

Liebert Cassidy Whitmore, A Professional Corporation

FIRST AMENDMENT TO AGREEMENT FOR SERVICES #5657

THIS FIRST AMENDMENT to that Agreement for Services #5657 made and entered into by and between the County of El Dorado, a political subdivision of the State of California (hereinafter referred to as "County"), and Liebert Cassidy Whitmore, A Professional Corporation, a corporation duly qualified to conduct business in the State of California, whose principal place of business is 6033 West Century Boulevard, Suite 500, Los Angeles, California 90045 (hereinafter referred to as "Consultant");

RECITALS

WHEREAS, Consultant has been engaged by County to providing legal advice in employment and labor relations matters and to provide training on various employment relations subjects on an as-needed basis pursuant to Agreement for Services #5657, dated June 22, 2021 incorporated herein and made by reference a part hereof (hereinafter referred to as "Agreement");

WHEREAS, the parties hereto desire to amend the Agreement to increase the not-to-exceed amount of the Agreement by \$170,000, amending **ARTICLE III, Compensation for Services**;

WHEREAS, the parties hereto desire to amend the Agreement to update County's notice recipient title, amending **ARTICLE XIII, Notice to Parties**;

WHEREAS, the parties hereto desire to update specific Articles to reflect County's current contract provisions, amending **ARTICLE XV, Indemnity**;

WHEREAS, the parties hereto desire to amend the Agreement in accordance with Senate Bill 1489, the Levine Act, amending **ARTICLE XIX, Conflict of Interest**, and adding **Exhibit D, California Levine Act Statement**;

WHEREAS, the parties hereto desire to amend the Agreement to update County's Contract Administrator's title, amending **ARTICLE XXVI, Contract Administrator**;

WHEREAS, the parties hereto desire to update the Agreement to include the County's current contract provisions, adding **ARTICLE XXXIII, Electronic Signatures**;

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants hereinafter contained, County and Consultant mutually agree to amend the terms of the Agreement in this First Amendment to Agreement for Services #5657 on the following terms and conditions:

- I. **ARTICLE III, Compensation for Services**, of the Agreement is amended in its entirety to read as follows:

ARTICLE III

Compensation for Services: For services provided herein, including any deliverables that may be identified herein, payment shall be made within forty-five (45) days following County's receipt and approval of itemized invoices identifying the services rendered.

For the purposes hereof, the billing rates shall be in accordance with the following:

Consortium Services: The billing rate shall be a flat fee of \$6,980.00 if payment is made prior to August 1, 2021. If paid after August 1, 2021, the fee shall be \$7,080.00. The fee may thereafter be increased annually by an amount not to exceed five percent (5%) over the previous year.

Individualized Training: Each individualized group training workshop shall be billed at a flat rate agreed upon in advance, in writing, by the parties hereto. Payment shall be made in one lump sum after completion of each workshop.

Allied Agencies: The billing rates shall be in accordance with Exhibit B, marked "Fee Schedule," incorporated herein and made by reference a part hereof. Consultant shall bill on a time and materials basis. Travel time is defined as the time it takes to travel from Consultant's office to County's offices and back, or the time it takes to travel from Consultant's staff's residence to County's offices and back, whichever is less. There shall be no reimbursement for any travel or expenses other than as provided herein.

Additional Services: The billing rates shall be in accordance with Exhibit B.

Travel expenses shall not exceed the rates to be paid to County employees under the current Board of Supervisors Travel Policy at the time the expenses are incurred. Travel time is defined as the time it takes to travel from Consultant's office to County's offices and back, or the time it takes to travel from Consultant's staff's residence to County's offices and back, whichever is less. There shall be no reimbursement for any travel or expenses other than as provided herein.

Reimbursement for mileage and meals shall be made in accordance with the Federal M&IE rates established by the General Services Administration (GSA) found here: <https://www.gsa.gov/portal/category/100120>. Lodging expenses shall be claimed at either the actual cost of the lodging (limited to the single occupancy rate for a single room) or the maximum lodging rate (Federal Per Diem Rate established by GSA), whichever is less. Taxes and resort fees are in addition to the Federal Per Diem Rate. Consultant is responsible for canceling hotel rooms before the cancellation period ends and should record the cancellation number in case of disputes. Consultant shall not be reimbursed for "no-show" hotel charges

unless there are unavoidable reasons for not canceling the room and the Contract Administrator or designee has determined that the reasons are valid. Any other travel expense or any individual travel expense that exceeds \$100.00 must be approved in advance by the Contract Administrator or designee.

County will also reimburse for reasonable project or training costs, including but not limited to, long distance telephone calls, mailing, and photocopying. Consultant shall be paid by County at the hourly rate for time spent in travel.

The total amount of this Agreement shall not exceed \$600,000, as amended, inclusive of all costs, taxes, and expenses.

Itemized invoices shall follow the format specified by County and shall reference this Agreement number on their faces. Copies of documentation attached to invoices shall reflect Consultant's charges for the specific services billed on those invoices. Invoices shall be mailed to County at the following address:

County of El Dorado
Human Resources Department
330 Fair Lane
Placerville, California 95667

or to such other location as County directs.

In the event that Consultant fails to deliver, in the format specified, the required by this Agreement, County at its sole option may delay the payment for the period of time of the delay, cease all payments until such time as the required deliverables are received, or proceed as set forth below in ARTICLE XII, Default, Termination, and Cancellation, herein.

- II. **ARTICLE XIII, Notice to Parties**, of the Agreement is amended in its entirety to read as follows:

ARTICLE XIII

Notice to Parties: All notices to be given by the parties hereto shall be in writing and served by depositing same in the United States Post Office, postage prepaid and return receipt requested. Notices to County shall be in duplicate and addressed as follows:

To County:

County of El Dorado
Human Resources Department
330 Fair Lane
Placerville, California 95667

Attn.: Joseph Carruesco
Director

With a copy to:

County of El Dorado
Chief Administrative Office
330 Fair Lane
Placerville, California 95667

Attn.: Michele Weimer
Procurement and Contracts
Manager

or to such other location as County directs.

Notices to Consultant shall be addressed as follows:

Liebert Cassidy Whitmore, A Professional Corporation
6033 West Century Boulevard, Suite 500
Los Angeles, California 90045

Attn.: Paul Hessing, Account Manager

or to such other location as Consultant directs.

- III. **ARTICLE XV, Indemnity**, of the Agreement is amended in its entirety to read as follows:

ARTICLE XV

Indemnity: To the fullest extent permitted by law, Consultant shall defend at its own expense, indemnify, and hold the County harmless, its officers, employees, agents, and volunteers, against and from any and all liability, claims, suits, losses, damages, or expenses of every name, kind and description, including attorney's fees and costs incurred, brought for, or on account of, injuries to or death of any person, including but not limited to workers, County employees, and the public, or damage to property, or any economic or consequential losses, which are claimed to or in any way arise out of or are connected with the negligent acts or omissions of Consultant or its officers, agents, or employees in rendering the services, operations, or performance hereunder, except for liability, claims, suits, losses, damages or expenses arising from the sole negligence or willful acts of the County, its officers and employees, or as expressly prescribed by statute. This duty of Consultant to indemnify and save County harmless includes the duties to defend set forth in California Civil Code Section 2778.

The insurance obligations of Consultant are separate, independent obligations under the Agreement, and the provisions of this defense and indemnity are not intended to modify nor should they be construed as modifying or in any way limiting the insurance obligations set forth in the Agreement.

Nothing herein shall be construed to seek indemnity in excess of that permitted by Civil Code section 2782, et seq. In the event any portion of this Article is found invalid, the Parties agree that this Article shall survive and be interpreted consistent with the provisions of Civil Code section 2782, et seq.

IV. **ARTICLE XIX, Conflict of Interest**, of the Agreement is amended in its entirety to read as follows:

ARTICLE XIX

Conflict of Interest: The parties to this Agreement have read and are aware of the provisions of Government Code Section 1090 et seq. and the Political Reform Act of 1974 (Section 87100 et seq.), relating to conflict of interest of public officers and employees. Individuals who are working for Consultant and performing work for County and who are considered to be Consultant within the meaning of Title 2, California Code of Regulations, Section 18700.3, as it now reads or may thereafter be amended, are required to file a statement of economic interest in accordance with County's Conflict of Interest Code. County's Contract Administrator shall at the time this Agreement is executed make an initial determination whether or not the individuals who will provide services or perform work pursuant to this Agreement are Consultants within the meaning of the Political Reform Act and County's Conflict of Interest Code. Statements of economic interests are public records subject to disclosure under the California Public Records Act.

Consultant covenants that during the term of this Agreement neither it, or any officer or employee of Consultant, has or shall acquire any interest, directly or indirectly, in any of the following:

1. Any other contract connected with, or directly affected by, the services to be performed by this Agreement.
2. Any other entities connected with, or directly affected by, the services to be performed by this Agreement.
3. Any officer or employee of County that are involved in this Agreement.

If Consultant becomes aware of a conflict of interest related to this Agreement, Consultant shall promptly notify County of the existence of that conflict, and County may, in its sole discretion, immediately terminate this Agreement by giving written notice of termination specified in ARTICLE XII, Default, Termination, or Cancellation.

Pursuant to Government Code section 84308 (SB 1439, the Levine Act), Lessor shall complete and sign the attached Exhibit D, marked "California Levine Act Statement," incorporated herein and made by reference a part hereof, regarding campaign contributions by Lessor, if any, to any officer of County.

- V. **ARTICLE XXVI, Contract Administrator**, of the Agreement is amended in its entirety to read as follows:

ARTICLE XXVI

Contract Administrator: The County Officer or employee with responsibility for administering this Agreement is Joseph Carruesco, Director, Human Resources Department, or successor.

- VI. **The following Article is added to the Agreement in its entirety:**

ARTICLE XXXIII

Electronic Signatures: Each party agrees that the electronic signatures, whether digital or encrypted, of the parties included in this Agreement, are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic Signature means any electronic visual symbol or signature attached to or logically associated with a record and executed and adopted by a party with the intent to sign such record, including facsimile or email electronic signatures, pursuant to the California Uniform Electronic Transactions Act (Cal. Civ. Code §§ 1633.1 to 1633.17) as amended from time to time.

Except as herein amended, all other parts and sections of Agreement for Services #5657 shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment to Agreement for Services #5657 on the dates indicated below.

--COUNTY OF EL DORADO--

By: _____

Dated: _____

Board of Supervisors
"County"

Attest:
Kim Dawson
Clerk of the Board of Supervisors

By: _____
Deputy Clerk

Dated: _____

--LIEBERT CASSIDY WHITMORE,
A PROFESSIONAL CORPORATION--

By:  _____
J. Scott Tiedemann
Managing Partner
"Consultant"

Dated: 4/26/23

Liebert Cassidy Whitmore, A Professional Corporation

Exhibit D

California Levine Act Statement

California Levine Act Statement

California Government Code section 84308, commonly referred to as the "Levine Act," prohibits any officer of El Dorado County from participating in any action related to a contract if he or she receives any political contributions totaling more than two hundred and fifty dollars (\$250) within the previous twelve (12) months, and for twelve (12) months following the date a final decision concerning the contract has been made, from the person or company awarded the contract. The Levine Act also requires disclosure of such contribution by a party to be awarded a specific contract. An officer of El Dorado County includes the Board of Supervisors, and any elected official (collectively "Officer"). It is the Consultant's responsibility to confirm the appropriate "officer" and name the individual(s) in their disclosure.

Have you or your company, or any agent on behalf of you or your company, made any political contributions of more than \$250 to an Officer of the County of El Dorado in the twelve months preceding the date of the submission of your proposals or the anticipated date of any Officer action related to this contract?

___ YES X NO

If yes, please identify the person(s) by name:

Do you or your company, or any agency on behalf of you or your company, anticipate or plan to make any political contribution of more than \$250 to an Officer of the County of El Dorado in the twelve months following any Officer action related to this contract?

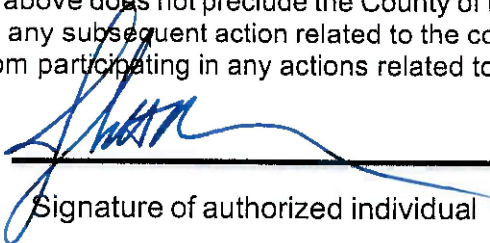
___ YES X NO

If yes, please identify the person(s) by name:

Answering YES to either of the two questions above does not preclude the County of El Dorado from awarding a contract to your firm or any taking any subsequent action related to the contract. It does, however, preclude the identified Officer(s) from participating in any actions related to this contract.

4/26/23

Date



Signature of authorized individual

LIEBERT CASSIDY WHITMORE

Type or write name of company

J. SCOTT TIEDEMANN

Type or write name of authorized individual