

AGREEMENT FOR PROFESSIONAL SERVICES

PREAMBLE

THIS AGREEMENT is by and between TOWN OF LOS GATOS, a California municipal corporation, (“Town”) and LIEBERT CASSIDY WHITMORE, a professional corporation (“Attorney”), a Limited Liability Company whose address is 6033 West Century Boulevard, 5th Floor, Los Angeles, CA 90045. This Agreement is made with reference to the following facts.

I. RECITALS

- A. Town desires to engage Attorney to provide consulting, representation and legal services pertaining to employment relations matters, including representation in negotiations and in administrative and court proceedings, as requested by Town or otherwise required by law.
- B. Attorney represents and affirms that it is willing to perform the desired work pursuant to this Agreement.
- C. Attorney warrants it possesses the distinct professional skills, qualifications, experience, and resources necessary to timely perform the services described in this Agreement. Attorney acknowledges Town has relied upon these warranties to retain the Attorney.

II. AGREEMENT

- A. Scope of Services. Attorney shall provide services as described in the Scope of Services, which is hereby incorporated by reference and attached as Exhibit A (“Schedule I – FEES & COSTS”).
- B. Term. The term of this Agreement shall be from July 1, 2026 through June 30, 2029, and may be modified by mutual agreement of the parties.
- C. Compliance with Laws. The Attorney shall comply with all applicable laws, codes, ordinances, and regulations of governing federal, state and local laws. Attorney represents and warrants to Town that it has all licenses, permits, qualifications and approvals of whatsoever nature which are legally required for the Attorney to practice its profession. Attorney shall maintain a Town of Los Gatos business license as required in Chapter 14 of the Code of the Town of Los Gatos.
- D. Sole Responsibility. Attorney shall be responsible for employing or engaging all persons necessary to perform the services under this Agreement.
- E. Information/Report Handling. All documents furnished to Attorney by the Town and all reports and supportive data prepared by the Attorney under this Agreement are the Town’s property and shall be delivered to the Town upon the completion of services or at the Town's written request. All reports, information, data, and exhibits prepared or assembled by Attorney in connection with the performance of its services pursuant to this Agreement are confidential until released by the Town to the public, and the Attorney shall not make any of these documents or information available to any individual or organization not employed by the Attorney or the Town without the written consent of the Town before such release. The Town acknowledges that the reports to be prepared by the Attorney pursuant to this Agreement are for the purpose of evaluating a defined project, and Town's use of the information contained in the reports prepared by the Attorney in connection with other projects shall be solely at Town's risk, unless the Attorney expressly consents to such use in writing. Town further agrees that it will not appropriate any methodology or technique of Attorney which is and has been confirmed in writing by Attorney to be a trade secret of Attorney.

- F. Compensation: Compensation for Attorney's professional services **shall not exceed \$120,000** at the rates set forth in Exhibit A which is attached and incorporated by reference. Payment shall be based upon Town approval of each task.
- G. Billing. Billing shall be monthly by invoice within thirty (30) days of the rendering of the service and shall be accompanied by a detailed explanation of the work performed by whom at what rate and on what date. Also, plans, specifications, documents or other pertinent materials shall be submitted for Town review, even if only in partial or draft form.
Payment shall be net thirty (30) days. All invoices and statements to the Town shall be addressed as follows:
Invoices: Town of Los Gatos
Attn: Accounts Payable
P.O. Box 655
Los Gatos, CA 95031-0655
Email (preferred): AP@losgatosca.gov
- H. Availability of Records. Attorney shall maintain the records supporting this billing for not less than three years following completion of the work under this Agreement. Attorney shall make these records available to authorized personnel of the Town at the Attorney offices during business hours upon written request of the Town.
- I. Assignability and Subcontracting. The services to be performed under this Agreement are unique and personal to the Attorney. No portion of these services shall be assigned or subcontracted without the written consent of the Town.
- J. Independent Contractor. It is understood that the Attorney, in the performance of the work and services agreed to be performed, shall act as and be an independent contractor and not an agent or employee of the Town. As an independent contractor he/she shall not obtain any rights to retirement benefits or other benefits which accrue to Town employee(s). With prior written consent, the Attorney may perform some obligations under this Agreement by subcontracting, but may not delegate ultimate responsibility for performance or assign or transfer interests under this Agreement. Attorney agrees to testify in any litigation brought regarding the subject of the work to be performed under this Agreement. Attorney shall be compensated for its costs and expenses in preparing for, traveling to, and testifying in such matters at its then current hourly rates of compensation, unless such litigation is brought by Attorney or is based on allegations of Attorney's negligent performance or wrongdoing.
- K. Conflict of Interest. Attorney understands that its professional responsibilities are solely to the Town. The Attorney has and shall not obtain any holding or interest within the Town of Los Gatos. Attorney has no business holdings or agreements with any individual member of the Staff or management of the Town or its representatives, nor shall it enter into any such holdings or agreements. In addition, Attorney warrants that it does not presently and shall not acquire any direct or indirect interest adverse to those of the Town in the subject of this Agreement, and it shall immediately disassociate itself from such an interest, should it discover it has done so and shall, at the Town's sole discretion, divest itself of such interest. Attorney shall not knowingly and shall take reasonable steps to ensure that it does not employ a person having such an interest in this

performance of this Agreement. If after employment of a person Attorney discovers it has employed a person with a direct or indirect interest that would conflict with its performance of this Agreement, Attorney shall promptly notify Town of this employment relationship, and shall, at the Town's sole discretion, sever any such employment relationship.

- L. Non-Discrimination. Attorney warrants that it is an equal opportunity employer and shall comply with applicable regulations governing equal employment opportunity. Neither Attorney nor its subcontractors do and neither shall discriminate against persons employed or seeking employment with them on the basis of age, sex, color, race, marital status, sexual orientation, ancestry, physical or mental disability, national origin, religion, or medical condition, unless based upon a bona fide occupational qualification pursuant to the California Fair Employment & Housing Act.

III. INSURANCE AND INDEMNIFICATION

A. Minimum Scope of Insurance:

1. Attorney agrees to have and maintain, for the duration of the contract, General Liability insurance policies insuring him/her and his/her firm to an amount not less than: two million dollars (\$2,000,000) combined single limit per occurrence for bodily injury, personal injury and property damage.
2. Attorney agrees to have and maintain for the duration of the contract, an Automobile Liability insurance policy ensuring him/her and his/her staff to an amount not less than one million dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage.
3. Attorney shall provide to the Town all certificates of insurance, with original endorsements effecting coverage. Service Provider agrees that all certificates and endorsements are to be received and approved by the Town before work commences.
4. Attorney agrees to have and maintain, for the duration of the contract, professional liability insurance in amounts not less than \$1,000,000 which is sufficient to insure Attorney for professional errors or omissions in the performance of the particular scope of work under this agreement.

B. General Liability:

1. The Town, its elected and appointed officials, employees, and agents are to be covered as insured as respects: liability arising out of activities performed by or on behalf of the Attorney; products and completed operations of Attorney, premises owned or used by the Attorney.
2. The Attorney's insurance coverage shall be primary insurance as respects the Town, its elected and appointed officials, employees, and agents. Any insurance or self-insurances maintained by the Town, its officers, officials, employees or agents shall be excess of the Attorney's insurance and shall not contribute with it.
3. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Town, its officers, officials, employees or agents.

4. Attorney's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- C. All Coverages. Each insurance policy required in this item shall be endorsed to state that coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Town. Current certification of such insurance shall be kept on file at all times during the term of this agreement with the Town Clerk.
- D. Workers' Compensation. In addition to these policies, Attorney shall have and maintain Workers' Compensation insurance as required by California law and shall provide evidence of such policy to the Town before beginning services under this Agreement. Further, Attorney shall ensure that all subcontractors employed by Attorney provide the required Workers' Compensation insurance for their respective employees. As required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than one million dollars (\$1,000,000) per accident for bodily injury or disease.
- E. Indemnification. The Attorney shall indemnify the Town its elected and appointed officials, employees and agents from all damages, liabilities, penalties, costs, or expenses in law or equity that may at any time arise or be set up because of damages to property or personal injury received by reason of, or in the course of performing work which may be occasioned by any negligent act or omissions of the Attorney, or any of the Attorney's officers, employees, or agents or any subconsultant. Attorney shall defend the Town against any such claims.

IV. GENERAL TERMS

- A. Waiver. No failure on the part of either party to exercise any right or remedy hereunder shall operate as a waiver of any other right or remedy that party may have hereunder, nor does waiver of a breach or default under this Agreement constitute a continuing waiver of a subsequent breach of the same or any other provision of this Agreement.
- B. Governing Law. This Agreement, regardless of where executed, shall be governed by and construed to the laws of the State of California. Venue for any action regarding this Agreement shall be in the Superior Court of the County of Santa Clara.
- C. Mediation. Should any dispute arise out of this Agreement, any party may request that it be submitted to mediation. The parties shall meet in mediation within 30 days of a request. The mediator shall be agreed to by the mediating parties. In the absence of an agreement, the parties shall each submit one name from mediators listed by either the American Arbitration Association, the California State Board of Mediation and Conciliation, or other agreed-upon service. The mediator shall be selected by a blind draw. The cost of mediation shall be borne equally by the parties. Neither party shall be deemed the prevailing party. No party shall be permitted to file a legal action without first meeting in mediation and making a good faith attempt to reach a mediated settlement. The mediation process, once commenced by a meeting with the mediator, shall last until agreement is reached by the parties but not more than 60 days, unless the maximum time is extended by the parties.
- D. Termination of Agreement. The Town and the Attorney shall have the right to terminate this agreement with or without cause by giving not less than thirty days (30) written notice of termination. In the event of termination, the Attorney shall deliver to the Town all plans, files, documents, reports, performed to date by the Service Provider. In the event of such termination, Town shall pay Attorney an amount that bears the same ratio to the

maximum contract price as the work delivered to the Town bears to completed services contemplated under this Agreement, unless such termination is made for cause, in which event, compensation, if any, shall be adjusted in light of the particular facts and circumstances involved in such termination.

- E. Amendment. No modification, waiver, mutual termination, or amendment of this Agreement is effective unless made in writing and signed by the Town and the Attorney.
- F. Notices. Any notice required to be given shall be deemed to be duly and properly given if mailed postage prepaid, and addressed to:

Town of Los Gatos
Attn: Human Resources
110 E. Main Street
Los Gatos, CA 95030

Liebert, Cassidy Whitmore
6033 West Century Boulevard, 5th Floor
Los Angeles, CA 90045

- G. Order of Precedence. In the event of any conflict, contradiction, or ambiguity between the terms and conditions of this Agreement in respect of the Products or Services and any attachments to this Agreement, then the terms and conditions of this Agreement shall prevail over attachments or other writings.
- H. ATTORNEY LITIGATION AND E-DISCOVERY MANAGEMENT. Attorney is committed to using state-of-the-art technology to efficiently manage and harness electronically-stored information (“ESI”) in compliance with Federal and State law requirements. Attorney partners with an outside managed services provider to provide Relativity, the industry leading e-discovery software, for this purpose. The cost for each matter will depend on the volume and format of the data. For non-complex data up to 50 gigabytes, Attorney charges a monthly fee of \$450 on all active litigation matters for data management, including data validation and security, ingestion, de-duplication, culling and streamlining, and creation of Relativity fields for expedited review. For data of 50 gigabytes and over and for complex data requiring specialized services (e.g., payroll data, spreadsheets with underlying formulas, video, advanced searches, etc.), additional charges are incurred and are passed through to the client. For such charges, Attorney will provide an itemized bill from their managed services provider and obtain client approval prior to incurring the charges.
- I. ATTORNEY CASE STAFFING. Attorney has organized its litigation practice to meet the challenges of today’s complex litigation cases. Attorney employs a dedicated Litigation Manager – a non-billing Attorney litigator – whose responsibility is to monitor all litigation cases to ensure quality, efficiency, and adherence to client and firm litigation guidelines. Each litigation case is staffed with a Partner, an Associate (or Associates, as required and as approved by the Client), a Paralegal and an E-Discovery Specialist. Attorney’s E-Discovery Specialists have extensive experience in the efficient management of electronic data through every stage of the e-discovery life cycle, and they strategize with Attorneys and clients on effective ESI protocols. This makes the document review process more efficient and enables LCW Attorneys to target the most relevant data to meet litigation objectives.

Working with their e-discovery managed services provider, Attorney is able to provide state-of-the-art data processing and hosting services at below-market rates.

- J. Artificial Intelligence. LCW permits attorneys to utilize generative artificial intelligence (“AI”) tools in the performance of their work within the standards and guidance established by the State Bar of California. Attorneys may use AI as a tool and do not use AI work product without applying their own independent legal judgment. Attorneys do not disclose confidential information to unsecure AI tools.
- A. Entire Agreement. This Agreement, including all Exhibits, constitutes the complete and exclusive statement of the Agreement between the Town and Attorney. No terms, conditions, understandings or agreements purporting to modify or vary this Agreement, unless hereafter made in writing and signed by the party to be bound, shall be binding on either party.

IN WITNESS WHEREOF, the Town and Attorney have executed this Agreement.

TOWN OF LOS GATOS:

ATTORNEY: Enter name of Attorney

SIGNATURE

Chris Constantin

FULL NAME

Town Manager

TITLE

DATE SIGNED

SIGNATURE

Melanie L. Chaney

ENTER ATTORNEY SIGNATORY'S NAME

Managing Partner

ENTER ATTORNEY SIGNATORY'S TITLE

DATE SIGNED

Approved as to form:

SIGNATURE

Gabrielle Whelan

FULL NAME

Town Attorney

TITLE

DATE SIGNED

SIGNATURE

Brian Walter

ENTER ATTORNEY SIGNATORY'S NAME

Partner

ENTER ATTORNEY SIGNATORY'S TITLE

DATE SIGNED

The execution date is the date on which the last party has signed.