

REPORT TO CITY COUNCIL

Approved by:

Wendy Silva
Wendy Silva, Director of Human Resources

Arnoldo Rodriguez
Arnoldo Rodriguez, City Manager

Council Meeting of: July 3, 2019

Agenda Number: B-6

SUBJECT:

Consideration of a Resolution Approving an Agreement for Special Services with the Law Firm of Liebert Cassidy Whitmore for Continued Participation in the Central Valley Employment Relations Consortium and Authorizing the Mayor to Execute the Agreement

RECOMMENDATION:

Staff recommends the City Council (Council) adopt the resolution approving the proposed Agreement for Special Services with Liebert Cassidy Whitmore and authorizing the Mayor to execute the agreement on behalf of the City.

SUMMARY:

Since 1991, the City has been a member of the Central Valley Employment Relations Consortium (CVERC) along with other public agencies for training and labor law consultation. Specific services included with the flat-fee membership in CVERC are five days of training on various employment related topics selected by consortium members, legal consultation on employment matters by telephone and email, and monthly labor and employment law newsletters as well as legislative and case law updates. This model of flat-fee training and consultation provided through a consortium of public entities to share the overall cost is unique to Liebert Cassidy Whitmore.

DISCUSSION:

Continued participation in the CVERC requires execution of an Agreement for Special Services with the firm. With our continued participation, the City is able to meet the challenge of providing cost effective and current employment law training to supervisors, managers, and department heads. Additionally, the flat-fee membership provides that City staff can contact attorneys at the firm by phone or email for consultation on consortium related questions without additional charge beyond the membership fee. The agreement also sets forth billing rates should the City's request for assistance go beyond a consortium-related question; examples or services beyond the base consortium agreement would be written legal opinions, representation on specific litigation matters, or personnel investigations.

The training classes are selected each year by vote of the members of the Consortium. Classes selected for 2019-20 are listed below. Unless otherwise indicated, each topic is a half-day session.

- Maximizing Supervisory Skills for the First Line Supervisor (full day)
- Managing the Marginal Employee
- Conducting Disciplinary Investigations: Who, What, When, and How
- Difficult Conversations
- The Future is Now – Embracing Generational Diversity and Succession Planning
- Human Resources Academy II
- File That! Best Practices for Document and Record Management
- Nuts & Bolts: Navigating Common Legal Risks for the Front Line Supervisor
- Navigating the Crossroads of Discipline and Disability Accommodation

FINANCIAL IMPACT:

The cost for continued participation in the Consortium will be \$2,480.00 for the 2019-20 fiscal year. This fee represents a 5% increase over the prior year, however the rate has not been adjusted for two years. Participation in the Consortium is paid through the Insurance Reserve Fund and the identified training is made available without charge to all City departments. Adequate funds have been included in the proposed 2019-20 budget for continued participation in the Consortium.

CONSISTENCY WITH THE VISION MADERA 2025 PLAN:

The information contained herein is not addressed by the Vision Madera 2025 plan, nor is the information in conflict with that plan.

ALTERNATIVES:

Should Council not take action on the Agreement, the City would no longer participate in the CVERC and staff would explore other alternatives for providing employment law training to employees.

ATTACHMENTS:

1. Resolution
2. Agreement for Special Services with Liebert Cassidy Whitmore

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MADERA APPROVING AN AGREEMENT FOR SPECIAL SERVICES BETWEEN THE CITY OF MADERA AND THE LAW FIRM OF LIEBERT CASSIDY WHITMORE FOR CONTINUED PARTICIPATION IN THE CENTRAL VALLEY EMPLOYMENT RELATIONS CONSORTIUM AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT

WHEREAS, the City of Madera has a need to secure expert training and consultation services to assist the City in its employee and labor relations; and

WHEREAS, the City wishes to provide timely and cost effective training for supervisory staff relative to employee and labor relations issues; and

WHEREAS, the law firm of Liebert Cassidy Whitmore offers a training consortium for public entities to cost-share labor and employment law training; and

WHEREAS, the City has participated in Liebert Cassidy Whitmore's Central Valley Employment Relations Consortium since 1991 and has found consortium membership to be beneficial to the City; and

WHEREAS, the City desires to continue participation in the Central Valley Employment Relations Consortium.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF MADERA hereby resolves, finds, and orders as follows:

1. The above recitals are true and correct.
2. The Agreement for Special Services between the City and Liebert Cassidy Whitmore, on file with the Office of the City Clerk and referred to for more particulars, is approved.
3. The Mayor is authorized to execute the Agreement for Special Services on behalf of the City of Madera.
4. This resolution is effective immediately upon adoption.

* * * * *

AGREEMENT FOR SPECIAL SERVICES

This Agreement is entered into between the City of Madera, A Municipal Corporation, hereinafter referred to as "Agency," and the law firm of LIEBERT CASSIDY WHITMORE, A Professional Corporation, hereinafter referred to as "Attorney."

WHEREAS Agency has the need to secure expert training and consulting services to assist Agency in its workforce management and employee relations; and

WHEREAS Agency has determined that no less than forty-three (43) public agencies in the Central Valley area have the same need and have agreed to enter into identical agreements with Attorney; and

WHEREAS Attorney is specially experienced and qualified to perform the special services desired by the Agency and is willing to perform such services;

NOW, THEREFORE, Agency and Attorney agree as follows:

Attorney's Services:

During the year beginning July 1, 2019, Attorney will provide the following services to Agency (and the other aforesaid public agencies):

1. Five (5) days of group training workshops covering such employment relations subjects as management rights and obligations, negotiation strategies, employment discrimination and affirmative action, employment relations from the perspective of elected officials, performance evaluation (administering evaluations), grievance and discipline administration for supervisors and managers, planning for and responding to concerted job actions, current court, administrative and legislative developments in personnel administration and employment relations, etc., with the specific subjects covered and lengths of individual workshop presentations to be determined by Agency and the other said local agencies.

It is expressly understood that the material used during these presentations, including written handouts and projected power points are provided solely for the contracted workshops. This agreement warrants there will be no future use of Liebert Cassidy Whitmore material in other trainings or formats without the expressed written permission of Liebert Cassidy Whitmore. Any such use will constitute a violation of this agreement and copyright provisions.

2. Availability of Attorney for Agency to consult by telephone. Consortium calls cover questions that the attorney can answer quickly with little research. They do not include the review of documents, in depth research, written responses (like an opinion letter) or advice on on-going legal matters. The caller will be informed if the question exceeds the scope of consortium calls. Should the caller request, the attorney can assist on items that fall outside the service, but these matters will be billed at the attorney's hourly rate. (See additional services section.)
3. Providing of a monthly newsletter covering employment relations developments.

Fee:

Attorney will provide these special services to Agency for a fee of Two Thousand Four Hundred Eighty Dollars (\$2,480.00) payable in one payment prior to August 1, 2019. The fee, if paid after August 1, 2019 will be \$2,580.00.

Said fee will cover Attorney's time in providing said training and consultative services and the development and printing of written materials provided to attendees at the training programs.

Additional Services:

Attorney shall, as and when requested by Agency, make itself available to Agency to provide representational, litigation, and other employment relations services. The Agency will be billed for the actual time such representation services are rendered, including reasonable travel time, plus any necessary costs and expenses authorized by the Agency.

The range of hourly rates for Attorney time is from Two Hundred Ten to Three Hundred Eighty Dollars (\$210.00 - \$380.00) per hour for attorney staff, Two Hundred Thirty Dollars (\$230.00) per hour for Labor Relations/HR Consultant and from One Hundred Thirty to One Hundred Seventy-Five Dollars (\$130.00 - \$175.00) per hour for services provided by paraprofessional and litigation support staff. Attorneys, paraprofessional and litigation support staff bill their time in minimum units of one-tenth of an hour. Attorney reviews its hourly rates on an annual basis and if appropriate, adjusts them effective July 1.

Independent Contractor:

It is understood and agreed that Attorney is and shall remain an independent contractor under this Agreement.

Term:

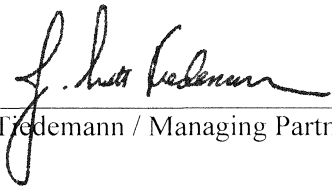
The term of this Agreement is twelve (12) months commencing July 1, 2019. The term may be extended for additional periods of time by the written consent of the parties.

Condition Precedent:

It is understood and agreed that the parties' aforesaid rights and obligations are contingent on no less than forty-three (43) local agency employers entering into a substantially identical Agreement with Attorney on or about July 1, 2019.

LIEBERT CASSIDY WHITMORE
A Professional Corporation

CITY OF MADERA
A Municipal Corporation

By: 
J. Scott Tiedemann / Managing Partner

By: _____

Name: _____

Date: 6-7-19

Title: _____

Date: _____