



INCORPORATED COUNTY OF LOS ALAMOS PROFESSIONAL SERVICES AGREEMENT

This **PROFESSIONAL SERVICES AGREEMENT** (this "Agreement") is entered into by and between the **Incorporated County of Los Alamos**, an incorporated county of the State of New Mexico ("County"), and **Adams+Crow Law Firm**, a New Mexico professional corporation ("Contractor"), to be effective for all purposes on March 6, 2018.

WHEREAS, Contracts for legal services are exempt from the competitive solicitation requirements of County's Procurement Code; and

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

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

SECTION A. SERVICES: Contractor shall conduct an investigation into matters related to alleged administrative and ethical misconduct of County employees and County officials, with respect to reimbursements and expenditures associated with the Regional Coalition of LANL Communities, and any additional matters related thereto ("Services"). Contractor shall provide County with all related services required to complete the investigation including making written findings and furnishing those written findings to the County Council.

SECTION B. TERM: The term of this Agreement shall commence March 6, 2018, and shall continue through December 31, 2018, unless sooner terminated, as provided herein. This Agreement may be extended by County if it is determined the scope of the project requires additional time.

SECTION C. COMPENSATION AND COSTS:

- 1. Amount of Compensation.** County shall pay compensation for performance of the Services in an amount not anticipated to exceed THIRTY THOUSAND DOLLARS (\$30,000.00), which amount does not include applicable New Mexico gross receipts taxes ("NMGR"). Compensation shall be paid in accordance with the rate schedule set out in Exhibit "A," attached hereto and made a part hereof for all purposes.
- 2. Monthly Invoices.** Contractor shall submit itemized monthly invoices to the County Attorney showing 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.
- 3.** In addition to legal fees, County is responsible for payment of other costs and expenses related to Contractor's performance of the Services. These costs and expenses include, but are not limited to, postage, printing, copying and delivery charges; reasonable travel expenses; and other services related to providing the Services such as computerized research; and similar charges.

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4. Contractor shall notify County when the services provided by Contractor reach levels of \$10,000.00, \$20,000.00 and \$25,000.00.

SECTION D. TAXES: Contractor shall be solely responsible for timely and correctly billing, collecting and remitting all NMGRV levied on the amounts payable under this Agreement.

SECTION E. STATUS OF CONTRACTOR, STAFF, AND PERSONNEL: This Agreement calls for the performance of services by Contractor as an independent contractor. Contractor is not an agent or employee of County and will not be considered an employee of County for any purpose. Contractor, its agents or employees shall make no representation that they are County employees, nor shall they create the appearance of being employees by using a job or position title on a name plate, business cards, or in any other manner, bearing County's name or logo. Neither Contractor nor any employee of Contractor shall be entitled to any benefits or compensation other than the compensation specified herein. Contractor shall have no authority to bind County to any agreement, contract, duty or obligation. Contractor shall make no representations that are intended to, or create the appearance of, binding County to any agreement, contract, duty, or obligation. Contractor shall have full power to continue any outside employment or business, to employ and discharge its employees or associates as it deems appropriate without interference from County; provided, however, that Contractor shall at all times during the term of this Agreement maintain the ability to perform the obligations in a professional, timely and reliable manner.

Further, although Contractor is a licensed attorney in the State of New Mexico, no attorney-client relationship between Contractor and County, or its officers, agents and employees is created. This Agreement is not for the purpose of obtaining legal advice or counsel. Contractor is not acting by or through or at the direction of the County Attorney's Office as outside counsel for County. Subject only to the terms of this Agreement, Contractor shall conduct this investigation independent of any direction, control or influence of any officer, agent, or employee of the Incorporated County of Los Alamos.

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

Contractor represents that a conflict check has been performed and there are no existing conflicts barring work on this matter. County agrees that should a present or future client of Contractor's have a dispute or transaction with County, Contractor shall be permitted to continue to perform the Services under the Agreement and/or may undertake the representation of existing or new clients in any matter that is not substantially related to Contractor's Services even if the interests of such clients in those other matters are directly adverse. Contractor agrees that County's prospective consent to such a conflict shall not apply in any instance where, in relation to the Services performed under this Agreement, Contractor has obtained proprietary or other confidential information of a nonpublic nature that, if known to another client, could be used in any such other matter by such client to the material disadvantage of County.

SECTION G. DELIVERABLES AND USE OF DOCUMENTS: All deliverables required under this Agreement, including material, products, reports, policies, procedures, software improvements, databases, and any other products and processes, whether in written or electronic form, shall remain the exclusive property of and shall inure to the benefit of County as works for hire;

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Contractor shall not use, sell, disclose, or obtain any other compensation for such works for hire. In addition, Contractor may not, with regard to all work, work product, deliverables or works for hire required by this Agreement, apply for, in its name or otherwise, any copyright, patent or other property right and acknowledges that any such property right created or developed remains the exclusive right of County. Contractor shall not use deliverables in any manner for any other purpose without the express written consent of County.

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

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

1. **General Liability Insurance:** ONE MILLION DOLLARS (\$1,000,000.00) combined single limit 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.

SECTION J. RECORDS: Contractor shall maintain, throughout the term of this Agreement and for a period of six (6) years thereafter, records that indicate the date, time, and nature of the services rendered. Contractor shall make available, for inspection by County, all records, books of account, memoranda, and other documents pertaining to County at any reasonable time upon request.

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

SECTION L. NON-DISCRIMINATION: Contractor acknowledges that it is subject to federal and state laws which prohibit discrimination 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. Contractor further acknowledges that such discriminatory conduct would constitute grounds for the County to terminate this Agreement.

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SECTION M. INDEMNITY: Contractor agrees to indemnify County for any liability which may be imposed upon or asserted against County, as well as its officials, employees and agents acting in their official capacity for County, to the extent such liability is caused by the tortious acts, omissions or negligence of Contractor. Contractor shall not be obligated to indemnify County for liability caused by or resulting from negligence of County, any County official, employee or agent, or any other third-party over which Contractor has no control.

Subject to the terms of Contractor's professional liability insurance, and to avoid any coverage issues which this indemnity might otherwise create, it is agreed that no portion of this indemnity shall be deemed to broaden or expand Contractor's liability for professional negligence beyond that provided by applicable law, or deprive Contractor of any protection provided by the applicable law or to impose liability on Contractor where no negligence or malpractice is proven.

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

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

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

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

SECTION R. TERMINATION:

1. **Generally.** County may terminate this Agreement with or without cause upon ten (10) days prior written notice to Contractor. Upon such termination, Contractor shall be paid for Services actually completed to the satisfaction of County at the rate set out in Exhibit A. Contractor shall render a final report of the Services performed to the date of termination and shall turn over to County originals of all materials prepared pursuant to this Agreement.
2. **Funding.** This Agreement shall terminate without further action by County on the first day of any County fiscal year for which funds to pay compensation hereunder are not appropriated by County Council. County shall make reasonable efforts to give Contractor at least ninety (90) days advance notice that funds have not been and are not expected to be appropriated for that purpose.

SECTION S. NOTICE: Any notices required under this Agreement shall be made in writing, postage prepaid to the following addresses, and shall be deemed given upon hand delivery,

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verified delivery by telecopy (followed by copy sent by United States Mail), or three (3) days after deposit in the United States Mail:

County:

County Attorney
Incorporated County of Los Alamos
1000 Central Avenue, Suite 340
Los Alamos, New Mexico 87544

Contractor:

Samantha M. Adams
Adams+Crow Law Firm
5051 Journal Center Boulevard NE
Suite 320
Albuquerque, New Mexico 87109

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

SECTION U. CAMPAIGN CONTRIBUTION DISCLOSURE FORM: A Campaign Contribution Disclosure Form is attached as Exhibit "B". Contractor must submit this form with this Agreement, if applicable and in accordance with Chapter 81 of the laws of 2006 of the State of New Mexico.

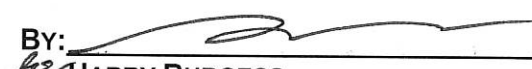
IN WITNESS WHEREOF, the parties have executed this Agreement on the date(s) set forth opposite the signatures of their authorized representatives to be effective for all purposes on the date first written above.

ATTEST



NAOMI D. MAESTAS
COUNTY CLERK

INCORPORATED COUNTY OF LOS ALAMOS

BY:  3/12/18

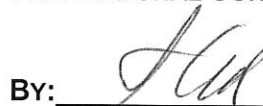
HARRY BURGESS
COUNTY MANAGER
DATE

Approved as to form:



J. ALVIN LEAPHART
COUNTY ATTORNEY

**ADAMS+CROW LAW FIRM, P.C., A NEW MEXICO
PROFESSIONAL CORPORATION**

BY:  29 Nov 18

SAMANTHA M. ADAMS
MANAGING PARTNER AND SHAREHOLDER
DATE

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Exhibit "A"
Compensation Rate Schedule
AGR18-936

Fees for Services shall be based on time actually spent rendering legal services satisfactory to County in the amount of TWO HUNDRED TEN DOLLARS (\$210.00) for partner-level attorneys, ONE HUNDRED SEVENTY-FIVE DOLLARS to ONE HUNDRED NINETY-FIVE DOLLARS (\$175.00 - \$195.00) for associate-level attorneys (depending on experience), and EIGHTY-FIVE DOLLARS (\$85.00) for paralegals, per hour exclusive of travel time. Travel time for attorneys will be billed at ONE HUNDRED DOLLARS (\$100.00) per hour.

Reimbursable expenses shall be limited to and paid at the following rates:

- Commercial Messenger/Delivery Services – Actual Charge
- Facsimile – Actual Phone Charge
- Photocopies - .10 per copy or actual costs for large copying projects completed outside the Contractor's Office
- LEXIS, WESTLAW, DIALOG, NM Legal Net Computerized Legal Research – Actual cost with approval of the County Attorney
- Long Distance Telephone Calls – Actual Cost
- Postage – Actual out-of-the ordinary postage costs (i.e., federal express or similar express mail)
- Travel Costs – Actual Cost

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Exhibit "B"
AGR18-936
CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Pursuant to Chapter 81, Laws of 2006, any prospective contractor seeking to enter into a contract with any state agency or local public body must file this form with that state agency or local public body. The prospective contractor must disclose whether they, a family member or a representative of the prospective contractor has made a campaign contribution to an applicable public official of the state or a local public body during the two years prior to the date on which the contractor submits a proposal or, in the case of a sole source or small purchase contract, the two years prior to the date the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor, a family member or a representative of the prospective contractor to the public official exceeds TWO HUNDRED AND FIFTY DOLLARS (\$250.00) over the two (2) year period.

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

The following definitions apply:

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

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

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

"Family member" means spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law.

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

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

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

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

DISCLOSURE OF CONTRIBUTIONS: (Report any applicable contributions made to the following COUNTY COUNCILORS: Christine Chandler; James Chrobocinski; David Izraelevitz; Antonio Maggiore; Susan O'Leary; Rick Reiss and Pete Sheehey.)

Contribution Made by: _____

Relation to Prospective Contractor: _____

Name of Applicable Public Official: _____

Date Contribution(s) Made: _____

Amount(s) of Contribution(s) _____

Nature of Contribution(s) _____

Purpose of Contribution(s) _____

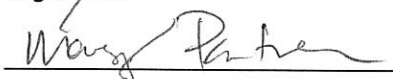
Signature Date

Title (position)

—OR—

NO CONTRIBUTIONS IN THE AGGREGATE TOTAL OVER TWO HUNDRED FIFTY DOLLARS (\$250.00) WERE MADE to an applicable public official by me, a family member or representative.

 _____
Signature Date 21 Mar 18

 _____
Title (position)

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