloor Systems 1 ice sheets
 - c. Supplemental heat: For subsoil system

MECHANICAL ROOM

The mechanical room shall meet ANSI/IIAR 2-2021 and ASHRAE 15 – safety code for mechanical refrigeration. Mechanical room shall include an ammonia refrigerant leak detection and alarm system equipped with up to six audio and visual alarms. Contractor shall also provide and install emergency stop buttons, also known as E-stops or kill switches, at all doorways and eye wash stations in the mechanical room and vestibule. In addition, Contractor shall provide and install an ammonia qualified ventilation system with a new exhaust fan and intake louver and damper.

EQUIPMENT

1. Bitzer OSKA 8571 screw compressors, quantity of two (2) or an equivalent approved by County.
2. Air-cooled condenser with a Variable Frequency Drive ("VFD") sitting on an Occupational Health and Safety ("OSHA") approved condenser stand, Evapco or an equivalent approved by County.
3. Shell and tube type evaporator with a surge drum, oil pot, level column, and a high-pressure storage receiver, HT Industrial or an equivalent approved by County.
4. Waste heat recovery system, with two shell and tube heat exchangers and one subfloor pump.
5. Controls with a Motor Control Panel ("MCP") mounted on the chiller skid.
6. MCP for the ice equipment with comprehensive programmable logic controller ("PLC") based control system designed to monitor and control all temperatures, pressures, runtimes, and other critical parameters for all equipment and sub-systems. The control system must be managed by a non-proprietary PLC-based controller with open-source programming to ensure flexibility and adaptability. As part of Design Development phase, County will determine the final monitoring points, and the system will feature a minimum 17-inch touch screen with graphical displays for major components such as the compressor, evaporator, and condenser. Additionally, it will include screens for ice rink sub-systems, including the sub-soil system and ice floor, as well as a single, easy-to-use "Overview" screen. The system must be accessible by County via an internet connection and provide email and text-based notifications for system alarm and fault statuses. All control and monitoring points, along with alarms, can be integrated into the existing Building Management System ("BMS") or Energy Management System ("EMS"). The Control/Monitoring Panel will include capabilities for data access and download via an internet connection. These components of the control system come together to ensure quality performance and energy efficiency for the end user.
7. Piping and Mechanical Room: All piping will meet ASME B31-.5 – refrigeration pressure piping code and will be Sch. 40 and/ or Sch. 80 carbon steel meeting ASTM A53 & ASTM A106 grade A/B.
8. Redundancy features built with 100% stand-by pumps. Variable Frequency Drive ("VFD") on all cold floor pumps, with control system sequencing. Two compressors shall be included in the design, one compressor will maintain ice.
9. Performance metrics: Custom ice rink skid – R-717; 155 tons; 60-degree dry bulb; 250 MBH heat recovery system.
10. Life safety system:
 - A. One ammonia refrigerant leak detection and alarming system with up to six audio and visual alarms.
 - B. Emergency E-stop controls at all doorways and eye wash stations in the mechanical room and vestibule.
 - C. Ammonia qualified ventilation system with a new exhaust fan and intake louver and damper.

11. Waste heat reclaim and supplemental heating system: Total capacity 250 MBH; subfloor systems one (1) ice sheets; supplemental heat: for subsoil system

REQUIRED CHARACTERISTICS OF REFRIGERATION SYSTEM DESIGN, MATERIALS and EQUIPMENT

Chiller Design and Engineering

1. The refrigeration system will be factory built on a frame (skid) for transportation.
2. All motors must be easily accessible for repair and replacement, i.e.: compressor motors will not be positioned under any vessels.
3. Control system to have the control (Low voltage section) isolated from the power (high voltage 460/3/60) with a physical barrier.
4. Work shall include:
 - a. All primary and secondary refrigerants
 - b. All refrigerant oil
 - c. Initial motor lubrication
5. Construction documents shall include engineer's stamped drawings for approved complete refrigeration system: chiller, floors, snowmelt.

Ice System Electrical and Controls

- Motor Control Panel (MCP) for ice equipment Computer control system that includes monitors and controls all temperatures, pressures, runtimes, etc. for all equipment and sub-systems.
2. The control system must be controlled by a central microprocessor-based controller or preferred a non-proprietary PLC based controller with open-source programming.
 3. County to determine final monitoring points. 17" min. size touch screen size with graphics for:
 - a. Major components (i.e.: Compressor, Evaporator, Condenser, etc.)
 - b. Ice rink sub-system (i.e.: Sub-Soil System screen, Ice Floor, etc.)
 - c. and must include a single, easy to use "Overview" screen.
 4. Shall be accessible through internet connection.
 5. Must include e-mail-based and or text-based notifications of system Alarm and Fault status.
 6. Provide all control and monitoring points and alarms to existing Building Management System (BMS) or Energy Management System (EMS).
 7. Control / Monitoring Panel must include but not limited to:
 - a. Data shall be accessible and downloadable by internet connection.

Motor Control Panel

- Motor Control Panel to house and including all starters, breakers, controls, running lights, contacts, relays, switches, fuses, safety switches, alarms, overload relays, resets, and all other electrical devices required for an independent and fully operational ice system.
2. Shall be a dead-front, Type 1 enclosure in accordance with UL 508, UL845 and shall be NEMA rated.
 3. Computer control system that includes monitors and controls all temperatures, pressures, runtimes, etc. for all equipment and systems.

Compressors

Open Drive Screw Compressors – Bitzer OSKA8571 or approved equal.

2. Oil cooling will be in two parts:

- a. The sub-soil heat transfer heat exchanger will remove the required heat load for the subsoil system
- b. All remaining oil cooling heat will be rejected through a second water cooled heat exchanger

Major Components**EVAPORATOR / HIGH PRESSURE RECEIVER / CONDENSER**

1. One (1) flooded, shell and tube type evaporator with surge drum, (HT Industrial or approved equal)
2. Oil pot
3. Level column
4. One (1) high pressure storage receiver sized for full capacity of system plus required safety volume.
6. One (1) Air Cooled Condenser (Evapco or approved equal)

Rink Pumps – (Cold Floor, and Warm Floor)

1. Cold Floor Pumps: Two (2) pumps include one primary for each rink and one 100% stand-by pump. VFDs on all cold floor pumps. Control system shall include sequencing to rotate the stand-by pump into operation designed for equal hourly operation for all pumps. (Bell & Gossett or County-approved equal)

Waste Heat Recovery Systems

Shall be designed to remove heat generated by the refrigeration system for the purpose of providing heat to the sub-soil loop.

1. Two (2) shell and tube heat exchanger by HT Industrial or approved equal.
2. One (1) pump subfloor system. (Bell & Gossett or approved equal)

Air Cooled Condenser

1. Air Cooled Condenser type,
 - a. VFD on fan motor
 - b. OSHA approved condenser stand

Expansion Tanks All applicable Ice Rink Floor, Snow melt / Sub-Soil system, Fluid Cooler, etc. loops shall be designed as closed loop. The expansion tanks shall include:

1. Expansion tank level site glass and vent
2. Airtrol fittings.
3. Drain

Piping Systems

1. Schedule 40 and 80 welded steel ASTM A 53A seamless or equal
2. All piping will meet ASME B31.5 – refrigeration pressure piping code and will be Sch. 40 and/ or Sch. 80 carbon steel meeting ASTM A53 & ASTM A106 grade A/B. The mechanical room will meet ANSI/IIAR 2-2021 and ASHRAE 15 – safety code for mechanical refrigeration.

Pipe and Equipment Installation Systems

1. Above grade: Extruded polystyrene with PVC jacket
2. Below grade: Foam Glass with Pit wrap

Life Safety Systems

1. One (1) Ammonia refrigerant leak detection and alarming system with up to six (6) audio and visual alarms.
2. One water diffusion tank to contain a full release of ammonia from the system.
3. Emergency E-stop controls at all doorways.

Start-Up, Commissioning and Operations

1. Chiller start-up and day to day operations training
2. Chiller controls training
3. Remote oversight of system monitoring for twelve (12) months following Substantial Completion

Ice System Electrical & Controls

1. Motor Control Panel (MCP) for ice equipment computer control system that includes monitors and controls all temperatures, pressures, runtimes, etc. for all equipment and sub-systems.
2. Control system must be controlled by a central microprocessor-based controller or preferred a non-proprietary PLC based controller with open-source programming.
3. Utilizing County-determined final monitoring points, provide seventeen inch (17") minimum size touch screen size with graphics for:
 - a. Major components (including, at minimum, Compressor, Evaporator, Condenser)
 - b. Ice rink sub-system (including, at minimum, Sub-Soil System screen, Ice Floor)
 - c. Single, easy to use "Overview" screen.
4. Shall be accessible through internet connection.
5. Must include e-mail-based and or text-based notifications of system Alarm and Fault status.
6. Control / Monitoring Panel must include but not be limited to:
 - a. Data shall be accessible and downloadable by internet connection.

MOTOR CONTROL PANEL

1. Motor Control Panel to house and including all starters, breakers, controls, running lights, contacts, relays, switches, fuses, safety switches, alarms, overload relays, resets, and all other electrical devices required for an independent and fully operational ice system.
2. Shall be a dead-front, Type 1 enclosure in accordance with UL 508, UL845 and shall be NEMA rated.
3. Computer control system that includes monitors and controls for temperatures, pressures, and runtimes, for all equipment and systems.

COMPRESSORS

1. Open Drive Screw Compressors – Bitzer OSKA8571 or approved equal.
2. Oil cooling will be in two parts:
 - a. The sub-soil heat transfer heat exchanger will remove the required heat load for the subsoil system
 - b. All remaining oil cooling heat will be rejected through a second water cooled heat exchanger

MAJOR COMPONENTS: EVAPORATOR / H.P. RECEIVER / CONDENSER

1. One (1) flooded, shell and tube type evaporator with surge drum, (HT Industrial or approved equal)
2. Oil pot
3. Level column
4. One (1) high pressure storage receiver sized for full capacity of system plus required safety volume.
5. One (1) Air Cooled Condenser (Evapco or County-approved equal)

EXHIBIT C
CONSTRUCTION BOOK
AGR24-44

CONDITIONS OF WORK Insofar as possible, the Contractor in carrying out the Work must employ such methods or means as will not cause any interruption of, or interference with the Work of any other contractor, or the daily operations of County offices. The Work in this Contract will be carried out during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday unless otherwise scheduled with and approved by the County. Noise Ordinance Waivers are required for work occurring between the hours 9:00 p.m. and 7:00 a.m.

SAFETY STANDARDS AND ACCIDENT PREVENTION With respect to all work performed under this contract, the Contractor shall:

- A. Comply with the standard provisions of the most current versions of all applicable laws, rules and regulations that apply to the work contracted for.
- B. Provide a Safety Management Plan to the County after award acceptable to the Project Manager.

GROSS RECEIPTS TAX County will pay the applicable taxes to the Contractor including any increase in the applicable taxes becoming effective after the execution date of the contract. The applicable gross receipts taxes will be shown as a separate amount on each payment application made under the contract. The Contractor is responsible for payment to the State of New Mexico for all gross receipt's taxes collected.

Minimum Wage Rates

Pursuant to the New Mexico Public Works Minimum Wage Act, Section 13-4-11 through 13-4-17 NMSA 1978 (comp.) all certified payrolls submitted must contain required information as stated on the pertinent information sheet of the Wage Rate Decision issued on the Project. The Wage Rate Decision Number for this Project is: **LA-24-1960-B**.

The Contractor, Sub-contractor and all tiers shall provide the Statement of Intent to Pay Prevailing Wages form to County's Project Manager.

WORK CONDITIONS: This contract will be performed in and adjacent to Los Alamos County for the contract duration specified in the Contract. The Contractor shall be aware of the conditions that may normally exist within the project area during performance of the work. Those conditions may include but are not limited to:

- Extended freezing temperatures,
- Intense rainfall events,
- Snowfall and snow accumulation,
- Limited direct sunlight.

Delays due to normal weather conditions are not eligible for time extensions and/or additional compensation. Contractor is required to protect their work and the project from normal weather events. Unusual weather-related time extensions may be awarded by the County pursuant to an approved change order at the County's sole discretion. Please refer to Section 2, Contract Articles 2 and 3.

PERFORMANCE AND LABOR AND MATERIAL BONDS REQUIREMENTS

Performance Bond and Labor-Materials Bond shall be executed after receipt of Notice of Award to the successful bidder in an amount equal to one hundred percent (100%) of the total amount payable by the terms of the contract. Bonds must be prepared and executed on the Performance Bond and Labor-Materials Bond forms attached hereto or on such other forms as may be approved in writing by the County. Surety shall be by a company licensed to do business in the State of New Mexico and acceptable to the County.

Power of Attorney

Attorneys-in-Fact who sign any required bonds must file with each bond a certified properly executed and dated copy of their power of attorney.

Correction of Work

The Contractor shall remove, at the County's sole discretion from the premises and replace at the Contractor's sole expense, all Work rejected by the Engineer or County for failure to comply with the Contract, whether incorporated in the project or not. Contractor shall promptly replace and re-execute the Work in accordance with the Contract. Contractor shall pay all claims, cost, losses, and damages caused by or resulting from such correction or removal including but not limited to all costs or repair or replacement of Work by others.

If the Contractor does not take action to remove such rejected Work within time specified after receipt of written notice, the County may remove or correct such Work and store the materials. If at the time the County removes or corrects such Work, stores materials, and any amount of the Contract Price is then due and owing to the Contractor, the County may deduct from the amount owed to the Contractor the costs incurred by the County for such removal, correction and storage.

In connection with such corrective and remedial action, County may exclude Contractor from all or part of the site, take possession of all or part of the Work, and suspend Contractor's services related thereto, take possession of Contractor's tools, appliances, construction equipment and machinery at the site and incorporate in the Work all materials and equipment stores at the site or for which County has paid Contractor but which are stored elsewhere. Contractor shall allow County, County's representatives, agents, employees, County's other Contractors and Engineer and Engineer's Consultants access to the site to enable County to exercise the rights and remedies under this paragraph. All claims, costs, losses and damages incurred or sustained by County in exercising such rights and remedies will be charged against Contractor and a Change Order will be issued incorporating the necessary revisions with respect to the Work; and County shall be entitled to an appropriate decrease in the Contract Price. Such claims, costs, losses and damages will include but not be limited to all costs of repair or replacement of work of others destroyed or damaged by correction, removal or replacement of Contractor's defective Work. Contractor shall not be allowed an extension of the Contract Time because of any delay in the performance of the Work attributable to the exercise by County of County's rights and remedies hereunder.

In an emergency where delay would cause serious risk of loss or damage, County may have the defective Work corrected or the rejected Work removed and replaced, and all claims, costs, losses and damages caused by or resulting from such removal and replacement including but not limited to all costs of repair or replacement of work of others shall be paid by Contractor.

If instead of requiring correction or removal and replacement of defective Work, County with Engineer's recommendation, prefers to accept it, County may do so. Contractor shall pay all claims, costs, losses and damages attributable to County's evaluation of and determination to accept such defective Work. If such acceptance occurs prior to Engineer's recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract with respect to the Work, and County shall be entitled to an appropriate decrease in the Contract Price. If acceptance occurs after such recommendation, an appropriate amount shall be paid by Contractor to the County.

PROTECTION OF WORK, PROPERTY AND PERSONS

- A. The Contractor will be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. The items below shall be included in the Contractor's Safety Management Plan. Contractor will take all necessary precautions for the safety of, and will

provide the necessary protection to prevent damage, injury or loss to all employees, County staff or agents, and public on the Work, including but not limited to:

1. Required personal safety equipment for personnel and visitors within the work zone;
2. Proper operation of equipment and power tools;
3. Proper maintenance of equipment and power tools;
4. Protection of personnel and public within excavation areas;
5. Protection of personnel occupying confined spaces;
6. Welding;
7. Fall protection;
8. Procedures in the event that suspected hazardous materials are encountered and procedures to be used by Contractor and Subcontractors for handling and coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the site in accordance with applicable Laws and Regulations;
9. Precautions for lifting and maneuvering heavy objects;
10. Emergency procedures in the event of wildfire or other fire;
11. Emergency procedures in the event of injury;
12. Emergency procedures in the event of a line break (water, sewer, gas, power, etc.)
13. Flooding;
14. Excavating, trenching, shoring, sheeting, and bracing protection;
15. Pre-job safety planning
16. Designation by Contractor of a qualified and experienced safety representative whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs;
17. Implementation of safety plan for subcontractors;
18. Safety meetings;
19. Procedures for encounters with wildlife, including snakes.

Notice of Differing Subsurface or Physical Conditions – if Contractor believes that any subsurface or physical condition at or contiguous to the site that is uncovered or revealed either:

1. Is of such a nature as to establish that any “technical data” on which Contractor is entitled to rely as provided above is materially inaccurate, or
2. Is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent of the character of Work provided in the Solicitation documents; then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing and Work in connection therewith (except in an emergency), notify County and Engineer in writing immediately about such condition. Contractor shall not further disturb such conditions or perform any Work in connection therewith (except as aforesaid) until receipt of written order to do so.
3. County will promptly review the pertinent conditions, determine the necessity of obtaining additional exploration or tests with respect thereto and advise Contractor in writing of its findings and conclusions.

Suspension, Delay or Termination of Work

- A. At any time and without cause, County may suspend the Work or any portion thereof for a period of not more than 90 days per event by notice in writing to Contractor which will fix the date on which Work may be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be allowed an adjustment in the Contract Price or an extension of the Contract time or both, directly attributable to any such suspension of work, if Contractor receives an approved change order as provided herein.
- B. The County, at its sole discretion may terminate the Contract if the Contractor:
 1. Is determined to be and adjudged to be bankrupt or insolvent;
 2. The Contractor makes a general assignment for the benefit of the Contractor's creditors;
 3. A trustee or receiver is appointed for the Contractor for any of the Contractor's property;
 4. The Contractor files a petition to take advantage of any debtor's act, to reorganize under the bankruptcy or applicable laws.
 5. Contractor fails to perform the Work in accordance with the Contract Documents including but not limited to:
 - a. The Contractor repeatedly fails to supply sufficient skilled workmen or suitable materials or equipment,
 - b. The Contractor repeatedly fails to make prompt payments to Subcontractors or for labor, materials or equipment.
 - c. The Contractor disregards laws, ordinances, rules, regulation or orders of any public body having jurisdiction over the Work,
 - d. The Contractor disregards the authority of the County,
 - e. The Contractor otherwise violates any provision of the Contract Documents.
- C. The County may, without prejudice to any other right of surety, within a minimum of ten (10) calendar days from delivery of a written notice, terminate the services of the Contractor and take possession of the Project and of all materials, equipment, tools, construction equipment and machinery owned by the Contractor, and finish the Work by whatever method the County may deem expedient or at County's sole discretion may elect to suspend the work or any portion thereof until the cause for such order has been eliminated. In such case the Contractor shall not be entitled to receive any further payment until the Work is finished.
- D. Contractor shall be paid for Work completed in accordance with the Contract Documents.
- E. If an agreement cannot be reached and the County hires a different Contractor to complete the remaining work or the work is completed by a different means:

1. The resulting costs incurred by the County will be determined by the County
 2. If such costs exceed such unpaid balance, the County will request that Contractor pay the difference to the County.
 3. If the Contractor refused to pay the difference to the County, the County may terminate the contract and request payment directly from the Contractor's bonding company.
 4. Any unpaid balance of the current Contract Price that exceeds the direct and indirect cost of completing the Work, including compensation for additional professional services, shall not be paid to the Contractor.
- F. Where the Contractor's services have been terminated by the County, said termination shall not affect any right or claim of the County against the Contractor existing at that time or which may thereafter accrue. Any payment by the County due the Contractor will not release the Contractor from compliance with the Contract. Contractor shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.
- G. After ten (10) calendar days from delivery of a written Notice to the Contractor from the County, the County may, without cause and without prejudice to any other right or remedy, elect to abandon the Project and terminate the Contract. In such case, the Contractor shall be paid for all Work executed in conformance with the Contract plus reasonable profit.

Duties of the Contractor

- A. The Contract contains the provisions required for the construction of the Project. Information obtained from an officer, agent, or employee of the County or another person shall not affect the risks or obligations assumed by the Contractor or relieve Contractor from fulfilling any of the conditions of the Contract. The Contract requires performance of services entirely at the Contractor's risk and Contractor has agreed to indemnify the County from all claims, demands, and actions, arising from the Contractor's actions, errors, or omissions.
- B. The Contractor will supervise and direct all work to be performed pursuant to this Contract. Contractor will be solely responsible for the means, methods, techniques, sequences, and procedures of construction. The Contractor will employ and maintain at the project site a qualified Superintendent who shall have been designated in writing by the Contractor as the Contractor's representative at the site and who shall not be replaced without written notice to County.
- C. The Superintendent shall be considered an agent of the Contractor and shall have full authority to act on behalf of the Contractor and all communications given to the Superintendent shall be as binding as if given to the Contractor. The Superintendent shall be present on the site at all times as required to perform adequate supervision and coordination of the services provided pursuant to this Contract. Superintendent shall not be replaced without written approval of the County.
- D. If at any time Contractor or any subcontractor is suspended or debarred from conducting business with any city, county, state or federal government, Contractor has continuing obligation to promptly notify County. County has the option to terminate Contract or require a different subcontractor at no additional cost to the County.
- E. Superintendent shall track on a daily basis all labor (including classifications), equipment and materials used on site. Superintendent shall communicate this information to the Project Manager or representative. Superintendent and Project Manager shall agree on this usage.
- F. Contractor shall provide competent, suitably qualified personnel to survey, lay out and construct the Work as required by the Contract. Contractor shall at all times enforce strict discipline and good order among all workers at the sites and shall not employ on the Work any unfit person or anyone not skilled in the work assigned to them.
- G. Contractor shall be responsible to see that the completed Work complies accurately with the Contract.
- H. Contractor shall abide by the Los Alamos County Harassment Policy and Procedures #1120.

Job Site Administration

- A. The Contractor is responsible for orderly use and cleanup of all job sites including staging areas and all areas affected by the project to the satisfaction of the County. Outdoor storage space may be obtained by the Contractor at its sole expense.
- B. The County may authorize by the Staging Area License, Contractor's use of land owned by the County. Contractor shall comply with the terms of written agreements.
- C. Construction materials and equipment such as tools, scaffolds, forms and excess material not in use shall be stored or stacked in neat order at the contractor's storage site. Contractor shall at all times as part of its services, keep the sites free from accumulation of waste materials or rubbish caused by Contractor's operations.
- D. Contractor shall provide trash receptacles sufficient in number to accommodate all refuse generated within the property and provide for their regular and routine maintenance and servicing. At the completion of the services to be performed in the Contract, Contractor shall remove Contractor's waste materials and rubbish from and about the project, as well as all Contractor's tools, construction equipment, machinery and surplus materials and shall clean all surfaces.
- E. Contractor may provide lighting as necessary for security and safety of materials and equipment. Such lighting shall be down directed and approved by the Project Manager.
- F. Contractor shall provide portable toilets at all job sites sufficient in number to accommodate all waste generated within the site and provide for their regular and routine maintenance and servicing.

- G. Contractor shall restore to original condition all affected property not designated for alteration by the Contract.
- H. Services performed pursuant to this Contract are not to unduly interfere with the County's normal operation and maintenance.
- I. Contractor shall be responsible for all areas of the project used by the Contractor, subcontractors, suppliers or other involved in performance of the services to be performed in the Contract.
- J. Contractor shall have the right to exclude all who have no purpose or function related to the performance or inspection of the services, except personnel employed by the County or other governmental agencies. Contractor may require all persons on the site of the work to observe all regulations that the Contractor requires of its employees. Contractor will exert full control over the site and personnel with respect to use, safety and preservation of property and the existing facilities, except for controls as reserved to County or others.
- K. Contractor shall confine construction equipment, the storage of materials and equipment and the operations of workers to the site and land and areas identified in and permitted by the Bid documents and other land and areas permitted by Laws and Regulations. Contractor shall assume full responsibility for any damage to any such land or area or to the County or occupant thereof or of any adjacent land or areas, resulting from the performance of the Work. Should any claim be made by any such County or occupant because of the performance of the Work, Contractor shall promptly resolve such claim by negotiation or other proceeding at law.
- L. Contractor shall, to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless County against all claims, costs, losses and damages arising out of or resulting from any claim or action, legal or equitable, brought by any such County or occupant against County, Engineer or any other party indemnified hereunder to the extent caused by or based upon Contractor's performance of the Work.
- M. Contractor shall be responsible for all materials brought to the job sites by the Contractor, its subcontractors or agents.
- N. Hazardous waste shall be properly stored and disposed of in accordance with applicable laws and regulations. The Contractor shall promptly remove all spilled or splattered materials from surfaces to prevent marring, staining, or damage. Adequate clean-up will be evaluated prior to all applications for progress payment.
- O. County shall have the right to enter the premises for the purpose of doing work not covered by the Contract. This provision shall not be construed as relieving the Contractor of the sole responsibility for the care and protection of the Work or the restoration of any damaged Work except such as may be caused by agents or employees of the County.
- P. County may perform other work related or unrelated to the Project on the premises using County's own employees, other utility owners, or let other contracts for the performance of work. If there is such work to be performed that was not noted in the Contract, written notice shall be given to the Contractor prior to the start of such work. As directed by the County, Contractor shall provide proper and safe access to the County, contractors and utility owners to the premises and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such work.
- Q. Contractor shall not endanger any work of others by cutting, excavating or otherwise altering their work and will only cut or alter their work with the written consent of County and the others whose work will be affected.
- R. Gas and Oil Storage, Service Areas, Concrete Batch Plant, Caretaker Dwelling Units- County shall approve the location of equipment areas, gas and oil storage areas, service areas, concrete batch plant and caretaker dwelling units in writing. Contractor shall clear all areas of brush, litter, grass and all other flammable debris for a radius of 50 feet. Caretaker dwelling units subject to approval by County.
- S. Prevention of Oil Spills – If Contractor maintains storage facilities or uses flammable or combustible liquids in the project area, Contractor will provide to the Fire Marshall an operational plan that addresses the use and appropriate measures which will address soil containment and

clean-up. Pollutants such as fuels, lubricants and other harmful materials shall not be discharged on the ground.

- T. Contractor, at its sole expense, shall immediately take action to contain and clean up all potentially hazardous spills in the performance of this Contract which are caused by Contractor's employees directly or indirectly as a result of subcontractor operations and shall immediately report to County and all applicable agencies. Contractor will be held liable for all damages and costs of additional labor, equipment, supplies, and transportation deemed necessary by the County for the containments and cleanup of potentially hazardous spills caused by Contractor's employees or resulting from subcontractor operations.
- U. Control of Sources of Ignition – When Contractor uses any process that requires an ignition source, Contractor must provide a plan outlining the process and prior approval must be granted by the Fire Marshall before any ignition source is used within the project area. Areas where welding cutting, burning, or grinding is occurring are to be shielded to prevent flying sparks and debris. Fires shall not be built on the premises.
- V. Communications – The Contractor's communication system shall provide prompt and reliable communications between Contractor's crews. County shall be able to communicate with Contractor 24/7; Contractor shall be responsive to phone calls and return calls within fifteen (15) minutes.
- W. Contractor shall conduct all activities associated with this project in such a manner that there will not be any adverse impact to archeological sites, trails, identified natural features, fences, gates and private property.
- X. Contractor shall be responsible for all damage to property and to persons, including third parties that occur as a result of its or its agents or employees or subcontractor or subcontractor's employees fault or negligence.
- Y. Contractor shall cooperate with the owner of all utilities in removal and or rearrangement operations in order that these operations may progress in a reasonable manner and services shall not be unnecessarily interrupted.
- Z. In the event of interruption to utility services because of accidental breakage or as a result of lines being exposed or unsupported, Contractor shall promptly notify Project Manager and owner of the utility and shall cooperate with owner in the restoration of services. If utility services are interrupted, cooperation shall be required until service is restored.
- AA. Contractor shall protect all streets, private roads and sidewalks, and shall make all necessary repairs for damage incurred during course of the work at Contractor's own expense.
- BB. Contractor shall provide proper protection of all furnishings and fixtures likely to be damaged. When exterior openings are made, they shall be covered with weather tight protection at the end of the day's work.
- CC. Contractor shall take suitable precautions to protect existing trees, shrubs, and other natural vegetation and fences during construction. The Contractor shall restore the area to permit re-vegetation of the area. This includes restoring the area to pre-existing contours, reducing soil compaction by scarification, and mitigating for the effects of runoff. Any fences that need to be removed must be placed or dealt with as specified in Contract Documents. Contractor shall reseed disturbed areas in accordance with NMDOT Specifications or as specified in the Contract Documents.
- DD. The County will allow Contractor metered usage of water required for construction, to the extent of existing facilities. The Contractor shall obtain a water meter from the Los Alamos County Department of Public Utilities (DPU). Payment to the Utilities Department for the quantity of water used at the prevailing rate will be due before final acceptance of the project. A deposit for the water meter is required by DPU.
- EE. Contractor shall remove all snow and ice as may be required for the proper protection and performance of the Work and access to job site. Snow and ice shall also be removed by the Contractor from active work zones open to the public.
- FF. Contractor shall provide all shoring, bracing, and sheathing as required for safety and for proper execution of the work and have some removed when work is completed.

- GG. Contractor shall provide installation and maintenance of necessary precautions to protect all personnel on the site, including members of the general public from injury or harm, including but not limited to posting of appropriate warning signs in hazardous areas.
- HH. Contractor shall at all times provide protection against weather (rain, wind, storms, frost, floods or heat) so as to maintain all Work, materials, apparatus, private property and fixtures free from injury or damage. At the end of the day's work, all new Work likely to be damaged shall be protected.
- II. During cold weather, Contractor shall protect all work from damage. If low temperatures make it impossible to continue operations safely in spite of cold weather precautions, Contractor shall cease work and so notify County.
- JJ. Contractor may, as part of its work, provide and erect one sign with a minimum size of 2' x 2' with a maximum size of 4' x 8', with the Contractor's name, license number, address and telephone number and locate sign as approved by the County. No other sign or advertisement shall be displayed by the Contractor unless requested or approved by the County.

EXHIBIT "D"
License Agreement for Staging Area
AGR24-44

THIS LICENSE AGREEMENT (Agreement) is entered into by and between the **Incorporated County of Los Alamos (County)** and **Contractor, a New Mexico Corporation** to be effective for all purposes on _____.

A. PURPOSE

The purpose of this Agreement is to grant to CONTRACTOR the revocable privilege of using County properties (Properties), more specifically described herein, for staging areas to facilitate CONTRACTOR'S work on **Los Alamos County Project No. AGR24-44** Los Alamos Ice Rink Refrigeration System Replacement and Mechanical Room Upgrades. The County's grant of this revocable privilege shall satisfy County's obligation to provide CONTRACTOR with staging areas under the above-identified Project.

B. TERM

This Agreement shall commence on _____ and shall continue until CONTRACTOR'S work under the above-referenced Project is substantially complete, unless sooner terminated as provided herein.

C. USE OF THE PREMISES

County grants to CONTRACTOR the use of the property described herein for staging area to include the placement, unless specifically excluded herein one (1)-caretaker unit, the storage of Project related materials, and the storage of Project related equipment, and for no other purpose. Caretaker units shall not exceed eight (8) feet by forty (40) feet and may be used as a dwelling unit for CONTRACTOR'S personnel with a maximum of two (2) occupants per unit.

D. GENERAL REQUIREMENTS APPLICABLE TO ALL PROPERTIES

The following requirements are applicable to all Properties unless specifically addressed or modified in Section E. Specific Properties herein: CONTRACTOR shall:

1. Provide properly anchored portable toilets sufficient in number to accommodate all waste generated within the Property. Locate portable toilets as far as possible away from residential development and provide for their regular and routine maintenance and servicing;
2. Provide covered trash receptacles sufficient in number to accommodate all refuse generated within the property and provide for their regular and routine maintenance and servicing;
3. May provide sufficient lighting necessary for security and safety of persons, material and equipment as well as for the security and safety of the public. Such lighting shall be down directed and produce no glare and conform to the New Mexico Dark Sky Act;
4. Provide and maintain a protective buffer between staging activities and nearby water courses;
5. Provide Good housekeeping measures as outlined in the Storm Water Pollution Prevention Plan (SWPPP) will be adhered to at all times;
6. Provide any applicable utility hook-ups at contractor's coordination and expense;

7. Provide storm water pollution protection and management at his/her expense;
8. Ensure staging area boundaries do not encroach onto other properties or open space.

E. SPECIFIC PROPERTIES

The following specific Properties, including specific uses or limitations to such use, are designated as staging areas for use by CONTRACTOR in conformity with the contract documents and this License.

STAGING AREA: An area near the site as coordinated with the Contractor and County Project Manager (Contractor accepts to use area by initialing: _____)

Site-specific requirements are as follows:

1. Weather resistant Information Board for posting required information such as prevailing wage rates, Need to Know information, Notice of Intent, Safety Info, etc.;
2. Fuel storage tank is **not** permitted;
3. Limited Repair of vehicles and equipment is permitted as per SWPPP;
4. Clearing and grubbing is **not** permitted;
5. Grading of the property is **not** permitted;
6. Fencing exists but Contractor is responsible for providing additional security if deemed necessary by the Contractor. Optional lighting to the extent that surrounding homes are not affected by glare is permitted; to be approved by Project Manager;
7. All materials and equipment must be confined within the defined area;
8. Limited storage space of traffic control devices and storage containers is permitted;
9. Maximum of two (2) portable toilets are permitted;
10. Contractor shall provide adequate dust control at proper frequencies within the staging area;
11. Sweep Staging area *as needed*.

G. ASSIGNMENT

This License is not assignable.

H. RECORDS

CONTRACTOR shall maintain throughout the term of this License records necessary to demonstrate that all of the terms and conditions of the License have been met, including but not limited to records relating to any necessary licenses, permits, and other "authorizations" and compliance with any and rules, regulations, requirements or guidelines applicable to CONTRACTOR'S use of the Properties. CONTRACTOR shall make available for inspection by County all records, books of account, memoranda and other documents pertaining to County immediately upon request of County.

I. STRUCTURES, IMPROVEMENTS, ALTERATIONS OR ADDITIONS

Except as specifically permitted or required herein, no structures, improvements, alterations or additions shall be permitted on the Properties without the prior written authorization of County. CONTRACTOR shall maintain and leave the Properties in a clean condition, free of debris and litter, and restored to their prior condition or as close thereto as is reasonably practicable.

J. LIABILITY

County shall not be liable for any cost of expense or any kind or nature with respect to this License or CONTRACTOR'S use of the Properties, CONTRACTOR shall promptly pay all costs and expenses associated with CONTRACTOR'S use of the Properties including, without limitation, the cost of utility services and fencing. CONTRACTOR shall assure; and provide evidence to County that the insurance maintained by CONTRACTOR under its Contract the performance of work AGR24-44 Los Alamos Ice Rink Refrigeration System Replacement and Mechanical Room Upgrades is applicable to and will cover losses resulting from the use of the Properties. CONTRACTOR agrees to indemnify, defend, and hold County harmless from any liability, damage, loss, injury, cause of action, and costs and expenses (including attorneys' fees), of any kind or nature, arising from or in any way related to the use of the Properties, including but not limited to, any liability, damage, loss, injury, cause of action, or costs and expenses (including attorneys' fees) arising from or in any way related to any actual, threatened or alleged disposal, release, or contamination by hazardous substances of the Properties by CONTRACTOR its employees, subcontractors and agents. CONTRACTOR'S obligations under this Section shall survive the expiration or termination of the License.

K. SAFETY

CONTRACTOR shall assure that all of its operations conducted on the Properties are performed in a safe manner.

L. COUNTY ACCESS TO PROPERTIES

County and its designated representatives shall have access to the Properties at all times. CONTRACTOR shall notify County immediately of any situation that may arise on the Properties that may cause damage or harm to the health, welfare or safety of the public or to the environment and property of County and shall fully cooperate with County in addressing any such situation.

M. APPLICABLE LAWS

CONTRACTOR shall comply with all federal, state, and local laws, regulations, ordinances and, other legal requirements applicable to CONTRACTOR'S use of and activities on the Properties. This License shall be construed and enforced according to the Laws of the State of New Mexico.

N. CANCELLATION AND VACATION OF THE PROPERTIES

County may, at its sole discretion immediately cancel this License or any part hereof at any time with or without cause and no further use shall be made of the Properties by CONTRACTOR. Failure of County to fully enforce any and all provisions of this License shall not constitute a waiver of any future breach of any such terms or provisions. Upon expiration or cancellation of this License, the CONTRACTOR shall remove within seven (7) days all equipment, tools, vehicles, and any other property belonging to the CONTRACTOR from the Properties and shall leave the Properties in clean condition, free of debris and litter and restored to its prior condition or as close thereto as reasonably practicable.

ATTEST:

INCORPORATED COUNTY OF LOS ALAMOS

Naomi D. Maestas
County Clerk

Anne W. Laurent
County Manager

Approved as to Form

Approved as to form:

J. ALVIN LEAPHART
COUNTY ATTORNEY

R AND M CONSTRUCTION LLC, A NEW MEXICO
LIMITED LIABILITY CORPORATION

BY: _____ **DATE**

ROBERT SANCHEZ
OWNER/VICE-PRESIDENT

EXHIBIT "E"
PROJECT FORMS
AGR24-44

Contractor Personnel Information

The Contractor will provide at the Project Initiation/Kick-Off meeting and update as necessary the following information to the County:

- A. Contractor's Project Manager: _____
- B. Contractor's Superintendent: _____
1. Address: _____
2. Telephone No.: _____
3. Email Address: _____
- C. Emergency Contact Information:
1. Name: _____
2. Phone No.: _____
3. Name: _____
4. Phone No.: _____
5. Name: _____
6. Phone No.: _____
7. Name: _____
8. Phone No.: _____
- D. List of authorized signatures for: Certified Payroll, Payroll Affidavits, Change Orders, Progress Payment Certifications.
1. Name: _____
2. Title: _____
3. Name: _____
4. Title: _____
- E. Project Safety Officer: _____
- F. Equal Employment Opportunity Officer: _____

The person listed in "B" will become the Contractor's Representative of Record. The Contractor will not be allowed more than one (1) Representative. The Contractor's Representative shall supervise the project and be available at all times when construction is in progress.

3.1.2 Notice to Proceed

Date: _____

To: _____

Address: _____

Incorporated County of Los Alamos

Agreement Number: AGR24-44

R and M Construction LLC

You are notified that the Contract time under the above contract will start on _____, 20____. By that date you are to start performing your obligations under the Contract. You are required to return an acknowledged copy of this Notice to Proceed to the County's Designee before commencing any work and meet all other requirements of the Contract. The date of Substantial Completion of all work is therefore _____, 20____, and Final Completion of all work is therefore _____, 20____.

Incorporated County of Los Alamos

Anne W. Laurent
County Manager

3.1.3 Acceptance of Notice to Proceed

Receipt of the Notice to Proceed is hereby acknowledged this _____ day of _____, 20____ for the following project:

Incorporated County of Los Alamos

Agreement Number: AGR24-44

R and M Construction LLC

CONTRACTOR:

By: _____

Print Name: _____

Title: _____

3.1.4 Application and Certification for Payment Part 1



APPLICATION & CERTIFICATION FOR PAYMENT County of Los Alamos

Application Date: _____ Period From: _____ To: _____
 Application Number: _____
 Project: _____ Bid Number: _____
 Contractor: _____
 Contract Date: _____

Change Order Summary		
Change Orders approved in previous months by County	ADDITIONS	DEDUCTIONS
TOTAL		
Approved this Month		
Number Date		
TOTALS		
Net change by Change Orders		

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all Amounts have been paid by the Contractor for Work which previous Certificates for Payment were issued and payments received from the County, and that Current Payment shown herein is now due.

CONTRACTOR:

BY: _____ DATE: _____

State of _____ County of _____

Subscribed and sworn before me this _____ day of _____, 20____

Notary Public: _____

My Commission Expires: _____

This certificate is not negotiable. The Amount Certified is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

1. ORIGINAL CONTRACT SUM \$ _____
2. Net change by Change Orders \$ _____
3. CONTRACT SUM TO DATE \$ _____
(Line 1 plus line 2)
4. TOTAL COMPLETED TO DATE \$ _____
(Column F on Cont. Sheet)
5. BALANCE TO FINISH \$ _____
(Line 3 less Line 4)
6. PREVIOUS TOTAL COMPLETED \$ _____
(Line 4 from prior Application)
7. SUBTOTAL OF CURRENT PAYMENT \$ _____
(Line 4 less Line 6)
8. N.M. GROSS RECEIPTS TAX \$ _____
(_____% of Line 7)
9. CURRENT PAYMENT DUE \$ _____
(Line 7 plus Line 8)

ENGINEER'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents based on on-site observations and the data comprising the above application, the ENGINEER'S Project Manager certifies to the Owner that to the best of the ENGINEER'S Project Manager's knowledge, information and belief the Work has progressed as indicated, the quantity of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the Amount Certified.

AMOUNT CERTIFIED: \$ _____
 (Attach explanation if amount certified differs from the amount applied for.)

ENGINEER'S PROJECT MANAGER:

BY: _____ DATE: _____

3.1.5 Application and Certification for Payment Part 2

Application Date: _____ Application Number: _____

[illegible]

Services Agreement No. AGR24-44
R and M Construction, LLC

3.1.6 Affidavit of Payment and Release of Liens**Affidavit of Payment and Release of Liens**
Page 1 of 2*See page 2 of this form for instructions regarding (A)-(H)***To All Whom It May Concern, To The Following I Do Solemnly Swear And Affirm:**

WHEREAS, the undersigned has been employed by (A)

—

to furnish labor and materials for (B)

—

work, under a contract (C)

—

for improvement of the premises described as (D)

in the (E) _____ County of _____,

State of New Mexico of which _____ is the County.

NOW, THEREFORE, this _____ day of _____, 20____, for and in consideration of the sum of (F) \$_____ Dollars paid simultaneously herewith, the receipt whereof is hereby acknowledged by the undersigned, the undersigned does hereby waive and release any lien rights to, or claim of lien with respect to and on said above described premises, and the improvements thereon, and on the monies or other considerations due or to become due from the County, on account of labor, services, materials, fixtures, apparatus or machinery heretofore or which may hereafter be furnished by the undersigned to or for the above described premises by virtue of said contract.

The undersigned, as Contractor for the above named Contract pursuant to the Conditions of the Contract hereby certifies that, except as listed below, he/she has paid in full or has otherwise satisfied all obligations for all materials and equipment furnished, for all work, labor, and services performed, and for all known indebtedness and claims against the Contractor for damages arising in any manner in connection with the performance of the Contract referenced above for which the County or his/her property might in any way be held responsible.

The undersigned hereby certifies that all work required to be done under terms of the above described Contract has been fully performed and completed in conformance with the Contract and that applicable provisions of the New Mexico Public Works Minimum Wage Act (§ 13-4-11 NMSA 1978) have been met.

Affidavit of Payment and Release of Liens

Page 2 of 2

EXCEPTIONS:(G)

INSTRUCTIONS:

1. Person or firm with whom you agreed to furnish either labor, or services, or materials, or both. (A)
2. Fill in the nature and extent of work; strike the word labor or the materials if not in the contract. (B)
3. Identify contract(s) by number, description, and extent of work. (C)
4. Describe improvements and location of the premises to exclude all others. (D)
5. Name community, such as City of _____, Village of _____, or Unincorporated Area known as _____. (E)
6. Amount shown should be the amount actually received and equal to the total adjusted contract. (F)
7. If none, write "None". If required by County, Contractor shall furnish bond satisfactory to County for each exception. (G)
8. If waiver is for a corporation, corporate name should be used, corporate seal affixed and title of officer signing affidavit should be set forth; if waiver is for a partnership, the partnership name should be used, partner should sign and designate as partner. (H)

(H) _____
(Name of sole ownership, corporation or partnership)

(Signature of Authorized Representative)

TITLE: _____

State of _____ County of _____

Subscribed and sworn before me this _____ day of _____ 20_____

Notary Public: _____

My Commission Expires: _____

3.1.7 Field Order

Field Order #	Project:	Date:
AGR24-44:	Affected Document(s):	
Description of Change(s) (Attach to Design Document Mark-ups):		
Reason For Change(s):		
<input type="checkbox"/> Design Error/Omission <input type="checkbox"/> Design Improvement <input type="checkbox"/> Facilitate Construction <input type="checkbox"/> Criteria Change <input type="checkbox"/> As-found Condition/Record <input type="checkbox"/> Other (describe):		
Priority:	Low Medium High	(Circle One)
Complexity:	Low Medium High	(Circle One)
Preliminary Approval To Proceed By Engineer:		
Review		
	Signature	Date
Originator		
Engineer		
County		
Contractor		
Request for Quote issued? _____		
Force Account: _____		Date: _____
ACCEPTED	<input type="checkbox"/> County	
REJECTED	<input type="checkbox"/> County	

3.1.8 Change Order

Page 1 of 3

Change Order No.: _____

Agreement Date: _____

Name of Project: **Incorporated County of Los Alamos**

Contractor:

The following changes are hereby made to the Contract Documents:

JUSTIFICATION:

CHANGE TO CONTRACT PRICE:

Original Price \$

Current Contract Price adjusted by previous Change Order \$

The Contract Price due to this Change Order will be (_____) by: \$

The new Contract Price, including this Change Order will be \$

CHANGE TO CONTRACT TIME:

SUBSTANTIAL COMPLETION:

Original Contract Time _____calendar days.

Current Contract time adjusted by previous Change Order(s) _____calendar days.

The Contract Time will be (_____) by _____calendar days.

New Contract Time including this Change Order will be _____calendar days.

The date for completion of substantial work will be _____(Date)

FINAL COMPLETION**Page 2 of 3**

Original Contract Time _____calendar days.

Current Contract time adjusted by previous Change Order(s) _____calendar days.

The Contract Time will be (_____) by _____calendar days.

New Contract Time including this Change Order will be _____calendar days.

The date for completion of all work will be _____(Date)

Page 3 of 3**APPROVALS REQUIRED:**

To be effective, this order must be approved by the County Manager; or the Los Alamos County Council if the contract modification, change order, or contract price adjustment exceeds the funding budgeted and specifically appropriated for this project, or as may otherwise be required by the General Conditions.

The adjustment in Contract price and/or Contract time stated in this Change Order shall constitute the total price and/or time adjustment due or owed the Contractor for the work or changes ordered by the Change Order. By executing the Change Order, the Contractor acknowledges and agrees that the stipulated price and/or time adjustments represent full compensation for all adjustments in the cost or the time required to perform the Contract as a whole arising directly or indirectly from the Change Order, including costs and delays associated with the interruption of schedules, extended overheads, delay, and cumulative impacts or ripple effect on all other non-affected work under Contract not changed by the Change Order. Signing of the Change Order constitutes full and mutual accord and satisfaction for the adjustment in contract price and/or time, subject to the current scope of the entire work as set forth in the Contract Documents. Acceptance of this Change Order constitutes an agreement between County and Contractor that the Change Order represents an equitable adjustment to the Contract, and that the Contractor will waive all rights to file a claim on this Change Order after it is properly executed.

Requested by Project Manager:

_____, Project Manager

Approved by (Public Works Director):

Juan Rael, Public Works Director

Approved by (County Manager):

Anne W. Laurent, County Manager

If applicable, approved by the County Council on the _____ Day of
, 20____.

Attest:

(County Council)

Print Name _____

Title _____

**INCORPORATED COUNTY OF LOS ALAMOS
CERTIFICATE OF SUBSTANTIAL COMPLETION**



LOS ALAMOS

Date of Issuance: _____

Agreement Number: _____

Agreement Title: _____

Contractor: _____

Engineer: _____

This Certificate of Substantial/ Final Completion applies to all Work under the Contract Documents or to the following specified parts thereof:

TO:

Contractor

The Work to which this Certificate applies has been inspected by authorized representatives of County, Contractor and Engineer and that Work is hereby declared to be substantially complete in accordance with the Contract Documents on

DATE OF SUBSTANTIAL COMPLETION

A tentative list of items to be completed or corrected is attached hereto. This list may not be all-inclusive, and failure to include an item in it does not alter the responsibility of Contractor to complete all the Work in accordance with the Contract Documents.

Certificate of Substantial / Final Completion
(Page 2 of 2)

This certificate does not constitute an acceptance of Work not in accordance with the Contract Documents, nor is it a release of Contractor's obligations to complete the Work in accordance with the Contract Documents.

Executed by County on _____, 20__

Project Manager

By: _____
(Authorized Signature)

Accepted by the Design Professional of Record on _____, 20__

Design Professional of Record

By: _____
(Authorized Signature)

Accepted by the Contractor on _____, 20__

Contractor

By: _____
(Authorized Signature)