

**FOURTH AMENDMENT TO AGREEMENT FOR LEGAL SERVICES
BETWEEN
THE CITY OF RICHMOND
AND
LIEBERT CASSIDY WHITMORE**

This Fourth Amendment to the Agreement for Legal Services between the City of Richmond (“City”) and Liebert Cassidy Whitmore (“Special Counsel”) (the “Fourth Amendment”) is entered into as of June [REDACTED], 2022, by and between the City and Special Counsel with reference to the following facts:

RECITALS

WHEREAS, the City and Special Counsel entered into that certain Legal Services Agreement (“Original Agreement”) for representation of the City and City-related entities; and

WHEREAS, the City now desires for Special Counsel to continue its representation of the City and to increase the payment limit by Fifty Thousand (\$50,000) and to extend the term expiration through December 31, 2022; and

WHEREAS, the City and Special Counsel desire to amend the Original Agreement pursuant to this Fourth Amendment.

NOW, THEREFORE, in consideration of the recitals hereof, and other mutual covenants and promises contained herein and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Special Counsel agree as follows:

1. Amendment 1. Section 3 of the Agreement, TERM OF AGREEMENT, is amended to read as follows:

3. TERM OF AGREEMENT.

The services of Special Counsel are to commence upon the Effective Date of this Agreement and shall terminate on December 31, 2022 unless the parties extend the Agreement in writing. The services shall be undertaken and completed in such sequence as to assure their completion as expeditiously as is consistent with professional skill and care.

2. Amendment 2. Exhibit “A” of the Original Agreement, “Scope of Work and Schedule of Fees & Charges,” is hereby amended to read as shown in Attachment 1 to this Fourth Amendment.

3. Amendment 3. To avoid confusion with Exhibit B of the Original Agreement, "Billing Protocols/Guidelines," the "EXHIBIT B - Special Conditions" attachment to the Second and Third Amendments to the Original Agreement is hereby amended to read as shown in Attachment 2 to this Fourth Amendment.

2. Effect of Fourth Amendment. Except as provided in this Fourth Amendment, all other terms of the Original Agreement and the First, Second, and Third Amendments shall remain in full force and effect.

3. Counterparts. This Fourth Amendment may be executed in counterparts each of which shall be an original and all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the City and Special Counsel have caused this Fourth Amendment to be executed as of the last date written below.

CITY OF RICHMOND

Liebert Cassidy Whitmore

City Manager

By _____

Title _____

Date: _____

Date: _____

Attest:

By: _____
City Clerk

Approved as to form:

By: _____
Interim City Attorney

ATTACHMENT 1

Exhibit "A"

SCOPE OF WORK AND SCHEDULE OF FEES & CHARGES

Scope of work:

Special Counsel shall serve as City's chief labor negotiator in negotiations with the City's represented employee bargaining units and shall provide employment and labor legal advice to the City.

provide legal advice to the City on an as-needed basis regarding human resources issues, including COVID-19 related guidance; provide trainings as part of the City's Leadership Academy through the Liebert Cassidy Whitmore consortium

City of Richmond Contact Attorney: Shannon Moore, Senior Assistant City Attorney

Schedule of Fees and Charges:

Hourly Rates

Partners	\$380/hour
Associates	\$210-\$305/hour
Paraprofessional	\$80-\$175/hour
Litigation Support	\$80-\$175/hour

Compensation:

Only those costs and expenses set forth in Section III of Exhibit B of the Original Agreement entitled "Reimbursements" shall be paid to Special Counsel.

Total compensation for legal services and reimbursements shall be charged in accordance with Exhibits "A" and "B" and shall not exceed the total sum of Nine Hundred and Twenty Five Dollars (\$925,000) for attorneys' fees and costs.

**EXHIBIT 1
SPECIAL CONDITIONS**

The General Conditions are hereby amended to include the following modifications and/or provisions (if applicable):

In addition to the General Conditions set forth herein, Contractor shall comply with the terms and conditions set forth in the FEMA Contract Provisions which are attached hereto and incorporated herein by this reference. If there are any conflicts between the terms and conditions set forth in the General Conditions and the terms and conditions set forth in the FEMA Contract Provisions, the terms and conditions set forth in the FEMA Contract Provisions shall take precedence and shall prevail.

1. **REMEDIES**

The parties agree that, in event that either party breaches any obligation under this Agreement, or in the event any representation made by either party hereunder is untrue in any material respect, the other party shall have the right to take any action at law or in equity it may have to enforce the payment of any damages or to secure the performance of any obligation hereunder, and that such right to recover damages or to secure the performance of such obligations as provided herein shall ordinarily constitute an adequate remedy for any breach of such obligation or any material untruth in any such representation.

2. **CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

(a) *Overtime requirements.* No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(b) *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in paragraph (a) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the

District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a) of this section.

(c) Withholding for unpaid wages and liquidated damages. The City of Richmond shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b) of this section.

(d) *Subcontracts*. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a) through (d) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a) through (d) of this section.

3. **CLEAN AIR ACT**

(a) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401et seq.

(b) The contractor agrees to report each violation to the City of Richmond and understands and agrees that the City of Richmond will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(c) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

4. **FEDERAL WATER POLLUTION CONTROL ACT**

(a) The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

(b) The contractor agrees to report each violation to the City of Richmond and understands and agrees that the City of Richmond will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(c) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

5. **DEBARMENT AND SUSPENSION**

(a) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(b) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(c) This certification is a material representation of fact relied upon by the City of Richmond. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the City of Richmond, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The City will insure the Contractor and any lower participants are not debarred by checking the government's System Award Management (SAM).

(d) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

6. **BYRD ANTI-LOBBYING AMENDMENT**

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

Required Certification. If applicable, contractors must sign and submit to the non-federal entity the following certification.

APPENDIX A, 44 C.F.R. PART 18- CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an 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 Federal appropriated funds have been paid or will be paid 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 this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and

cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of 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.

The Contractor, LIEBERT, CASSIDY, WHITMORE, LLC, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

7. **PROCUREMENT OF RECOVERED MATERIALS**

In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired

- (a) Competitively within a timeframe providing for compliance with the contract performance schedule;
- (b) Meeting contract performance requirements; or
- (c) At a reasonable price.

Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/consolidated-recovered-materials-advisory-notices-rmans-comprehensive-procurement-guidelines-cpg>

The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

8. **ACCESS TO RECORDS**

(a) The Contractor agrees to provide the City of Richmond, Cal OES, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

(b) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(c) The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

(d) In compliance with the Disaster Recovery Act of 2018, the City of Richmond and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

9. **DHS SEAL, LOGO, AND FLAGS**

The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

10. **COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS**

This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives.

11. **NO OBLIGATION BY FEDERAL GOVERNMENT**

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

12. **PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS**

The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract.