

## **AGREEMENT FOR SPECIAL SERVICES**

This Agreement is entered into between the law firm of LIEBERT CASSIDY WHITMORE, A Professional Corporation ("Attorney"), and the City of Merced, A Municipal Corporation ("City").

### **1. Conditions**

This Agreement will not take effect, and Attorney will have no obligation to provide services, until City returns a properly signed and executed copy of this Agreement.

### **2. Attorney's Services**

Attorney agrees to provide City with consulting, representational and legal services pertaining to employment relations matters, including representation in negotiations and in administrative and court proceedings, as requested by City or otherwise required by law.

### **3. Fees, Costs, Expenses**

City agrees to pay Attorney the sums billed monthly for time spent by Attorney in providing the services, including travel time billed one way only. Fees and costs under this Agreement are not to exceed \$60,000.00, without an amendment to this Agreement approved by the City.

The current range of hourly rates for Attorney time is from Two Hundred to Three Hundred Fifty Dollars (\$200.00 - \$350.00), One Hundred Ninety-Five Dollars to Two Hundred Thirty Dollars (\$195.00 - \$230.00) for time of Labor Relations/HR Consultant and from Seventy-Five to One Hundred Sixty Dollars (\$75.00 - \$160.00) for time of paraprofessional and litigation support staff. Attorney reviews its hourly rates on an

annual basis and, if appropriate, adjusts them effective July 1. Attorney will provide the City with written notification of any adjustment in the range of rates. Attorneys, paraprofessional and litigation support staff bill their time in minimum units of one-tenth of an hour.

City agrees to reimburse Attorney for necessary costs and expenses incurred by Attorney on behalf of City. Attorney bills photocopying charges at Fifteen Cents (\$0.15) per page and facsimile charges at Twenty-Five Cents (\$0.25) per page. A Public Agency Fee Schedule is attached to this Agreement.

Payment by City against monthly billings is due upon receipt of statements, and is considered delinquent if payment is not received within thirty (30) days of the date of the invoice.

The California Business & Professions Code requires us to inform you whether we maintain errors and omissions insurance coverage applicable to the services to be rendered to you. We hereby confirm that the firm does maintain such insurance coverage.

#### **4. Arbitration of Professional Liability or Other Claims**

Disputes. If a dispute between City and Attorney arises over fees charged for services, the controversy will be submitted to binding arbitration in accordance with the rules of the California State Bar Fee Arbitration Program, set forth in California Business and Professions Code, sections 6200 through 6206. The arbitrator or arbitration panel shall have the authority to award to the prevailing party attorneys' fees, costs and interest incurred. Any arbitration award may be served by mail upon either side and personal service shall not be required.

If a dispute arises between City and Attorney over any other aspect of the attorney-client relationship, including, without limitation, a claim for breach of professional duty, that dispute will also be resolved by arbitration. It is understood that any dispute as to any alleged breach of professional duty (that is, as to whether any legal services rendered under this agreement were allegedly unnecessary, unauthorized, omitted entirely, or were improperly, negligently or incompetently rendered) will be determined by submission to arbitration as provided by California law, and not by a lawsuit or resort to court process except as California law provides for judicial review of arbitration proceedings. **Both parties to this agreement, by entering into it, are giving up their constitutional right to have any such dispute decided in a court of law before a jury, and instead are accepting the use of arbitration.** Each party is to bear its own attorney's fees and costs.

**5. File Retention**

After our services conclude, Attorney will, upon City's request, deliver the file for the matter to City, along with any funds or property of City's in our possession. If City requests the file for the matter, Attorney will retain a copy of the file at the City's expense. If City does not request the file for this matter, we will retain it for a period of seven (7) years after this matter is closed. If City does not request delivery of the file for this matter before the end of the seven (7) year period, we will have no further obligation to retain the file and may, at our discretion, destroy it without further notice to City. At any point during the seven (7) year period, City may request delivery of the file.

**6. Assignment**

This Agreement is not assignable without the written consent of City.

**7. Independent Contractor**

It is understood and agreed that Attorney, while engaged in performing the terms of this Agreement, is an independent contractor and not an employee of City.

**8. Authority**

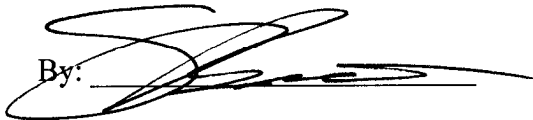
The signators to this Agreement represent that they hold the positions set forth below their signatures, and that they are authorized to execute this Agreement on behalf of their respective parties and to bind their respective parties hereto.

**9. Term**

This Agreement is effective July 5, 2017, ongoing and may be modified by mutual agreement of the parties. This agreement shall be terminable by either party upon thirty (30) days written notice.

LIEBERT CASSIDY WHITMORE,  
A Professional Corporation

CITY OF MERCED,  
A Municipal Corporation

By: 

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

Name: Shelline K. Bennett

Name: \_\_\_\_\_

Title: Managing Partner, Fresno

Title: \_\_\_\_\_

Date: 6/10/17

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

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LIEBERT CASSIDY WHITMORE,  
A Professional Corporation

CITY OF MERCED,  
A Municipal Corporation

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

By: [Signature]

Name: Shelline K. Bennett

Name: STEVEN S. CARRION

Title: Managing Partner, Fresno

Title: CITY MANAGER

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

Date: 7/6/17

000372 PO# 126791  
FUNDS/ACCOUNTS VERIFIED

[Signature] 6/19/17  
FINANCE OFFICE DATE

Finance contingent upon City  
Council approval of FY 17/18 Budget.  
672-0402-512-17-00 V-8085  
\$60,000.00

APPROVED AS TO FORM:

[Signature] 6-13-17

rec 6/19/17  
R 6/19/17

ATTEST:  
CITY CLERK

BY

Assistant/Deputy City Clerk



I. PUBLIC AGENCY FEE SCHEDULE

Hourly Rates (As of Agreement Effective Date)

|                                        |                     |
|----------------------------------------|---------------------|
| Partners                               | \$350.00            |
| Senior Counsel                         | \$305.00            |
| Associates                             | \$200.00 - \$285.00 |
| Labor Relations/HR Consultant          | \$195.00 - \$230.00 |
| Paraprofessionals & Litigation Support | \$75.00 - \$160.00  |

II. COST SCHEDULE

|                          |                 |
|--------------------------|-----------------|
| 1. Photocopies           | \$0.15 per copy |
| 2. Facsimile Transmittal | \$0.25 per page |



# CERTIFICATE OF LIABILITY INSURANCE

OP ID: YC

DATE (MM/DD/YYYY)  
03/23/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

|                                                                                                                                    |  |                                                                                                                                                                                                                                                                    |  |
|------------------------------------------------------------------------------------------------------------------------------------|--|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| <b>PRODUCER</b><br>Narver Insurance<br>641 W. Las Tunas Drive<br>PO Box 1509<br>San Gabriel, CA 91778-1509<br>WESLEY HAMPTON HOUSE |  | <b>CONTACT NAME:</b> June Samarin<br><b>PHONE (A/C, No, Ext):</b> 626-943-2237<br><b>FAX (A/C, No):</b> 686-299-1010<br><b>E-MAIL ADDRESS:</b> jsamarin@narver.com<br><b>PRODUCER CUSTOMER ID #:</b> LIEBE-1                                                       |  |
| <b>INSURED</b><br>Liebert Cassidy Whitmore<br>6033 W. Century Blvd.<br>Los Angeles, CA 90045                                       |  | <b>INSURER(S) AFFORDING COVERAGE</b><br><b>INSURER A:</b> Sentinel Insurance Company<br><b>INSURER B:</b> Federal Insurance<br><b>INSURER C:</b> Aspen Specialty Insurance<br><b>INSURER D:</b> Colony Insurance Company<br><b>INSURER E:</b><br><b>INSURER F:</b> |  |
|                                                                                                                                    |  | <b>NAIC #</b><br>11000<br>20281<br>10717<br>39993                                                                                                                                                                                                                  |  |

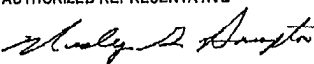
**COVERAGES****CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE                                                                                                                               | ADDL INSR | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS                                                                                 |
|----------|-------------------------------------------------------------------------------------------------------------------------------------------------|-----------|----------|---------------|-------------------------|-------------------------|----------------------------------------------------------------------------------------|
| A        | <input checked="" type="checkbox"/> GENERAL LIABILITY                                                                                           | X         |          | 72SBAAK0318   | 12/14/2018              | 12/14/2017              | EACH OCCURRENCE \$ 2,000,000                                                           |
|          | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY                                                                                |           |          |               |                         |                         | DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000                                 |
|          | <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR                                                                  |           |          |               |                         |                         | MED EXP (Any one person) \$ 10,000                                                     |
|          |                                                                                                                                                 |           |          |               |                         |                         | PERSONAL & ADV INJURY \$ 2,000,000                                                     |
|          | GENERAL AGGREGATE \$ 4,000,000                                                                                                                  |           |          |               |                         |                         |                                                                                        |
|          | PRODUCTS - COMP/OP AGG \$ 4,000,000                                                                                                             |           |          |               |                         |                         |                                                                                        |
|          | GEN'L AGGREGATE LIMIT APPLIES PER:<br><input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC |           |          |               |                         |                         | \$                                                                                     |
| A        | <input type="checkbox"/> AUTOMOBILE LIABILITY                                                                                                   |           |          | 72SBAAK0318   | 12/14/2018              | 12/14/2017              | COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000                                       |
|          | <input type="checkbox"/> ANY AUTO                                                                                                               |           |          |               |                         |                         | BODILY INJURY (Per person) \$                                                          |
|          | <input type="checkbox"/> ALL OWNED AUTOS                                                                                                        |           |          |               |                         |                         | BODILY INJURY (Per accident) \$                                                        |
|          | <input type="checkbox"/> SCHEDULED AUTOS                                                                                                        |           |          |               |                         |                         | PROPERTY DAMAGE (PER ACCIDENT) \$                                                      |
| A        | <input checked="" type="checkbox"/> HIRED AUTOS                                                                                                 |           |          | 72SBAAK0318   | 12/14/2018              | 12/14/2017              | \$                                                                                     |
| A        | <input checked="" type="checkbox"/> NON-OWNED AUTOS                                                                                             |           |          | 72SBAAK0318   | 12/14/2018              | 12/14/2017              | \$                                                                                     |
| A        | <input checked="" type="checkbox"/> UMBRELLA LIAB                                                                                               |           |          | 72SBAAK0318   | 12/14/2018              | 12/14/2017              | EACH OCCURRENCE \$ 2,000,000                                                           |
|          | <input type="checkbox"/> EXCESS LIAB                                                                                                            |           |          |               |                         |                         | AGGREGATE \$ 2,000,000                                                                 |
|          | <input type="checkbox"/> CLAIMS-MADE                                                                                                            |           |          |               |                         |                         | \$                                                                                     |
|          | <input type="checkbox"/> DEDUCTIBLE                                                                                                             |           |          |               |                         |                         | \$                                                                                     |
|          | <input checked="" type="checkbox"/> RETENTION \$ 10,000                                                                                         |           |          |               |                         |                         | \$                                                                                     |
| B        | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY                                                                                                   | Y/N       | N/A      | 7175-05-95    | 04/01/2017              | 04/01/2018              | <input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER |
|          | ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)                                                                     |           |          |               |                         |                         | E.L. EACH ACCIDENT \$ 1,000,000                                                        |
|          | If yes, describe under DESCRIPTION OF OPERATIONS below                                                                                          |           |          |               |                         |                         | E.L. DISEASE - EA EMPLOYEE \$ 1,000,000                                                |
|          |                                                                                                                                                 |           |          |               |                         |                         | E.L. DISEASE - POLICY LIMIT \$ 1,000,000                                               |
| C        | Professional Liab.                                                                                                                              |           |          | LRA9AF816     | 12/10/2016              | 12/10/2017              | Per Claim 5,000,000                                                                    |
| D        | Professional Liab.                                                                                                                              |           |          | XPL409238     |                         |                         | Aggregate 5,000,000                                                                    |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)  
Certificate Holder is named as an Additional Insured in regards to attached General Liability Form SS 00 08 04 05, per written contract or agreement.

**CERTIFICATE HOLDER****CANCELLATION**

|                                                                                  |                                                                                                                                                                |
|----------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>CITYMER</b><br><br>City of Merced<br>678 West 18th Street<br>Merced, CA 95340 | SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. |
|                                                                                  | AUTHORIZED REPRESENTATIVE<br>                                              |

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**BUSINESS LIABILITY COVERAGE FORM**

(b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

**b. Real Estate Manager**

Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

**c. Temporary Custodians Of Your Property**

Any person or organization having proper temporary custody of your property if you die, but only:

- (1) With respect to liability arising out of the maintenance or use of that property; and
- (2) Until your legal representative has been appointed.

**d. Legal Representative If You Die**

Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this insurance.

**e. Unnamed Subsidiary**

Any subsidiary and subsidiary thereof, of yours which is a legally incorporated entity of which you own a financial interest of more than 50% of the voting stock on the effective date of this Coverage Part.

The insurance afforded herein for any subsidiary not shown in the Declarations as a named insured does not apply to injury or damage with respect to which an insured under this insurance is also an insured under another policy or would be an insured under such policy but for its termination or upon the exhaustion of its limits of insurance.

**3. Newly Acquired Or Formed Organization**

Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain financial interest of more than 50% of the voting stock, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier; and

b. Coverage under this provision does not apply to:

- (1) "Bodily injury" or "property damage" that occurred; or
- (2) "Personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

**4. Operator Of Mobile Equipment**

With respect to "mobile equipment" registered in your name under any motor vehicle registration law, any person is an insured while driving such equipment along a public highway with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the equipment, and only if no other insurance of any kind is available to that person or organization for this liability. However, no person or organization is an insured with respect to:

- a. "Bodily injury" to a co-"employee" of the person driving the equipment; or
- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

**5. Operator of Nonowned Watercraft**

With respect to watercraft you do not own that is less than 51 feet long and is not being used to carry persons for a charge, any person is an insured while operating such watercraft with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the watercraft, and only if no other insurance of any kind is available to that person or organization for this liability.

However, no person or organization is an insured with respect to:

- a. "Bodily injury" to a co-"employee" of the person operating the watercraft; or
- b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

**6. Additional Insureds When Required By Written Contract, Written Agreement Or Permit**

The person(s) or organization(s) identified in Paragraphs a. through f. below are additional insureds when you have agreed, in a written

**BUSINESS LIABILITY COVERAGE FORM**

contract, written agreement or because of a permit issued by a state or political subdivision, that such person or organization be added as an additional insured on your policy, provided the injury or damage occurs subsequent to the execution of the contract or agreement, or the issuance of the permit.

A person or organization is an additional insured under this provision only for that period of time required by the contract, agreement or permit.

However, no such person or organization is an additional insured under this provision if such person or organization is included as an additional insured by an endorsement issued by us and made a part of this Coverage Part, including all persons or organizations added as additional insureds under the specific additional insured coverage grants in Section F. – Optional Additional Insured Coverages.

**a. Vendors**

Any person(s) or organization(s) (referred to below as vendor), but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

- (1) The insurance afforded to the vendor is subject to the following additional exclusions:

This insurance does not apply to:

- (a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
- (b) Any express warranty unauthorized by you;
- (c) Any physical or chemical change in the product made intentionally by the vendor;
- (d) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

- (e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;

- (f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

- (g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

- (h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

- (i) The exceptions contained in Subparagraphs (d) or (f); or

- (ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

- (2) This insurance does not apply to any insured person or organization from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

**b. Lessors Of Equipment**

- (1) Any person or organization from whom you lease equipment; but only with respect to their liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.

**BUSINESS LIABILITY COVERAGE FORM**

- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after you cease to lease that equipment.

**c. Lessors Of Land Or Premises**

- (1) Any person or organization from whom you lease land or premises, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land or premises leased to you.
- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:
- (a) Any "occurrence" which takes place after you cease to lease that land or be a tenant in that premises; or
  - (b) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

**d. Architects, Engineers Or Surveyors**

- (1) Any architect, engineer, or surveyor, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:
- (a) In connection with your premises; or
  - (b) In the performance of your ongoing operations performed by you or on your behalf.
- (2) With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:
- This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services by or for you, including:
- (a) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or
  - (b) Supervisory, inspection, architectural or engineering activities.

**e. Permits Issued By State Or Political Subdivisions**

- (1) Any state or political subdivision, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.
- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:
- (a) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or
  - (b) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

**f. Any Other Party**

- (1) Any other person or organization who is not an insured under Paragraphs a. through e. above, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:
- (a) In the performance of your ongoing operations;
  - (b) In connection with your premises owned by or rented to you; or
  - (c) In connection with "your work" and included within the "products-completed operations hazard", but only if
    - (i) The written contract or written agreement requires you to provide such coverage to such additional insured; and
    - (ii) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".
- (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:
- "Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

**BUSINESS LIABILITY COVERAGE FORM**

- (a) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or

- (b) Supervisory, inspection, architectural or engineering activities.

The limits of insurance that apply to additional insureds are described in Section D. – Limits Of Insurance.

How this insurance applies when other insurance is available to an additional insured is described in the Other Insurance Condition in Section E. – Liability And Medical Expenses General Conditions.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

## **D. LIABILITY AND MEDICAL EXPENSES LIMITS OF INSURANCE**

### **1. The Most We Will Pay**

The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

- a. Insureds;
- b. Claims made or "suits" brought; or
- c. Persons or organizations making claims or bringing "suits".

### **2. Aggregate Limits**

The most we will pay for:

- a. Damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard" is the Products-Completed Operations Aggregate Limit shown in the Declarations.
- b. Damages because of all other "bodily injury", "property damage" or "personal and advertising injury", including medical expenses, is the General Aggregate Limit shown in the Declarations.

This General Aggregate Limit applies separately to each of your "locations" owned by or rented to you.

"Location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway or right-of-way of a railroad.

This General Aggregate limit does not apply to "property damage" to premises while rented to you or temporarily occupied by you with permission of the owner, arising out of fire, lightning or explosion.

### **3. Each Occurrence Limit**

Subject to 2.a. or 2.b. above, whichever applies, the most we will pay for the sum of all damages because of all "bodily injury", "property damage" and medical expenses arising out of any one "occurrence" is the Liability and Medical Expenses Limit shown in the Declarations.

The most we will pay for all medical expenses because of "bodily injury" sustained by any one person is the Medical Expenses Limit shown in the Declarations.

### **4. Personal And Advertising Injury Limit**

Subject to 2.b. above, the most we will pay for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization is the Personal and Advertising Injury Limit shown in the Declarations.

### **5. Damage To Premises Rented To You Limit**

The Damage To Premises Rented To You Limit is the most we will pay under Business Liability Coverage for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, lightning or explosion, while rented to you or temporarily occupied by you with permission of the owner.

In the case of damage by fire, lightning or explosion, the Damage to Premises Rented To You Limit applies to all damage proximately caused by the same event, whether such damage results from fire, lightning or explosion or any combination of these.

### **6. How Limits Apply To Additional Insureds**

The most we will pay on behalf of a person or organization who is an additional insured under this Coverage Part is the lesser of:

- a. The limits of insurance specified in a written contract, written agreement or permit issued by a state or political subdivision; or
- b. The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to the Limits of Insurance shown in the Declarations and described in this Section.

**BUSINESS LIABILITY COVERAGE FORM****(6) When You Are Added As An Additional Insured To Other Insurance**

That is other insurance available to you covering liability for damages arising out of the premises or operations, or products and completed operations, for which you have been added as an additional insured by that insurance; or

**(7) When You Add Others As An Additional Insured To This Insurance**

That is other insurance available to an additional insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this Coverage Part:

**(a) Primary Insurance When Required By Contract**

This insurance is primary if you have agreed in a written contract, written agreement or permit that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.

**(b) Primary And Non-Contributory To Other Insurance When Required By Contract**

If you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs (a) and (b) do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty under this Coverage Part to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

**c. Method Of Sharing**

If all the other insurance permits contribution by equal shares, we will follow this method also. Under this approach, each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

**8. Transfer Of Rights Of Recovery Against Others To Us****a. Transfer Of Rights Of Recovery**

If the insured has rights to recover all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them. This condition does not apply to Medical Expenses Coverage.

**b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)**

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.



# CITY OF MERCED

Merced Civic Center  
678 W. 18th Street  
Merced, CA 95340

## ADMINISTRATIVE REPORT

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File #: 17-325

Meeting Date: 7/5/2017

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**Report Prepared by:** *Deneen Proctor, Director of Support Services*

**SUBJECT:** Agreement for Special Services With Liebert Cassidy Whitmore

### REPORT IN BRIEF

Authorizes an agreement for employment relations services with Liebert Cassidy Whitmore.

### RECOMMENDATION

**City Council - Adopt a motion:**

A. Approving an agreement for professional services with Liebert Cassidy Whitmore for labor relations services related to negotiations with American Federation of State, County, and Municipal Employees (AFSCME), Merced Association of City Employees (MACE) and International Fire Fighter's Association (IAFF) Local 1479, in an amount not to exceed \$60,000, and;

B. Authorizing the City Manager and/or Assistant City Manager to execute the necessary documents.

### ALTERNATIVES

1. Approve as recommended by staff; or,
2. Approve, subject to modification as conditioned by City Council; or,
3. Refer to staff for reconsideration of specific items; or,
4. Deny.

### AUTHORITY

Charter of the City of Merced, Section 200, et seq.

Services with an estimated value greater than \$28,000 are made by written contract in accordance with Merced Municipal Code, Title 3 - Revenue and Finance, Chapter 3.04.

Memoranda of Understanding AFSCME, MACE, IAFF and Resolution Nos. 80-100 and 82-51 Employer-Employee Relations Policy.

### CITY COUNCIL PRIORITIES

As provided for in the 2016-2017 adopted budget.

### DISCUSSION

The City has five represented bargaining units and four unrepresented groups. The Memoranda of Understanding (MOU) for AFSCME, MACE, Fire and unrepresented expire on December 31, 2017.

**IMPACT ON CITY RESOURCES**

No appropriation of Funds needed.

**ATTACHMENTS**

1. LCW Agreement