

# ORIGINAL

## AGREEMENT FOR SERVICES 518-S1311 IHSS Public Authority Labor Relation Consultation

**THIS AGREEMENT** made and entered by and between the El Dorado County In-Home Supportive Services Public Authority, a California public agency, (hereinafter referred to as "Authority" or "County") and Liebert Cassidy Whitmore, a California Corporation, duly qualified to conduct business in the State of California, whose principal place of business is 6033 W. Century Blvd., Suite 500, Los Angeles, CA 90045, and whose Agent for Services of Process is Richard C. Bolanos, 635 San Martin Place, Los Altos, CA 94024, (hereinafter referred to as "Consultant");

### RECITALS

**WHEREAS**, Authority has determined that it is necessary to obtain a Consultant to provide consultation and advice on employer-employee relations to the Authority on an "as requested" basis and

**WHEREAS**, Consultant has represented to Authority that it is specially trained, experienced and competent to perform the special services required hereunder and Authority has determined to rely upon such representations; and

**WHEREAS**, it is the intent of the parties hereto that such services be in conformity with applicable federal, state and local laws; and

**WHEREAS**, Authority has determined that the provisions of these services provided by Consultant are in the public's best interest and that these services, are more economically and feasibly performed by outside independent Consultants as authorized by El Dorado County Ordinance Code, Section 8.78.060 and/or California Welfare and Institutions Code Sections 12302 and 12302.1.

**NOW, THEREFORE**, Authority and Consultant mutually agree as follows:

### ARTICLE I

**Scope of Services:** Services shall include but not be limited to the following:

1. Advise and consult with the Authority's Governing Board and the Health and Human Services Agency ("HHSA") Director at such times and places as may be mutually agreed upon by Consultant and the Authority's Governing Board or the HHSA Director on matters relating to employment conditions and employer-employee relations;
2. Meet and confer in good faith for and on behalf of the Authority as the designated representative of the Authority's Governing Board ("Governing Board") and the Director with representatives of the employee organization ("Union") of the Au

(currently United Domestic Workers of America ["UDW"]) at such times and places as may be mutually agreed upon by Consultant, the Governing Board, the Union, and the HHSa Director;

3. Report to the Governing Board and the HHSa Director on the progress of meeting and conferring in good faith with the then currently recognized Union;
4. Analyze Union proposals, prepare written management proposals and counter proposals, and draft final memoranda of understanding ("MOU") in a form and manner approved by the Governing Board and the HHSa Director;
5. Consult on preparation of estimates of cost implementation of a MOU with the Union;
6. Prepare and retain complete records of the collective bargaining process(es) detailing the nature, status, and disposition of all bargaining proposals. Consultant shall provide all records, documents, and materials at the conclusion of the collective bargaining process(es);
7. Consult on issues on an "as needed" or "as requested" basis concerning various aspects of employment matters, including but not limited to the Fair Labor Standards Act, Meyers-Miliias-Brown Act, and other employment issues regulated by State and Federal law;
8. Advise relative to and, upon written or verbal request, assist Authority Counsel in representing the Authority with arbitrations, grievances, unfair practice, and other employment charges;
9. Provide training for Authority governing boards, supervisors and management employees;
10. Review and consult on personnel rules, Freedom of Information Act requests, employer-employee relations resolution, compensation policies, or other policy documents.

## ARTICLE II

**Term:** This Agreement shall become effective upon final execution by both parties hereto and shall expire three (3) years from date thereof unless terminated earlier pursuant to the provisions contained herein this Agreement under the Article(s) entitled "Default, Termination, and Cancellation" or "Fiscal Considerations."

## ARTICLE III

**Compensation for Services:** For services provided herein, Authority agrees to pay Consultant monthly in arrears and within forty-five (45) days following the Authority's receipt and approval of itemized invoice(s) identifying services rendered. The billing rate shall be as follows:

	Through June 30, 2014:	Effective July 1, 2014:
Partner	\$300.00 p/hr	\$325.00 p/hr
Of Counsel	\$265.00 p/hr	\$285.00 p/hr
Associate	\$180.00-\$245.00 p/hr	\$190.00-\$265.00 p/hr
Paralegal	\$70.00-\$140.00 p/hr	\$115.00-\$150.00 p/hr

Consultant shall submit to Authority for review and approval an itemized invoice at periodic intervals of not less than one (1) month and not more than three (3) months.

Authority shall reimburse for customary costs and disbursements incurred during the course of consultation including, but not limited to, travel, computer-assisted research, overnight delivery, and messenger services. Travel reimbursement shall be made in accordance with Exhibit "A" marked "Board of Supervisors Travel Policy D-1," incorporated herein and made by reference a part hereof.

The total amount of this Agreement shall not exceed \$100,000 inclusive of all expenses.

#### **ARTICLE IV**

**Changes to Agreement:** This Agreement may be amended by mutual consent of the parties hereto. Said amendments shall become effective only when in writing and fully executed by duly authorized officers of the parties hereto.

#### **ARTICLE V**

**Consultant to Authority:** It is understood that the services provided under this Agreement shall be prepared in and with cooperation from Authority and its staff. It is further agreed that in all matters pertaining to this Agreement, Consultant shall act as Consultant only to Authority and shall not act as Consultant to any other individual or entity affected by this Agreement nor provide information in any manner to any party outside of this Agreement that would conflict with Consultant's responsibilities to Authority during term hereof.

#### **ARTICLE VI**

**Assignment and Delegation:** Consultant is engaged by Authority for its unique qualifications and skills as well as those of its personnel. Consultant shall not subcontract, delegate or assign services to be provided, in whole or in part, to any other person or entity without prior written consent of Authority.

#### **ARTICLE VII**

**Independent Consultant/Liability:** Consultant is, and shall be at all times, deemed independent and shall be wholly responsible for the manner in which it performs services required by terms of this Agreement. Consultant exclusively assumes responsibility for acts of its employees, associates and subconsultants, if any are authorized herein, as they relate to services to be provided under this Agreement during the course and scope of their employment.

Consultant shall be responsible for performing the work under this Agreement in a safe, professional, skillful, and workmanlike manner and shall be liable for its own negligence and negligent acts of its employees. Authority shall have no right of control over the manner in which work is to be done and shall, therefore, not be charged with responsibility of preventing risk to Consultant or its employees.

## **ARTICLE VIII**

**Fiscal Considerations:** The parties to this Agreement recognize and acknowledge that Authority is a political subdivision of the State of California. As such, El Dorado County is subject to the provisions of Article XVI, Section 18 of the California Constitution and other similar fiscal and procurement laws and regulations and may not expend funds for products, equipment or services not budgeted in a given fiscal year. It is further understood that in the normal course of Authority business, Authority will adopt a proposed budget prior to a given fiscal year, but that the final adoption of a budget does not occur until after the beginning of the fiscal year.

Notwithstanding any other provision of this Agreement to the contrary, Authority shall give notice of cancellation of this Agreement in the event of adoption of a proposed budget that does not provide for funds for the services, products, or equipment subject herein. Such notice shall become effective upon the adoption of a final budget, which does not provide funding for this Agreement. Upon the effective date of such notice, this Agreement shall be automatically terminated and Authority released from any further liability hereunder.

In addition to the above, should the Board of Supervisors during the course of a given year for financial reasons reduce, or order a reduction, in the budget for any Authority department for which services were contracted to be performed, pursuant to this paragraph in the sole discretion of the Authority, this Agreement may be deemed to be cancelled in its entirety subject to payment for services performed prior to cancellation.

## **ARTICLE IX**

**Availability of Funds:** This Agreement is valid and enforceable only if sufficient funds are made available to the States by the United States government and those funds are released by the State to the Authority for the services to be provided under this Agreement. In addition, this Agreement is subject to any additional restrictions, limitations, or conditions enacted by the Congress or any statute enacted by the Congress which may affect the provisions, terms, or funding of this Agreement in any manner.

The Authority's obligation for payment of any Agreement beyond the current fiscal year end is contingent upon the availability of funding from which payment can be made. No legal liability on the part of the Authority shall arise for payment beyond June 30 of the calendar year unless funds are made available for such performance.

## **ARTICLE X**

**Non-Discrimination:** During the performance of this Agreement, the Consultant shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family leave care. The Consultant shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. The Consultant shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et. seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2). The applicable

regulations of the Fair Employment and Housing Commission implementing Government code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. The Consultant shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

The Consultant shall comply with the following Provisions of Title VI of the Civil Rights Act of 1964 (42 USC 2000), as amended by the Equal Opportunity Act of March 24, 1972 (Public Law 92-261); Sections 503 and 504 of the Rehabilitation Act of 1973, as amended (29 USC 794), and all requirements imposed by the applicable Health and Human Services regulations (45 CFR, Part 84); and the American's with Disabilities Act.

## **ARTICLE XI**

**Lobbying Certification:** The Consultant, by signing this Agreement, hereby certifies to the best of his or her knowledge and belief, that:

1. No federally appropriated funds have been paid or will be paid, by or on behalf of the Consultant, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the Consultant shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. This certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

## **ARTICLE XII**

**Confidentiality and Information Security Provisions:** Consultant shall comply with applicable laws and regulations, including but not limited to The Code of Federal Regulations, Title CFR45, parts 160-164, regarding the confidentiality and security of personal identifiable information (PII).

Personal identifiable information (PII) means any information that identifies, relates to, describes, or is capable of being associated with, a particular individual, including but not limited to, his or her name, signature, social security number, passport number, driver's license or state identification card number, insurance policy number, education, employment,

employment history, bank account number, credit card number, or any other financial information.

A. Permitted Uses and Disclosures of PII by Consultant.

- (1) Permitted Uses and Disclosures. Consultant shall develop and maintain an information privacy and security program that includes the implementation of administrative, technical, and physical safeguards appropriate to the size and complexity of Consultant's operations and the nature and scope of its activities. The information privacy and security programs must reasonably and appropriately protect the confidentiality, integrity, and availability of the PII that it creates, receives, maintains, or transmits; and prevent the use or disclosure of PII other than as provided for in this Agreement. Except as otherwise provided in this Agreement, Consultant, may use or disclose PII to perform functions, activities or services identified in this Agreement provided that such use or disclosure would not violate Federal or State laws or regulations.
- (2) Specific Uses and Disclosures provisions. Except as otherwise indicated in the Agreement, Consultant shall:
  - (a) Use and disclose PII for the proper management and administration of Consultant or to carry out the legal responsibilities of Consultant, provided that such use and disclosures are permitted by law; and
  - (b) Take all reasonable steps to destroy, or arrange for the destruction of a customer's records within its custody or control containing personal information which is no longer to be retained by Consultant by (1) shredding, (2) erasing, or (3) otherwise modifying the personal information in those records to make it unreadable or undecipherable through any means.

B. Responsibilities of Consultant.

- (1) Consultant agrees to safeguards:
  - (a) To prevent use or disclosure of PII other than as provided for by this Agreement. Consultant shall provide Authority with information concerning such safeguards as Authority may reasonably request from time to time; and
  - (b) Consultant shall restrict logical and physical access to confidential, personal (e.g., PII) or sensitive data to authorized users only; and
  - (c) Consultant shall implement appropriate authenticated and authorized persons. If passwords are used in user authentication (e.g., username/password combination), Consultant shall implement strong password controls on all compatible computing systems that are consistent with the National Institute of Standards and Technology (NIST) Special Publication 800-86 and SANS Institute Password Protection Policy.
- (2) Consultant shall implement the following security controls on each server, workstation, or portable (e.g. laptop computer) computing device that processes or stores confidential, personal, or sensitive data:
  - (a) Network based firewall and/or personal firewall; and
  - (b) Continuously updated anti-virus software; and
  - (c) Patch-management process including installation of all operating system/software vendor security patches.

- (3) **Mitigation of Harmful Effects.** To mitigate, to the extent practicable, any harmful effect that is known to Consultant of a use or disclosure of PII by Consultant or its subconsultants in violation of the requirements of this Agreement.
- (4) **Agents and Subconsultants of Consultant.** To ensure that any agent, including a subconsultant to which Consultant provides PII received from Authority, or created or received by Consultant, for the purposes of this Agreement shall comply with the same restrictions and conditions that apply through this Agreement to Consultant with respect to such information.
- (5) **Notification of Electronic Breach or Improper Disclosure.** During the term of this Agreement, Consultant shall notify Authority immediately upon discovery of any breach of PII and/or data, where the information and/or data are reasonably believed to have been acquired by an unauthorized person. Immediate notification shall be made to Authority Privacy Officer, within two business days of discovery, at (530) 621-5852. Consultant shall take prompt corrective action to cure any deficiencies and any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations. Consultant shall investigate such breach and provide a written report of the investigation to Authority Privacy Officer, postmarked within thirty (30) working days of the discovery of the breach.

### **ARTICLE XIII**

**HIPAA Compliance:** All data, together with any knowledge otherwise acquired by Consultant during the performance of services provided pursuant to this Agreement, shall be treated by Consultant and Consultant's staff as confidential information. Consultant shall not disclose or use, directly or indirectly, at any time any such confidential information. If Consultant receives any individually identifiable health information ("Protected Health Information" or "PHI"), Consultant shall maintain the security and confidentiality of such PHI as required by applicable laws and regulations, including the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the regulations promulgated thereunder.

### **ARTICLE XIV**

**Compliance with all Federal, State and Local Laws and Regulations:** Consultant shall comply with all federal, state and local laws, including but not limited to the Americans with Disabilities Act (ADA) of 1990 (42USC12101 et. seq.) and California Government Code Sections 11135-11139.5, and all regulations, requirements, and directives pertinent to its operations. Consultant shall abide by manuals, directives and other guidance issued by the State of California. All appropriate manuals and updates shall be available for review or reference by Consultant from the County Health and Human Services Agency.

Consultant shall further comply with all applicable laws relating to wages and hours of employment and occupational safety, and to fire, safety, and health and sanitation regulations. Such laws shall include, but not be limited to, the Copeland "Anti-Kickback" Act, the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, the Clean Air Act and amendments, the Clean Water Act and amendments, and the Federal Water Pollution Control Act.

Consultant further warrants that it has all necessary licenses, permits, notices, approvals, certificates, waivers and exemptions necessary for the provision of services hereunder and required by the laws and regulations of the United States, the State of California, the County of El Dorado and all other appropriate governmental agencies, and shall maintain these throughout the term of the Agreement.

#### **ARTICLE XV**

**Fraud or Abuse Reporting:** Consultant acknowledges and agrees to comply with mandated reporter requirements pursuant to provisions of Welfare and Institution Code, Section 15630-15632. Additionally, during the performance of this Agreement, the Consultant shall report immediately, by phone to (530) 621-6161, or other such phone number that may be provided, and in writing, to the County of El Dorado Health and Human Services Agency at 937 Spring Street, Placerville, CA 95667, any known or suspected incidents of fraud or abuse to Clients or household occupants observed or learned of during the delivery of Consultant services.

#### **ARTICLE XVI**

**Access to Records:** Consultant shall provide access to the Federal, State, County or Controller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of Consultant which are directly pertinent to this specific Agreement for the purpose of making an audit, examination, excerpts, and transcriptions.

#### **ARTICLE XVII**

**Accounting Systems and Financial Records:** If applicable to this Agreement, Consultant shall be required to establish and maintain accounting systems and financial records that accurately account for and reflect all federal funds received, including all matching funds from the State, County and any other local or private organizations. Consultant's records shall reflect the expenditure and accounting of said funds in accordance with all State laws and procedures for expending and accounting for all funds and receivables, as well as meet the financial management standards in 28 Code of Federal Regulations (CFR), Part 66, and all current revisions of OMB Circular A-87. More particularly, Consultants are responsible for complying with OMB Circular A-87 and 28 CFR, Part 66, and the allowability of the costs covered therein. Consultant must obtain written approval from HHSA Executive Management prior to the expenditure of any "special" or unusual costs in order to avoid possible disallowances or disputes based on any potential unreasonableness or unallowability of expenditures as detailed under the specific cost principles of OMB Circular A-87. In order to obtain the most current regulations, the user should consult not only the latest version of the CFR, but also the LSA issued in the current month. The *Federal Register* home page (<http://www.gpoaccess.gov/nara/index.html>) offers links to both the *Federal Register* and the CFR. An electronic CFR (e-CFR) is available at <http://www.gpoaccess.gov/ecfr/>. The e-CFR is an unofficial editorial compilation of CFR material and *Federal Register* amendments. It is a current, daily updated version of the CFR; however, it is not an official legal edition of the CFR. Please note that on-line versions of the CFR may not be the most current available.



## **ARTICLE XVIII**

**Annual Audit:** Pursuant to the Single Audit Act and the Office of Management and Budget Circular A-133, any entity that receives a total of \$500,000 or more per year in federal funds for the purposes of carrying out federal programs must complete an annual audit. The funding threshold is aggregate funds from all sources. If applicable to this Agreement, Consultant shall mail a certified copy of said completed annual audit to Authority at the address listed in Agreement's "Notice to Parties" Article within thirty (30) days of Consultant's receipt of same. All adverse audit findings must be documented and included with completed annual audit. Certified evidence of correction(s) of adverse audit findings shall be provided to County at the Authority address listed in Agreement's "Notice to Parties" Article.

## **ARTICLE XIX**

### **Default, Termination and Cancellation:**

- A. **Default:** Upon the occurrence of any default of the provisions of this agreement, a party shall give written notice of said default to the party in default (notice). If the party in default does not cure the default with ten (10) days of the date of notice (time to cure), then such party shall be in default. The time to cure may be extended at the discretion of the party giving notice. Any extension of time to cure must be in writing, prepared by the party in default for signature by the party giving notice, and must specify the reason(s) for the extension and the date on which the extension of time to cure expires. Notice given under this section shall specify the alleged default and the applicable Agreement provision and shall demand that the party in default perform the provisions of this Agreement within the applicable period of time. No such notice shall be deemed a termination of this Agreement unless the party giving notice so elects in this notice, or the party giving notice so elects in a subsequent written notice after the time to cure has expired. In the event of termination for default, Authority reserves the right to take over and complete the work by contract or by any other means.
- B. **Bankruptcy:** This Agreement, at the option of Authority, shall be terminable in the case of bankruptcy, voluntary or involuntary, or insolvency of Consultant.
- C. **Ceasing Performance:** Either party may terminate this Agreement in the event the other party ceases to operate as a business or otherwise becomes unable to substantially perform any term or condition of this Agreement.
- D. **Termination or Cancellation Without Cause:** Either party may terminate this Agreement in whole or in part seven (7) calendar days upon written notice to Authority for any reason. If such prior termination is effected, Authority shall pay for satisfactory services rendered prior to the effective dates as set forth in the Notice of Termination provided to Consultant, and for such other services, which Authority may agree to in writing as necessary for contract resolution. In no event, however, shall Authority be obligated to pay more than the total amount of the contract. Upon receipt of a Notice of Termination, Consultant shall promptly discontinue all services affected, as of the effective date of termination set forth in such Notice of Termination, unless the notice directs otherwise. In the event of termination for default, El Dorado reserves the right to take over and complete the work by contract or by any other means.

## **ARTICLE XX**

**Indemnity:** The Consultant shall defend, indemnify and hold the Authority harmless against and from any and all claims, suits, losses, damages and liability for damages 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, Authority employees and the public, or damage to property or any economic or consequential losses, which in any way arise out of or are connected with any negligence, errors or omissions in the performance of the Agreement by Consultant except for the sole or active negligence of the Authority, its officers and employees, or as expressly proscribed by statute. This duty of Consultant to indemnify and save Authority harmless includes the duties to defend set forth in California Civil Code Section 2778.

## **ARTICLE XXI**

**Insurance:** Consultant shall provide proof of a policy of insurance satisfactory to the County of El Dorado Risk Manager ("Risk Manager") and documentation evidencing that Consultant maintains insurance that meets the following requirements:

- A. Full Workers' Compensation and Employers' Liability Insurance covering all employees of Consultant as required by law in the State of California.
- B. Commercial General Liability Insurance of not less than \$1,000,000.00 combined single limit per occurrence for bodily injury and property damage and a \$2,000,000.00 aggregate limit.
- C. Automobile Liability Insurance of not less than \$1,000,000.00 is required in the event motor vehicles are used by Consultant in the performance of the Agreement.
- D. In the event Consultant is a licensed professional, and is performing professional services under this Agreement, professional liability (for example, malpractice insurance) is required with a limit of liability of not less than \$1,000,000.00 is required per occurrence.
- E. Consultant shall furnish a certificate of insurance satisfactory to the Risk Manager as evidence that the above-required insurance is current and being maintained.
- F. The insurance shall be issued by an insurance company acceptable to the County of El Dorado Risk Management Department ("Risk Management") or be provided through partial or total self-insurance likewise acceptable to Risk Management.
- G. Consultant agrees that the insurance required above shall be in effect at all times during the term of this Agreement. In the event said insurance coverage expires at any time or times during the term of this Agreement, Consultant agrees to provide at least thirty (30) days prior to said expiration date, a new certificate of insurance evidencing insurance coverage as provided for herein for not less than the remainder of the term of the Agreement, or for a period of not less than one (1) year. New certificates of insurance are subject to the approval of the Risk Management and Consultant agrees that no work or services shall be performed prior to the giving of such approval. In the event Consultant fails to keep in effect at all times insurance coverage as herein provided, County may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event.
- H. The certificate of insurance must include the following provisions stating that:
  1. The insurer shall not cancel the insured's coverage without thirty (30) days prior written notice to County, and;
  2. The County of El Dorado, its officers, officials, employees and volunteers are included as additional insured, but only insofar as the operations under this Agreement are concerned.
    - a. The above additional insured language shall be clearly stated on an "Additional Insured Endorsement" page and shall, by inclusion, become a part of the Certificate of Insurance.

- b. This additional insured provision shall apply to all liability policies except workers' compensation and professional liability insurance policies.
- I. Consultant's insurance coverage shall be primary insurance as respects County, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by County, its officers, officials, employees, or volunteers shall be excess of Consultant's insurance and shall not contribute with it.
- J. Any deductibles or self-insured retentions must be declared to and approved by County. Either:
  - 1. Insurer shall reduce or eliminate such deductibles or self-insured retentions as respects County, its officers, officials, employees, and volunteers; or
  - 2. Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- K. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to County, its officers, officials, employees, or volunteers.
- L. The insurance companies shall have no recourse against the County of El Dorado, its officers and employees or any of them for payment of any premiums or assessments under any policy issued by any insurance company.
- M. Consultant's obligations shall not be limited by the foregoing insurance requirements and shall survive expiration of this Agreement.
- N. In the event Consultant cannot provide an occurrence policy, Consultant shall provide both insurance and evidence of insurance to County that shall cover claims made as a result of performance of this Agreement for not less than three (3) years following completion of performance of this Agreement.
- O. Certificate of insurance shall meet such additional standards as may be determined by the contracting County Department either independently or in consultation with Risk Management, as essential for the protection of County.

## **ARTICLE XXII**

**Interest of Public Official:** No official or employee of Authority who exercises any functions or responsibilities in review or approval of services to be provided by Consultant under this Agreement shall participate in or attempt to influence any decision relating to this Agreement which affects personal interest or interest of any corporation, partnership or association in which he/she is directly or indirectly interested; nor shall any such official or employee of Authority have any interest, direct or indirect, in this Agreement or the proceeds thereof.

## **ARTICLE XXIII**

**Debarment and Suspension Certification:** By signing this agreement, the Consultant agrees to comply with applicable Federal suspension and debarment regulations and Consultant further certifies to the best of its knowledge and belief that it and its principals or affiliates or any sub-consultant utilized under the agreement:

- A. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;
- B. Have not within a three year period preceding this application/proposal/agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of

- Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- C. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in the above Paragraph B;
  - D. Have not within a three (3)-year period preceding this Agreement had one or more public transactions (Federal, State or local) terminated for cause or default;
  - E. Shall not knowingly enter in to any lower tier or subrecipient covered transaction with any person(s) who are proposed for debarment under Federal regulations or are debarred, suspended, declared ineligible or voluntarily excluded from participation in such transactions, unless authorized by the State; and
  - F. Shall include a clause entitled, "Debarment and Suspension Certification" that essentially sets forth the provisions herein, in all lower tier or subrecipient covered transactions.
- The terms and definitions herein have the meanings set out in the Definitions and Coverage sections of the rules implementing Federal Executive Order 12549.

#### **ARTICLE XXIV**

**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 Authority shall be addressed as follows:

COUNTY OF EL DORADO  
HEALTH AND HUMAN SERVICES AGENCY  
937 SPRING STREET  
PLACERVILLE, CA 95667  
ATTN: MICHELLE HUNTER, PROGRAM MANAGER I

Or to such other location as the Authority directs, with a copy to:

COUNTY OF EL DORADO  
CHIEF ADMINISTRATIVE OFFICE  
PROCUREMENT AND CONTRACTS DIVISION  
330 FAIR LANE  
PLACERVILLE, CA 95667

ATTN: TERRI DALY, PURCHASING AGENT  
Notices to Consultant shall be addressed as follows:

LIEBERT CASSIDY WHITMORE  
6033 W CENTURY BLVD, SUITE 500  
LOS ANGELES, CA 90045  
ATTN: J. SCOTT TIEDERMAN, PRESIDENT

Or to such other location as the Consultant directs.

#### **ARTICLE XXV**

**Change of Address:** In the event of a change in address for Consultant's principal place of business, Consultant's Agent for Service of Process, or Notices to Consultant, Consultant shall notify County in writing as provided in **Article XXIV- Notice to Parties**. Said notice shall become part of this Agreement upon acknowledgment in writing by the County Contract Administrator, and no further amendment of the Agreement shall be necessary provided that such change of address does not conflict with any other provisions of this Agreement.

#### **ARTICLE XXVI**

**Administrator:** The Authority Officer or employee with responsibility for administering this Agreement is Michelle Hunter, Program Manager I, Health and Human Services Agency, or successor.

#### **ARTICLE XXVII**

**Conflict of Interest:** The parties to this Agreement have read and are aware of the provisions of Government Code Section 1090 et seq. and Section 87100 relating to conflict of interest of public officers and employees. Consultant attests that it has no current business or financial relationship with any Authority employee(s) that would constitute a conflict of interest with provision of services under this contract and will not enter into any such business or financial relationship with any such employee(s) during the term of this Agreement. Authority represents that it is unaware of any financial or economic interest of any public officer or employee of Consultant relating to this Agreement. It is further understood and agreed that if such a financial interest does exist at the inception of this Agreement either party may immediately terminate this Agreement by giving written notice as detailed in the Article in the Agreement titled, "Default, Termination and Cancellation."

#### **ARTICLE XXVIII**

**Interest of Consultant:** Consultant covenants that Consultant presently has no personal interest or financial interest, and shall not acquire same in any manner or degree in either: 1) any other contract connected with or directly affected by the services to be performed by this Agreement; or, 2) any other entities connected with or directly affected by the services to be performed by this Agreement. Consultant further covenants that in the performance of this Agreement no person having any such interest shall be employed by Consultant.

#### **ARTICLE XXIX**

**County Business License:** It is unlawful for any person to furnish supplies or services, or transact any kind of business in the unincorporated territory of El Dorado County without possessing a County business license unless exempt under County Code Section 5.08.070.

### **ARTICLE XXX**

**California Residency (Form 590):** All independent Consultants providing services to the Authority must file a State of California Form 590, certifying their California residency or, in the case of a corporation, certify that they have a permanent place of business in California. The Consultant will be required to submit a Form 590 prior to execution of an Agreement or Authority shall withhold seven (7%) percent of each payment made to the Consultant during term of the Agreement. This requirement applies to any agreement/contract exceeding \$1,500.00.

### **ARTICLE XXXI**

**Payee Data Record:** All independent Consultants or Corporations providing services to the Authority must file a Payee Data Record, certifying their Taxpayer Identification Number.

### **ARTICLE XXXII**

**Authorized Signatures:** The parties to this Agreement represent that the undersigned individuals executing this Agreement on their respective behalf are fully authorized to do so by law or other appropriate instrument and to bind upon said parties to the obligations set forth herein.

### **ARTICLE XXXIII**

**Partial Invalidity:** If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will continue in full force and effect without being impaired or invalidated in any way.

### **ARTICLE XXXIV**

**Venue:** Any dispute resolution action arising out of this Agreement, including, but not limited to, litigation, mediation or arbitration, shall be brought in El Dorado County, California, and shall be resolved in accordance with the laws of the State of California. Consultant waives any removal rights it might have under Code of Civil Procedure Section 394.

### **ARTICLE XXXV**

**No Third Party Beneficiaries:** Nothing in this Agreement is intended, nor will be deemed, to confer rights or remedies upon any person or legal entity not a party to this Agreement.

### **ARTICLE XXXVI**

**Waivers:** Failure of Authority to enforce any provision of this Agreement shall in no event be considered a waiver of any part of such provision or any other provision contained herein. No waiver by Authority of any breach or default by Consultant shall operate as a waiver of any succeeding breach of the same terms in the Agreement or other default or breach of any of Consultant's obligations under the Agreement. No waiver shall have any effect unless it is specific, irrevocable, and in writing.

**ARTICLE XXXVII**

**Entire Agreement:** This document and the documents referred to herein or exhibits hereto are the entire Agreement between the parties and they incorporate or supersede all prior written or oral Agreements or understandings.

**Requesting Contract Administrator Concurrence:**

By: Michelle Hunter Dated: 5/29/13  
Michelle Hunter, Program Manager I  
Health and Human Services Agency

**Requesting Department Head Concurrence:**

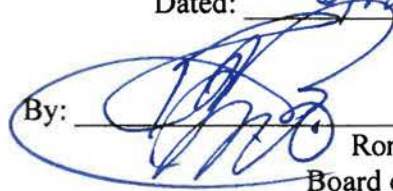
By: Janet Walker-Conroy Dated: 5/30/13  
Janet Walker-Conroy, Interim Director  
Health and Human Services Agency

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement 518-S1311 on the dates indicated below, the latest of which shall be deemed to be the effective date of this Agreement.

-- COUNTY OF EL DORADO --

Dated: 6/18/13

By:  \_\_\_\_\_

Ron Briggs, Chair  
Board of Supervisors  
"Authority"

Acting as the governing board of the  
El Dorado County In-Home Supportive Services Public Authority

ATTEST:  
James S. Mitrison, Clerk  
of the Board of Supervisors

By:  \_\_\_\_\_ Dated: 6/18/13

Deputy Clerk

-- CONSULTANT --

LIEBERT CASSIDY WHITMORE  
A CALIFORNIA CORPORATION

By:  \_\_\_\_\_

J. Scott Tiedeman  
President  
"Consultant"

Dated: 5/24/13

ABH





Exhibit "A"

COUNTY OF EL DORADO, CALIFORNIA  
BOARD OF SUPERVISORS POLICY

<b>Subject:</b>  <b>TRAVEL</b>	<b>Policy Number</b> D - 1	<b>Page Number:</b> Page 1 of 13
	<b>Date Adopted:</b> 12/22/1987	<b>Revised Date:</b> 10/20/2009

BACKGROUND:

This policy applies to County officers and employees as well as members of boards and commissions required to travel in or out of county for the conduct of County business. This policy also provides for expenses of public employees from other jurisdictions when specifically referenced in policy provisions set forth below.

For ease of reference, the Travel Policy is presented in the following sections:

1. General Policy
2. Approvals Required
3. Travel Participants and Number
4. Mode of Transport
5. Reimbursement Rates
  - a. Maximum Rate Policy
  - b. Private Auto
  - c. Meals
  - d. Lodging
  - e. Other
6. Advance Payments
7. Compliance – Responsibility of Claimant
8. Procedures



**COUNTY OF EL DORADO, CALIFORNIA  
BOARD OF SUPERVISORS POLICY**

<b>Subject:</b>  <b>TRAVEL</b>	<b>Policy Number</b> <b>D - 1</b>	<b>Page Number:</b> <b>Page 2 of 13</b>
	<b>Date Adopted:</b> <b>12/22/1987</b>	<b>Revised Date:</b> <b>10/20/2009</b>

**POLICY:**

1. **General Policy**

- a. County officers and employees should not suffer any undue loss when required to travel on official County business, nor should said individuals gain any undue benefit from such travel.
- b. County officers or employees compelled to travel in the performance of their duties and in the service of the County shall be reimbursed for their actual and necessary expenses for transportation, parking, tolls, and other reasonable incidental costs, and shall be reimbursed within maximum rate limits established by the Board of Supervisors for lodging, meals, and private auto use. "Actual and necessary expenses" do not include alcoholic beverages.
- c. Travel arrangements should be as economical as practical considering the travel purpose, traveler, time frame available to accomplish the travel mission, available transportation and facilities, and time away from other duties.
- d. Employees must obtain prior authorization for travel, i.e., obtain approvals before incurring costs and before commencing travel.
- e. Receipts are required for reimbursement of lodging costs, registration fees, public transportation and for other expenses as specified, or as may be required by the County Auditor-Controller.



**COUNTY OF EL DORADO, CALIFORNIA  
BOARD OF SUPERVISORS POLICY**

<b>Subject:</b>  <b>TRAVEL</b>	<b>Policy Number</b> <b>D - 1</b>	<b>Page Number:</b> <b>Page 3 of 13</b>
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- f. Requests for travel authorization and reimbursement shall be processed using forms specified by the County Auditor and Chief Administrative Office.
- g. The Chief Administrative Officer may, at his or her sole discretion, authorize an exception to requirements set forth in this Travel policy, based on extenuating circumstances presented by the appropriate, responsible department head. Any exception granted by the Chief Administrative Office is to be applied on a case-by-case basis and does not set precedent for future policy unless it has been formally adopted by the Board of Supervisors.

**2. Approvals Required**

- a. Department head approval is required for all travel except by members of the County Board of Supervisors. Department heads may delegate approval authority when such specific delegation is approved by the Chief Administrative Officer. However, it is the expectation of the Chief Administrative Officer that department heads take responsibility for review and approval of travel.
- b. Chief Administrative Office approval is required when travel involves any of the following:
  - (1) Transportation by common carrier (except BART), e.g., air, train, bus.
  - (2) Car rental.



COUNTY OF EL DORADO, CALIFORNIA  
BOARD OF SUPERVISORS POLICY

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- (3) Out-of-county overnight travel.
  - (4) Members of boards or commissions, or non-county personnel.
  - (5) Any exceptions required for provisions within this policy, e.g., travel requests not processed prior to travel, requests exceeding expense guidelines or maximums.
- c. It remains the discretion of the Chief Administrative Officer as to whether or not costs of travel which were not authorized in advance will be reimbursed, and whether or not exceptional costs will be reimbursed.
3. Travel Participants and Number
- a. Department heads and assistants should not attend the same out-of-county conference; however, where mitigating circumstances exist, travel requests should be simultaneously submitted to the Chief Administrative Office with a justification memorandum.
  - b. The number of travel participants for each out-of-county event, in most instances, should be limited to one or two staff members, and those individuals should be responsible for sharing information with other interested parties upon return.
  - c. If out-of-county travel involves training or meetings of such technical nature that broader representation would be in the best interest of the County, the department head may submit a memo explaining the situation to the Chief Administrative Office, attached to travel requests, requesting authorization for a group of travelers.



COUNTY OF EL DORADO, CALIFORNIA  
BOARD OF SUPERVISORS POLICY

<b>Subject:</b>  <b>TRAVEL</b>	<b>Policy Number</b> D - 1	<b>Page Number:</b> Page 5 of 13
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d. Non-County personnel travel expenses are not normally provided for since only costs incurred by and for county officers and employees on county business are reimbursable. However, reimbursement is allowable for county officers (elected officials and appointed department heads) and employees who have incurred expenses for non-county staff in the following circumstances.

- (1) Meals for persons participating on a Human Resources interview panel when deemed appropriate by the Director of Human Resources.
- (2) Conferences between County officials and consultants, experts, and public officials other than officers of El Dorado County, which are for the purpose of discussing important issues related to County business and policies.
- (3) Transportation expenses for a group of County officers and employees and their consultants, and experts on a field trip to gain information necessary to the conduct of County business.
- (4) Lodging expenses for non-county personnel are NOT reimbursable except when special circumstances are noted and approved in advance by the Chief Administrative Office. Otherwise, such expenses must be part of a service contract in order to be paid.

4. Mode of Transport

- a. Transportation shall be by the least expensive and/or most reasonable means available.



**COUNTY OF EL DORADO, CALIFORNIA  
BOARD OF SUPERVISORS POLICY**

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- b. Private auto reimbursement may be authorized by the department head for county business travel within county and out of county. Reimbursement shall not be authorized for commuting to and from the employee's residence and the employee's main assigned work site, unless required by an executed Memorandum of Understanding between the County and a representing labor organization, or one-time, special circumstances approved by a department head.
- c. Out of county travel by county vehicle or private vehicle may be authorized if the final destination of the trip does not exceed a four (4) hour driving distance from the County offices. Any exception to this policy must receive prior approval from the Chief Administrative Officer. If air travel would be more economical, but the employee prefers to drive even though travel by car would not be in the County's best interest, the County will reimburse transportation equal to the air travel; transportation costs over and above that amount, as well as any extra days of lodging and meals, etc., will be considered a personal, not reimbursable cost of the traveler.
- d. Common carrier travel must be in "Coach" class unless otherwise specifically authorized in advance by the Chief Administrative Officer. Generally, any costs over and above coach class shall be considered a personal, not reimbursable expense of the traveler.
  - (1) Rental cars may be used as part of a trip using public transportation if use of a rental car provides the most economical and practical means of travel. The use of a rental car must be noted on the Travel Authorization in advance and authorized by the Department Head



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BOARD OF SUPERVISORS POLICY

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and Chief Administrative Officer. Justification for the use of the rental car must accompany that request. Rental car costs will not be reimbursed without prior authorization except in the case of emergencies. Exceptions may be granted at the sole discretion of the Chief Administrative Officer or designated CAO staff.

5. Reimbursement Rates

- a. a. Maximum rates for reimbursement may not be exceeded unless due to special circumstances documented by the department head and approved by the Chief Administrative Officer. The amount of any reimbursement above the maximum shall be at the sole discretion of the Chief Administrative Officer.

- b. Private Auto

Travel by private auto in the performance of "official County business" shall be reimbursed at the Federal rate as determined by the Internal Revenue Service.

Mileage for travel shall be computed from the employee's designated work place. If travel begins from the employee's residence, mileage shall be calculated from the residence or work place, whichever is less. (For example, an employee who lives in Cameron Park and drives to a meeting in Sacramento, leaving from the residence will be paid for mileage from the residence to Sacramento and back to the residence.)

The mileage reimbursement rate represents full reimbursement, excluding snow chain installation and removal fee, for expenses incurred by a County



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officer or employee (e.g., fuel, normal wear and tear, insurance, etc.) during the use of a personal vehicle in the course of service to El Dorado County.

**c. Meals**

Actual meal expenses, within maximum allowable rates set forth below, may be reimbursed routinely out-of-county travel, and for in-county overnight travel. Meals will not be provided for in-county travel or meetings which do not involve overnight lodging, unless special circumstances are involved such as the following:

- (1) When meals are approved as part of a program for special training sessions, conferences, and workshops;
- (2) When employees traveling from the western slope of the county to Lake Tahoe and vice-versa are required to spend the entire work day at that location;
- (3) When the Director of Human Resources deems it appropriate to provide meals to a Human Resources interview panel;
- (4) When Senior Managers and/or Executives of El Dorado County or the El Dorado County Water Agency meet with executives of other governmental agencies, community organizations, or private companies in a breakfast, lunch or dinner setting in order to conduct County business. While such meetings are discouraged unless absolutely necessary to the efficient conduct of County or Water Agency business, such expenses for County managers require approval by the Chief Administrative Officer.





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BOARD OF SUPERVISORS POLICY

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Actual costs of meals may be reimbursed up to a total of \$40 per day without regard to how much is spent on individual meals (e.g., breakfast, lunch, dinner, snacks), and without receipts. If an employee is on travel status for less than a full day, costs may be reimbursed for individual meals within the rates shown below.

Breakfasts may be reimbursed only if an employee's travel consists of at least 2 hours in duration before an employee's regular work hours. Dinner may be reimbursed if travel consists of at least 2 hours in duration after an employee's regular work hours.

**Maximum Allowable Meal Reimbursement**

Breakfast	\$8.00
Lunch	\$12.00
Dinner	\$20.00
Total for full day	\$40.00/day

d. Lodging

- (1) Lodging within county may be authorized by a department head if assigned activities require an employee to spend one or more nights in an area of the county which is distant from their place of residence (e.g., western slope employee assigned to 2-day activity in South Lake Tahoe).
- (2) Lodging may be reimbursed up to \$125 per night, plus tax, single occupancy. The Chief Administrative Office may approve extraordinary costs above these limits on a case by case basis when



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BOARD OF SUPERVISORS POLICY**

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the responsible department head and Chief Administrative Office determine that higher cost is unavoidable, or is in the best interest of the County.

- (3) Single rates shall prevail except when the room is occupied by more than one County employee. However, nothing in this policy shall be construed to require employees to share sleeping accommodations while traveling on County business. In all travel, employees are expected to secure overnight accommodations as economically as possible and practical.
- (4) Lodging arrangements should be made, whenever possible and practicable, at hotels/motels which offer a government discount, will waive charges to counties for Transient Occupancy Tax, or at which the County has established an account. When staying at such a facility, the name of the employee and the department must appear on the receipt of the hotel/motel bill.

e. **Other Expenses**

All other reasonable and necessary expenses (i.e., parking, shuttle, taxi, etc.) will be reimbursed at cost if a receipt is submitted with the claim.

Receipts are required except for those charges where receipts are not customarily issued, for example, bridge tolls and snow chain installation and removal fees. When specific cost guidelines are not provided by the county, reasonableness of the expense shall be considered by the



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department head and Chief Administrative Officer before deciding whether to approve.

Reasonable costs for snow chain installation and removal may be claimed and reimbursed. The purchase cost of snow chains would not be an allowable charge against the county.

**6. Advance Payments**

The Auditor may provide advance funds for estimated "out of pocket" expenses up to seventy-five percent (75%), but no less than \$50.00. The "out of pocket" expenses may include meals, taxi and public transportation, lodging, parking, and pre-registration costs.

**7. Compliance - Claimant Responsibility**

It is the responsibility of the claimant to understand and follow all policies and procedures herein in order to receive reimbursement for mileage, travel and expense claims. Any form completed improperly or procedure not followed may result in the return of a claim without reimbursement.

**8. Procedures:**

- a. Authorization to incur expenses must be obtained as set forth in this County policy, and as may be directed by the department.
- b. Requests for advance funds for anticipated travel expenses itemized on the Travel Authorization Request form are obtained by indicating this need on that form prior to processing the request.



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- c. Forms which require Chief Administrative Office approval should be submitted to the Chief Administrative Office, after department head approval, at least 7 to 10 days prior to travel to allow time for processing through County Administration and Auditor's Department.
- d. Cancellation of travel, requires that any advanced funds be returned to the Auditor Controller's office within five (5) working days of the scheduled departure date. If the advance is not returned within this time frame, the employee could jeopardize their standing to receive advances in the future.
- e. Travel Claims are due to the Auditor within 30 days after completion of travel. Personal Mileage and Expense Claims are due to the Auditor within 15 days after the end of each calendar month. The due date may be extended if deemed appropriate by the County Auditor. Claims must itemize expenses as indicated on claim forms, and must be processed with receipts attached.
- f. Reimbursements will be provided expeditiously by the County Auditor upon receipt of properly completed claim forms. The Auditor's Office shall promptly review claims to determine completeness, and if found incomplete, will return the request to the claimant noting the areas of deficiency.
- g. Personal Mileage and Expense Claim forms should be completed for each calendar month, one month per claim form. These monthly claims are due to the Auditor within 15 days following the month end; however, the deadline may be extended if deemed appropriate by the County Auditor. If monthly amounts to be claimed are too small to warrant processing at the



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end of a month (i.e., if cost of processing would exceed the amount being claimed), the claims for an individual may be accumulated and processed in a batch when a reasonable claim amount has accrued. In any event, such claims shall be made and submitted to the County Auditor for accounting and payment within the same fiscal year as the expense was incurred.

**h. Expense Claim Form**

For the purpose of travel and meeting expenses, the claim form is to be used for payments to vendors. The employee must obtain Department Head approval and submit the claim to the Auditor's Office within sixty (60) days of the incurred expense.