

# Request for Qualifications

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Legal Counsel Services



**Orange County Local Agency  
Formation Commission**

**September 14, 2017**



September 14, 2017

CHAIR  
**DEREK J. MCGREGOR**  
Representative of  
General Public

**RE: Request for Qualifications: Legal Counsel Services**

VICE CHAIR  
**DR. ALLAN BERNSTEIN**  
Councilmember  
City of Tustin

Dear Interested Parties:

**LISA BARTLETT**  
Supervisor  
5<sup>th</sup> District

The Local Agency Formation Commission of Orange County (OC LAFCO) invites established consulting firms to submit a response to the Request for Qualifications (RFQ) to provide legal counsel services.

**CHERYL BROTHERS**  
Councilmember  
City of Fountain Valley

To be considered, firms or individuals must provide submittals in accordance with the requirements, specifications, conditions, and provisions as described and set forth herein. Responses must satisfy all the objectives and work requirements specified in the RFQ.

**TODD SPITZER**  
Supervisor  
3<sup>rd</sup> District

**SUBMITTALS ARE DUE BY 3:00 PM on October 13, 2017 at the OC LAFCO office located at 2677 North Main Street, Suite 1050, Santa Ana, CA, 92705.**

**CHARLEY WILSON**  
Director  
Santa Margarita Water District

The tentative schedule calls for the contract award consideration by the Commission for January 10, 2018 with a contract effective date range between March 13 and March 31, 2018.

**JOHN WITHERS**  
Director  
Irvine Ranch Water District

Thank you for your interest.

ALTERNATE  
**WENDY BUCKNUM**  
Councilmember  
City of Mission Viejo

Respectfully,

ALTERNATE  
**JAMES FISLER**  
Director  
Mesa Water District

\_\_\_\_\_  
Carolyn Emery, Executive Officer  
Orange County LAFCO

ALTERNATE  
**LOU PENROSE**  
Representative of  
General Public

ALTERNATE  
**MICHELLE STEEL**  
Supervisor  
2<sup>nd</sup> District

**CAROLYN EMERY**  
Executive Officer

**OCLAFCO  
REQUEST FOR QUALIFICATIONS  
LEGAL COUNSEL SERVICES**

**SECTION I**

**Introduction and Background**

**A. Introduction**

Orange County Local Agency Formation Commission (OC LAFCO) invites responses to a Request for Qualifications (RFQ) from qualified law firms and individual attorneys (“firm”) to provide legal counsel services to the Commission and staff. The objective of this RFQ process is to provide the Commission with reliable and effective legal services available on an as-needed basis.

The selected firm will serve at the discretion of the Commission and work under the direction of the Commission’s Executive Officer. It is anticipated that the selected firm will enter into a professional service agreement for a term of five years with the option for additional one-year extensions based on an annual review.

This RFQ includes background information about OC LAFCO, the qualifications requirements, the scope of services, instructions for submittals, evaluation criteria, and the selection process. All inquiries regarding this RFQ shall be submitted by October 5, 2017 in writing to:

Debra Kurita, Assistant Executive Officer  
OC LAFCO  
2677 North Main Street  
Santa Ana, CA 92705  
dkurita@oclafco.org

**B. Background**

Orange County LAFCO is an independent public agency with a county-wide jurisdiction. Created by State law, the agency oversees changes to local government boundaries involving the formation and expansion of cities’ and special districts’ boundaries in Orange County. The State established a LAFCO for each County with the purpose to encourage the orderly and logical formation of local government agencies, preserve agriculture and open space lands, and discourage urban sprawl. The enabling legislation is contained in

the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and amendments.

Policy direction for OCLAFCO is provided by a seven-member Board composed of two members from the Board of Supervisors, two members from city councils, two members for special district boards, and one member of the general public. Additionally, for each category represented on LAFCO, there is an alternate member. The Executive Officer reports directly to the Commission and performs all duties necessary for the proper and efficient management of LAFCO, as determined by the Commission and State law. A small professional staff provides support to the Executive Officer and Commission. The Commission's annual strategic plan, work plan, meeting agendas, staff reports, policies and procedures, and other information are posted on the agency's website: [oclafco.org](http://oclafco.org).

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LEGAL COUNSEL SERVICES**

**SECTION II**

**Qualifications, Scope of Services, and  
Response Requirements**

**A. Qualifications**

OC LAFCO is seeking a firm or individual committed to providing the highest quality legal representation to public sector clients, with proven expertise in federal, state, municipal, environmental, special district, and other applicable laws to serve as Legal Counsel. The successful firm will have experience in providing legal services to LAFCO agencies and other local government agencies including: cities, counties and special districts.

Required qualifications include familiarity with the function and purpose of Local Agency Formation Commissions and knowledge of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 and amendments. The successful firm will also have expertise in public agency law and in advising public officials, administrators and employees on the complex and frequently changing laws pertaining to local government administration, organization, regulations, transactions and litigation matters. Typical matters include statutory compliance, contracting, the California Environmental Quality Act (CEQA), the Brown Act, ethics and conflict of interest law, public records request laws, personnel and employment laws and requirements, and intergovernmental relations. Also desirable is experience in real estate, real property tax, special taxes and assessments, land development, planning and zoning laws, litigation and other legal issues that are routine with a LAFCO or other public agencies.

## **B. Scope of Services**

Legal services rendered to OC LAFCO include, but are not limited to, the following:

- Serve as LAFCO legal counsel and representative in all Commission matters, including litigation and administrative proceedings as necessary;
- Attend all regular LAFCO meetings, special meetings, annual strategic planning sessions, and study sessions. Regular meetings are held the 2<sup>nd</sup> Wednesday of the month beginning at 8:00 am;
- Provide general legal advice to the Commission and the Executive Officer when requested, typically on issues of general municipal or administrative law on matters relating to the Cortese-Knox-Hertzberg Act or case law specifically involving local government boundaries or organization in California;
- Serve as on-call counsel to the Commission, mainly from a remote location, unless attendance at meetings is requested in advance;
- Attend in-person meetings with the Executive Officer and/or Commission committees when required or maintain telephone and e-mail contact as needed;
- Review and comment on documents prepared by LAFCO staff including staff reports, resolutions, correspondence, administrative policies and other documents as requested and in a timely manner. Typically, legal counsel advises on complex resolutions or reports that have specific legal issues. Routine matters or reports generally do not require review by legal counsel;
- Prepare legal opinions or responses on specified issues;
- Provide annual updates on important developments concerning the Political Reform Act and other conflict of interest issues, legislation and judicial decisions;
- Prepare and/or review agency agreements, CEQA documentation, and other materials on request;
- Prepare occasional reports and present information at public meetings as needed.

## **C. Response Format and Content Requirements**

If you are interested in being considered as OC LAFCO Legal Counsel, the following information and/or documentation must be submitted:

### **1. Cover Letter**

The submittal must be accompanied by a cover letter, signed by an individual authorized to bind the proposing entity. The letter must identify the complete name of the firm or individual submitting the response. The letter must summarize the firm's qualifications to provide professional legal services relative to the scope of work identified in Section II B.

### **2. Qualifications of Firm and Personnel**

The RFQ response shall provide a description of the firm and a statement of qualifications and experience. The submittal shall identify the individual to be assigned to OC LAFCO as the General Counsel and provide his/her qualifications and resume. This shall include a summary of the previous work experience for LAFCOs and local government agencies relative to the legal issues and practices described in Section II B of this RFQ, of the firm and the individual to be assigned as the General Counsel.

### **3. Existing and Potential Conflicts of Interest**

Please list all current public clients in Orange County for which the firm provides service. To the extent they are reasonably foreseeable, please indicate any actual or potential conflicts of interest that might arise from the firm's or individual attorney's representation of OC LAFCO. Please outline the manner in which such conflicts would be resolved, mitigated, or avoided.

### **4. Local Government Client References**

Provide a list of references from clientele of the law firm and of the individual who would serve as LAFCO General Counsel. Please include contact information for references and permission to contact those references.

### **5. Additional Information (Optional)**

Identify any other related qualifications or other information not specified in this RFQ which the firm may consider essential or beneficial to OC LAFCO in reviewing the qualifications of your firm.

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**SECTION III**

**Timeline and  
Submittal Instructions**

**1. Timeline:**

The following is an outline of the anticipated schedule for the review of responses, contract award and the contract effective date. This schedule is subject to change.

RFQ posting, transmittal:	September 14, 2017
Submittal deadline:	<b>October 13, 2017 (To OC LAFCO by 3:00 PM)</b>
Firm interviews (if required)	Week of November 27, 2017
Top ranked firms submit fee proposals	December 12, 2017
Firm selection and contract preparation	Week of December 18, 2017
Commission consideration of contract award:	January 10, 2018
<b>Tentative contract effective date range:</b>	March 13-31, 2018



## **2. Instructions to Proposers and Procedures for Submittal**

The submittal shall include the following:

- One original (marked original) and three printed copies of the RFQ response.
- One electronic copy in pdf format on CD, flash drive, or other electronic media.

The RFQ response must be submitted no later than 3:00 p.m. on the Submittal Date (October 13, 2017) in a sealed envelope bearing the name of the firm, marked ***Legal Counsel Services*** and submitted to the following address:

**Orange County LAFCO  
2677 North Main Street, Suite 1050  
Santa Ana, CA 92705  
Attn: Debra Kurita, Assistant Executive Officer**

Submitting firms are solely responsible for ensuring their RFQ response is received by OC LAFCO in accordance with the solicitation requirements, before Submittal Deadline, and at the place specified. Postmarks will not be accepted in lieu of actual delivery. No oral, telegraphic, electronic, facsimile, or telephonic RFQ responses or modifications will be considered unless specified.

OC LAFCO shall not be responsible for any delays in mail or by common carriers or by transmission errors or delays or mistaken delivery. Delivery of RFQ responses shall be made at the office specified in this Request for Qualifications. Deliveries made before the Submittal Deadline but to the wrong office will be considered non-responsive unless re-delivery is made to the office specified before the Submittal Deadline. All RFQ responses shall become the property of OC LAFCO.

***Late responses will not be accepted and will be returned unopened.***

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**SECTION IV**

**RFQ Response Evaluation and Selection Process**

The selection of the Legal Counsel will be based on the following criteria. These criteria identify the weight or significance in the selection of the preferred firm. The submittals will be evaluated on the basis of the response to all the requirements of this RFQ.

<b>CRITERIA</b>	<b>WEIGHT</b>
Experience and expertise of the firm and the individual assigned to serve as primary legal counsel in LAFCO and other government engagements; quality of references; greater weight in the selection process will be given to proposing firms or individuals with in-depth LAFCO knowledge and experience	70%
Quality and completeness of the submittal	15%
Location of firm and availability of appropriate professionals as needed for meetings or other circumstances	15%

The proposals will be reviewed upon receipt and the most qualified firms may be requested to make a presentation to an Ad-Hoc Committee of the OC LAFCO Board. The recommendation of the Ad-Hoc Committee will be considered by the full Commission in its selection of the Legal Counsel.

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**SECTION V**

**GENERAL CONDITIONS**

AUTHORIZED SIGNATURES. Every submittal must be signed by the person or persons legally authorized to bind the firm to a contract for the execution of the work. Upon request of OC LAFCO, any agent submitting a response on behalf of a firm shall provide a current power of attorney certifying the agent's authority to bind the firm. For an individual, his or her name, signature, and post office address must be shown. For a firm or partnership, the name and post office address of the firm or partnership and the signature of at least one of the general partners must be shown. For a corporation, the name of the state under the laws of which the corporation is chartered, the name and post office address of the corporation and the title of the person signing on behalf of the corporation must be shown.

AWARD OF CONTRACT. Award will be made to the firm that presents the best qualifications after review and recommendation by an Ad-Hoc Committee and management staff and consideration by the full Commission.

Discussions may, at OC LAFCO's option, be conducted with firms that submit responses determined to be reasonably susceptible of being selected for an award. Discussions may be for clarification to assure full understanding of, and responsiveness to, the solicitation requirements. Firms shall be accorded fair and equal treatment with respect to any opportunity for discussion and written revision of responses. In conducting discussions, OC LAFCO will not disclose information derived from submittals submitted by competing firms.

CANCELLATION OF SOLICITATION. OC LAFCO may cancel this solicitation at any time.

COMPLIANCE WITH LAWS. All submittals shall comply with current federal, state, and other laws relative thereto.

COSTS. OC LAFCO is not liable for any costs incurred by firms before entering into a formal contract. Costs of developing the submittal or any other such expenses incurred by the firm in responding to the RFQ, are entirely the responsibility of the firm, and shall

not be reimbursed in any manner by OC LAFCO. No reimbursable cost may be incurred in anticipation of award.

INTERPRETATION OF CONTRACT DOCUMENTS. OC LAFCO reserves the right to make corrections or clarifications of the information provided in this RFQ.

Oral statement(s) interpretations or clarifications concerning meaning or intent of the contents of this RFQ by any person are unauthorized and invalid.

Requests for interpretations shall be made in writing and delivered to Debra Kurita, Assistant Executive Officer, OC LAFCO, 2677 N. Main Street, Suite 1050, Santa Ana, CA 92705 by October 5, 2017.

IRREGULARITIES. OC LAFCO reserves the right to waive non-material irregularities if such would be in the best interest of OC LAFCO as determined by OC LAFCO.

NON-EXCLUSIVE CONTRACT. The successful firm will enter a NON-EXCLUSIVE contract and OC LAFCO reserves the right to enter into agreements with other firms.

OFFERS OF MORE THAN ONE PRICE. Proposers are NOT allowed to submit more than one RFQ response.

NO OBLIGATION: The release of this RFQ does not obligate or compel OC LAFCO to enter into a contract or agreement.

PROPRIETARY INFORMATION. RFQ responses must **NOT** be marked as confidential or proprietary. OC LAFCO may refuse to consider a submittal so marked. Information in responses shall become public information and is subject to disclosure laws.

PUBLIC OPENING: There will be no public opening of responses. Prices and other RFQ response information shall not be made public until a contract is awarded. At that time, the submitted information and executed contract will become public information.

TERMS OF THE OFFER. OC LAFCO reserves the right to negotiate final contract terms with the firm selected. The contract between the parties will consist of OC LAFCO Professional Services Agreement, the RFQ together with any modifications thereto, the awarded firm's submittal, and all modifications and clarifications that are submitted at the request of OC LAFCO during the evaluation and negotiation process. In the event of any conflict or contradiction between or among these documents, the documents shall control in the following order of precedence: the final executed contract, the RFQ, any modifications and clarifications to the awarded firm's RFQ response, A firm's misrepresentation shall be treated as fraudulent concealment from OC LAFCO of the facts relating to the response to the RFQ.

VALIDITY. RFQ response must be valid for a period of 90 days from the due date.

WITHDRAWAL OF RESPONSE TO THE RFQ. Authorized representatives of the firm may withdraw RFQ responses only by written request received by OC LAFCO before the RFQ Submittal Deadline.

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**SAMPLE PROFESSIONAL SERVICES AGREEMENT**

**ORANGE COUNTY LOCAL AGENCY FORMATION COMMISSION  
PROFESSIONAL CONSULTANT SERVICES AGREEMENT**

This Agreement is made effective \_\_\_\_\_ by and between ORANGE COUNTY LOCAL AGENCY FORMATION COMMISSION (hereinafter referred to as "LAFCO"), organized and operating pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, as amended (Government Code Sections 56000 et seq.), and \_\_\_\_\_ ("Consultant").

**RECITALS**

- A. LAFCO is a public agency of the State of California and is in need of professional legal services (hereinafter referred to as "the Project").
- B. Consultant is qualified by virtue of experience, training, education and expertise to provide such services.
- C. This Agreement is to establish the terms and conditions for LAFCO to retain Consultant to provide the services described herein.

**AGREEMENT**

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Term and Time of Performance.

The term of this Agreement shall be \_\_\_\_\_ unless terminated in accordance with the procedures outlined in Section 15 of this Agreement. Consultant shall perform its services hereunder in a prompt and timely manner and shall commence performance upon the execution of this Agreement.

2. Services.

Consultant shall provide LAFCO with the services described in the Scope of Services attached hereto as Exhibit "A."

3. Compensation.

a. Subject to paragraph 3(b) below, LAFCO shall pay for such services in accordance with the Schedule of Charges set forth in Exhibit "B."

b. In no event shall the total amount paid for services rendered by Consultant pursuant to Exhibit "A" exceed the sum of \_\_\_\_\_.

c. Prior to the bi-weekly financial mail out, Consultant shall submit to LAFCO a statement for services and invoices itemizing the services rendered. Within fifteen (15) working days after receipt of invoice, LAFCO shall determine whether and to what extent Consultant has adequately performed the services for which payment is sought. If LAFCO determines that Consultant has not adequately performed such services, LAFCO shall inform Consultant of those acts which are necessary for satisfactory completion. LAFCO shall cause payment to be made to Consultant within thirty (30) working days from LAFCO's determination that Consultant has adequately performed those services for which LAFCO has been invoiced.

4. Additional Work

If changes in the work seem merited by Consultant or LAFCO, and informal consultations with the other party indicate that a change is warranted, it shall be processed by LAFCO in the following manner: Consultant shall forward a letter outlining the changes to LAFCO with a statement of estimated changes in fee or time schedule. An amendment to the Agreement shall be prepared by LAFCO and executed by both parties before performance of such services or LAFCO will not be required to pay for the changes in the scope of work. Such amendment shall not render ineffective or invalidate unaffected portions of this Agreement.

5. Maintenance of Records.

Books, documents, papers, accounting records, and other evidence pertaining to costs incurred shall be maintained by Consultant and made available at all reasonable times during the Agreement period and for four (4) years from the date of final payment under the contract for inspection by LAFCO.

6. Delays in Performance.

Neither LAFCO nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Agreement, such circumstances include but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war; riots and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage or judicial restraint.

Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

7. Compliance with Law.

a. Consultant shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local government.



b. Consultant shall assist LAFCO in obtaining and maintaining all permits required of Consultant by Federal, State and local regulatory agencies.

8. Standard of Care.

Consultant's services will be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions.

9. Assignment and Sub-consultant.

Consultant shall not assign, sublet, or transfer this Agreement or any rights under or interest in this Agreement without the written consent of LAFCO, which may be withheld for any reason. Nothing contained herein shall prevent Consultant from employing independent associates and sub-consultants as Consultant may deem appropriate to assist in the performance of services hereunder.

10. Independent Contractor.

It is agreed that Consultant shall act and be an independent contractor and is not an agent or employee of LAFCO and is not entitled to participate in any compensation plans or other benefits LAFCO provides for its employees. All services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the services, subject to the requirements of this Agreement. Any additional personnel performing the services under this Agreement on behalf of Consultant shall also not be employees of LAFCO and shall at all times be under Consultant's exclusive direction and control. Consultant shall be responsible for all reports and obligations respecting such personnel, including but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance and workers' compensation insurance.

11. Integration.

This Agreement represents the entire understanding of LAFCO and Consultant as to those matters contained herein, and supersedes and cancels any prior oral or written understanding, promises or representations with respect to those matters covered hereunder. This Agreement may not be modified or altered except in writing signed by both parties hereto. This is an integrated Agreement.

12. Insurance.

Consultant shall take out and maintain, during the performance of all work under this Agreement, in amounts not less than specified herein, all insurance set forth in Exhibit A hereto, in a form and with insurance companies acceptable to LAFCO.

13. Indemnification.

To the fullest extent permitted by law, Consultant shall defend, indemnify and hold LAFCO, its Board, members of the Board, employees, and authorized volunteers free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's services or this Agreement, including without limitation the payment of all consequential damages, expert witness fees and attorney's fees and other related costs and expenses. Notwithstanding the foregoing, to the extent Consultant's services are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant.

In addition, Consultant shall defend, with counsel of LAFCO's choosing and, to the extent permitted by Civil Code Section 2782.8, at Consultant's own cost, expense and risk, any and all claims, suits, actions or other proceedings of every kind covered by this section that may be brought or instituted against LAFCO or its Board, members of the Board, employees, and authorized volunteers. Consultant shall pay and satisfy any judgment, award or decree that may be rendered against LAFCO or its Board, members of the Board, employees, and authorized volunteers as part of any such claim, suit, action or other proceeding. Consultant shall also reimburse LAFCO for the cost of any settlement paid by LAFCO or its Board, members of the Board, employees, or authorized volunteers as part of any such claim, suit, action or other proceeding. Such reimbursement shall include payment for LAFCO's attorney's fees and costs, including expert witness fees. Consultant shall reimburse LAFCO and its Board, members of the Board, employees, and/or authorized volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by LAFCO, its Board, members of the Board, employees, or authorized volunteers.

14. Laws, Venue, and Attorneys' Fees.

This Agreement shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of Orange, State of California. In the event of any such litigation between the parties, the prevailing party shall be entitled to recover all reasonable costs incurred, including reasonable attorney's fees, as determined by the court.

15. Termination or Abandonment.

a. LAFCO has the right to terminate or abandon any portion or all of the work under this Agreement by giving ten (10) calendar days written notice to Consultant. In such event, LAFCO shall be immediately given title and possession to all original field notes,

drawings and specifications, written reports and other documents produced or developed for that portion of the work completed and/or being abandoned. LAFCO shall pay Consultant the reasonable value of services rendered for any portion of the work completed prior to termination. If said termination occurs prior to completion of any task for the Project for which a payment request has not been received, the charge for services performed during such task shall be the reasonable value of such services, based on an amount mutually agreed to by LAFCO and Consultant of the portion of such task completed but not paid prior to said termination. LAFCO shall not be liable for any costs other than the charges or portions thereof which are specified herein. Consultant shall not be entitled to payment for unperformed services, and shall not be entitled to damages or compensation for termination of work.

b. Consultant may terminate its obligation to provide further services under this Agreement upon thirty (30) calendar days' written notice to LAFCO only in the event of substantial failure by LAFCO to perform in accordance with the terms of this Agreement through no fault of Consultant.

16. Key Personnel.

Consultant shall assign \_\_\_\_\_, as the Principal Consultant. The Principal Consultant shall not be removed from the Project or reassigned without the prior written consent of LAFCO.

17. Notice.

Any notice or instrument required to be given or delivered by this Agreement may be given or delivered by depositing the same in any United States Post Office, certified mail, return receipt requested, postage prepaid, addressed to:

LAFCO:  
Attn: Executive Officer  
LAFCO  
2677 Main Street, Suite 1050  
Santa Ana, CA 92705

Consultant:

and shall be effective upon receipt thereof.

18. Third Party Rights.

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than LAFCO and the Consultant.

19. Severability.

The unenforceability, invalidity or illegality of any provision(s) of this Agreement shall not render the other provisions unenforceable, invalid or illegal.

20. Acknowledgment.

Consultant acknowledges that by executing this agreement, they are also, in good faith, determining that the appointment meets each of the requirements set forth in Government Code Section 7522.56, including the unemployment insurance requirement. That is, while LAFCO is not in a position to do so, by signing the acknowledgement at the conclusion of this agreement, the Consultant is certifying that they have not received unemployment insurance payments within the past 12 months arising from work performed as a retiree for any public employer. Further, LAFCO has no way of monitoring the hours that Consultant works for another OCERS employer. As such, it is the responsibility of the Consultant to ensure that the total hours worked for LAFCO and any other OCERS employer do not exceed 960 hours in the aggregate during the fiscal year.

[SIGNATURE PAGE FOLLOWS]

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SAMPLE

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

**ORANGE COUNTY LOCAL AGENCY  
FORMATION COMMISSION**

**INSERT NAME HERE**

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

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

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
General Counsel, Orange County Local  
Agency Formation Commission

SAMPLE

**EXHIBIT "A"**  
**SCOPE AND SCHEDULE OF SERVICES**

SAMPLE

**EXHIBIT "B"**  
**SCHEDULE OF CHARGES/PAYMENTS**

Consultant shall submit statements for services to LAFCO pursuant to paragraph 3(b) for the life of the Project or termination of the Agreement pursuant to paragraph 15(a) of the Agreement. Statements for services shall itemize charges as they relate to the completion of tasks defined in Exhibit A. Statements for services shall reflect only the actual hours incurred in performing the services under this Agreement, in accordance with the fee schedule set forth in this Exhibit B, and subject provisions of Section 2 of this agreement.

**EXHIBIT "C"**  
**INSURANCE REQUIREMENTS**

1. Commercial General Liability

- a. The Consultant shall take out and maintain, during the performance of all work under this Agreement, in amounts not less than specified herein, Commercial General Liability Insurance, in a form and with insurance companies acceptable to LAFCO.
- b. Coverage for Commercial General Liability insurance shall be at least as broad as the following: ISO Commercial General Liability coverage (Occurrence Form CG 0001)
- c. Commercial General Liability Insurance must include coverage for the following:
  - i. Bodily Injury and Property Damage
  - ii. Personal Injury/Advertising Injury
  - iii. Premises/Operations Liability
- d. All such policies shall give LAFCO, its Board, members of the Board, employees, and authorized volunteers insured status using ISO endorsement CG2010, CG2033, or equivalent.
- e. The general liability program may utilize either deductibles or provide coverage excess of a self-insured retention, subject to written approval by LAFCO.

2. Automobile Liability

- a. At all times during the performance of the work under this Agreement the Consultant shall maintain Automobile Liability Insurance for bodily injury and property damage including coverage for owned, non-owned and hired vehicles, in a form and with insurance companies acceptable to LAFCO.
- b. Coverage for Automobile Liability Insurance shall be at least as broad as: ISO Form Number CA 0001 covering automobile liability (Coverage Symbol 1, any auto).
- c. The automobile liability program may utilize deductibles, but not a self-insured retention, subject to written approval by LAFCO.

3. Workers' Compensation/Employer's Liability

- a. Consultant certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing work under this Agreement.



- b. Consultant shall maintain full compensation insurance for all persons employed directly by him/her to carry out the work contemplated under this Agreement, all in accordance with the “Workers' Compensation and Insurance Act,” Division IV of the Labor Code of the State of California and any acts amendatory thereof, and Employer's Liability Coverage in amounts indicated herein. Consultant shall require all subconsultants to obtain and maintain, for the period covered by the work under this Agreement, workers' compensation of the same type and limits as specified in this section.
- c. Such insurance shall include an insurer's Waiver of Subrogation in favor of LAFCO and will be in a form and with insurance companies acceptable to LAFCO.

4. Minimum Policy Limits Required

- a. The following insurance limits are required for the Agreement:

	Combined Single Limit
Commercial General Liability	\$1,000,000 per occurrence/\$2,000,000 aggregate for bodily injury, personal injury and property damage
Automobile Liability	\$1,000,000 per occurrence for bodily injury and property damage
Employer's Liability/ Workers' Compensation	\$1,000,000 per occurrence/ Statutory

5. Evidence Required

- a. Prior to execution of the Agreement, the Consultant shall file with LAFCO evidence of insurance from an insurer or insurers certifying to the coverage of all insurance required herein. Such evidence shall include original copies of the ISO CG 2010 (or insurer's equivalent) signed by the insurer's representative and Certificate of Insurance (ACORD Form 25-S or equivalent). All evidence of insurance shall be signed by a properly authorized officer, agent or qualified representative of the insurer and shall certify the names of the insured, any additional insureds, where appropriate, the type and amount of the insurance, the location and operations to which the insurance applies, and the expiration date of such insurance.

6. Required Policy Provisions

- a. Certificates of insurance and policy endorsements shall require 30 days (10 days for non-payment of premium) notice of cancellation to LAFCO. Statements that the carrier “will endeavor” and “that failure to mail such notice shall impose no obligation and liability upon the company, its agents or representatives,” will not be acceptable

on certificates. If any of the required coverage expires during the term of this Agreement, the Contractor shall deliver renewal certificate(s) including the General Liability Additional Insured Endorsement to LAFCO at least ten (10) days prior to the expiration date.

- b. The Commercial General Liability policy shall contain a provision stating that Consultant's policy is primary insurance and that any insurance, self-insurance or other coverage maintained by LAFCO or any named insureds shall not be called upon to contribute to any loss.
- c. The retroactive date (if any) of each policy is to be no later than the effective date of this Agreement. Consultant shall maintain such coverage continuously for a period of at least three (3) years after the completion of the work under this Agreement. Consultant shall purchase a one (1) year extended reporting period i) if the retroactive date is advanced past the effective date of this Agreement; ii) if the policy is canceled or not renewed; or iii) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement.

#### 7. Qualifying Insurers

- a. All policies required shall be issued by acceptable insurance companies, as determined by LAFCO, which satisfy the following minimum requirements:
- b. Insurance carriers shall have a current AM Best rating of not less than "A-" policyholder's rating and a financial rating of not less than "Class VII," unless otherwise approved in advance by LAFCO.

#### 8. Additional Insurance Provisions

- a. Professional Liability (Errors & Omissions): Professional Liability insurance or Errors & Omissions insurance appropriate to Consultant's profession with limits of not less than \$1,000,000. Covered professional services shall specifically include all work to be performed under the Agreement and delete any exclusions that may potentially affect the work to be performed (for example, any exclusions relating to lead, asbestos, pollution, testing, underground storage tanks, laboratory analysis, soil work, etc.). If coverage is written on a claims-made basis, the retroactive date shall precede the effective date of the initial Agreement and continuous coverage will be maintained or an extended reporting period will be exercised for a period of at least three (3) years from termination or expiration of this Agreement. The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by LAFCO, is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.
- b. If at any time during the life of the Agreement, the Consultant fails to maintain in full force any insurance required by the Agreement documents LAFCO may terminate the Agreement.

- c. The Consultant shall include all subconsultants as insureds under its policies or shall furnish separate certificates and endorsements for each subconsultant. All coverages for subconsultants shall be subject to all of the requirements stated herein.
- d. LAFCO may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project.
- e. Neither LAFCO, its Board, members of the Board, employees, or authorized volunteers shall be personally responsible for any liability arising under or by virtue of the Agreement.

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