

## PROFESSIONAL SERVICES RETENTION AGREEMENT

THIS AGREEMENT by and between the COUNTY OF SISKIYOU (hereinafter referred to as "County"), and the Firm of **Liebert Cassidy Whitmore**, (hereinafter referred to as "LCW") a firm engaged in the practice of law in the State of California, at 400 Capitol Mall, Suite 1260, Sacramento, CA 95814. This Agreement is entered into on July 01, 2021.

WHEREAS, the County of Siskiyou requires labor negotiation services and representation; and,

WHEREAS, it has been determined that LCW has the expertise to render the necessary assistance and advice to the County of Siskiyou; and,

WHEREAS, LCW is qualified by education, training, and experience and is competent to perform such services.

NOW, THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. Services. Pursuant to this Agreement, LCW, upon request, shall provide to County specialized legal consulting services based solely upon the County's determination and need for such services. County makes no guarantee or warranty of any nature that any minimum level or amount of services or work will be requested of LCW by County under this Agreement. County by this Agreement incurs no obligation or requirement to request from LCW the performance of any services or work at all, even if County should have some need for such services or work during the term of this Agreement.

Services and work provided by LCW at County's request under this Agreement will be performed in a manner consistent with the requirements and standards established by applicable federal, state, and County laws, ordinances, regulations, and resolutions. Such laws, ordinances, regulations, and resolutions include, but are not limited to, those which are referred to in this Agreement.

2. Term. The term of this Agreement shall commence July 01, 2021, and terminate June 30, 2024, with the option of two (2) one year renewals agreed to by both parties and received in writing.

3. Legal Fees. LCW shall be compensated for such services in a sum not to exceed one hundred fifty thousand Dollars (\$150,000). Said amount shall not be exceeded without prior approval of the Board of Supervisors. See Exhibit "A" attached hereto for hourly rate(s).

When it appears that the maximum amount payable under this contract may be exceeded, LCW shall give County Administrator thirty (30) days' notice of such, together with reasons supporting the need for additional funds. The purpose of this notice is intended to avoid the interruption of necessary legal services while allowing the Board of Supervisors to exercise its discretion in advance of the expenditure of such funds.

4. Costs and Expenses. County shall reimburse LCW for all costs and expenses incurred by LCW, including, but not limited to, fees fixed by law or assessed by public agencies, long distance telephone calls, messenger and other delivery fees, postage, and for travel expenses and per diem which LCW reasonably incurs in providing services and work requested by County pursuant to this Agreement.

Except as expressly provided in this Agreement, LCW shall not be entitled to, nor

receive, from County any additional consideration, compensation, salary, wages, or other type of remuneration for services rendered under this Agreement. Specifically, LCW shall not be entitled, by virtue of this Agreement, to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays, or other paid leave of absence of any type or kind whatsoever.

5. Statement Billing and Payment.

(A) Billing and Payment. LCW shall submit to County, once a month, an itemized statement of all hours spent by LCW in performing services and work described in Exhibit "B", which were done at County's request. This statement will be submitted to County as expeditiously as possible. The statement to be submitted will cover the period from the first day of the preceding month through and including the last day of the preceding month. This statement will identify the date of which the hours were worked and describe the nature of the work which was performed on each day. LCW's statement to County will also include an itemization of any travel or per diem expenses, which have been approved in advance by County, incurred by the LCW during that period. The itemized statement for travel expenses and per diem will include original receipts for lodging, meals, and other incidental expenses in accordance with County's accounting procedures and rules. Contractor shall be paid within 30 days of County Auditor's receipt of said statement and claim form completed by the department.

(B) Federal and State Taxes.

(1) Except as provided in subparagraph (2) below, County will not withhold any federal or state income taxes or social security from any payments made by County to LCW under the terms and conditions of this Agreement.

(2) County will withhold California State income taxes from payments made under this Agreement to non-California resident independent contractors when it is anticipated that total annual payments to LCW under this Agreement will exceed One Thousand Four Hundred Ninety-Nine and no/100 Dollars (\$1,499.00).

(3) Except as set forth above, County has no obligation to withhold any taxes or payments from sums paid by County to LCW under this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of LCW. County has no responsibility or liability for payment of LCW's taxes or assessments.

(4) The total amounts paid by County to LCW, and taxes withheld from payments to non-California residents, if any, will be reported annually to the Internal Revenue Service and the California State Franchise Tax Board.

6. Work Schedule. LCW's obligation is to perform, in a timely manner, those services which are requested by County. It is understood by LCW that the performance of these services and work will require a varied schedule. LCW will arrange his/her own schedule, but will coordinate with County to insure that all services and work requested by County under this Agreement will be performed within the time frame set forth by County.

7. Required Licenses, Certificates and Permits. Any licenses, certificates, or permits

required by the federal, state, county, or municipal governments for LCW to provide the services must be procured by LCW and be valid at the time LCW enters into this Agreement. Further, during the term of this Agreement, LCW must maintain such licenses, certificates, and permits in full force and effect. Licenses, certificates, and permits may include, but are not limited to, driver's licenses, professional licenses or certificates, and business licenses. Such licenses, certificates, and permits will be procured and maintained in force by LCW at no expense to County. LCW will provide County, upon execution of this Agreement, with evidence of current and valid licenses, certificates and permits which are required to perform the services. Where there is a dispute between LCW and County as to what licenses, certificates, and permits are required to perform the services, County reserves the right to make such determinations for purposes of this Agreement.

8. Office Space, Supplies, Equipment, Etc. LCW shall provide such office space, supplies, equipment, vehicles, reference materials, and telephone service as is necessary for LCW to provide the services under this Agreement. County is not obligated to reimburse or pay LCW, for any expense or cost incurred by LCW in procuring or maintaining such items. Responsibility for the costs and expenses incurred by LCW in providing and maintaining such items is the sole responsibility and obligation of LCW.

9. County Property.

(A) Personal Property of County. Any personal property such as, but not limited to, protective or safety devices, badges, identification cards, keys, etc., provided to LCW by County pursuant to this Agreement are, and at the termination of this Agreement, remain the sole and exclusive property of County. LCW will use reasonable care to protect, safeguard and maintain such items while they are in LCW's possession. LCW will be financially responsible for any loss or damage to such items, partial or total, which is the result of LCW's negligence.

(B) Products of LCW's Work and Services. Any and all compositions, publications, plans, designs, specifications, blueprints, maps, formulas, processes, photographs, slides, video tapes, computer programs, computer disks, computer tapes, memory chips, soundtracks, audio recordings, films, audio-visual presentations, exhibits, reports, studies, works of art, inventions, patents, trademarks, copyrights, or intellectual properties of any kind which are created, produced, assembled, compiled by, or are the result, product, or manifestation of, LCW's services or work under this Agreement are, and at the termination of this Agreement remain, the sole and exclusive property of County. At the termination of the Agreement, LCW will convey possession and title to all such properties to County.

10. Workers' Compensation. LCW shall provide workers' compensation insurance coverage, in the legally required amount, for all LCW's employees utilized in providing work and services pursuant to this Agreement. By executing a copy of this Agreement, LCW acknowledges its obligations and responsibilities to its employees under the California Labor Code, and warrants that LCW has complied and will comply during the term of this Agreement with all provisions of the California Labor Code with regard to its employees. LCW, at the time of execution of this Agreement, will provide County with evidence of the required workers' compensation insurance coverage.

11. Insurance.

(A) General Liability. LCW shall procure and maintain during the entire term of this Agreement, a policy of general liability insurance which covers all the work and services to be performed by LCW under this Agreement. Such insurance policy will have a per occurrence combined single limit coverage of not less than \$100,000.00. Such policy will not exclude or except from coverage any of the services and work required to be performed by LCW under this Agreement. The required policy of insurance will be issued by an insurer authorized to sell such insurance by the State of California, and have at least a "Best's" policyholder's rating of "A" or "A+". County will be named as "an additional named insureds" on this policy. LCW will provide County a copy of the policy and a certificate of insurance showing County as "additional named insured" and indicating that the policy will not be terminated, canceled, or modified without thirty (30) days written notice to County.

(B) Business Auto. If LCW utilizes a motor vehicle in performing any of the work or services hereunder, LCW shall procure and maintain in force throughout the duration of this Agreement, a business auto liability insurance policy with minimum coverage levels of \$300,000.00 per occurrence, combined single limit for bodily injury liability and property damage liability. The coverage shall include all LCW owned vehicles and all hired and non-owned vehicles used in performing under this Agreement.

A certificate of insurance shall be provided to County at least ten (10) days prior to the start of services to be performed by LCW. The policy shall contain a provision prohibiting the cancellation or modification of said policy except upon thirty (30) days prior written notice to County.

(C) Professional Liability. If LCW is required to be professionally licensed or certified by any agency of the State of California in order to perform any of the work or services hereunder, LCW shall procure and maintain in force throughout the duration of this Agreement a professional liability insurance policy with a minimum coverage level of \$1,000,000.00. Proof of such insurance shall be provided to county at least ten (10) days prior to the start of any work by LCW.

12. Status of LCW. All acts of LCW, its agents, officers, and employees, relating to the performance of this Agreement, shall be performed as independent contractors, and not as agents, officers, or employees of County. LCW, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. LCW has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer, or employee of the County is to be considered an employee of LCW. It is understood by both LCW and County that this Agreement shall not under any circumstances be construed or considered to create an employer--employee relationship or a joint venture. As an independent contractor:

(A) LCW shall determine the method, details, and means of performing the work and services to be provided by LCW under this Agreement.

(B) LCW shall be responsible to County only for the requirements and results specified in this Agreement and except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of LCW in fulfillment of this Agreement.

(C) LCW, its agents, officers, and employees are, and at all times during the term of this Agreement shall, represent and conduct themselves as independent contractors, and not as employees of County.

13. Defense and Indemnification. LCW shall defend, indemnify, and hold harmless County, their agents, officers, and employees from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and LCW's fees, arising out of, resulting from, or in connection with, alleged negligence, errors, or omissions in the performance of this Agreement by LCW, or LCW's agents, officers, or employees. LCW's obligation to defend, indemnify, and hold County, their agents, officers, and employees harmless applies to any actual or alleged personal injury, death, or damage or destruction to tangible or intangible property, including the loss of use. LCW's obligation under this paragraph extends to any claim, damage, loss, liability, expense, or other costs which is caused in whole or in part by any act or omission of the LCW, its agents, employees, supplier, or any one directly or indirectly employed by any of them, or anyone for whose acts or omissions any of them may be liable.

LCW's obligation to defend, indemnify, and hold County, its agents, officers, and employees harmless under the provisions of this paragraph is not limited to, or restricted by, any requirement in this Agreement for LCW to procure and maintain a policy of insurance.

To the extent permitted by law, County shall defend, indemnify, and hold harmless LCW, its agents, officers, and employees from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and LCW's fees, arising out of, or resulting from, the active negligence, or wrongful acts of County, its officers, or employees.

14. Records and Audits.

(A) Records. LCW shall prepare and maintain all records required by the various provisions of this Agreement, federal, state, and municipal law, ordinances, regulations, and directions. LCW shall maintain these records for a minimum of five (5) years from the termination or completion of this Agreement. LCW may fulfill its obligation to maintain records as required by this paragraph by substitute photographs, microphotographs, or other authentic reproduction of such records.

(B) Inspections and Audits. Any authorized representative of County shall have access to any books, documents, papers, records, including, but not limited to, financial records of LCW, which County determines to be pertinent to this Agreement, for the purposes of making audit, evaluation, examination, excerpts, and transcripts during the period such records are to be maintained by LCW. Further, County has the right, at all reasonable times, to audit, inspect, or otherwise evaluate the work performed or being performed under this Agreement.

15. Nondiscrimination. During the performance of this Agreement, LCW, its agents, officers, and employees shall not unlawfully discriminate in violation of any federal, state, or local law, against any employee, or applicant for employment, or person receiving services under this Agreement, because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age, or sex. LCW and its agents, officers, and employees shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900, et seq.), and the applicable regulations promulgated thereunder in the California Code of Regulations. LCW shall also abide by the Federal Civil Rights Act of 1964 (P.L. 88-352) and all amendments thereto, and all administrative rules and regulations issued pursuant to said Act.

16. Cancellation. This Agreement may be canceled by County without cause, and at will, for any reason by giving to LCW thirty (30) days written notice of such intent to cancel. LCW may cancel this Agreement without cause, and at will, for any reason whatsoever by giving thirty (30) days written notice of such intent to cancel to County.

17. Assignment. This is an agreement for services of LCW. County has relied upon the skills, knowledge, experience, and training of LCW as an inducement to enter into this Agreement. LCW shall not assign or subcontract this Agreement, or any part of it, without the express written consent of County. Further, LCW shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

18. Default. If the LCW abandons the work, or fails to proceed with the work and services requested by County in a timely manner, or fails in any way as required to conduct the work and services as required by County, County may declare the LCW in default and terminate this Agreement upon five (5) days written notice to LCW. Upon such termination by default, County will pay to LCW all amounts owing to LCW for services and work satisfactorily performed to the date of termination.

19. Waiver of Default. Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided in paragraph 27 below.

20. Confidentiality. LCW agrees to comply with the various provisions of the federal, state, and county laws, regulations, and ordinances providing that information and records kept, maintained, or accessible by LCW in the course of providing services and work under this Agreement, shall be privileged, restricted, or confidential. LCW agrees to keep confidential all such information and records. Disclosure of such confidential, privileged, or protected information shall be made by LCW only with the express written consent of County.

21. Conflicts. LCW agrees that it has no interest, and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the work and services under this Agreement.

22. Post Agreement Covenant. LCW agrees not to use any confidential, protected, or privileged information which is gained from County in the course of providing services and work under this Agreement, for any personal benefit, gain, or enhancement. Further, LCW agrees for a period of two years after the termination of this Agreement, not to seek or accept any employment with any entity, association, corporation, or person who, during the term of this Agreement, has had an adverse or conflicting interest with County, or who has been an adverse party in litigation with the County, and concerning such, LCW by virtue of this Agreement has gained access to the County's confidential, privileged, protected, or proprietary information.

23. Severability. If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction, or if it is found in contravention of any federal, state, or county statute, ordinance, or regulation, the remaining provisions of this Agreement, or the application thereof, shall not be invalidated thereby, and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

24. Funding Limitation. The ability of County to enter this Agreement is based upon available funding from various sources. In the event that such funding fails, is reduced, or is modified, from one or more sources, County has the option to cancel, reduce, or modify this Agreement, or any of its terms within ten (10) days of its notifying LCW of the cancellation, reduction, or modification of available funding. Any reduction or modification of this Agreement made pursuant to this provision must comply with the requirements of paragraph 26 (Amendment).

25. LCWs' Fees. If either of the parties hereto brings an action or proceeding against the other, including, but not limited to, an action to enforce or declare the cancellation, termination, or revision of the Agreement, the prevailing party in such action or proceeding shall be entitled to receive from the other party all reasonable LCWs' fees and costs incurred in connection therewith.

26. Amendment. This Agreement may be modified, amended, changed, added to, or subtracted from by the mutual consent of the parties hereto, if such amendment or change is in written form and executed with the same formalities as this Agreement, and attached to the original Agreement to maintain continuity.

27. Notice. Any notice, communication, amendments, additions, or deletions to this Agreement, including change of address of either party during the terms of this Agreement, which LCW, County shall be required, or may desire, to make, shall be in writing and may be personally serviced, or sent by prepaid first class mail to, the respective parties as follows:

TO COUNTY: County of Siskiyou  
County Administrator  
1312 Fairlane Rd  
Yreka, CA 96097

TO LCW: Liebert Cassidy Whitmore  
400 Capitol Mall, Suite 1260  
Sacramento, CA 95814  
(916) 584-7000

28. Conditions. This Agreement shall not take effect, and LCW will have no obligation to provide legal services, and shall not be paid for any legal services, except for services provided from and after the execution of this Agreement.

29. Entire Agreement. This Agreement contains the entire agreement of the parties, and no representations, inducements, promises, or agreements otherwise between the parties not embodied herein or incorporated herein by reference, shall be of any force or effect. Further, no term or provision hereof may be changed, waived, discharged, or terminated, unless the same be in writing executed by the parties hereto.

IN WITNESS WHEREOF, County and LCW have executed this agreement on the dates set forth below, each signatory represents that he/she has the authority to execute this agreement and to bind the Party on whose behalf his/her execution is made.

COUNTY OF SISKIYOU

Date: \_\_\_\_\_

\_\_\_\_\_  
RAY A. HAUPT, CHAIR  
Board of Supervisors  
County of Siskiyou  
State of California

ATTEST:  
LAURA BYNUM  
Clerk, Board of Supervisors

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

THE FIRM OF LIEBERT CASSIDY WHITMORE

Date: 5/16/2021

DocuSigned by:  
*J. Scott Tiedemann*  
\_\_\_\_\_  
J. Scott Tiedemann, President

Date: 5/11/2021

DocuSigned by:  
*Brian P. Walter*  
\_\_\_\_\_  
Brian P. Walter, Secretary

License No.: 1018487  
(Licensed in accordance with an act providing for the registration of contractors)

Note to Contractor: For corporations, the contract must be signed by two officers. The first signature must be that of the chairman of the board, president or vice-president; the second signature must be that of the secretary, assistant secretary, chief financial officer or assistant treasurer. (Civ. Code, Sec. 1189 & 1190 and Corps. Code, Sec. 313.)

TAXPAYER I.D. 95-3658973

ACCOUNTING:			
Fund	Organization	Account	Activity Code (if applicable)
1001	101030	723000	

Encumbrance number (if applicable)  
If not to exceed, include amount not to exceed: \$150,000.00

EXHIBIT "A

SCHEDULE OF FEES

LCW shall submit to County periodically, and not less frequently than monthly, a detailed statement of account which clearly sets forth by date the items of work performed, the amount of time (to the nearest 1/10 (0.10) of an hour) spent on each item by each LCW or paralegal who performed the work, and identification of the LCW or paralegal who performed such work and their hourly billing rate under this contract.

LCW shall be compensated by at the following hourly rates:

Partner Jack Hughes	\$380
Negotiator Michael Jarvis	\$240

## EXHIBIT "B"

### SERVICES TO BE PERFORMED

Upon request of County, as set forth herein, to provide specialized legal consulting services and assist the County in Labor Relations consulting and negotiation. Including but not limited to:

- MOU reviews/audits to identify issues for legal compliance, provide suggestions to increase clarity and reduce ambiguity by improving contract language, and offer suggestions/alternatives to be considered in contract negotiations
- Training on costing labor contracts, compiling demographic data, preparing for impasse processes, and other training programs to develop skills for internal staff.
- Strategy development and advice on key areas including FLSA items, cost restructuring pension issues, employee benefits, and discipline/appeal processes. Provide advice and consultation on the scope of meet and confer subjects and alternative approaches to manage meet and confer obligations.
- Drafting contract language compliant with legal parameters and consulting on the preparation and presentation of proposals.
- Conducting or reviewing salary/compensation survey data, market comparable agencies and options for inclusion of information during the meet and confer process.
- Meet with County staff and elected officials prior to commencement of negotiations to best understand and formulate the goals and objectives of the County in addressing the potential bargaining issues and to be made aware of the financial/political limitations upon reaching those goals and objectives.
- Provide leadership in formulating the strategies, which will be employed in meeting the goals and objectives at the bargaining table.
- Administer and/or oversee classification and compensation studies to gather the data necessary to formulate and present the agency's bargaining objectives and proposals
- Review and analyze all pertinent charter provisions, codes, ordinances, rules and regulations, and existing memoranda of understanding, to verify their impact upon the goals and objectives that are being pursued.
- Act as principal spokesperson and strategist during the bargaining process.
- Participate in closed sessions to provide guidance to and receive direction from elected officials.
- Represent the County at impasse proceedings, including preparation and representation through the impasse process, preparation of press releases, supervising media relations, meeting with elected officials, and making those appearances provided for by the County employee relations ordinance, as requested by the County.