

**INCORPORATED COUNTY OF LOS ALAMOS
CONTRACT FOR LEGAL SERVICES
AFFF PFAS LITIGATION**

THE INCORPORATED COUNTY OF LOS ALAMOS, represented by **its Governing Body**, (hereinafter the “Client” or “County”) hereby retains, **STAG LIUZZA, L.L.C.**, (through attorney Michael Stag, LLC), and its subconsultants (hereinafter collectively the “Attorneys”) for the purpose of providing legal services related to the filing of a civil action and/or claims in the pending settlements for recovery of costs associated with damages to the public drinking water system and/or public wastewater system against Defendants who manufactured, marketed, distributed, and/or sold aqueous film-forming foam (“AFFF”), (hereinafter the “Client’s Claims”).

CLIENT DESIGNATES FOR COMMUNICATION PURPOSES THE FOLLOWING:

Utilities Department: Philo S. Shelton III, P.E., (505) 662-8333, philo.shelton@losalamosnm.gov
Los Alamos County Utilities Manager

Business Matters: Anne W. Laurent, (505) 663-1750, anne.laurent@losalamosnm.gov
Los Alamos County Manager

All correspondence and communications to the County regarding this matter shall include the County Attorney’s Office via the following contact information:

Alvin Leaphart, County Attorney, (505)662-8020, alvin.leaphart@losalamosnm.gov

Katie Thwaits, Deputy County Attorney, (505)662-8020, katie.thwaits@losalamosnm.gov

Client acknowledges and understands that court ordered deadlines and documentation requirements exist for the pending DuPont and 3M settlements. Client agrees to provide the required documentation and assist in performing testing in a timely matter sufficient to allow Attorneys time to process and file the settlement claim within the court ordered deadlines. Any failure of Client to comply with the testing and documentation requirements of the settlement may result in forfeiture of the Client’s right to recover money from 3M and DuPont. Documentation requirements and deadlines may further apply to settlements currently pending court approval or approved in the future.

The Client specifically authorizes the Attorneys to undertake negotiations, file suit, file settlement claims, or institute legal proceedings necessary on the Client’s behalf. The Client further authorizes the Attorneys to retain and employ the services of any experts, as well as the services of other outside contractors, as the Attorneys deem necessary or expedient in representing the interests of the Client. The Client understands and authorizes Attorneys to share attorney fees with any legal counsel Attorneys choose to associate to assist with providing the legal services contracted herein.

Unless otherwise agreed in writing by Client and Attorneys, Attorneys will not provide legal services with respect to (a) defending any legal proceeding or claim against the Client

commenced by any person unless such proceeding or claim is filed against the Client in the Action or (b) proceedings before any federal or state administrative or governmental agency, department, or board including, but not limited to, the United States Environmental Protection Agency. With Client's permission, however, Attorneys may elect to appear at such administrative proceedings to protect Client's rights. Client acknowledges that the Attorneys are not tax, regulatory, or bankruptcy legal experts. If Client wishes to retain Attorneys to provide any legal services not provided under this Agreement for additional compensation, a separate written agreement between Attorneys and Client will be required.

The Attorneys are the attorneys for the Client regarding the Client's Claims; the Attorneys are not the attorneys for individual officials, officers, agents, employees, attorneys, or consultants of the Client, and shall not become so unless the Attorneys specifically agree in the future in writing to undertake such representation. The Attorneys will confer, as needed, with such persons to perform the services specified in this Agreement, but no attorney-client relationship shall be created with such persons merely because the Attorneys work with and/or request or receive information from any such persons during their representation of the Client, unless such persons are seeking advice from the Attorneys regarding the Client's Claims or if the Attorneys are facilitating or providing advice regarding the Client's Claims. Notwithstanding the foregoing, the Attorneys' obligations to the Client shall conform with NMRA Section 16-113.

The Client has disclosed all potential adverse parties to the Attorneys, and neither the Attorneys nor the Client perceive any conflict of interest in the Attorneys undertaking this engagement on behalf of the Client. If either the Client or the Attorneys, during the course of the representation, receive information indicating that a potential conflict of interest may develop or exist, the Client and the Attorneys agree to bring such information to the immediate attention of the other, and the Attorneys shall proceed to take such steps as may be appropriate in the circumstances.

1. ATTORNEYS' FEES. As compensation for legal services, the Client agrees to pay the Attorneys for legal services rendered and to be rendered on account of the Client's Claims, the Client shall pay the Attorneys' fees (hereinafter "Attorneys' Fees"). The Attorneys' Fees shall be thirty five percent (35%) of the Gross Amount Recovered of the Client's Claims. These Attorneys' Fees shall all be calculated before the deduction of costs and expenses, as set forth in Section 2 herein. "Gross amount recovered" herein means principal, interest, penalties, punitive damages, treble damages, attorney's fees, and all other amounts recovered, including the value of any structured settlement, future payments, or other relief achieved, whether by settlement, judgment or otherwise. "Constituent claims" herein means any one or more claims of the Client constituting less than the entirety of the Client's Claims, including a partial settlement or judgment with less than all defendants. The Client agrees to pay all costs and expenses, as set forth in Section 2 herein, which, in the event of a successful recovery, shall be deducted from the Client's share of that recovery. The Client acknowledges that multiple lawsuits have been filed relating to the same subject matter as Client's Claims. The Client acknowledges that these suits, including any suit for the Client's Claims, might be removed to a federal court as part of multi-district litigation. Further, the Client acknowledges that the court governing the multi-district litigation might appoint committees of attorneys to litigate common issues of law and fact to facilitate the resolution of those lawsuits for common benefit of all claimants, including the Client. As a result, the Client might be obliged to pay from any Gross Amount Recovered a share of its recovery to satisfy an

assessment of common benefit fees, costs, and expenses in an amount as determined by the court. Neither the Attorneys nor the Client shall have the right, without the written consent of the other, to settle, compromise, release, discontinue, or otherwise dispose of the Client's Claims.

2. COSTS AND EXPENSES. Attorneys shall advance all litigation expenses on behalf of Client, and Client shall not be responsible for incurring or reimbursing costs of the litigation even if the amount of recovery is less than the costs incurred. Client shall only reimburse litigation costs or expenses in the event of a recovery of those costs as a result of reimbursement acquired through the multi-district litigation award pool of monies. If no recovery is made, Attorneys shall bear all unreimbursed costs and expenses incurred, and client shall not be liable for any such costs or expenses incurred by Attorneys. Further, if recovery is insufficient to fully reimburse litigation costs, Attorneys shall bear, and Client shall not be liable for, all costs in excess of the amount of recovery.

The Attorneys shall have the right and authority, without prior approval of the Client, to incur such litigation costs and expenses as may be necessary or advisable in furtherance of Client's Claims. Litigation costs and expenses may include (but are not limited to) the following: filing fees; deposition costs; expert witness fees; transcript costs; witness fees; subpoena costs; sheriff's and service of process fees; trial consultant fees; mock trial costs; shadow jury fees; mediation fees; court costs; trial exhibit costs; copy costs; photographic, electronic or digital evidence production or presentation; investigation fees; travel expenses; and any other case-specific expenses directly related to the representation undertaken. Finally, the Client acknowledges that Client will not be charged costs and expenses for any overhead costs of the Attorneys' practice, including office rent; utility costs; charges for local telephone service; office supplies; fixed asset expenses; and ordinary secretarial and staff services.

3. USE OF SUBCONSULTANTS. **STAG LIUZZA, L.L.C.**, and the Client agree that the following subconsultants will be used to fulfill the requirements of this agreement: **Ortiz & Zamora, Attorneys at Law, LLC** (through attorney Geno Zamora), **John Wertheim Law, LLC** (through attorney John V. Wertheim), and **Vela Justice, PLLC** (through attorney Filemon Vela). Any additional subconsultants may be added by mutual agreement of the Parties.

4. NO GUARANTEE. The Client acknowledges that the Attorneys have made no promise or guarantee regarding the outcome of my legal matter. The Client acknowledges that the Client's Claims may be subject to defenses that could lead to dismissal before, at, or after trial, and no recovery. The Client further acknowledge that the Attorneys shall have the right to cancel this agreement and withdraw from this matter if, in the Attorneys' professional opinion, the matter does not have merit, the Client does not have a reasonably good possibility of recovery, the Client refuses to follow the recommendations of the Attorneys, the Client fails to abide by the terms of this agreement, the Client fails to provide requested information or to produce witnesses to appear for deposition or trial, if the Attorneys' continued representation would result in a violation of the Rules of Professional Conduct, or at any other time as permitted under the Rules of Professional Conduct. No guarantee or representation has been made to the Client as to what type or amount of recovery, if any, may be expected on the Client's Claims.

5. ELECTRONIC DATA COMMUNICATION AND STORAGE. In the interest of facilitating our services to the Client, the Attorneys may communicate by facsimile transmission,

send data over the internet, store electronic data via computer software applications hosted remotely on the internet, or allow access to data through third-party vendors' secured portals or clouds. Electronic data that is confidential to the Client may be transmitted or stored using these methods. The Attorneys may use third-party service providers to store or transmit this data. In using these data communication and storage methods, the Attorneys employ measures designed to maintain data security. The Attorneys will use reasonable efforts to keep such communications and data access secure in accordance with the Attorneys' obligations under applicable laws and professional standards. The Attorneys also require all of the Attorneys' third-party vendors to do the same. However, the Client acknowledges that some information transmitted to the Attorneys will be public records, and the Client has no expectation that public records will be confidential. Client acknowledges that the Attorneys have no control over the unauthorized interception or breach of any communications or data once it has been sent or has been subject to unauthorized access, notwithstanding all reasonable security measures employed by us or our third-party vendors, and the Client consents to our use of these electronic devices and applications and submission of confidential client information to third-party service providers during this engagement.

6. PRIVILEGE. The Client acknowledges that this contract is intended to and does hereby assign, transfer, set over, and deliver unto the Attorneys as its fee for representation of the Client in this matter an interest in the claim(s), the proceeds, or any recovery therefrom under the terms and conditions aforesaid, in accordance with the provisions any state law that applies to this contract.

7. MODIFICATION. It contains the entire and complete understanding between the parties and can only be modified by written amendment signed by all parties.

8. TERMINATION OF REPRESENTATION. The Client acknowledges that the Client has the right to terminate the representation upon written notice to that effect. The Client acknowledges that Client will be responsible for any reimbursable fees or costs incurred prior to the discharge or termination, based on all the facts and circumstances, including the risk taken by the Attorneys in accepting Client's legal representation on a contingency fee basis. The Client agrees to cooperate with Attorneys and to comply with all reasonable requests of Attorneys. The Client warrants and represents to the Attorneys that all information the Client has provided to, or will in the future provide to, the Attorneys regarding the Client's Claim is true and correct to the best of the Client's knowledge, information, and belief. The Attorneys have the right to withdraw from this representation after giving reasonable notice. If the Attorneys resign, are discharged, or are disqualified or otherwise cease to serve as the Client's legal counsel prior to a settlement or final judgment, then the withdrawing, discharged, or disqualified Attorneys shall receive as compensation for services reasonable fees based on all of the facts and circumstances of its representation. At the conclusion of this matter, the Attorneys will retain the Client's legal files for a period of five (5) years after the Attorneys close their files. At the expiration of the five-year period, the Attorneys may destroy these files unless the Client notifies the Attorneys in writing that the Client wishes to take possession of the files. The Attorneys reserve the right to charge administrative fees and costs associated with retrieving, copying, and delivering such files.

9. LIABILITY. Each party shall be solely responsible for fiscal or other sanctions occasioned as a result of its own violation or alleged violation of requirements applicable to the performance of the Agreement. Each party shall be liable for its own actions in accordance with this Agreement. Neither party shall be responsible for liability incurred as a result of the other party's negligence, acts or omissions in connection with this Agreement. Any liability incurred in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, § 41-4-1, *et seq.*, NMSA 1978, as amended.

10. APPROPRIATIONS AND AUTHORIZATIONS. The terms of this Agreement are contingent upon sufficient appropriations and authorizations being made by the Governing Body of the County and, if state funds are involved, the Legislature of the State of New Mexico. If sufficient appropriations and authorizations are not made in this or future fiscal years, this Agreement shall terminate upon written notice by the County to the Attorneys. Such termination shall be without penalty to the County, and the County shall have no duty to reimburse the Attorneys for expenditures made in the performance of this Agreement incurred after written notice to the Attorneys is provided by the County pursuant to this paragraph. The County is expressly not committed to expenditure of any funds until such time as they are programmed, budgeted, encumbered and approved for expenditure by the County. The County's decision as to whether sufficient appropriations and authorizations have been made for the fulfillment of this Agreement shall be final and not subject to challenge by the Attorney.

11. ENTIRE AGREEMENT. The undersigned Client Representative has read this agreement, a copy of which he has received, in its entirety and she agrees to and understands the terms and conditions set forth herein. The Client acknowledges that there are no other terms or oral agreements existing between the Attorneys and the Client. This agreement may not be amended or modified in any way without the prior written consent of the Attorneys and the Client.

12. AUTHORITY. The Client acknowledges having been advised to and given the full opportunity to obtain independent representation in the making of this agreement and voluntarily entering into this agreement after such opportunity. The Client representative signing below represents that the Client enters into this agreement with proper authorization and approval under state and local law, and that the Client representative is specifically authorized to execute this agreement. Any action to enforce this agreement shall be filed in the First Judicial District Court for the State of New Mexico, in Los Alamos County.

EFFECT OF SIGNING

The Client understands that this is a binding legal document. The Client further understands that this Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

ATTEST

INCORPORATED COUNTY OF LOS ALAMOS

MICHAEL D. REDONDO
COUNTY CLERK

By: _____ **DATE**
ANNE W. LAURENT
COUNTY MANAGER

Approved as to form:

J. ALVIN LEAPHART
COUNTY ATTORNEY

STAG LIUZZA, LLC,
A LOUISIANA LIMITED LIABILITY CORPORATION

By: _____ **DATE**
MICHAEL STAG, LLC