

MEMORANDUM
PLACER COUNTY
OFFICE OF THE COUNTY EXECUTIVE

To: Honorable Board of Supervisors
From: David Boesch, County Executive Officer / Lori Walsh, Human Resources Director
By: Nicole Lopez, Human Resources Department
Date: December 8, 2015
Subject: Contract with Liebert, Cassidy, Whitmore A Professional Corporation to provide Professional Services for the Placer Correction and Probation Officer's Association Unit Modification

Action Requested

Approve a contract with Liebert Cassidy Whitmore A Professional Corporation for professional legal services related to the Placer Correction and Probation Officer's Association (PCPOA) Unit Modification appeal process in the amount of \$85,000.

Background

On September 1, 2015, the County Employee Relations Officer (ERO) and the PCPOA brought to the Board of Supervisors an appeal by the PCPOA of the ERO's determination that the proposed unit of Probation Officers and Correction Officers was not an appropriate unit. The Board of Supervisors approved the referral of the dispute to a third party hearing process and having a hearing officer provide an advisory recommendation to the Board with the Board issuing a final decision.

This contract provides that Liebert Cassidy Whitmore performs professional legal services as needed as associate counsel with respect to the representation of the County ERO and the administration of the Placer County Employer-Employee Relations Policy related to the PCPOA petitions and appeal processes.

Fiscal Impact

The cost of the contract with Liebert Cassidy Whitmore A Professional Corporation to provide professional services related to the PCPOA Unit Modification is \$85,000 and is budgeted in the FY 2015/2016 Final Budget in the department of the County Executive Office.

Attachment: Contract

Description:

Contract No.

Administering Agency: County of Placer - **CEO/Human Resources (Labor Relations)**

PROFESSIONAL SERVICES OF

Donna Williamson, Esq.
Liebert, Cassidy, Whitmore, a Professional Law Corporation
153 Townsend Street, Suite 520
San Francisco, CA 90045

PHONE: (415) 512-3000

RE: PCPOA Unit Modification Appeal & PERB Unfair Labor Practices Charges

THIS AGREEMENT MADE AND ENTERED BY AND BETWEEN the County of Placer, hereinafter referred to as "COUNTY" and **Liebert Cassidy Whitmore A Professional Corporation** hereinafter referred to as "SECOND PARTY".

WHEREAS, the COUNTY is desirous of receiving certain services; and

WHEREAS, SECOND PARTY is willing to perform such services;

NOW, THEREFORE, for and in consideration of the mutual promises and agreements herein contained, it is agreed by and between the parties hereto as follows:

1. SCOPE OF WORK. COUNTY hereby hires SECOND PARTY as an independent contractor to do that work set forth in the exhibit "A" entitled "Scope of Work" attached hereto and incorporated herein by this reference.
2. AMENDMENT OF SCOPE OF WORK. Said Scope of Work may be amended with written approval; however, in no event shall such amendments create any additional liability to COUNTY, or additional compensation to SECOND PARTY except as set forth in this or the amended agreement.
3. TIME OF COMPLETION. SECOND PARTY agrees to complete all studies and submit all reports and other duties contained within said Scope of Work.
4. PROGRESS REPORTS. SECOND PARTY shall submit such progress reports as may be requested by COUNTY.
5. AMOUNT OF PAYMENT. COUNTY shall pay SECOND PARTY for services, and reasonable costs and expenses incurred, as set forth in the Payment Schedule attached hereto as Exhibit "B" up to a maximum of **EIGHTY-FIVE THOUSAND DOLLARS (\$85,000.00)**.

This amount is the initial authorization and additional expenditures, if any, may be authorized by the COUNTY when requested and approved in advance.

6. PAYMENT SCHEDULE. Payments shall be made to SECOND PARTY as set forth in the exhibit entitled "Payment Schedule" attached hereto as Exhibit "B". Payment will be made following the completion and acceptance of work set forth in the Payment Schedule.

7. RECORDS. SECOND PARTY shall maintain at all times complete detailed records with regard to work performed under this Agreement in a form acceptable to COUNTY, and COUNTY shall have the right to inspect such records at any reasonable time. Notwithstanding any other terms of this Agreement, no payments shall be made to SECOND PARTY until COUNTY is satisfied that work of such value has been rendered pursuant to this Agreement.

8. EMPLOYEES OF SECOND PARTY. All persons performing services for SECOND PARTY shall be independent contractors or employees of SECOND PARTY and not employees of COUNTY. SECOND PARTY shall be solely responsible for the salaries and other applicable benefits, including Worker's Compensation, of all such personnel.

9. HOLD HARMLESS. SECOND PARTY agrees to save harmless and indemnify COUNTY from every claim or demand of any kind or nature whatsoever which may be made by any person resulting from any errors or omissions of SECOND PARTY in the performance of this Agreement, and further agrees, at his own cost, expense and risk to defend any and all actions, suits, or other legal proceedings which may be brought against COUNTY as a result of such errors or omissions, and further agrees that he will pay or satisfy any judgment which may be rendered therein.

10. NONASSIGNABILITY. This Agreement, rights and duties thereunder, shall not be assigned in whole or in part without the express written consent of the COUNTY.

11. INSURANCE. SECOND PARTY shall, contemporaneous with the signing of this Agreement, file with the COUNTY a Certificate of Insurance showing professional liability insurance in an amount not less than \$1,000,000.00 for each person and not less than \$2,000,000.00 for each accident, and showing property damage coverage in an amount not less than \$1,000,000.00. Such Certificates shall provide that they are not cancelable without advance written notice to the COUNTY and shall be in a form and by a surety approved by the COUNTY.

12. CANCELLATION. This Agreement may be cancelled by COUNTY upon the giving of ten (10) day's advance written notice. Such notice shall be personally served or given by United States Mail. In the event of cancellation by COUNTY or SECOND PARTY, SECOND PARTY shall be paid for all work performed and all reasonable expenses incurred to date of cancellation.

13. TERM. The term of this agreement shall cover the period beginning September 1, 2015, and continue until the services contemplated in the Scope of Work, attached hereto as Exhibit "A", is completed, unless otherwise ended pursuant to paragraph 12, above.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date written under Paragraph 13. TERM.

COUNTY OF PLACER: "COUNTY"

By: _____
Board of Supervisors
Print Name: _____

Date: _____

Reviewed By: *Spina M. Chapman*
Placer County Counsel

Date: 11/30/2015

LIEBERT, CASSIDY, WHITMORE A PROFESSIONAL CORPORATION: "SECOND PARTY"

By: *[Signature]*
J. Scott Tiedemann, ESQ.
Managing Partner

Date: 11/25/15

Attachments: Exhibit A: Scope of Work
Exhibit B: Payment Schedule

EXHIBIT A
SCOPE OF WORK

SERVICES: Provide professional legal services as needed as associate counsel to the County Counsel's Office with respect to litigation referred to as PCPOA Unit Modification, including the PCPOA appeal of the County's Employee Relations Officer's determination on the PCPOA unit modification petitions, and the unfair practice charge PCPOA filed with the Public Employment Relations Board. This will include but is not limited to, review of relevant documents and records as appropriate, interviewing witnesses as necessary, conferring with opposing counsel, appearing at PERB conferences and meetings of the Board of Supervisors, preparing for and attending hearings, and providing legal advice related to the appeal, PERB charge, and hearings. Such services shall include all usual and necessary services normally provided in the course of litigating and providing legal advice on these matters. These services shall be provided in consultation with the Placer County Counsel's Office and the designated management or confidential employee from the CEO and/or Human Resource Departments. The designated employee will also in cooperation with associate counsel and County Counsel's Office, outline a "Litigation Plan" that will identify all significant activity proposed by associate counsel.

PRINCIPAL ATTORNEY: The principal attorney handling this matter on behalf of SECOND PARTY will be DONNA WILLIAMSON ESQ.

RELEASE OF PAPERS AND PROPERTY: At the termination of services under this agreement, SECOND PARTY will release promptly to COUNTY on request all of COUNTY'S papers and property.

EXHIBIT B

PAYMENT SCHEDULE

Payment shall be made upon receipt of a detailed billing which itemizes date, work performed, time spent, and an indication of who performed the work. Invoices should be sent to the County on a monthly basis.

LEGAL FEES: COUNTY agrees to pay SECOND PARTY for legal services at the following hourly rate, with charges in increments of one tenth (.1) of an hour. The minimum time charged will be one tenth (.1) of an hour.

Partner:	\$325.00
Arlin Kachalia:	\$265.00
Zachary Shine	\$220.00
Paralegal:	\$120.00
Travel time:	\$200.00

While COUNTY prefers that normally only one individual attend any meeting, appearance, conference, and the like, on behalf of COUNTY in this matter, COUNTY also recognizes the benefit of discourse among counsel. When such is the case, time should be charged to COUNTY for only one individual, but charged at the highest hourly rate of the individuals involved.

COSTS: Costs are defined to include court filing fees, deposition costs and court reporters' fees, expert & consultant fees and expenses, witness fees and expenses, investigation costs, messenger & delivery fees, process server fees, large photocopy projects, fees fixed by law or assessed by courts or other agencies, and any other expenditure authorized by the County Executive Officer or General Liability Manager in the course of the litigation.

COUNTY authorizes SECOND PARTY to incur reasonable COSTS and shall reimburse for all such COSTS incurred. However, SECOND PARTY shall obtain the authorization of the County Executive Officer or General Liability Manager before incurring any cost in excess of \$2500.00; before retaining outside investigators, consultants, or expert witnesses; and before setting non-party depositions. Payment shall be made upon receipt of a detailed billing accompanied by a copy of the billing or statement from the outside vendor or other acceptable backup paper.

TRAVEL: COUNTY authorizes SECOND PARTY to incur reasonable travel expenses, including, mileage, parking, tolls, out of county lodging and meals, and shall reimburse for all such actual costs incurred as follows. Payment shall be made upon receipt of a detailed billing accompanied by a copy of a receipt or statement from the outside vendor or other acceptable backup documentation.

Mileage- IRS Rate:	Breakfast:	\$10.00
	Lunch:	\$20.00
	Dinner:	\$30.00

SECOND PARTY is expected to use an economically reasonable means of transportation, depending upon the circumstances and conditions anticipated. SECOND PARTY is expected to stay at economically reasonable overnight lodgings, depending upon the circumstances and conditions anticipated. Prior authorization of the County Executive Officer or General Liability Manager should be obtained before incurring expenses for overnight lodging and before using a mode of transportation other than by car, unless otherwise set forth in this schedule.

DISCLOSURE REGARDING ERRORS AND OMISSIONS COVERAGE: SECOND PARTY does meet one or more of the criteria for errors and omissions coverage set forth in Business and Professions Code sections 6147 and 6148.

ARBITRATION OF FEE DISPUTE: If a dispute arises between COUNTY and SECOND PARTY regarding attorney's fees or costs under this agreement the dispute will be submitted for arbitration, and the parties will be bound by the result.

INVOICES: Monthly invoices should be addressed to:
Placer County - Labor Relations
145 Fulweiler Ave., Suite 100
Auburn CA 95603

