

**ORANGE COUNTY  
LOCAL AGENCY FORMATION COMMISSION**

**REGULAR MEETING AGENDA**

**Wednesday, October 13, 2021  
8:15 a.m.**

**IMPORTANT NOTICE REGARDING THE OCTOBER 13, 2021  
REGULAR COMMISSION MEETING**

*Due to COVID-19, this meeting will be conducted virtually pursuant to the provisions of AB 361 in an effort to protect the safety of the Commission and its constituents. As members of the public may not attend this meeting in person, information regarding virtual and/or telephonic access to the meeting is provided below:*

Participation by Commissioners and staff will be from remote locations. Public access and participation will only be available telephonically and electronically.

To virtually attend the meeting and to be able to view any presentations or additional materials provided at the meeting, please join online via Zoom using the link and information below:

<https://us02web.zoom.us/j/82780706277>

You can also dial in using your phone

1 (669) 900-9128

Webinar ID: 827 8070 6277

**Submission of Public Comments:** For those wishing to submit public comments at the October 13, 2021 Regular Commission meeting, comments on agendized or non-agendized items must be submitted by email to the Commission Clerk at [ccarter-benjamin@oclafco.org](mailto:ccarter-benjamin@oclafco.org) and shall be subject to the same rules as would otherwise govern speaker comments made electronically or in person at any regular Commission meeting. Public comments must be received prior to the commencement of the Commission meeting in order to be accepted. Public comments submitted in accordance with these guidelines shall become part of the record of the regular Commission meeting. Public comments received after the commencement of the meeting or via text or social media (Facebook, Twitter, etc.) will not be accepted.

**Reading of Public Comments:** The Commission Clerk shall read all comments received prior to the commencement of the Commission meeting, provided that the reading shall not exceed three (3) minutes. The Chair, at his discretion, may reduce the time allowance if warranted by the volume of public comments received.

**1. CALL THE MEETING TO ORDER**

**2. PLEDGE OF ALLEGIANCE**

**3. ROLL CALL**

**4. ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATIONS**

*(Communication received for agenda items after agenda distribution.)*

**5. PUBLIC COMMENT**

This is an opportunity for members of the public to address the Commission on items not on the agenda, provided that the subject matter is within the jurisdiction of the Commission and that no action may be taken on an off-agenda item(s) unless authorized by law.

**6. CONSENT CALENDAR**

**a.) August 19, 2021 – Regular Commission Meeting Minutes**

The Commission will consider approval of the August 19, 2021 meeting minutes.

**b.) Fiscal Year 2021-22 Quarterly Financial Report (1<sup>st</sup> Quarter)**

The Commission will receive the first quarter financial report for Fiscal Year 2021-2022.

**c.) Legislative Quarterly Report (1<sup>st</sup> Quarter)**

The Commission will receive the first quarter legislative report of the 2021-2022 Legislative Session.

**7. PUBLIC HEARING**

**a.) “Proposed Santa Ana River Reorganization – Area 2A (RO 21-04)”**

The Commission will consider the proposed reorganization of a 0.35-acre property that includes annexation of the territory to the City of Anaheim, detachment of the same territory from the City of Orange and the Municipal Water District of Orange County, and concurrent amendments to the agencies’ spheres of influence. Pursuant to the California Environmental Quality Act (CEQA), the Commission, as the responsible agency, will also review the Notice of Exemption for the proposed annexation.

**8. COMMISSION DISCUSSION AND ACTION**

**a.) Section 115 Public Agencies Post-Employment Benefits Trust**

The Commission will consider adoption of the benefits trust and administrative agreement with the Public Agency Retirement Services (PARS) and relative amendments to the agency’s accounting and financial policies.

**b.) 2021 Orange County LAFCO Strategic Plan**

The Commission will consider adoption of the 2021 Strategic Plan.

**c.) Assembly Bill 361 – Open Meetings and Teleconferences for State and Local Agencies**

The Commission will discuss and consider action regarding AB 361, legislation recently signed by the Governor involving open meetings and teleconferences due to the COVID-19 pandemic.

**9. COMMISSIONER COMMENTS**

This is an opportunity for Commissioners to comment on issues not listed on the agenda, provided that the subject matter is within the jurisdiction of the Commission. No discussion or action may occur or be taken except to place the item on a future agenda if approved by Commission majority.

**10. EXECUTIVE OFFICER’S REPORT**

Executive Officer’s announcement of upcoming events and brief report on activities of the Executive Officer since the last meeting.

**11. INFORMATIONAL ITEMS & ANNOUNCEMENTS**

No informational items or announcements.

**12. CLOSED SESSION**

**a.) Public Employee Performance Evaluation**

Pursuant to Government Code Section 54957  
Title: Executive Officer

**b.) Conference with Labor Negotiators**

Pursuant to Government Code Section 54957.6  
Agency Designated Representative: Chair Douglass Davert and William Kelly, Kelly & Associates

Unrepresented Employee: Executive Officer

**13. ADJOURNMENT OF REGULAR COMMISSION MEETING TO NOVEMBER 10, 2021.**

**NOTICE REGARDING ITEMS DISTRIBUTED TO THE COMMISSION LESS THAN 72 HOURS PRIOR TO THE LAFCO REGULAR MEETING:**

*Pursuant to Government Code Section 54957.5, public records that relate to open session agenda items that are distributed to a majority of the Commission less than seventy-two (72) hours prior to the meeting will be made available to the public on the OC LAFCO website at [oclafco.org](http://oclafco.org).*

***State law requires that a participant in an OC LAFCO proceeding who has a financial interest in a decision and who has made a campaign contribution of more than \$250 to any commissioner in the past year must disclose the contribution. If you are affected, please notify the Commission’s staff before the hearing.***

***OC LAFCO agendas and meeting materials are available on the OC LAFCO website at [oclafco.org](http://oclafco.org).***

# ORANGE COUNTY LOCAL AGENCY FORMATION COMMISSION 2021 MEETING CALENDAR

Approved October 14, 2020

2021

January						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

April						
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July						
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25	26	27	28	29	30	31

October						
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24	25	26	27	28	29	30
31						

February						
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28						

May						
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30	31					

August						
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29	30	31				

November						
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28	29	30				

March						
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28	29	30	31			

June						
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27	28	29	30			

September						
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19	20	21	22	23	24	25
26	27	28	29	30		

December						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

- OC LAFCO Regular Meeting (*begins at 8:15 a.m.*)  
**Location:** Meetings are currently conducted electronically and telephonically. Meeting participation and location information are provided in the monthly agenda.
- Annual Strategic Planning Workshop, Santa Ana Police Department Community Room, 60 Civic Center Plaza, Santa Ana.
- Office closure due to legal holidays and flexible work schedule.
- CALAFCO Annual Conference - October 6 - 8, 2021 at Hyatt Regency Newport Beach John Wayne Airport.

Agenda Materials Available Online at <http://oclafco.org>.



## DRAFT MINUTES

### OC LAFCO REGULAR MEETING

Wednesday, August 19, 2021  
8:15 a.m.

*Due to COVID-19, this meeting was conducted by teleconference pursuant to the provisions of the Governor's Executive Orders N-25-20 and N-29-20, which suspend certain requirements of the Ralph M. Brown Act.*

#### 1. CALL TO ORDER

**Chair Davert** called the meeting of the Orange County Local Agency Formation Commission (OC LAFCO) to order at 8:15 a.m., announced that the Commission meeting is being conducted by teleconference, and participation by Commissioners and staff are from remote locations.

#### 2. PLEDGE OF ALLEGIANCE

Pledge of Allegiance was recited.

#### 3. ROLL CALL

The following Commissioners and Alternates were present:

- **Chair Douglass Davert**
- **Vice Chair Donald Wagner**
- **Commissioner Lisa Bartlett**
- **Commissioner Wendy Bucknum (arrived at 8:22 a.m.)**
- **Commissioner James Fisler**
- **Commissioner Derek J. McGregor**
- **Alternate Commissioner Kathryn Freshley**
- **Alternate Commissioner Peggy Huang**
- **Alternate Commissioner Lou Penrose**

The following Commissioners were absent:

- **Commissioner Mike Posey**
- **Alternate Commissioner Katrina Foley**

The following OC LAFCO staff members were present:

- **Executive Officer Carolyn Emery**

- Assistant Executive Officer Raymond Barragan
- Policy Analyst Luis Tapia
- Policy Analyst Gavin Centeno
- Commission Clerk Cheryl Carter-Benjamin
- Legal Counsel Scott Smith

**4. ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATION  
(Received After Agenda Distribution)**

Commission Clerk Cheryl Carter-Benjamin noted that no supplemental communication was received.

**5. PUBLIC COMMENT**

**Chair Davert** requested public comments on any non-agenda items. Commission Clerk Cheryl Carter-Benjamin noted no public comments were received. **Chair Davert** closed the hearing of public comments.

**6. CONSENT CALENDAR**

**Chair Davert** called for a motion on the consent calendar. **Commissioner McGregor** motioned for approval of the consent calendar and **Commissioner Fisler** seconded the motion.

The Commission Clerk conducted a roll call vote on the items.

**6a. - Approval of Minutes - July 14, 2021 Regular Commission Meeting**

**6b. - 2021-2022 CALAFCO Board of Directors Nominations and Election Process**

**6c. - Year-End Comprehensive Report**

**MOTION:** Approve the consent calendar. (Derek J. McGregor)

**SECOND:** James Fisler

**FOR:** Derek J. McGregor, James Fisler, Donald Wagner,  
Lisa Bartlett, Peggy Huang, Douglass Davert

**AGAINST:** None

**ABSTAIN:** None

**MOTION PASSED:** 6-0.

**7. PUBLIC HEARING**

**7a. - Santa Margarita Water District Annexation of the City of San Juan Capistrano's Water and Wastewater Utilities (DA 20-01)**

Legal Counsel Scott Smith disclosed that Best Best & Krieger currently represents Santa Margarita Water District and the City of San Juan Capistrano. He noted that conflict of interest waivers have been completed by all parties and Best Best & Krieger consented to representing LAFCO on the application.

**Chair Davert** called for the presentation by staff, Commission discussion, and public comments.

Policy Analyst Luis Tapia gave the staff presentation and noted that representatives from the agencies were also available to answer any questions.

Chuck Gibson, Board President of Santa Margarita Water District provided general comments and asked the Commission to approve staff's recommendation to approve the annexation.

Dan Ferons, General Manager of Santa Margarita Water District provided general comments and thanked the Commission for their consideration of the application.

John Taylor, Mayor of San Juan Capistrano provided general comments on the water and wastewater utilities' annexation and thanked the Commission for their consideration of the application.

Saundra Jacobs, Board of Director of Santa Margarita Water District provided general comments and support of staff's recommendation to move forward with the annexation.

Commission Clerk Cheryl Carter-Benjamin noted no additional comments were received by email on the item. **Chair Davert** closed the hearing of public comments. **Commissioners Bartlett** and **Bucknum** gave general comments supporting staff's recommendations.

**Chair Davert** called for a motion on the recommended action. **Commissioner Bartlett** motioned to approve the recommended actions and **Commissioner Bucknum** seconded the motion.

The Commission Clerk conducted a roll call vote on the item.

**MOTION:** Confirm the Commission has reviewed the Notice of Exemption filed by Santa Margarita Water District with the Orange County Clerk Recorder; Direct the Executive Officer to file the Notice of Exemption; and Adopt LAFCO Resolution No. DA 20-01 approving the annexation and concurrent amendment to Santa Margarita Water District sphere of influence. (Lisa Bartlett)

**SECOND:** Wendy Bucknum

**FOR:** Lisa Bartlett, Wendy Bucknum, Donald Wagner, James Fisler, Peggy Huang, Derek J. McGregor, Douglass Davert

**AGAINST:** None

**ABSTAIN:** None

**MOTION PASSED: 7-0.**

## 8. COMMISSION DISCUSSION AND ACTION

### 8a. - Request by Aera Energy for Tonner Hills Annexation Extension (CA 03-12A)

Policy Analyst Gavin Centeno gave the staff presentation and noted that George Basye, Vice President of Aera Energy was also available to answer any questions.

**Chair Davert** called for Commission discussion and public comments. Commission Clerk Cheryl Carter-Benjamin noted no comments were received by email on the item. **Chair Davert** called for a motion on the recommended action. **Commissioner Fisler** motioned to approve the recommended action and **Commissioner Bartlett** seconded the motion.

The Commission Clerk conducted a roll call vote on the item.

**MOTION: Adopt LAFCO Resolution No. CA 03-12A approving the "Tonner Hills Annexation Extension." (James Fisler)**

**SECOND: Lisa Bartlett**

**FOR: James Fisler, Lisa Bartlett, Donald Wagner, Wendy Bucknum, Peggy Huang, Derek J. McGregor, Douglass Davert**

**AGAINST: None**

**ABSTAIN: None**

**MOTION PASSED: 7-0.**

**8b. – Professional Consultant Services Agreement with Citygate Associates (Continued from July 14, 2021)**

**Chair Davert** noted that the application filed by the City of Newport Beach for preparation of the related MSR was withdrawn. Therefore, no action is required by the Commission.

**9. COMMISSIONER COMMENTS**

Commissioners made general comments.

**10. EXECUTIVE OFFICER'S REPORT**

The Executive Officer gave an oral update on the following activities:

- Placentia/Hamer Island Community Workshops
- Community of Rossmoor – Interest in Activation of Latent Powers
- September 8 Strategic Planning Workshop Questionnaire
- Ladera Ranch Civic Council Meeting Presentation

**11. INFORMATIONAL ITEMS & ANNOUNCEMENTS**

**11a - 2021 Strategic Planning Workshop**

**Chair Davert** reminded the Commission of the Strategic Planning Workshop on September 8, 2021 beginning at 8:00 a.m.

**12. ADJOURNMENT OF THE REGULAR COMMISSION MEETING**

**Chair Davert** adjourned the Regular Commission Meeting at 9:01 a.m. to the next regular OC LAFCO meeting scheduled for Wednesday, October 13, 2021, at 8:15 a.m.



Douglass Davert, Chair  
Orange County Local Agency Formation Commission

By: \_\_\_\_\_  
Cheryl Carter-Benjamin  
Commission Clerk

## REGULAR MEMBERS

CHAIR

**Douglass Davert**  
Special District Member

VICE CHAIR

**Donald P. Wagner**  
County Member

IMMEDIATE PAST CHAIR

**Derek J. McGregor**  
Public Member

**Lisa Bartlett**  
County Member

**Wendy Bucknum**  
City Member

**James Fisler**  
Special District Member

**Mike Posey**  
City Member

## ALTERNATES

**Katrina Foley**  
County Member

**Kathryn Freshley**  
Special District Member

**Peggy Huang**  
City Member

**Lou Penrose**  
Public Member

## STAFF

**Carolyn Emery**  
Executive Officer

**Scott Smith**  
General Counsel

October 13, 2021

**6b** | Consent  
Calendar

**TO:** Local Agency Formation Commission  
of Orange County

**FROM:** Executive Officer  
Assistant Executive Officer

**SUBJECT:** Fiscal Year 2021-2022 Quarterly Financial Report  
(1<sup>st</sup> Quarter)

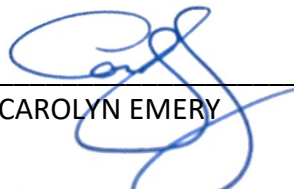
A key task of the approved FY 2021-22 Work Plan is the preparation of quarterly financial reports for Commission review. Over the past several years, these reports have been a component of the "Comprehensive Quarterly Report" but have been reformatted to focus solely on the quarterly reporting of the agency's financials. The attached report provides an assessment of the agency's budget and investment portfolio for the period of July 1 through September 30, 2021. Subsequent quarterly reports will be presented in January, April, and July 2022.

### RECOMMENDED ACTION

Staff recommends that the Commission:

1. Receive and file the Fiscal Year 2021-2022 Financial Quarterly Report (1<sup>st</sup> Quarter).

Respectfully submitted,



CAROLYN EMERY



RAYMOND BARRAGAN

Attachment 1: Fiscal Year 2021-2022 Financial Quarterly Report (1<sup>st</sup> Quarter)



# Quarterly Financial Report

*Fiscal Year 2021-22 (1<sup>st</sup> Quarter)*

## HIGHLIGHTS:

Majority of Apportionments for FY 2021-22 Received

First Quarter Expenditures slightly under Target

Minimal Expenditures during 1<sup>st</sup> Quarter

## INTRODUCTION

The First Quarter Financial Report provides an assessment of the agency's budget and investment portfolio performance for July through September 30, 2021.

## FY 2021-22 BUDGET OVERVIEW

This quarter marked the beginning of a new fiscal cycle and annual work plan. Many efforts of the previous work plan were continued, while several other new projects and activities were also started. The Fiscal Year 2021-22 budget of approximately \$1.3 million supports the operations of the Commission and the resources needed to accomplish the work plan.

The following provides an overview of LAFCO revenues and expenditures, including balances of the agency's reserve and investment accounts. (see page 3).<sup>1</sup>

### Revenues

The majority of LAFCO's revenues are from the \$1,158,240 collected in apportionments from the funding agencies. This revenue source was at 99% at the end of the first quarter, with majority of apportionments received from the agencies. LAFCO also earns interest from its investment portfolio. At the end of the first quarter, the agency earned \$503 in interest, which is 5% of the interest revenues anticipated for the fiscal year.

Another source of LAFCO revenue is application filing fees. These filing fees are not used for budgeting purposes as they are used to offset the costs associated with the processing of the respective applications. The filing fees are shown in the financial overview as revenue within the Special Fund column. The Special Fund column in the chart on page 4 includes an accounting of application revenues and expenses incurred during the first quarter of the 2021-22 fiscal year.

### Expenditures

The total General Fund expenditures as of September 30, 2021, are \$302,218 or 22.5% of the total budget. The following table provides a comparison of the percentage of actual funds used and the target levels for the current fiscal year.<sup>2</sup>

Total Funds Used				
	1 <sup>st</sup> Qtr.	2 <sup>nd</sup> Qtr.	3 <sup>rd</sup> Qtr.	4 <sup>th</sup> Qtr.
<b>Target</b>	25%	50%	75%	100%
<b>Actual</b>	22.5%	NA	NA	NA

Expenditures during the first quarter are within target levels with most expenses attributed to operational costs, such as salaries, benefits and the office lease. Similar to the previous fiscal year, it is expected that line items, such as travel and transportation and commission meeting expenses will be lower than normal due to the continued circumstances of the pandemic.

<sup>1</sup> All financial statements contained in this report are on an accrual accounting basis.

<sup>2</sup> Actual expenditures for the first quarter are unaudited and subject to change.

## Balances and Investment Report

The following table illustrates the balance of LAFCO's bank accounts as of September 30, 2021:

As of 9/30/21	Balance
770-Payroll Account	\$449,214
Wells Fargo Checking	\$206,765
Wells Fargo Savings	<u>\$213,241</u>
<b>Total</b>	<b><u>\$869,220</u></b>

To maximize the interest accrued on the agency's revenues, apportionment fees are deposited in the Local Agency Investment Fund (LAIF) and OC Fund accounts. Throughout the fiscal year, funds are transferred from the investment accounts to the bank accounts to cover the agency's operational expenses.

The following table illustrates the balance of LAFCO's investment portfolio as of September 30, 2021.

As of 9/30/21	Balance
OC Fund	\$498,590
LAIF	<u>\$1,085,613</u>
<b>Total</b>	<b><u>\$ 1,584,203</u></b>

**APPENDIX A**  
**OC LAFCO - Quarterly Budget Overview<sup>3</sup>**  
**July 1, 2021 – September 30, 2021**

	1st Qtr. General Fund	YTD General Fund	YTD Special Revenue Funds	TOTAL FY 21/22 Budget	General Fund %
<b>Revenue:</b>					
Addition/(Use) of Unreserved Equity	\$ -	\$ -	\$ -	\$ 177,040	0.0%
LAFCO Apportionment	1,153,958	1,153,958	-	1,158,240	99.6%
Filing Fees	-	-	122,102	-	0.0%
Misc Revenue	464	464	-	-	0.0%
Interest & Dividends	503	503	-	10,000	5.0%
<b>Total Revenue</b>	<b>\$ 1,154,925</b>	<b>\$ 1,154,925</b>	<b>\$ 122,102</b>	<b>\$ 1,345,280</b>	<b>85.9%</b>
<b>Expenditures:</b>					
Salaries	\$ 134,824	\$ 134,824	\$ 8,575	\$ 532,630	25.3%
Hourly Employees	4,659	4,659	-	18,000	25.9%
<b>Benefits &amp; Insurance</b>					
Optional Benefit Plan	-	-	-	18,500	0.0%
Deferred Compensation	4,030	4,030	-	16,200	24.9%
Retirement Benefits	57,089	57,089	-	193,820	29.5%
Health Insurance	15,558	15,558	-	67,230	23.1%
Retiree Health Benefits	4,937	4,937	-	18,370	26.9%
Dental Insurance	702	702	-	5,320	13.2%
Life Insurance	104	104	-	500	20.7%
Workers Compensation	-	-	-	2,370	0.0%
Medicare	2,108	2,108	-	8,260	25.5%
Unemployment Insurance	150	150	-	-	0.0%
Salary Continuance	358	358	-	1,400	25.6%
Accidental Death Insurance	25	25	-	150	16.9%
Executive Car Allowance	1,800	1,800	-	7,200	25.0%
<b>Total - Benefits &amp; Insurance</b>	<b>86,861</b>	<b>86,861</b>	<b>-</b>	<b>339,320</b>	<b>25.6%</b>
Information Technology	918	918	-	12,700	7.2%
Telephone & Internet	2,241	2,241	-	14,500	15.5%
County of Orange	630	630	-	11,000	5.7%
General Liability Insurance	1,826	1,826	-	7,600	24.0%
Memberships	8,762	8,762	-	35,600	24.6%
Office Equipment/Supplies	1,675	1,675	-	19,400	8.6%
<b>Professional Services:</b>					
Legal	4,095	4,095	15,772	60,000	6.8%
Accounting/Audit	6,000	6,000	-	43,500	13.8%
Human Resources	-	-	-	9,500	0.0%
Mapping/Archiving	850	850	-	7,300	11.6%
Other Professional Services	11,100	11,100	-	60,000	18.5%
<b>Total - Professional Services</b>	<b>22,045</b>	<b>22,045</b>	<b>15,772</b>	<b>180,300</b>	<b>12.2%</b>
Investment Admin Fees	76	76	-	830	9.1%
Public Noticing	-	-	1,680	11,500	0.0%
Unincorporated Areas Program	-	-	-	8,000	0.0%
Rents/Maintenance	32,640	32,640	-	100,600	32.4%
Equipment Leases	1,409	1,409	-	7,700	18.3%
Comm. & Staff Expense	85	85	-	7,000	1.2%
Comm. Stipends & Taxes/Fees	3,400	3,400	-	15,500	21.9%
Professional Development	-	-	-	5,000	0.0%
Transportation/Travel	-	-	-	11,600	0.0%
Commission Meeting Expense	165	165	-	6,500	2.5%
Refund of Deposit	-	-	-	-	0.0%
<b>Total Expenditures</b>	<b>302,218</b>	<b>302,218</b>	<b>26,027</b>	<b>1,345,280</b>	<b>22.5%</b>
<b>Total Net Income (Loss)</b>	<b>\$ 852,707</b>	<b>\$ 852,707</b>	<b>\$ 96,075</b>	<b>\$ -</b>	

\*Financial data represents pre-audited amounts, which does not include all year end

<sup>3</sup> The figures in this chart are unaudited and subject to change.

## Balance Sheet and Reserves Balance Analysis

This report includes the balance sheet to provide an understanding of LAFCO's financial status. The financial document on this page summarizes the agency's assets and liabilities as of September 30, 2021. Please note that the figures provided in this balance sheet are unaudited and subject to change. Additionally, an analysis of the agency's reserve balances is provided on page 6.

### APPENDIX B OC LAFCO BALANCE SHEET As of September 30, 2021

	<u>Sep 30, 21</u>
<b>ASSETS</b>	
<b>Current Assets</b>	
<b>Cash and Investments</b>	
County Acct-Payroll	\$ 449,214
Wells Fargo Checking	206,765
Wells Fargo Savings	213,241
OC Fund	498,590
Investment Acct - LAIF	1,085,613
Fair Market Value Adjustments	1,080
<b>Total Cash and Investments</b>	<u>2,454,504</u>
<b>Other Current Asset</b>	
Prepaid Expenses - Other	17,644
Retirement Prepaid Expense	173,976
<b>Total Other Current Asset</b>	<u>191,619</u>
<b>Total Current Assets</b>	2,646,123
<b>Fixed Assets</b>	17,068
<b>Other Assets</b>	
Def. Outflows Pension Related	450,602
Deferred OPEB Contributions	9,771
Deferred Outflows OPEB Related	2,079
Security Deposit	10,235
<b>Total Other Assets</b>	<u>472,687</u>
<b>TOTAL ASSETS</b>	<u><u>3,135,878</u></u>
<b>LIABILITIES &amp; EQUITY</b>	
<b>Liabilities</b>	
<b>Current Liabilities</b>	
Salaries Payable	29,484
Compensated Absences	37,861
<b>Total Current Liabilities</b>	<u>67,345</u>
<b>Long Term Liabilities</b>	
Deferred Inflows OPEB Related	14,009
Net OPEB Liability	110,973
Net Pension Liability	1,248,133
Def. Inflows Pension Related	561,923
Deferred Lease Incentive	42,872
<b>Total Long Term Liabilities</b>	<u>1,977,910</u>
<b>Total Liabilities</b>	2,045,256
<b>Equity</b>	1,090,623
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<u><u>\$ 3,135,878</u></u>

\*Financial data was prepared in advance of September 30, 2021. Figures are subject to change as they have been projected through September 30, 2021 and represent pre-audited amounts.



**APPENDIX C**  
**OC LAFCO RESERVE BALANCE**  
**As of September 30, 2021**

<b>Cash &amp; Investments Description</b>	<b>Sept 30, 2021 Balance</b>	<b>Commission Approved Balances</b>	<b>Balance Excess / (Deficiency)</b>
County Payroll	\$ 449,214	\$ 222,488 <sup>1</sup>	\$ 226,726
Checking - Wells Fargo	206,765	113,833 <sup>1</sup>	92,932
Savings - Wells Fargo	213,241	205,000 <sup>1</sup>	8,241
OC Fund Investment	498,590	-	498,590
LAIF Investment	1,085,613	-	1,085,613
<b>Total</b>	<b>\$ 2,453,423</b>	<b>\$ 541,321</b>	<b>\$ 1,912,102</b> <sup>2</sup>

**Footnotes:**

*1 - Per the Cash and Cash Management Policy, the Commission must maintain \$541,321 during fiscal year 2021/22 in order to cover three months of payroll costs (County Payroll), 3 months of operational expenses (Checking - Wells Fargo) and a minimum of \$205,000 (Savings - Wells Fargo) to cover contingency, litigation and unfunded liabilities.*

*2 - Remaining Available Cash to fund Operations and Reserves.*



## REGULAR MEMBERS

CHAIR

**Douglass Davert**  
Special District Member

VICE CHAIR

**Donald P. Wagner**  
County Member

IMMEDIATE PAST CHAIR

**Derek J. McGregor**  
Public Member

**Lisa Bartlett**  
County Member

**Wendy Bucknum**  
City Member

**James Fisler**  
Special District Member

**Mike Posey**  
City Member

## ALTERNATES

**Katrina Foley**  
County Member

**Kathryn Freshley**  
Special District Member

**Peggy Huang**  
City Member

**Lou Penrose**  
Public Member

## STAFF

**Carolyn Emery**  
Executive Officer

**Scott Smith**  
General Counsel

October 13, 2021

**6c** | Consent  
Calendar

**TO:** Local Agency Formation Commission  
of Orange County

**FROM:** Executive Officer  
Policy Analyst

**SUBJECT:** Legislative Quarterly Report (1<sup>st</sup> Quarter)

### BACKGROUND

When the Legislature reconvened from its summer recess on August 16, proposed legislation continued to move through the House and Senate to meet the October 10 deadline for Governor Newsom to sign or veto bills.

This report provides an update on the status of legislation reviewed by the Commission during the 2020-21 legislative session and a preview of anticipated legislation for the upcoming legislative session that will begin in December. Additionally, the report includes information regarding appointments to the CALAFCO Legislative and Advisory Committees for the southern region.

### *Update to Previously Reviewed Legislation*

The 2020-21 legislative session for legislation of LAFCO interest proved to be a busy year as the Commission adopted positions on a total of eleven bills. Proposed legislation involved the key topics of technical corrections to the CKH Act, public meeting proceedings during the pandemic, stormwater management agreements, and small water systems consolidation. The table below provides an additional description and an update on each bill since the Commission's last legislative report of July 14, 2021.

Status of 2020-21 Proposed Legislation			
Bill	Description	Commission's Adopted Position	Status
AB 339	Proposes to continue remote participation in local hearings and meetings by phone or internet. Allows agencies to create a registration for public comment and requires translation services as requested by the public.	Oppose Unless Amended	Passed both Houses of the Legislature on September 9, 2021. <b>Enrolled to Governor.</b>
AB 361	Proposes to authorize a local agency until January 1, 2024 to conduct teleconference meetings under abbreviated conditions without complying with certain requirements of the Ralph M. Brown Act.	Support	<b>Signed by the Governor on September 16, 2021.</b>
AB 1053	Proposes to reduce the quorum requirement to one-third for the Los Angeles County City Selection Committee meetings that are postponed due to lack of quorum.	Watch	Held in Senate Appropriations Committee as a two-year bill.
AB 1581	Makes minor and/or non-substantive changes to the Cortese-Knox-Hertzberg Government Reorganization Act of 2000 and provides consistency in how the CKH Act is applied throughout the State.	Support	<b>Signed by the Governor on June 28, 2021.</b>
SB 55	Proposes to allow development in very high fire hazard zones if there is substantial evidence that the local agency has provided evidence of adopted comprehensive, necessary, and appropriate wildfire preventions to mitigate significant risk of loss, injury, or health.	Oppose Unless Amended	Held in Senate Governance and Finance Committee as a two-year bill.

Status of 2020-21 Proposed Legislation			
Bill	Description	Commission's Adopted Position	Status
SB 273	Proposes to allow municipal wastewater agencies to enter into agreements with agencies primarily engaged in stormwater management without the need for special legislation.	Support	<i>Signed by the Governor on September 23, 2021.</i>
SB 403	Proposes to allow the State Water Resource Board the authority to consolidate public water systems and domestic wells at risk of failing to provide an adequate supply of safe drinking water to a disadvantaged community.	Oppose Unless Amended	<i>Signed by the Governor on September 23, 2021.</i>
SB 274	Proposes to require local agencies and special districts to provide a copy of agendas by email when requested.	Oppose Unless Amended	Passed both Houses of the Legislature on August 30, 2021. <i>Enrolled to Governor.</i>
SB 810, SB 811, SB 812	Yearly Validating Acts are meant to retroactively fix typographical, grammatical, and procedural errors that might invalidate boundary changes or bond issues.	Support	<i>Signed by the Governor on June 28, 2021.</i>

**Preview of 2021-2022 Legislation**

As many bills introduced during last session became two-year bills, the 2021-22 Legislative Session is expected to include legislation that may directly or indirectly impact LAFCOs. Additionally, the CALAFCO Legislative Committee has identified the following legislative priorities for the next session:

- Annual Omnibus Bill (Co-sponsored by CALAFCO).
- Revisions to the protest provisions within the CKH Act to improve clarity and provide consistency within the conducting authority proceedings.
- Clarify the provision that provides LAFCO's authority involving the extension of services by an agency outside its jurisdictional boundary (Govt. Code §56133. This effort is currently being led by the San Diego LAFCO.

The Committee's recommendation of these priorities will be considered by the CALAFCO Board at their next meeting on October 8. The Board will also review amendments of the Association's legislative policies and committee guidelines. Both are key in assisting the Board and Legislative Committee in establishing legislative priorities and considering proposed legislation impacting LAFCOs.

### **CALAFCO Legislative Committees**

Prior to the start of a new legislative session, the CALAFCO Board of Directors appoints members of the CALAFCO Legislative Committee. The Committee's structure includes: five board directors, eight LAFCO staff members, three LAFCO legal counsels, and five additional staff that serve as alternates. The Board also appoints members to the CALAFCO Legislative Advisory Committee that consists of staff and legal counsel volunteers. Members of the advisory committee are not voting members and serve in an advisory role to the Legislative Committee. The Board will consider the committee appointments at their next meeting on October 8. If approved, the following staff members will represent the Southern Region for the 2021-22 legislative session.

**Carolyn Emery, Executive Officer - Orange LAFCO (voting member)**

Gary Thompson, Executive Officer - Riverside LAFCO (voting member)

Paula Graf, Senior Analyst - Imperial LAFCO (alternate member)

Crystal Craig, Assistant Executive Officer - Riverside LAFCO (advisory committee)

Priscilla Allen, Local Government Analyst - San Diego LAFCO (advisory committee)

**Luis Tapia, Policy Analyst - Orange LAFCO (advisory committee)**

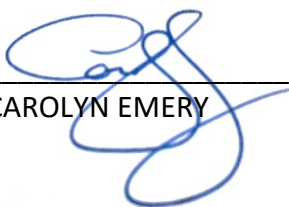
The next legislative report is scheduled for January 12, 2022.

### **RECOMMENDED ACTION**

Staff recommends that the Commission:

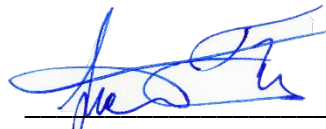
1. Receive and file the First Quarter Legislative Report.

Respectfully Submitted,



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CAROLYN EMERY



---

LUIS TAPIA

## 7a | Public Hearing

October 13, 2021

### REGULAR MEMBERS

CHAIR

**Douglass Davert**  
Special District Member

VICE CHAIR

**Donald P. Wagner**  
County Member

IMMEDIATE PAST CHAIR

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**Lou Penrose**  
Public Member

### STAFF

**Carolyn Emery**  
Executive Officer

**Scott Smith**  
General Counsel

**TO:** Local Agency Formation Commission  
of Orange County

**FROM:** Executive Officer  
Assistant Executive Officer

**SUBJECT:** Proposed "Santa Ana River Reorganization – Area 2A (RO 21-04)"

### BACKGROUND

The Local Agency Formation Commission of Orange County (LAFCO) will consider a reorganization application filed by the City of Anaheim to annex territory consisting of approximately 0.35 acres and detachment of the same territory from the City of Orange and the Municipal Water District of Orange County (MWDOC). Staff recommends approval of the reorganization and respective amendments to the agencies' spheres of influence.

The following sections of this staff report provides additional background on the application and staff's analysis of the proposal.

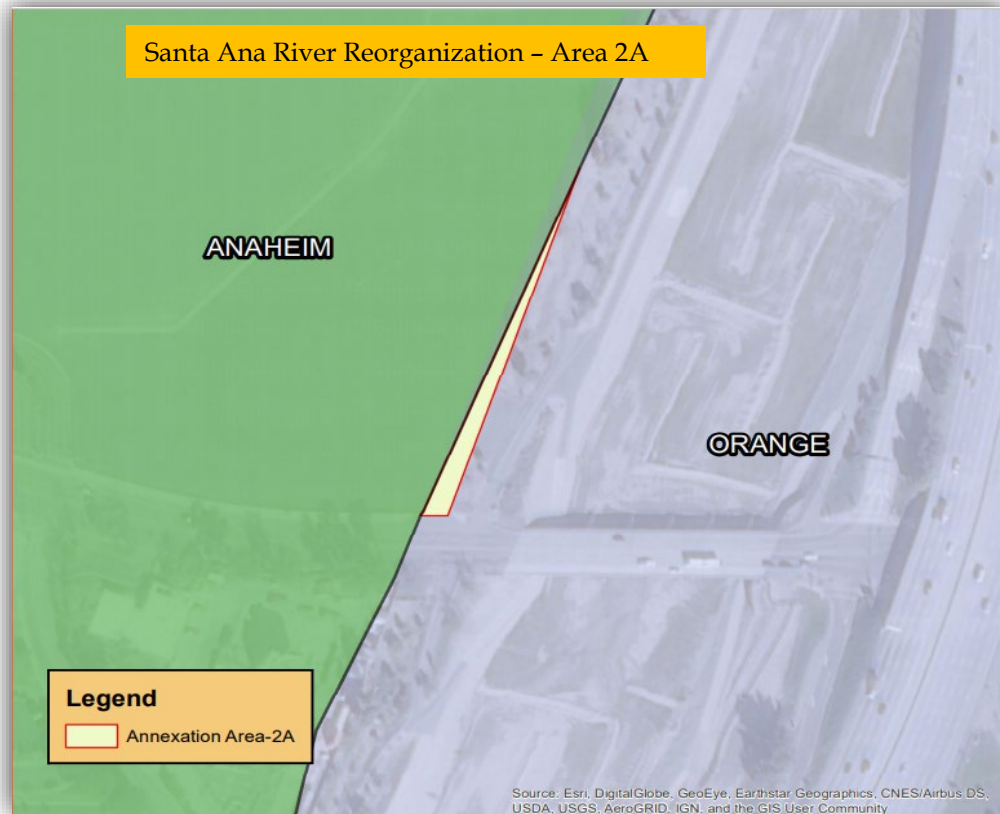
### PROJECT APPLICATION

The City of Anaheim has filed an application with LAFCO for the following: (1) annexation of approximately 0.35 acres, (2) detachment of the same territory from the City of Orange and MWDOC, and (3) concurrent amendments to the respective agencies' spheres of influence. The subject territory includes a portion of an existing parking lot currently located in the City of Orange. If the subject territory is annexed to the City of Anaheim, the new boundary would facilitate a more logical boundary bordered by the two cities and efficient delivery of municipal services.

### *Location and Land Use*

The subject territory, depicted on the next page, is generally located north of Orangewood Avenue and west of the Santa Ana River Trail. To the east and south of the subject territory is the City of Orange, and to the west and north is the City of Anaheim. Current land use includes a portion of an existing parking lot, and the territory is designated in the City of Anaheim's General Plan as Mixed-Use Urban Core. Surrounding land use designations include Mixed-Use Urban Core and Open Space. Consistent with its General Plan, the City has pre-zoned the

subject territory as Mixed-Use and the area will continue as a parking lot. A vicinity map of the proposed detachment is also shown in Exhibit B.



## DISCUSSION

The primary purpose of the proposed reorganization is to realign the shared jurisdictional boundary of the Cities of Anaheim and Orange so that the entire parking lot is located under one jurisdiction allowing for a more efficient delivery of municipal services and land use planning within the area. Currently, the boundary divides the parking lot area between the two jurisdictions. Additionally, the subject territory is within the boundary of MWDOC. MWDOC was formed to provide Metropolitan Water District of Southern California (MWD) water service to those areas of Orange County not covered by existing MWD member agencies. The City of Anaheim is an original MWD member agency in Orange County. As the service areas for MWD member agencies cannot overlap, annexation of the territory to the City of Anaheim requires the territory to be detached from MWDOC.

### Analysis

Over the last several years, the Cities of Anaheim and Orange have engaged in discussions regarding the illogical boundary that transects parcels located within both cities. In 2020, the City of Anaheim began discussions with LAFCO staff on the boundary issue and potential reorganizing of the affected territory that would result in more logical and efficient municipal boundaries and services. Subsequent to those discussions, the City submitted applications to LAFCO for the reorganization of multiple areas, including the subject territory. The proposed territory includes a portion of an existing parking lot located within the City of Orange. The remaining and majority of the parking lot is located within the City of Anaheim and is adjacent to the Angel Stadium. Reorganization of the subject area would allow for the City of Anaheim to provide key municipal services that

include planning, public safety, and local water and sewer to the entire parcel, and the change in boundary would result in a more logical boundary between the cities.

The table below depicts the existing and future service providers if the reorganization is approved by the Commission.

Table A- Proposed Santa Ana River – Area 2A Detachment – Municipal Services		
Service	Provider (Existing)	Provider (Upon reorganization)
Animal Control	County of Orange	County of Orange
Fire Protection	City of Orange	City of Anaheim
Library Service	City of Orange	City of Anaheim
Parks & Recreation	City of Orange	City of Anaheim
Planning	City of Orange	City of Anaheim
Police Service	City of Orange	City of Anaheim
Local Water/Wastewater	City of Orange	City of Anaheim
Wholesale Water	MWDOC (through MWD)	City of Anaheim (through MWD)
<b>Regional Providers (No Change)</b>		
Orange County Water District ( <i>groundwater management</i> )		
Orange County Cemetery District ( <i>countywide public cemetery</i> )		
Orange County Sanitation District ( <i>regional wastewater</i> )		
Orange County Mosquito and Vector Control District ( <i>countywide vector control</i> )		

Additionally, State law requires the Commission to review and consider several factors for the application. The details of those factors are presented in **Attachment 1**.

**Other Statutory Requirements**

Exchange of Property Tax Revenues

California Revenue and Taxation Code Section 99 (Tax Code) requires the City and County to adopt property tax resolutions for proposed changes of organization and reorganization. The Cities of Anaheim and Orange adopted similar property tax exchange resolutions on August 10, 2021, agreeing that Anaheim will receive 100% of the applicable property tax revenue upon the effective date of the reorganization. In accordance with the Tax Code, the Orange County Board of Supervisors is required to negotiate the transfer of property tax revenues on behalf of special districts for changes of organizations or reorganizations. The Board of Supervisors adopted the property tax exchange resolution on behalf of MWDOC on September 28, 2021. The County and MWDOC agreed that no property tax revenues would be exchanged because MWDOC does not receive property tax revenues from the subject territory.

Environmental Review

On May 18, 2021, the City of Anaheim, as the lead agency under the California Environmental Quality Act (CEQA), filed a Notice of Exemption. As a responsible agency, the Commission will review the environmental documentation prepared by the City in its consideration of the proposed reorganization. A Notice of Exemption is included within this report for the Commission’s review.



Protest Proceedings

In accordance with Government Code Section 56662, the Commission may waive the protest proceedings for the proposed reorganization. The waiver of protest proceedings appropriately applies under this statute as the subject territory is uninhabited, the affected agencies have not filed objections to the waiver, and the landowner has consented to the proposed reorganization.

**RECOMMENDED ACTIONS**

Staff recommends that the Commission take the following actions:

1. Confirm that the Commission has reviewed and considered the information contained within the Notice of Exemption prepared by the City of Anaheim as the lead agency.
2. As a responsible agency, direct the Executive Officer to file the Notice of Exemption for the "Santa Ana River Reorganization – Area 2A (RO 21-04)" with the Orange County Clerk Recorder. (Exhibit A)
3. Adopt LAFCO Resolution No. RO 21-04 approving the "Santa Ana River Reorganization – Area 2A." (Attachment 2)
4. Waive protest proceedings for the "Santa Ana River Reorganization – Area 2A (RO 21-04)" in accordance with Government Code Section 56662.

Respectfully Submitted,

  
\_\_\_\_\_  
CAROLYN EMERY

  
\_\_\_\_\_  
RAYMOND BARRAGAN

Attachments:

1. 56668 Factors Considered by the Commission
2. LAFCO Resolution No. RO 21-04



**FACTORS CONSIDERED IN REVIEW OF PROPOSAL**

**I. Population and Population Density, Land Area and Land Use, and Assessed Valuation**

- The subject territory is currently uninhabited.
- The land use designation for the proposed 0.35-acre reorganization area is identified as Open Space in the City of Orange General Plan.
- The land use designation for the proposed reorganization area within City of Anaheim’s General Plan is Mixed Use Urban Core and pre-zoned as Platinum Triangle Mixed Use Overlay Zone within the Public Recreational Zone and the Platinum Triangle Mixed Use Overlay Zone.
- The subject territory is located generally north of Orangewood Drive and west of the Santa Ana River trail in the City of Orange.
- The subject territory is within Tax Rate Area 08-002.
- The total assessed valuation for the subject territory is \$1,330.

**II. Organized Community Services, Present Cost and Adequacy, and Future Needs of Governmental Services, and Probable effect of the proposed annexation**

- As the reorganization area is uninhabited and proposed for continued open space use, staff has not identified a need for additional organized community services within the proposed subject territory.
- The subject territory is within the City of Orange, which is currently responsible for the delivery of most municipal services to the area.
- The property does not currently require significant municipal service needs.
- The City of Anaheim is a full-service city capable of efficiently extending municipal services to the area.
- If the Commission approves the proposed reorganization, the entire parking lot will be placed under the City of Anaheim’s jurisdiction and will receive adequate municipal services from the City. See Table A below for the existing and proposed service providers for the subject territory upon approval of the reorganization.

<b>Table A- Proposed Santa Ana River - Area 2A Detachment - Municipal Services</b>		
<b>Service</b>	<b>Provider (Existing)</b>	<b>Provider (Upon reorganization)</b>
<b>Animal Control</b>	County of Orange	County of Orange
<b>Fire Protection</b>	City of Orange	City of Anaheim
<b>Library Service</b>	City of Orange	City of Anaheim
<b>Parks &amp; Recreation</b>	City of Orange	City of Anaheim
<b>Planning</b>	City of Orange	City of Anaheim
<b>Police Service</b>	City of Orange	City of Anaheim
<b>Local Water/Wastewater</b>	City of Orange	City of Anaheim
<b>Wholesale Water</b>	MWDOC (through MWD)	City of Anaheim (through MWD)
<b><u>Regional Providers (No Change)</u></b>		
Orange County Water District ( <i>groundwater management</i> )		
Orange County Cemetery District ( <i>countywide public cemetery</i> )		
Orange County Sanitation District ( <i>regional wastewater</i> )		
Orange County Mosquito and Vector Control ( <i>countywide vector control</i> )		

- III. Effect on Adjacent Areas, Mutual Social and Economic Interests, Local Government Structure**  
 Government Code § 56375 (a)(1) Allows the Commission the authority to “review and approve or disapprove with or without amendment, wholly, partially, or conditionally, proposals for changes of organization or reorganization, consistent with written policies, procedures, and guidelines adopted by the commission”
- Approval of the proposed reorganization will not have an effect on adjacent areas, mutual social and economic interests, and local government structure. The proposed reorganization will result in a more logical boundary and efficient delivery of municipal services.
- IV. The conformity of both the proposal and its anticipated effects with both the adopted Commission policies on providing planned, orderly, efficient patterns of urban development, and the policies and priorities set forth in Government Code Section 56377**
- If the reorganization is approved, the subject territory’s land use would be consistent with the City of Anaheim’s General Plan land use designation and zoning.
  - The proposed reorganization was processed in accordance with Commission policies and procedures and is consistent with the priorities set forth in Government Code Section 56377.
- V. Effect on maintaining the physical and economic integrity of agricultural lands**
- No agricultural land is contained within or adjacent to the proposed subject territory.
- VI. The definiteness and certainty of the boundaries of the territory, the nonconformance of proposed boundaries with lines of assessment or ownership, the creation of islands or corridors of unincorporated territory, and other similar matters affecting the proposed boundaries**
- The proposed reorganization conforms with lines of assessment and ownership within the subject territory and does not create any islands or corridors of unincorporated territory.
- VII. Regional Transportation Plan (RTP) adopted and consistency with city or county general and specific plans**
- The proposed reorganization is consistent with the City of Anaheim’s General Plan and will not impact the Regional Transportation Plan and Sustainable Communities Strategy that has been adopted for the region by the Southern California Association of Governments.
- VIII. Sphere of Influence of Local Agencies**
- The proposed reorganization includes the concurrent amendments to the Cities of Anaheim and Orange and the Municipal Water District of Orange County’s spheres of influence. Pursuant to Government Code Section 56425, Statements of Determinations were prepared for each agency.
  - In accordance with Government Code 56427, the Executive Officer provided mailed notice of the hearing to each affected local agency and published in the local newspaper notifying the proposed sphere of influence amendments.
- IX. Comments from Affected Agencies and/or other public agency**  
 On August 12, 2021, all affected agencies were notified of the proposal. At the end of the comment period, September 2, 2021, no comments on the proposed reorganization were received.

- X. **Ability of newly formed or receiving entity to provide services to proposal area and sufficiency of revenues for those services**
- The City of Anaheim has sufficient revenues and can provide adequate municipal services to the subject territory.
- XI. **Timely availability of water supplies adequate for projected needs as specified in Government Code Section 65352.5**
- The reorganization of the subject territory will not interrupt or alter the current service provision and the availability of water supplies as specified in Government Code Section 65352.5. The City of Orange is the current retail water provider within the affected territory. Wholesale water is currently provided by the Municipal Water District of Orange County. Upon reorganization, the provider of retail water service would change to the City of Anaheim and the City would also provide wholesale water through Metropolitan Water District of Southern California. The City of Anaheim can adequately provide these services to the affected territory.
- XII. **Extent to which the proposal will affect a city(ies) and the County in achieving their respective fair shares of the regional housing needs**
- There were no comments received from the City of Orange or Anaheim regarding the extent to which the proposal will affect their respective allocation of the regional housing needs.
- XIII. **Information or Comments from landowners, voters, or residents within affected territory.**
- The proposed reorganization territory is uninhabited.
  - The reorganization area includes one parcel owned by the City of Anaheim. As the proposal applicant, the City has consented to the reorganization.
  - In accordance with Government Code 56157, the Executive Officer gave mailed notice of the hearing to landowners, voters, or residents within 300 feet of the affected territory and published in the local newspaper notifying the proposed project. To date, no comments were received.
- XIV. **Information relating to existing land use designations.**
- The land use designation for the proposed 0.35-acre reorganization is identified as Open Space in the City of Orange General Plan.
  - The land use designation for the proposed reorganization area within City of Anaheim's General Plan is Mixed Use Urban Core and pre-zoned as Platinum Triangle Mixed Use Overlay Zone within the Public Recreational Zone and the Platinum Triangle Mixed Use Overlay Zone. The General Plan land use designation is consistent with the pre-zoning
- XV. **The extent to which the proposal will promote environmental justice. As used in this subdivision, "environmental justice" means the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services.**
- The proposed reorganization will not affect environmental justice as it relates to the fair treatment of people of all races, cultures, and incomes with respect to the location of public facilities and the provision of public services. The subject territory will receive the same level of public services.

**XVI. Information contained in a local hazard mitigation plan, information contained in safety element of a general plan, and any maps that identify land as very high fire hazard zone pursuant to Section 51178 or maps that identify land determined to be in a state responsibility area pursuant to 4102 of the Public Resources Code.**

- Government Code Section 51178 requires the California Department of Forestry and Fire Protection (CAL FIRE) to identify "very high fire hazard severity zones" using consistent statewide criteria. The City of Anaheim has adopted the very high fire hazard Severity Zones Map and does not identify the subject territory to be within a very high fire hazard severity zone.

RO 21-04

RESOLUTION OF THE LOCAL AGENCY  
FORMATION COMMISSION OF ORANGE COUNTY, CALIFORNIA  
MAKING DETERMINATIONS AND APPROVING THE  
"SANTA ANA RIVER REORGANIZATION - AREA 2A (RO 21-04)"  
October 13, 2021

On motion of Commissioner \_\_\_\_\_, duly seconded and carried, the following resolution was adopted:

WHEREAS, the proposed reorganization, designated as "Santa Ana River Reorganization - Area 2A (RO 21-04)," ("the Project") was hereto filed with and accepted for filing on October 4, 2021 by the Executive Officer of the Local Agency Formation Commission of Orange County ("LAFCO" of "Commission") pursuant to Title 5, Division 3, commencing with Section 56000 et seq. of the Government Code; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56658 set October 13, 2021 as the hearing date of this proposal; and

WHEREAS, the Executive Officer, pursuant to Government Code Section 56665 has reviewed this proposal and prepared a report including her recommendations therein and has furnished a copy of this report to each person entitled to a copy; and

WHEREAS, the proposal consists of the annexation of approximately 0.35 acres to the City of Anaheim and detachment of the same territory from the City of Orange and the Municipal Water District of Orange County, and concurrent amendments of the respective agencies' spheres of influence; and

WHEREAS, LAFCO has been asked to approve the "Santa Ana River Reorganization - Area 2A (RO 21-04)"; and

WHEREAS, the City of Anaheim served as lead agency for the environmental review, analysis, and approval of the Project pursuant to the requirements of the

## ATTACHMENT 2

California Environmental Quality Act (Public Resources Code Section 21000 et seq.) and the State CEQA Guidelines (14 Cal. Code Regs., §15000 et seq.) (“CEQA”); and

WHEREAS, pursuant to CEQA, on May 18, 2021, the City of Anaheim found the Project exempt from CEQA and filed a Notice of Exemption (“NOE”) for the Project with the Orange County Clerk-Recorder; and

WHEREAS, LAFCO has been asked to approve: 1) the annexation of approximately 0.35 acres to the City of Anaheim, and 2) detachment of the same territory from the City of Orange and the Municipal Water District of Orange County (MWDOC), and 3) sphere amendments of the same territory for the Cities of Orange, Anaheim and the MWDOC; and

WHEREAS, this Commission on October 13, 2021 considered the proposal and the report of the Executive Officer, and considered all the factors determined by the Commission to be relevant to this proposal, including, but not limited to, factors specified in Government Code Section 56668; and

WHEREAS, this Commission called for and held a public hearing on the proposal on October 13, 2021, and at the hearing, this Commission heard and received all oral and written protests, objections and evidence which were made, presented or filed, and all persons present were given an opportunity to hear and be heard with respect to this proposal and the report of the Executive Officer; and

WHEREAS, LAFCO is thus a “responsible agency” for the Project under CEQA because it has limited approval and implemental authority over the Project; and

WHEREAS, LAFCO, at its agendized public meeting on October 13, 2021, independently reviewed and considered the Project and all related documents in the record before it; and

WHEREAS, as contained herein, LAFCO has endeavored in good faith to set forth the basis for its decision on the Project; and

WHEREAS, all of the findings and conclusions made by LAFCO pursuant to this Resolution are based upon the oral and written evidence presented to it as a whole and not based solely on the information provided in this Resolution; and

Resolution (RO 21-04)

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, LAFCO does hereby resolve as follows:

Section 1. LAFCO Findings.

The Project is found to be uninhabited, located with the City of Orange and is assigned the following distinctive short-form designation, "Santa Ana River Reorganization - Area 2A." The proposal consists of the annexation of approximately 0.35 acres to the City of Anaheim, detachment of the same territory from the City of Orange and MWDOC and concurrent sphere of influence amendments to the respective agencies. The Statements of Determinations and amended sphere of influence maps are shown as Exhibits C1, C2, and C3.

Section 2. Compliance with the California Environmental Quality Act.

As the decision-making body for LAFCO, and in LAFCO's limited role as a responsible agency under CEQA, the Commission has reviewed and considered the Project and all supporting documentation as more particularly set forth in the City of Anaheim Resolution No. 2021-046, the findings of which, together with its supporting documentation, are incorporated herein by this reference. Based on this review, the Commission concurs with the City of Anaheim's conclusion that the Project is exempt from CEQA, as set forth in greater detail in the City of Anaheim's NOE, that was filed with the Orange County Clerk-Recorder on May 19, 2021. Specifically, the Commission finds that the Project is categorically exempt from CEQA under the Class 1 exemption set forth in State CEQA Guidelines section 15301, Existing Facilities. The Commission additionally finds that the Project is exempt from CEQA under the common sense exemption set forth in State CEQA Guidelines section 15061, subdivision (b)(3) as it can be seen with certainty that there is no possibility that the Project may have a significant

effect on the environment. The Project will not result in any construction or development of new infrastructure. Rather, the Project is comprised of administrative action (i.e., government reorganization and administrative boundary changes) that would not result in either a direct, or reasonably foreseeable indirect, physical change in the environment.

Section 3. The proposal is approved subject to the following terms and conditions:

- a) Payment by the applicant of State Board of Equalization fees is a condition of approval.
- b) As a condition of approval, the applicant agrees to defend, hold harmless and indemnify LAFCO and/or its agents, officers and employees from any claim, action or proceeding against LAFCO and/or its agents, officers and employees to attack, set aside, void or annul the approval of LAFCO concerning this proposal or any action relating to or arising out of such approval.
- c) The effective date shall be the date of recordation of the LAFCO Certificate of Completion.

Section 4. Notice of Exemption.

The Commission directs staff to file a Notice of Exemption with the Orange County Clerk-Recorder within five working days of adoption of this Resolution.

Section 5. Conducting Authority Proceedings.

The Commission shall waive the protest proceedings for the proposed reorganization in accordance with Government Code Section 56662. The waiver of protest proceedings appropriately applies under this statute as the subject territory is uninhabited, the affected agencies have not filed objections to the waiver, and the landowner has consented to the proposed reorganization.





**ATTACHMENT 2**

I, Douglass Davert, Chair of the Local Agency Formation Commission of Orange County, California, hereby certify that the above and foregoing resolution was duly and regularly adopted by said Commission at a regular meeting thereof, held on the 13<sup>th</sup> day of October 2021.

IN WITNESS WHEREOF, I have hereunto set my hand this 13<sup>th</sup> day of October 2021.

DOUGLASS DAVERT  
Chair of the Orange County  
Local Agency Formation Commission

By: \_\_\_\_\_  
DOUGLASS DAVERT

**NOTICE OF EXEMPTION**

<p>TO:</p> <p><input type="checkbox"/> Office of Planning and Research P. O. Box 3044, Room 113 Sacramento, CA 95812-3044</p>	<p>FROM: Local Agency Formation Commission of Orange County (<b>Responsible Agency</b>) (Public Agency)</p>
<p><input checked="" type="checkbox"/> Clerk of the Board of Supervisors or County Clerk County of: Orange Address: 211 W. Santa Ana Blvd. Santa Ana, CA 92701</p>	<p>Address 2677 North Main Street Suite 1050 Santa Ana, CA 92705</p>

1. Project Title:	“Santa Ana River Reorganization – Area 2A” (RO21-04)
2. Project Applicant:	City of Anaheim 200 S. Anaheim Blvd., Anaheim, CA 92805
3. Project Location – Identify street address and cross streets or attach a map showing project site (preferably a USGS 15’ or 7 1/2’ topographical map identified by quadrangle name):	The project is located within the City of Orange’s jurisdictional boundary, north of Orangewood Avenue and west of the Santa Ana River Trail. To the east and south of the subject territory is the City of Orange, and to the west and north is the City of Anaheim.  (see map attached)
4. (a) Project Location – City	City of Orange
(b) Project Location – County	Orange
5. Description of nature, purpose, and beneficiaries of Project:	The project involves the annexation of a 0.35-acre territory to the City of Anaheim, detachment of the same territory from the City of Orange and the Municipal Water District of Orange County (MWDOC), and concurrent amendments to the cities and MWDOC’s spheres of influence.
6. Name of Public Agency approving project:	Local Agency Formation Commission of Orange County (LAFCO)
7. Name of Person or Agency undertaking the project, including any person undertaking an activity that receives financial assistance from the Public Agency as part of the activity or the person receiving a lease, permit, license, certificate, or other entitlement of use from the Public Agency as part of the activity:	City of Anaheim
8. Exempt status: (check one)	
(a) <input type="checkbox"/> Ministerial project.	(Pub. Res. Code § 21080(b)(1); State CEQA Guidelines § 15268)
(b) <input type="checkbox"/> Not a project.	
(c) <input type="checkbox"/> Emergency Project.	(Pub. Res. Code § 21080(b)(4); State CEQA Guidelines §

Exhibit A

		15269(b),(c)
(d)	<input checked="" type="checkbox"/>	Categorical Exemption. State type and section number: Existing Facilities Class 1 § 15301
(e)	<input type="checkbox"/>	Declared Emergency. (Pub. Res. Code § 21080(b)(3); State CEQA Guidelines § 15269(a))
(f)	<input type="checkbox"/>	Statutory Exemption. State Code section number: CEQA Guidelines §15262 (Feasibility and Planning Studies)
(g)	<input type="checkbox"/>	Other. Explanation:
9.	Reason why project was exempt:	The effects of the subject project will not result in any construction or development of new infrastructure, and the project is comprised of administrative action of Existing Facilities (i.e., government reorganization and administrative boundary changes) that would not result in either a direct, or reasonably foreseeable indirect, physical change in the environment.
10.	Lead Agency Contact Person:	Carlos Castellanos, City Engineer, City of Anaheim
	Telephone:	(714) 765-5066
11.	If filed by applicant: Attach Preliminary Exemption Assessment (Form "A") before filing.	
12.	Has a Notice of Exemption been filed by the public agency approving the project? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
13.	Was a public hearing held by the Lead Agency to consider the exemption? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If yes, the date of the public hearing was: May 18, 2021	

Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Title: Executive Officer

Name:

Signed by Responsible Agency       Signed by Applicant

Date Received for Filing: \_\_\_\_\_

(Clerk Stamp Here)

Authority cited: Sections 21083 and 21110, Public Resources Code.  
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.



**ANAHEIM**

**ORANGE**

**Legend**

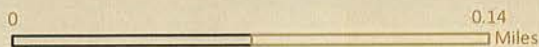
 Annexation Area-2A

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community



**Santa Ana River Reorganization-Area 2A  
RO 21-04**

Vicinity Map



**STATEMENT OF DETERMINATIONS  
SANTA ANA RIVER REORGANIZATION - AREA 2A (RO 21-04)  
SPHERE OF INFLUENCE AMENDMENT  
FOR THE CITY OF ANAHEIM**

**Government Code Section 56425**

- 1. The present and planned land uses in the area, including agriculture and open-space lands.**

The subject territory is currently located within the City of Orange, includes a portion of an existing parking lot and is designated as Open Space in the City's General Plan. The proposed land use designation of the subject territory by the City of Anaheim is Mixed-Use Urban Core and the subject territory's planned future use is a parking lot.

The subject territory does not include any agricultural lands.

- 2. The present and probable need for public facilities and services in the area.**

Currently the City of Orange provides key services to the subject territory that include retail water, public safety, planning, and parks and recreation. The Municipal Water District of Orange County (MWDOC) provides wholesale water service to the subject territory. Upon reorganization of the subject territory, the City of Anaheim will provide retail water and wholesale water (through Metropolitan Water District of Southern California) and other key services to the subject territory.

- 3. The present capacity of public facilities and the adequacy of public services which the agency provides or is authorized to provide.**

Amendment to the City of Anaheim's sphere of influence is consistent with annexation of the subject area to the City and detachment of the same territory from the City of Orange and the Municipal Water District of Orange County. As an original member of the MWD, the City of Anaheim will assume the delivery of wholesale water service upon reorganization and has adequate capacity of facilities and services to provide key services within the subject territory.

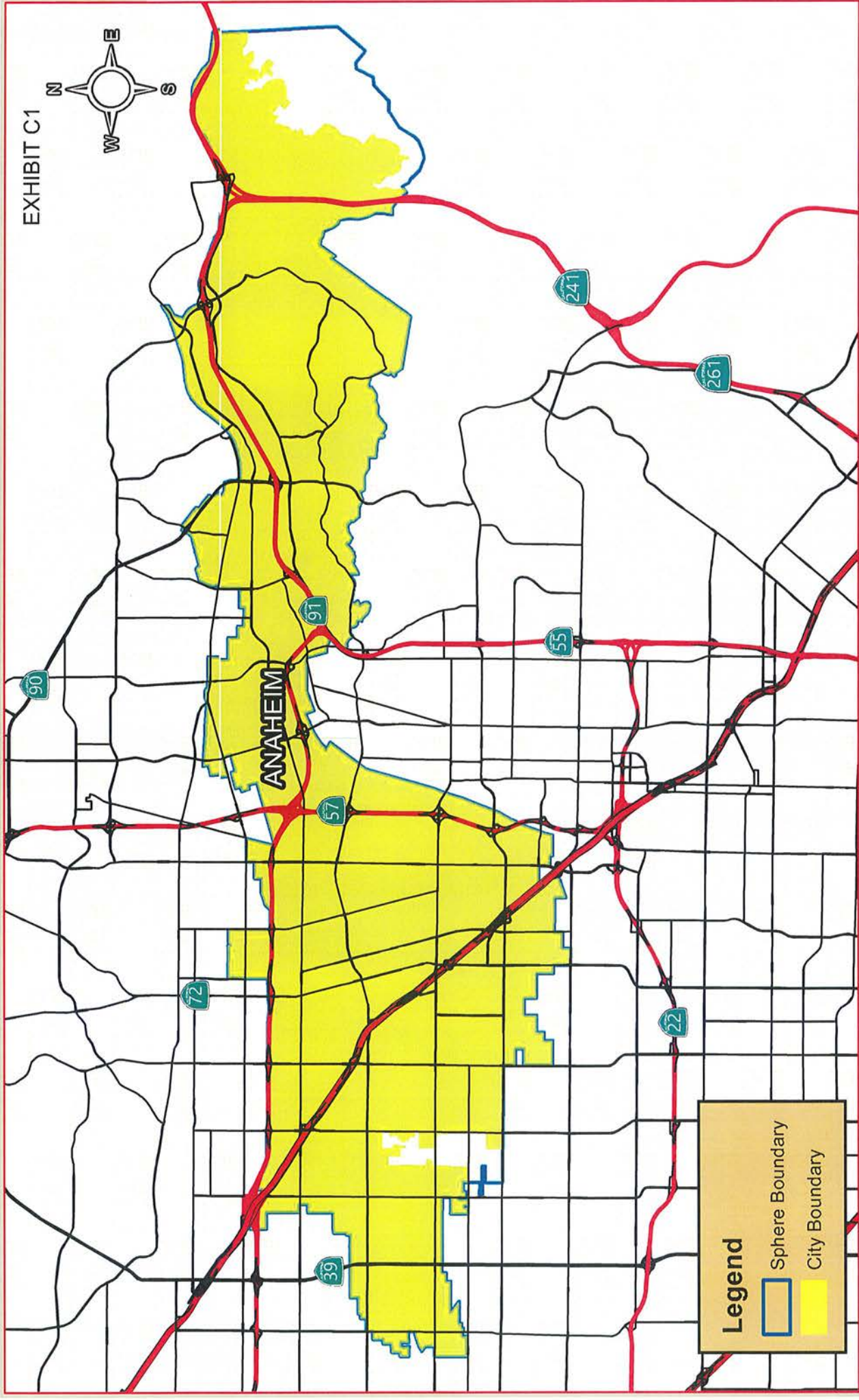
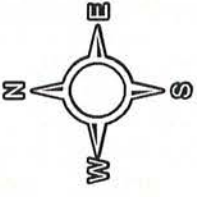
- 4. The existence of any social or economic communities of interest in the area.**

There are no existing social or economic communities in the area.



- 5. The present and probable need for public sewer, municipal and industrial water or structural fire protection facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.**

There are no disadvantaged unincorporated communities within or adjacent to the subject territory.





**Legend**

-  Sphere Boundary
-  City Boundary



City of Anaheim  
Sphere of Influence Map

SOI Originally Adopted: 09/12/1973  
Last Updated: 10/13/2021



**STATEMENT OF DETERMINATIONS  
SANTA ANA RIVER REORGANIZATION - AREA 2A (RO 21-04)  
SPHERE OF INFLUENCE AMENDMENT  
FOR THE MUNICIPAL WATER DISTRICT OF ORANGE COUNTY**

**Government Code Section 56425**

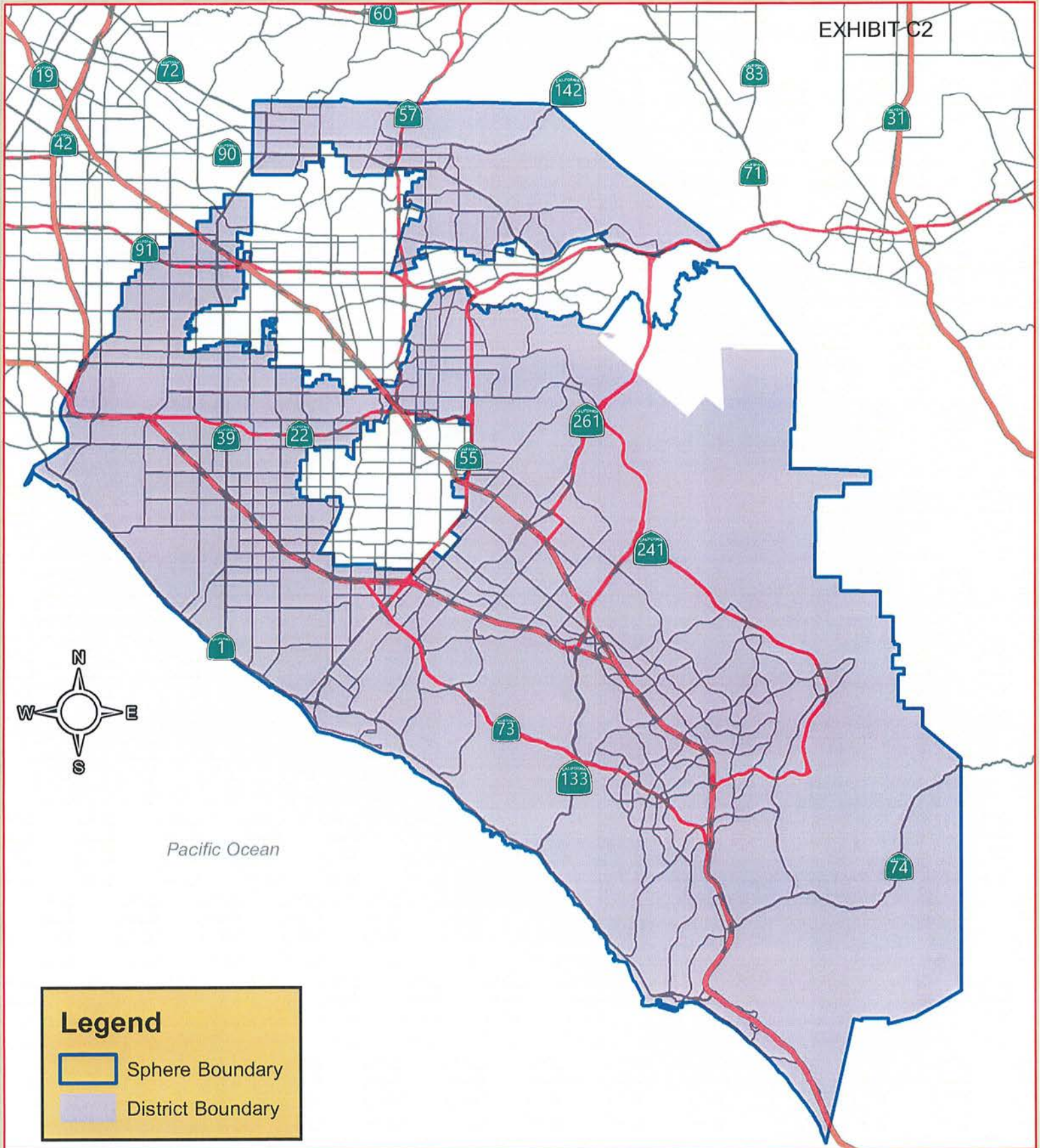
- 1. The present and planned land uses in the area, including agriculture and open-space lands.**

The subject territory is currently located within the City of Orange, includes a portion of an existing parking lot and is designated as Open Space in the City's General Plan. The proposed land use designation of the subject territory by the City of Anaheim is Mixed-Use Urban Core and the subject territory's planned future use is a parking lot.



The subject territory does not include any agricultural lands.

- 2. The present and probable need for public facilities and services in the area.**  
Currently the City of Orange provides key services to the subject territory that include retail water, public safety, planning, and parks and recreation. The Municipal Water District of Orange County (MWDOC) provides wholesale water service to the subject territory. Upon reorganization of the subject territory, the City of Anaheim will provide retail water and wholesale water (through Metropolitan Water District of Southern California) and other key services to the subject territory.
- 3. The present capacity of public facilities and the adequacy of public services which the agency provides or is authorized to provide.**  
Amendment to the MWDOC sphere of influence is consistent with the annexation of the subject territory to the City of Anaheim and detachment of the subject territory from the City of Orange. As an original member of the MWD, the City of Anaheim will assume the delivery of wholesale water service upon reorganization and has adequate capacity of facilities and services to provide key services within the subject territory.
- 4. The existence of any social or economic communities of interest in the area.**  
There are no existing social or economic communities in the area.
- 5. The present and probable need for public sewer, municipal and industrial water or structural fire protection facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.**  
There are no disadvantaged unincorporated communities within or adjacent to the subject territory.





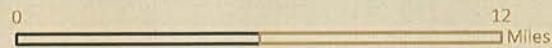
**Legend**

-  Sphere Boundary
-  District Boundary



Municipal Water District of Orange County  
Sphere of Influence Map

SOI Originally Adopted: 11/05/1984  
Last Updated: 10/13/2021



**STATEMENT OF DETERMINATIONS  
SANTA ANA RIVER REORGANIZATION - AREA 2A (RO 21-04)  
SPHERE OF INFLUENCE AMENDMENT  
FOR THE CITY OF ORANGE**

**Government Code Section 56425**

- 1. The present and planned land uses in the area, including agriculture and open-space lands.**

The subject territory is currently located within the City of Orange, includes a portion of an existing parking lot and is designated as Open Space in the City's General Plan. The proposed land use designation of the subject territory by the City of Anaheim is Mixed-Use Urban Core and the subject territory's planned future use is a parking lot.

The subject territory does not include any agricultural lands.

- 2. The present and probable need for public facilities and services in the area.**

Currently the City of Orange provides key services to the subject territory that include retail water, public safety, planning, and parks and recreation. The Municipal Water District of Orange County (MWDOC) provides wholesale water service to the subject territory. Upon reorganization of the subject territory, the City of Anaheim will provide retail water and wholesale water (through Metropolitan Water District of Southern California) and other key services to the subject territory.

- 3. The present capacity of public facilities and the adequacy of public services which the agency provides or is authorized to provide.**

Amendment to the City of Orange sphere of influence is consistent with annexation of the subject area to the City of Anaheim, and detachment of the same territory from the City of Orange and the Municipal Water District of Orange County. As an original member of the Metropolitan Water District of Southern California, the City of Anaheim will assume the delivery of wholesale water service upon reorganization and has adequate capacity of facilities and services to provide key services within the subject territory.

- 4. The existence of any social or economic communities of interest in the area.**

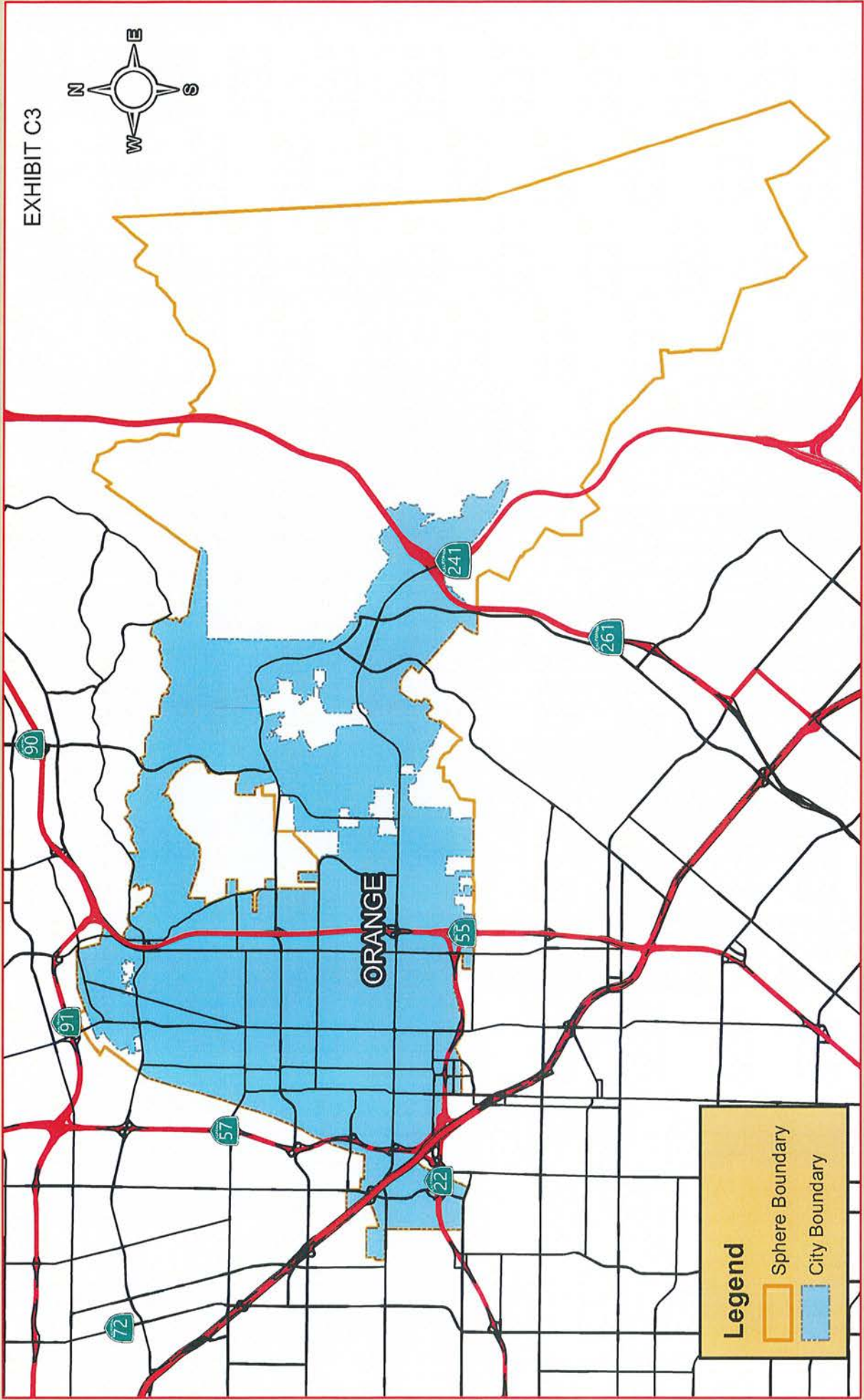
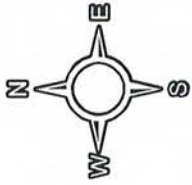
There are no existing social or economic communities in the area.

- 5. The present and probable need for public sewer, municipal and industrial water or structural fire protection facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.**

There are no disadvantaged unincorporated communities within or adjacent to the subject territory.

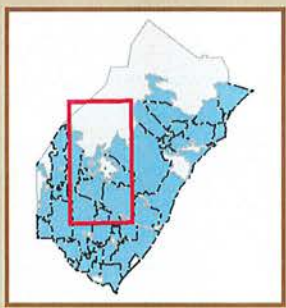


EXHIBIT C3



**Legend**

-  Sphere Boundary
-  City Boundary



City of Orange  
Sphere of Influence Map

SOI Originally Adopted : 03/14/1973  
Last Updated: 10/13/2021



## REGULAR MEMBERS

CHAIR

**Douglas Davert**  
Special District Member

VICE CHAIR

**Donald P. Wagner**  
County Member

IMMEDIATE PAST CHAIR

**Derek J. McGregor**  
Public Member

**Lisa Bartlett**  
County Member

**Wendy Bucknum**  
City Member

**James Fislér**  
Special District Member

**Mike Posey**  
City Member

## ALTERNATES

**Katrina Foley**  
County Member

**Kathryn Freshley**  
Special District Member

**Peggy Huang**  
City Member

**Lou Penrose**  
Public Member

## STAFF

**Carolyn Emery**  
Executive Officer

**Scott Smith**  
General Counsel

October 13, 2021

**8a** | Commission  
Discussion

**TO:** Local Agency Formation Commission  
of Orange County

**FROM:** Executive Officer  
Accountant

**SUBJECT:** Section 115 Public Agencies Post-Employment  
Benefits Trust

## BACKGROUND

Orange County LAFCO has been an independent member of the Orange County Employees Retirement System (OCERS) since July 1, 2001. As an independent member, the Commission currently participates in two retirement plans offered through OCERS. During the budget preparation cycle for Fiscal Year 2021-2022, staff began exploring options for the agency to address long-term pension liability and costs, including the Commission's unfunded pension liability of approximately \$1.25 million as of December 31, 2020.

Staff recommends that the Commission adopt the trust and administrative agreements with the Public Agency Retirement Services (PARS) and related amendments to the LAFCO accounting and financial policies. This report provides additional information to assist the Commission in its consideration of this item.

## DISCUSSION

### *Pension Trust Benefits*

Establishing a Section 115 Public Agencies Post-Employment Benefits Trust is a tool used by public agencies to earn investment revenue that may not otherwise be earned inside the agency's regular investment policy. The earnings realized can be used to contribute to the payment of pension obligations and lowering of the agency's overall net pension expenses.

LAFCO's financial obligations involving pension costs are a certainty each year and are allocated annually within the agency's General Fund. By establishing a benefits trust, the Commission can reserve funds to help absorb future pension cost volatility generated from either market performance fluctuations or changes in actuarial assumptions. The benefits trust would receive pre-funding contributions from the agency and invest those assets into public market securities. The following are some additional benefits of the trust:

- Promotes fiscal responsibility and accountability in addressing long term pension liabilities and costs.
- Allows the use of trust assets to manage growing pension liabilities.
- Allows LAFCO to utilize trust assets to stabilize the funding agencies' apportionment by offsetting unexpected employer contribution rate increases or when net revenues are impaired by other fiscal conditions.
- Allows LAFCO the flexibility to access trust assets for the reimbursement of employer contribution pension costs.
- Allows LAFCO to directly control contributions to the trust, from both a funding and timing perspective.
- Allows LAFCO to select an asset allocation strategy that matches the agency's tolerance for risk, given the investment time horizon.
- Allows LAFCO greater investment flexibility and risk diversification for assets held in trust compared to the Commission's current general investments (LAIF and the Orange County Investment Pool).

**Establishment of Benefits Trust & PARS Agreement**

For the past several years, due to factors that include practical fiscal management, application fees and salary savings, the Commission has ended respective fiscal years with a budget surplus. During those years, the excess cash net income is added to unreserved cash equity that currently has an approximate balance of \$974,800 as of June 30, 2021. The chart below is a snapshot of the Commission's cash net income over the last three fiscal years. In future years, the Commission may transfer a portion of the cash net income annually to the trust. As an example, the transfer of fifty percent of the cash net income of Fiscal Year 2020-2021 would result in a deposit of \$62,000 to the trust.

	<b>FY 18/19</b>	<b>FY 19/20</b>	<b>FY 20/21</b>
<b>Cash Net Income</b>	\$ 120,350	\$ 82,370	\$ 124,000
<b>Proposed FY 20/21 Contribution</b>			\$ 62,000

Recently, the accounting staff met with PARS to discuss LAFCO's interest in establishing a Section 115 benefits trust. PARS, the leading Pension Trust firm with over 240 agencies, has provided retirement services for nearly 35 years to over a thousand public agencies that have cumulatively saved hundreds of millions of dollars in public resources. If the Commission approves moving forward with establishing a benefits trust, staff has concluded that PARS, whose headquarters is conveniently located in Newport Beach, can provide these services in a cost-effective manner. The services that would be provided by PARS include investment and cost management, GASB compliant financial reporting, and streamlined transfers and reimbursements at low

administrative fees. The agreement with PARS to provide these services to LAFCO is included within this report for Commission consideration.

### ***LAFCO Accounting and Finance Policy***

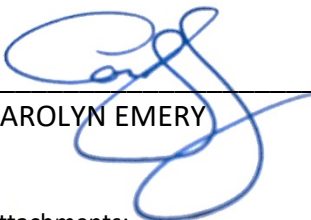
Staff believes establishing a Section 115 benefits trust is a prudent approach to addressing the agency's future pension liabilities and costs and use of the Commission's current cash net income. To establish guidelines for this process, staff has prepared proposed amendments to the "Accounting & Financial Policies of the Orange County Local Agency Formation Commission." Amendments to this policy relative to establishing the benefits trust proposes the transfer of fifty percent of the annual cash net income to the trust and delegation of authority to the Executive Officer or the Executive Officer's designee to administer and request disbursements from the trust. In line with reporting of other investment accounts (LAIF and Orange County Investment Pool), the financial status of the benefits trust, if approved by the Commission, will be provided in the agency's quarterly financial report. For ease of review, the proposed changes are indicated in redline and clean version formats in Attachments 2 and 3, respectively.

### **RECOMMENDED ACTIONS**

Staff recommends that the Commission approve the following actions:

1. Adopt Resolution No. CP 21-07 adopting the Section 115 Benefits Trust and approving the Agreement for Administrative Services with PARS. **(Attachment 1)**
2. Approve amendments to the "Accounting & Financial Policies of the Orange County Local Agency Formation Commission", as amended. **(Attachment 3)**

Respectfully submitted,

  
\_\_\_\_\_  
CAROLYN EMERY

  
\_\_\_\_\_  
CINDY BYERRUM

Attachments:

1. LAFCO Resolution No. CP 21-07
2. LAFCO Accounting and Finance Policies (Redlined)
3. LAFCO Accounting and Finance Policies (As Amended)

**CP 21-07**

**RESOLUTION OF THE LOCAL AGENCY  
FORMATION COMMISSION OF ORANGE COUNTY, CALIFORNIA  
APPROVING THE ADOPTION OF THE  
PUBLIC AGENCIES POST-EMPLOYMENT BENEFITS TRUST  
ADMINISTERED BY PUBLIC AGENCY RETIREMENT SERVICES (PARS)**

**October 13, 2021**

On motion of Commissioner \_\_\_\_\_, duly seconded and carried, the following resolution was adopted:

WHEREAS, PARS has made available the PARS Public Agencies Post-Employment Benefits Trust (the "Program") for the purpose of pre-funding pension obligations and/or other post-employment benefit obligations; and

WHEREAS, the Orange County Local Agency Formation Commission ("LAFCO") is eligible to participate in the Program, a tax-exempt trust performing an essential governmental function within the meaning of Section 115 of the Internal Revenue Code, as amended, and the Regulations issued thereunder, and is a tax-exempt trust under the relevant statutory provisions of the State of California; and

WHEREAS, LAFCO's adoption and operation of the Program has no effect on any current or former employee's entitlement to a pension or other post-employment benefits; and

WHEREAS, the terms and conditions of pension and other post-employment benefit entitlement, if any, are governed by contracts separate from and independent of the Program; and

WHEREAS, LAFCO's funding of the Program does not, and is not intended to, create any new vested right to any benefit nor strengthen any existing vested right; and

WHEREAS, LAFCO reserves the right to make contributions, if any, to the Program; and

WHEREAS, LAFCO's participation in the Program shall be administered by PARS pursuant to the terms of the Agreement for Administrative Services, attached hereto as Exhibit B, subject to the schedule of fees set forth in Exhibit 1B to the Agreement, which shall be separate and independent from any additional fees that may be due to the trustee for the Program, U.S. Bank, and the investment manager.

NOW, THEREFORE, LAFCO does hereby resolve as follows:

Section 1. LAFCO Findings.

1. The Commission hereby adopts the PARS Public Agencies Post-Employment Benefits Trust, as attached hereto and incorporated herein as Exhibit A; and
2. The Commission hereby approves the Agreement for Administration Services ("Agreement"), attached hereto and incorporated herein as Exhibit B.
3. The Commission hereby appoints the *Executive Officer*, or his/her successor or his/her designee as LAFCO's Plan Administrator for the Program; and
4. LAFCO's Plan Administrator is hereby authorized to execute the PARS legal and administrative documents, including the Trust and Agreement, on behalf of the LAFCO and to take whatever additional actions are necessary to maintain LAFCO's participation in the Program and to maintain compliance of any relevant regulation issued or as may be issued; therefore, authorizing him/her to take whatever additional actions are required to administer the LAFCO's participation in the Program.

Section 2. Custodian of Records.

The documents and materials that constitute the record of proceedings on which this Resolution and the above findings have been based are located at the offices of LAFCO. The custodian for these records is Orange County Local Agency Formation Commission, 2677 North Main Street, Suite 1050, Santa Ana, California 92705.



AYES:

NOES:

STATE OF CALIFORNIA)

) SS.

COUNTY OF ORANGE )

I, Douglass Davert, Chair of the Local Agency Formation Commission of Orange County, California, hereby certify that the above and foregoing resolution was duly and regularly adopted by said Commission at a regular meeting thereof, held on the 13<sup>th</sup> day of October 2021.

IN WITNESS WHEREOF, I have hereunto set my hand this 13<sup>th</sup> day of October 2021.

DOUGLASS DAVERT  
Chair of the Local Agency Formation Commission of  
Orange County

By: \_\_\_\_\_  
DOUGLASS DAVERT

**PUBLIC AGENCIES  
POST-EMPLOYMENT BENEFITS  
TRUST AGREEMENT**

**(Effective November 5, 2014)**

**ARTICLE I****DEFINITIONS**

- 1.1 “**Adoption Agreement**” shall have the meaning given to such term in Section 2.3.
- 1.2 “**Agency Account**” shall have the meaning given to such term in Section 2.4.
- 1.3 “**Agreement for Administrative Services**” shall mean the agreement executed between the Employer and the Trust Administrator which authorizes the Trust Administrator to perform specific duties of administering the Agency Account of the Employer.
- 1.4 “**Assets**” shall have the meaning given to such term in Section 2.5.
- 1.5 “**Code**” shall mean the Internal Revenue Code of 1986 as amended from time to time.
- 1.6 “**Delegatee**” shall mean an individual or entity, appointed by the Plan Administrator or Employer to act in such matters as are specified in the appointment.
- 1.7 “**Effective Date**” shall mean the date first written above, the date the Trust was established, and with respect to each Employer, the Effective Date shall be the date on which the Employer executes the Adoption Agreement.
- 1.8 “**Eligible Beneficiary**” shall mean any person who, due to his or her relationship to an Eligible Employee, is entitled to post-employment benefits pursuant to the Employer’s Pension Plan or OPEB Plan, including but not limited to the Eligible Employee’s current or former spouse or domestic partner, child, dependent, or survivor.
- 1.9 “**Eligible Employee**” shall mean any employee of an Employer who is entitled to post-employment benefits pursuant to the Employer’s Pension Plan or OPEB Plan. Unless the context otherwise requires, the term “Eligible Employee” as used herein shall include any Eligible Beneficiaries.
- 1.10 “**Employer**” shall mean a public agency that executes the Adoption Agreement, thereby adopting the provisions of this Trust Agreement, provided that such agency is a state, a political subdivision of a state, or an entity the income of which is excludible from gross income under Section 115 of the Code.
- 1.11 “**GASB**” shall mean the Governmental Accounting Standards Board.
- 1.12 “**Omnibus Account**” shall mean an account, established for record keeping purposes only, to aggregate the balances of the Assets credited to the Agency Accounts. The Trust Administrator shall maintain and reconcile, at the Agency Account level (and subaccount level), the investments of the Agency Accounts

and will provide reports to the Plan Administrator with respect to such investments. The Trustee will maintain a record of the aggregate balance (principal and earnings) for all Agency Accounts. The Trust Administrator will in the ordinary course of business maintain a record of the name, address, taxpayer identification number, account number and amount of funds, including earnings, of each Employer. On periodic valuation dates (no less frequently than monthly) to be established by the Trust Administrator, the Trustee and Trust Administrator will reconcile the aggregate balance information maintained by the Trustee with the Agency Account level records maintained by the Trust Administrator pursuant to this Trust Agreement.

- 1.13** “**OPEB**” shall mean “other post-employment benefits,” such as medical, dental, vision, life insurance, long-term care and other similar benefits provided to retirees, other than pension benefits.
- 1.14** “**OPEB Obligation**” shall mean an Employer’s obligation to provide OPEB to its Eligible Employees in accordance with the Employer’s OPEB Plan.
- 1.15** “**OPEB Plan**” shall mean the Public Agencies Post-Employment Health Care Plan, as adopted by the Employer under the Adoption Agreement.
- 1.16** “**Pension Obligation**” shall mean an Employer’s obligation to contribute to the Pension Plan’s Qualified Trust and shall not, for example, mean an Employer’s Obligation to provide retirement benefits under the Pension Plan to the Employer’s Eligible Employees.
- 1.17** “**Pension Plan**” shall mean an Employer’s defined-benefit pension plan or plans, each of which is (i) qualified under Section 401(a) of the Code, (ii) sponsored by the Employer in order to provide retirement benefits to its Eligible Employees, and (iii) partly or wholly funded by the Employer’s contributions to a Qualified Trust.
- 1.18** “**Plan Administrator**” shall mean the individual designated by position of employment at the Employer to act on its behalf in all matters relating to the Employer’s participation in the Trust.
- 1.19** “**Qualified Trust**” shall mean a trust which (i) is separate and apart from the Trust, (ii) constitutes a qualified trust under Code Section 401(a), and (iii) funds retirement benefits provided under an Employer’s Pension Plan to the Employer’s Eligible Employees.
- 1.20** “**Trust**” shall mean the Public Agencies Post-Employment Benefits trust arrangement.
- 1.21** “**Trust Administrator**” shall mean Public Agency Retirement Services or any successor trust administrator appointed by the Employers as provided herein. The Trust Administrator shall serve as trust administrator to the Trust established

pursuant to this Trust Agreement until such Trust Administrator resigns or is removed as provided in Article III.

- 1.22** “**Trust Agreement**” shall mean this Public Agencies Post-Employment Benefits trust document adopted by each Employer upon execution of an Adoption Agreement, as amended from time to time.
- 1.23** “**Trustee**” shall mean U.S. Bank National Association, or any successor trustee appointed by the Employers as provided herein. The Trustee shall serve as trustee of the Trust established pursuant to the provisions of this Trust Agreement until such Trustee resigns or is removed as provided in Article III.

## **ARTICLE II**

### **THE TRUST**

#### **2.1 Multiple Employer Trust**

The Trust is a multiple employer trust arrangement established to provide economies of scale and efficiency of administration to public agencies that adopt it to hold the assets used to fund the agency’s OPEB Obligation or Pension Obligation or both. The Trust is divided into Agency Accounts to hold the Assets of each Employer as described in Section 2.4.

#### **2.2 Purpose**

The Trust is established with the intention that it qualify as a tax-exempt trust performing an essential governmental function within the meaning of Section 115 of the Code and any regulations issued thereunder and as a tax-exempt trust under the provisions of the relevant state’s statutory provisions of each Employer. This Trust Agreement shall be construed and the Trust shall be administered in a manner consistent with such intention. The fundamental purpose of the Trust is to fund the Employer’s OPEB Obligation or Pension Obligation or both. It is intended that adopting Employers retain an interest in the underlying securities held in the Trust on their behalf, rather than in the Trust itself.

The Employer hereby represents and warrants that the assets held hereunder (including the Assets) are not assets of any qualified plan under Code Section 401(a), regardless of the character of such assets once distributed. The Employer hereby acknowledges that the Trust does not constitute a qualified trust under Code Section 401(a).

#### **2.3 Employers**

Any public agency may, by action of its governing body in writing accepted by the Trustee, adopt the provisions of the Trust Agreement. Executing an adoption instrument for the Trust (“**Adoption Agreement**”), in the form attached hereto as Exhibit "A" (or such other form as may be approved by the Trustee), shall

constitute such adoption, unless the Trustee requires additional evidence of adoption. In order for such adoption to be effective, the public agency must also execute an Agreement for Administrative Services with Public Agency Retirement Services, the Trust Administrator, pursuant to Section 3.6 of this Trust Agreement. Such adopting Employer shall then become an Employer of the Trust.

Each such Employer shall, at a minimum, furnish the Trust Administrator with the following documents to support its adoption of the Trust:

- (a) a certified copy of the resolution(s) of the governing body of the Employer authorizing the adoption of the Trust Agreement and the appointment of the Plan Administrator for such Employer;
- (b) an original of the Adoption Agreement executed by the Plan Administrator or other duly authorized Employer employee;
- (c) an original of the Agreement for Administrative Services with Public Agency Retirement Services executed by the Plan Administrator or other duly authorized Employer employee and Public Agency Retirement Services;
- (d) an address notice; and
- (e) such other documents as the Trustee may reasonably request.
- (f) Any action taken by the Plan Administrator for an Employer shall be deemed to have been taken by such Employer. Any notice given to or delivered by the Plan Administrator for an Employer shall be deemed to have been given to or delivered by such Employer.

#### 2.4 Agency Accounts

- (a) Upon an Employer's adopting the Trust Agreement, as provided in Section 2.3, a separate "**Agency Account**" shall be established under the Trust for that Employer, and all Assets of the Trust attributable to that Employer shall be held in that Employer's Agency Account.
- (b) An Employer's Agency Account comprises three subaccounts: a "**Pension Account**", an "**OPEB Account**", and a "**Suspense Account**". The Assets of the Trust that are held in the Employer's Pension Account will be available only to fund the Employer's Pension Obligation and defray the reasonable expenses associated with the same. The Assets of the Trust that are held in the Employer's OPEB Account will be available only to fund the Employer's OPEB Obligation and defray the reasonable expenses associated with the same.
- (c) The Assets of the Trust that are held in an Employer's Agency Account shall not be available to pay any obligations incurred by any other Employer as provided in Section 2.8.

(d) All contributions and transfers received by the Trust on behalf of the Employer will be held in the Employer's Agency Account and will be allocated to the subaccounts under the Agency Account as follows:

(1) If the Employer maintains a Pension Account or OPEB Account (and not both a Pension Account and an OPEB Account), all contributions and transfers received by the Trust on the Employer's behalf will be allocated to that subaccount.

(2) If the Employer maintains both a Pension Account and an OPEB Account, contributions and transfers received by the Trust on the Employer's behalf will be allocated to either the Pension Account or OPEB Account, as directed by the Plan Administrator. To the extent the Plan Administrator does not provide such direction, the Employer hereby directs the Trustee to allocate such contributions and transfers to the Suspense Account and to use the assets of the Suspense Account to purchase a position in the sweep vehicle identified on an **exhibit** hereto or, if none is identified, to hold such assets un-invested. The Plan Administrator may at any time direct the reallocation of cash from the Suspense Account to either the Pension Account or the OPEB Account.

(3) Once allocated to the Pension Account or the OPEB Account, amounts under the Trust may not subsequently be transferred to the other subaccount.

## **2.5 Assets of Agency Account**

The assets held in an Agency Account shall consist of all contributions and transfers received by the Trust on behalf of the Employer, together with the income and earnings from such contributions and transfers, and any increments accruing to the Agency Account, net of any investment losses, benefits, expenses or other costs ("Assets"). All contributions or transfers shall be received by the Trustee in cash or in other property acceptable to the Trustee. The Trustee shall manage and administer the Assets held in Agency Accounts without distinction between principal and income. The Trustee and the Trust Administrator shall have no duty to compute any amount to be transferred or paid to the Agency Account by the Employer, and the Trustee and the Trust Administrator shall not be responsible for the collection of any contributions or transfers to the Agency Account.

## **2.6 Aggregate Balance for Investment and Administration**

The balances of the Assets of more than one Agency Account may be aggregated by the Trustee in one or more Omnibus Accounts for investment and administrative purposes, to provide economies of scale and efficiency of administration to the Agency Accounts. The responsibility for Agency Account level accounting (including subaccount-level accounting within each Agency Account) within this Omnibus Account(s) shall be that of the Trust Administrator.

**2.7 Trustee Accounting**

The Trustee shall be responsible only for maintaining records and maintaining accounts for the aggregate assets of the Trust. The responsibility for accounting and subaccounting for each Agency Account, based upon the Omnibus Account(s), shall be that of the Trust Administrator.

**2.8 No Diversion of Assets**

The Assets in each Employer's Agency Account shall be held in trust for the exclusive purpose of funding the Employer's OPEB Obligation or Pension Obligation or both and defraying the reasonable expenses associated with the same. The Assets in each Agency Account shall not be used for or diverted to, any other purpose, including, but not limited to, the satisfaction of any other Employer's Pension Obligation or OPEB Obligation.

**2.9 Type and Nature of Trust**

Neither the full faith and credit nor the taxing power of each Employer is pledged to the distribution of amounts hereunder. Except for contributions and other amounts hereunder, no other amounts are pledged to the distribution of benefits hereunder. Distributions of benefits are neither general nor special obligations of any Employer, but are payable solely from the Assets held in such Employer's Agency Account, as more fully described herein. No employee of any Employer or beneficiary may compel the exercise of the taxing power by any Employer.

Distributions of Assets from any Agency Account are not debts of any Employer within the meaning of any constitutional or statutory limitation or restriction. Such distributions are not legal or equitable pledges, charges, liens or encumbrances, upon any of an Employer's property, or upon any of its income, receipts, or revenues, except amounts in the accounts which are, under the terms of each Plan and the Trust set aside for distributions. Neither the members of the governing body of any Employer nor its officers, employees, agents or volunteers are liable hereunder.

**2.10 Loss of Tax-Exempt Status as to Any Employer**

If any Employer participating in the Trust receives notice from the Internal Revenue Service that the Trust as to such Employer fails to satisfy the requirements of Section 115 of the Code, or if any Employer consents to the Internal Revenue Service's determination that the Trust fails to meet such requirements, Assets having a value equal to the funds then held in such Employer's Agency Account shall be segregated and placed in a separate trust by the Trustee for the exclusive benefit of such Employer's Eligible Employees within a reasonable time after the Trust Administrator notifies the Trustee of the Internal Revenue Service's determination. Each Employer participating in the Trust agrees to immediately notify the Trust Administrator upon receiving such



notice or giving such consent. The separate trust provided for in this Section 2.10 shall thereafter be considered as a separate trust containing all of the provisions of this Trust Agreement until terminated as provided in this Trust Agreement.

## ARTICLE III

### ADMINISTRATIVE MATTERS

#### 3.1 Appointment of Trustee

The Employers may, with the approval of two-thirds (2/3) or more of the Employers then participating in the Trust, act to appoint a bank, trust company, retirement board, insurer, committee or such other entity as permitted by law, to serve as the trustee of this Trust. Such action must be in writing. Upon the written acceptance of such entity it shall become the Trustee of the Trust. If the Trustee is removed or resigns pursuant to Section 3.2, the Employers shall appoint a successor Trustee in accordance with the voting requirements set forth in this Section 3.1.

#### 3.2 Resignation or Removal of Trustee

The Employers may act to remove the Trustee, provided that such action must satisfy the voting requirements set forth in Section 3.1 and notice of such action must be promptly delivered to the Trust Administrator, the Trustee and each Plan Administrator. The Trustee may also resign at any time by giving at least ninety (90) days prior written notice to the Trust Administrator and to the Plan Administrator of each Employer that has adopted the Trust Agreement and not terminated its participation in the Trust; provided, however, that the Trustee may resign immediately upon the earlier of the approval date or the effective date of any amendment of the Trust Agreement by the Employers that would change or modify the duties, powers or liabilities of the Trustee hereunder without the Trustee's consent. The Trustee shall, upon the appointment and acceptance of a successor trustee, transfer and deliver the Assets and all records relating to the Trust to the successor, after reserving such reasonable amount as it shall deem necessary to provide for its fees and expenses and any sums chargeable against the Trust for which it may be liable. The Trustee shall do all acts necessary to vest title of record in the successor trustee.

#### 3.3 Withdrawal of Employer

An Employer may elect to withdraw from the Trust by giving at least thirty (30) days prior written notice to the Trustee and the Trust Administrator. If an Employer so elects to withdraw, Assets having a value equal to the funds held in such Employer's Agency Account shall be segregated by the Trustee and, as soon as practicable, shall be transferred to one or more trusts maintained by the Employer, provided that (i) for Assets transferred from the OPEB Account, any such trust shall satisfy the requirements of Section 115 of the Code, (ii) for Assets

transferred from the Pension Account, any such trust shall satisfy the requirements of either Section 115 or 401(a) of the Code, and (iii) all assets held by any such trust and previously held in the Employer's Pension Account or OPEB Account shall qualify as "plan assets" within the meaning of GASB Statement No. 68 (Accounting and Financial Reporting for Pensions—An Amendment of GASB Statement No. 27) or GASB Statement No. 45 (Accounting and Financial Reporting by Employers for Postemployment Benefits Other Than Pensions), respectively, in each case as reasonably determined by the Employer and certified in writing by the Employer to the Trust Administrator. The Employer shall appoint a trustee for such Employer's separate trust and, upon the trustee's acceptance of that appointment, the trustee will be vested with title to the transferred Assets.

### **3.4 The Plan Administrator**

The governing body of each Employer shall have plenary authority for the administration and investment of such Employer's Agency Account pursuant to any applicable state laws and applicable federal laws and regulations. Each Employer shall by resolution designate a Plan Administrator. Unless otherwise specified in the instrument the Plan Administrator shall be deemed to have authority to act on behalf of the Employer in all matters pertaining to the Employer's participation in the Trust and in regard to the Agency Account of the Employer. Such appointment of a Plan Administrator shall be effective upon receipt and acknowledgment by the Trustee and the Trust Administrator and shall be effective until the Trustee and the Trust Administrator are furnished with a resolution of the Employer that the appointment has been modified or terminated.

### **3.5 Failure to Appoint Plan Administrator**

If a Plan Administrator is not appointed, or such appointment lapses, the Employer shall be deemed to be the Plan Administrator. As used in this document the term "Plan Administrator" shall be deemed to mean "Employer" when a Plan Administrator has not been appointed for such Employer.

### **3.6 Delegatee**

The Plan Administrator, acting on behalf of the Employer, may delegate certain authority, powers and duties to a Delegatee to act in those matters specified in the delegation. Any such delegation must be in a writing that names and identifies the Delegatee, states the effective date of the delegation, specifies the authority and duties delegated, is executed by the Plan Administrator, is acknowledged in writing by the Delegatee, and is certified as required in Section 3.7 to the Trust Administrator. Such delegation shall be effective until the Trustee and the Trust Administrator are directed in writing by the Plan Administrator that the delegation has been rescinded or modified.

### **3.7 Certification to Trustee**

The governing body of each Employer, or other duly authorized official, shall certify in writing to the Trustee and the Trust Administrator the names and specimen signatures of the Plan Administrator and Delegatee, if any, and all others authorized to act on behalf of the Employer whose names and specimen signatures shall be kept accurate by the Employer acting through a duly authorized officer or governing body of the Employer. The Trustee and the Trust Administrator shall have no liability if they act upon the direction of a Plan Administrator or Delegatee that has been duly authorized, as provided in Section 3.6, if that Plan Administrator or Delegatee is no longer authorized to act, unless the Employer has informed the Trustee and the Trust Administrator of such change.

### **3.8 Directions to Trustee**

All directions to the Trustee from the Plan Administrator or Delegatee must be in writing and must be signed by the Plan Administrator or Delegatee, as the case may be. For all purposes of this Trust Agreement, direction shall include any certification, notice, authorization, application or instruction of the Plan Administrator, Delegatee or Trustee appropriately communicated. The above notwithstanding, direction may be implied if the Plan Administrator or Delegatee has knowledge of the Trustee's intentions and fails to file written objection.

The Trustee shall have the power and duty to comply promptly with all proper directions of the Plan Administrator or Delegatee, appointed in accordance with the provisions of this Trust Agreement. In the case of any direction deemed by the Trustee to be unclear or ambiguous the Trustee may seek written instructions from the Plan Administrator, the Employer or the Delegatee on such matter and await their written instructions without incurring any liability. If at any time the Plan Administrator or the Delegatee should fail to give directions to the Trustee, the Trustee may act in the manner that in its discretion seems advisable under the circumstances for carrying out the purposes of the Trust and/or the applicable Agency Account which may include not taking any action. The Trustee may request directions or clarification of directions received and may delay acting until clarification is received. In the absence of timely direction or clarification, or if the Trustee considers any direction to be a violation of the Trust Agreement or any applicable law, the Trustee shall in its sole discretion take appropriate action, or refuse to act upon a direction.

### **3.9 Appointment of Trust Administrator**

The Employers may, with the approval of two-thirds (2/3) or more of the Employers then participating in the Trust, act to appoint a bank, trust company, retirement board, insurer, committee or such other entity as permitted by law, to serve as Trust Administrator of the Trust. Such action must be in writing. Upon the written acceptance of such entity it shall become the Trust Administrator of

the Trust. If the Trust Administrator is removed or resigns pursuant to Section 3.13, the Employers shall appoint a successor Trust Administrator in accordance with the voting requirements set forth in this Section 3.9.

### **3.10 Trust Administrator**

The Trust Administrator's duties involve the performance of the following services pursuant to the provisions of this Trust Agreement and the Agreement for Administrative Services:

- (a) Performing periodic accounting of each Agency Account (including subaccount-level accounting within each Agency Account) and reconciling such Agency Account balances with the Trust/Omnibus Account;
- (b) Directing the Trustee to make distributions from the appropriate subaccount under an Agency Account in accordance with Section 5.9.
- (c) Allocating contributions, earnings and expenses to each Agency Account and the underlying subaccounts;
- (d) Directing the Trustee to pay the fees of the Trust Administrator and to do such other acts as shall be appropriate to carry out the intent of the Trust;
- (e) Such other services as the Employer and the Trust Administrator may agree in the Agreement for Administrative Services pursuant to Section 2.3.

The Trust Administrator shall be entitled to rely on, and shall be under no duty to question, any direction and/or data received from the Plan Administrator, or other duly authorized entity, in order to perform its authorized duties under this Trust Agreement. The Trust Administrator shall not have any duty to compute contributions made to the Trust, determine or inquire whether contributions made to the Trust by the Plan Administrator or other duly authorized entity are adequate to meet an Employer's Pension Obligation or OPEB Obligation as may be determined under any applicable GASB pronouncement; or determine or inquire whether contributions made to the Trust are in compliance with the Employer's OPEB Plan or Pension Plan. The Trust Administrator shall not be liable for nonperformance of duties if such nonperformance is directly caused by erroneous, and/or late delivery of, directions or data from the Plan Administrator, or other duly authorized entity.

### **3.11 Additional Trust Administrator Services**

The Plan Administrator may at any time retain the Trust Administrator as its agent to perform any act, keep any records or accounts and make any computations which are required of the Employer or the Plan Administrator by this Trust Agreement or by the Employer's policies and/or applicable collective bargaining agreements. The Trust Administrator shall be separately compensated

for such service and such services shall not be deemed to be contrary to the Trust Agreement.

### **3.12 Trust Administrator's Compensation**

As may be agreed upon from time to time by the Employer and Trust Administrator, the Trust Administrator will be paid reasonable compensation for services rendered or reimbursed for expenses properly and actually incurred in the performance of duties with respect to such Employer's Agency Account and to the Trust.

### **3.13 Resignation or Removal of Trust Administrator**

The Employers may act to remove the Trust Administrator, provided that such action must satisfy the voting requirements set forth in Section 3.9 and notice of such action must be promptly delivered to the Trust Administrator, the Trustee and each Plan Administrator. The Trust Administrator may also resign at any time by giving at least one hundred and twenty (120) days prior written notice to the Trustee and to the Plan Administrator of each Employer that has adopted the Trust Agreement and not terminated its participation in the Trust; provided, however, that the Trust Administrator may resign immediately upon the earlier of the approval date or the effective date of any amendment of the Trust Agreement by the Employers that would change or modify the duties, powers or liabilities of the Trust Administrator hereunder without the Trust Administrator's consent. The Trust Administrator shall, upon the appointment and acceptance of a successor trust administrator, transfer all records relating to the Trust to the successor.

## **ARTICLE IV**

### **THE TRUSTEE**

#### **4.1 Powers and Duties of the Trustee**

Except as otherwise provided in Article V and subject to Article VI, the Trustee shall have full power and authority with respect to property held in the Trust to do all such acts, take all proceedings, and exercise all such rights and privileges, whether specifically referred to or not in this document, as could be done, taken or exercised by the absolute owner, including, without limitation, the following:

- (a) To invest and reinvest the Assets or any part hereof in any one or more kind, type, class, item or parcel of property, real, personal or mixed, tangible or intangible; or in any one or more kind, type, class, item or issue of investment or security; or in any one or more kind, type, class or item of obligation, secured or unsecured; or in any combination of them (including those issued by the Trustee of any of its affiliates, to the extent permitted by applicable law), and to retain the property for the period of time that the Trustee deems appropriate;

- (b) To acquire and sell options to buy securities ("call" options) and to acquire and sell options to sell securities ("put" options);
- (c) To buy, sell, assign, transfer, acquire, loan, lease (for any purpose, including mineral leases), exchange and in any other manner to acquire, manage, deal with and dispose of all or any part of the Trust property, for cash or credit and upon any reasonable terms and conditions;
- (d) To make deposits, with any bank or savings and loan institution, including any such facility of the Trustee or an affiliate thereof provided that the deposit bears a reasonable rate of interest;
- (e) To invest and reinvest the Assets, or any part thereof in any one or more collective investment trust funds, including common and group trust funds that consist exclusively of assets of exempt pension and profit sharing trusts and individual retirement accounts qualified and tax exempt under the Code, that are maintained by the Trustee or an affiliate thereof. The declaration of trust or plan of operations for any such common or collective fund is hereby incorporated herein and adopted into this Trust Agreement by this reference. The combining of money and other assets of the Trust with money and other assets of other non-qualified trusts in such fund or funds is specifically authorized. Notwithstanding anything to the contrary in this Trust Agreement, the Trustee shall have full investment responsibility over Assets of the Trust invested in such commingled funds. If the plan and trust for any reason lose their tax exempt status, and the Assets have been commingled with assets of other tax exempt trusts in Trustee's collective investment funds, the Trustee shall within 30 days of notice of such loss of tax exempt status, liquidate the Trust's units of the collective investment fund(s) and invest the proceeds in a money market fund pending investment or other instructions from the Plan Administrator. The Trustee shall not be liable for any loss or gain or taxes, if any, resulting from said liquidation;
- (f) To place uninvested cash and cash awaiting distribution in one or more mutual funds and/or commingled investment funds maintained by or made available by the Trustee or any of its affiliates, and to receive compensation from the sponsor of such fund(s) for services rendered, separate and apart from any Trustee's fees hereunder. The Trustee or its affiliate may also be compensated for providing investment advisory services to any mutual fund or commingled investment funds;
- (g) To borrow money for the purposes of the Trust from any source with or without giving security; to pay interest; to issue promissory notes and to secure the repayment thereof by pledging all or any part of the Assets;
- (h) To take all of the following actions: to vote proxies of any stocks, bonds or other securities; to give general or special proxies or powers of attorney with or

without power of substitution; to exercise any conversion privileges, subscription rights or other options, and to make any payments incidental thereto; to consent to or otherwise participate in corporate reorganizations or other changes affecting corporate securities and to delegate discretionary powers and to pay any assessments or charges in connection therewith; and generally to exercise any of the powers of an owner with respect to stocks, bonds, securities or other property held in the Trust;

(i) To make, execute, acknowledge and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(j) To raze or move existing buildings; to make ordinary or extraordinary repairs, alterations or additions in and to buildings; to construct buildings and other structures and to install fixtures and equipment therein;

(k) To pay or cause to be paid from the Trust any and all real or personal property taxes, income taxes or other taxes or assessments of any or all kinds levied or assessed upon or with respect to the Trust;

(l) To exercise all the further rights, powers, options and privileges granted, provided for, or vested in trustees generally under applicable federal or state laws, as amended from time to time, it being intended that, except as herein otherwise provided, the powers conferred upon the Trustee herein shall not be construed as being in limitation of any authority conferred by law, but shall be construed as consistent or in addition thereto.

#### **4.2 Additional Trustee Powers**

In addition to the other powers enumerated above, the Trustee in any and all events is authorized and empowered:

(a) To invest funds pending required directions in any type of interest-bearing account, including, without limitation, time certificates of deposit or interest-bearing accounts issued by the Trustee, or any mutual fund or short term investment fund (“**Fund**”), whether sponsored or advised by the Trustee or any affiliate thereof); the Trustee or its affiliates may be compensated for providing such investment advice and providing other service to such Fund, in addition to any Trustee’s fees received pursuant to this Trust Agreement;

(b) To cause all or any part of the Trust to be held in the name of the Trustee (which in such instance need not disclose its fiduciary capacity) or, as permitted by law, in the name of any nominee, and to acquire for the Trust any investment in bearer form, but the books and records of the Trust shall at all times show that all such investments are a part of the Trust and the Trustee shall hold evidences of title to all such investments;

- (c) To serve as custodian with respect to the Trust Assets;
- (d) To employ such custodians, agents and counsel as may be reasonably necessary in managing and protecting the Assets and to pay them reasonable compensation from the Trust; to employ any broker-dealer or other agent, including any broker-dealer or other agent affiliated with the Trustee, and pay to such broker-dealer or other agent, at the expense of the Trust, its standard commissions or compensation; to settle, compromise or abandon all claims and demands in favor of or against the Trust; and to charge any premium on bonds purchased at par value to the principal of the Trust without amortization from the Trust, regardless of any law relating thereto;
- (e) In addition to the powers listed herein, to do all other acts necessary or desirable for the proper administration of the Trust, as though the absolute owner thereof;
- (f) To prosecute, compromise and defend lawsuits, but without obligation to do so, all at the risk and expense of the Trust; and to tender its defense to the Employer in any legal proceeding where the interests of the Trustee and the Employer are not adverse;
- (g) To exercise and perform any and all of the other powers and duties specified in this Trust Agreement or the Plan;
- (h) To permit such inspections of documents at the principal office of the Trustee as are required by law, subpoena or demand by a United States agency;
- (i) To comply with all requirements imposed by applicable provisions of law;
- (j) To seek written instructions from the Plan Administrator or other fiduciary on any matter and await their written instructions without incurring any liability. If at any time the Plan Administrator or the fiduciary should fail to give directions to the Trustee, the Trustee may act in the manner that in its discretion seems advisable under the circumstances for carrying out the purposes of the Trust;
- (k) To compensate such executive, consultant, actuarial, accounting, investment, appraisal, administrative, clerical, secretarial, medical, custodial, depository and legal firms, personnel and other employees or assistants as are engaged by the Plan Administrator in connection with funding the Employer's OPEB Obligation or Pension Obligation or both and to pay from the Trust the necessary expenses of such firms, personnel and assistants, to the extent not paid by the Plan Administrator;



(l) To act upon proper written directions of the Plan Administrator or Delegatee, including directions given by photostatic transmissions using facsimile signature, and such other forms of directions as the parties shall agree;

(m) To pay from the Trust the expenses reasonably incurred in the administration of the Trust;

(n) To maintain insurance for such purposes, in such amounts and with such companies as the Plan Administrator shall elect, including insurance to cover liability or losses occurring by reason of the acts or omissions of fiduciaries but only if such insurance permits recourse by the insurer against the fiduciary in the case of a breach of a fiduciary obligation by such fiduciary.

## ARTICLE V

### INVESTMENTS

#### 5.1 Discretionary Versus Directed Investment

For the Pension Account and the OPEB Account under the Agency Account, the Employer shall elect either a discretionary or directed investment approach. The Employer may elect the same or different investment approaches for those two subaccounts. The Employer hereby elects a directed approach for the Suspense Account. If the Employer elects a discretionary investment approach for a subaccount, the Employer shall further elect between the various investment strategies offered and the Trustee, in accordance with Article IV, shall have absolute discretion over the investment of the Assets held in such subaccount under the Employer's Agency Account. If the Employer elects a directed investment approach for a subaccount, the Trustee shall direct the investment of the Assets of such subaccount under the Employer's Agency Account in accordance with the direction provided by such Employer.

#### 5.2 Trustee Fees

As may be agreed upon, in writing, between the Plan Administrator and Trustee, the Trustee will be paid reasonable compensation for services rendered or reimbursed for expenses properly and actually incurred in the performance of duties with respect to the applicable Agency Account or the Trust.

#### 5.3 Contributions

Eligible Employees are not permitted to make contributions to the Trust. The Plan Administrator shall, on behalf of the Employer, make all contributions to the Trustee. Such contributions shall be in cash unless the Trustee agrees to accept a contribution that is not in cash. All contributions shall be paid to the Trustee for investment and reinvestment pursuant to the terms of this Trust Agreement. The Trustee shall not have any duty to determine or inquire whether any contributions

to the Trust made to the Trustee by any Plan Administrator are in compliance with the Employer's Pension Plan or OPEB Plan; nor shall the Trustee have any duty or authority to compute any amount to be paid to the Trustee by any Plan Administrator; nor shall the Trustee be responsible for the collection or adequacy of the contributions to meet an Employer's Pension Obligation or OPEB Obligation. The contributions received by the Trustee from each Employer shall be held and administered pursuant to the terms hereof without distinction between income and principal.

#### **5.4 Records**

(a) The Trustee shall maintain accurate records and detailed accounts of all investments, receipts, disbursements and other transactions hereunder at the Trust level. Such records shall be available at all reasonable times for inspection by the Trust Administrator. The Trustee shall, at the direction of the Trust Administrator, submit such valuations, reports or other information as the Trust Administrator may reasonably require.

(b) The Assets of the Trust shall be valued at their fair market value on the date of valuation, as determined by the Trustee based upon such sources of information as it may deem reliable; provided, however, that the Plan Administrator shall instruct the Trustee as to valuation of assets which are not readily determinable on an established market. The Trustee may rely conclusively on such valuations provided by the Plan Administrator and shall be indemnified and held harmless by the Employer with respect to such reliance. If the Plan Administrator fails to provide such values, the Trustee may take whatever action it deems reasonable, including employment of attorneys, appraisers or other professionals, the expense of which will be an expense of administration of the Trust. Transactions in the account involving such hard to value assets may be postponed until appropriate valuations have been received and Trustee shall have no liability therefore.

#### **5.5 Statements**

(a) Periodically as specified, and within sixty days after December 31, or the end of the Trust's fiscal year if different, Trustee shall render to the Trust Administrator as directed, a written account showing in reasonable summary the investments, receipts, disbursements and other transactions engaged in by the Trustee during the preceding fiscal year or period with respect to the Trust. Such account shall set forth the assets and liabilities of the Trust valued as of the end of the accounting period.

(b) The Trust Administrator may approve such statements either by written notice or by failure to express objections to such statements by written notice delivered to the Trustee within 90 days from the date the statement is delivered to the Trust Administrator. Upon approval, the Trustee shall be released and discharged as to all matters and items set forth in such statement as if such

account had been settled and allowed by a decree from a court of competent jurisdiction.

#### **5.6 Wire Transfers**

The Trustee shall follow the Plan Administrator's, Delegate's, or Trust Administrator's wire transfer instructions in compliance with the written security procedures provided by the party providing the wire transfers. The Trustee shall perform a telephonic verification to the Plan Administrator, Trust Administrator, or Delegate, or such other security procedure as selected by the party providing wire transfer directions, prior to wiring funds or following facsimile directions as Trustee may require. The Plan Administrator assumes the risk of delay of transfer if Trustee is unable to reach the Plan Administrator, or in the event of delay as a result of attempts to comply with any other security procedure selected by the directing party.

#### **5.7 Exclusive Benefit**

The Assets of an Employer's Agency Account shall be held in trust for the exclusive purpose of funding the Employer's OPEB Obligation or Pension Obligation or both and defraying the reasonable expenses associated with the same and shall not be used for or diverted to any other purpose. No party shall have authority to use or divert the Assets of an Agency Account of an Employer for the satisfaction of any other Employer's Pension Obligation or OPEB Obligation or any other Employer's expenses.

#### **5.8 Delegation of Duties**

The Plan Administrator, Delegate, or Trust Administrator, may at any time retain the Trustee as its agent to perform any act, keep any records or accounts and make any computations that are required of the Plan Administrator, Delegate or Trust Administrator by this Trust Agreement or by the Plan. The Trustee may be compensated for such retention and such retention shall not be deemed to be contrary to this Trust Agreement.

#### **5.9 Distributions**

(a) The Trustee shall, from time to time, upon the written direction of the Plan Administrator or Delegate, make distributions from the Assets of the Trust under the OPEB Account to the insurers, third party administrators, service providers or other entities providing benefits or services under the OPEB Plan, or to Eligible Employees and Eligible Beneficiaries for reimbursement of OPEB Plan premiums (or other payments for OPEB Plan benefits) paid by the Eligible Employee or Eligible Beneficiary, or to the Employer for reimbursement of OPEB Plan benefits and expenses paid by the Employer, in such manner in such form(s), in such amounts and for such purposes as may be specified in such directions.

(b) In addition, the Trustee shall, from time to time, upon the written direction of the Plan Administrator or Delegatee, make distributions from the Assets of the Trust under the Pension Account directly to (i) the Qualified Trust as employer contributions, (ii) any insurers, third party administrators, service providers or other entities providing services in connection with determining the Employer's Pension Obligation, or (iii) the Employer as reimbursement for the Employer's payment of amounts described in this Section 5.9(b)(i) and (ii).

(c) In no event shall the Trustee have any responsibility respecting the application of distributions from the Assets of the Trust, or for determining or inquiring into whether such distributions are in accordance with the Employer's OPEB Plan, Pension Plan, policies, or applicable collective bargaining agreements.

## ARTICLE VI

### FIDUCIARY RESPONSIBILITIES

#### 6.1 More Than One Fiduciary Capacity

Any one or more of the fiduciaries with respect to the Trust Agreement or the Trust may, to the extent required thereby or as directed by the Plan Administrator pursuant to this Trust Agreement, serve in more than one fiduciary capacity with respect to the Trust Agreement and the Trust.

#### 6.2 Fiduciary Discharge of Duties

Except as otherwise provided by applicable law, each fiduciary shall discharge such fiduciary's duties with respect to the Trust Agreement and the Trust:

(a) solely in the interest of the Eligible Employees and for the exclusive purpose of funding the Employer's OPEB Obligation or Pension Obligation or both and defraying the reasonable expenses associated with the same; and

(b) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims.

#### 6.3 Limitations on Fiduciary Responsibility

To the extent allowed by the laws of the state of each Employer:

No fiduciary shall be liable with respect to a breach of fiduciary duty by any other fiduciary if such breach was committed before such party became a fiduciary or after such party ceased to be a fiduciary.

No fiduciary shall be liable for a breach by another fiduciary except as provided by law.

No fiduciary shall be liable for carrying out a proper direction from another fiduciary, including refraining from taking an action in the absence of a proper direction from the other fiduciary possessing the authority and responsibility to make such a direction, which direction the fiduciary in good faith believes to be authorized and appropriate.

#### **6.4 Indemnification of Trustee by Employer**

The Trustee shall not be liable for, and Employer shall (to the extent allowed by the laws of the state of each Employer) indemnify, defend (as set out in Section 6.8 of this Trust Agreement), and hold the Trustee (including its officers, agents, employees and attorneys) and other Employers harmless from and against any claims, demands, loss, costs, expense or liability imposed on the indemnified party, including reasonable attorneys' fees and costs incurred by the indemnified party, arising as a result of Employer's active or passive negligent act or omission or willful misconduct in the execution or performance of its duties under this Trust Agreement.

#### **6.5 Indemnification of Employer by Trustee**

The Employer shall not be liable for, and Trustee shall (to the extent allowed by the laws of the state of each Employer) indemnify, defend (as set out in Section 6.8 of this Trust Agreement), and hold the Employer (including its officers, agents, employees and attorneys) and other Employers harmless from and against any claims, demands, loss, costs, expense or liability imposed on the indemnified party, including reasonable attorneys' fees and costs incurred by the indemnified party, arising as a result of Trustee's active or passive negligent act or omission or willful misconduct in the execution or performance of its duties under this Trust Agreement.

#### **6.6 Indemnification of Trustee by Trust Administrator**

The Trustee shall not be liable for, and Trust Administrator shall (to the extent allowed by the laws of the state of each Employer) indemnify and hold the Trustee (including its officers, agents, employees and attorneys) harmless from and against any claims, demands, loss, costs, expense or liability imposed on the indemnified party, including reasonable attorneys' fees and costs incurred by the indemnified party, arising as a result of Trust Administrator's active or passive negligent act or omission or willful misconduct in the execution or performance of its duties under this Trust Agreement.

#### **6.7 Indemnification of Trust Administrator by Trustee**

The Trust Administrator shall not be liable for, and Trustee shall (to the extent allowed by the laws of the state of each Employer) indemnify and hold the Trust

Administrator (including its officers, agents, employees and attorneys) harmless from and against any claims, demands, loss, costs, expense or liability imposed on the indemnified party, including reasonable attorneys' fees and costs incurred by the indemnified party, arising as a result of Trustee's active or passive negligent act or omission or willful misconduct in the execution or performance of its duties under this Trust Agreement.

#### **6.8 Indemnification Procedures**

Promptly after receipt by an indemnified party of notice or receipt of a claim or the commencement of any action for which indemnification may be sought, the indemnified party will notify the indemnifying party in writing of the receipt or commencement thereof. When the indemnifying party has agreed to provide a defense as set out above that party shall assume the defense of such action (including the employment of counsel, who shall be counsel reasonably satisfactory to such indemnitee) and the payment of expenses, insofar as such action shall relate to any alleged liability in respect of which indemnity may be sought against the indemnifying party. Any indemnified party shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall not be at the expense of the indemnifying party unless (i) the employment of such counsel has been specifically authorized by the indemnifying party or (ii) the named parties to any such action (including any impleaded parties) include both the indemnifying party and the indemnified party and representation of both parties by the same counsel would be inappropriate due to actual or potential differing interest between them. The indemnifying party shall not be liable to indemnify any person for any settlement of any such action effected without the indemnifying party's consent. The indemnification procedures of this Trust Agreement shall survive the termination of the Trust, any Employer's participation in the Trust and/or this Trust Agreement.

#### **6.9 No Joint and Several Liability**

This document is not intended to and does not create any joint powers agreement or any joint and several liability. No Employer shall be responsible for any contributions, costs or distributions of any other Employer.

### **ARTICLE VII**

#### **AMENDMENT, TERMINATION AND MERGER**

#### **7.1 No Contractual Obligation**

An Employer's participation in the Trust does not create, and is not intended to create, any contractual obligation to Eligible Employees. Therefore, no Employer is contractually obligated to Eligible Employees solely due to its participation in

the Trust to continue providing benefits under its Pension Plan or OPEB Plan or to make contributions to the Trust.

## **7.2 Amendment of Trust**

(a) The Trust Agreement may be amended only by the approval of two-thirds (2/3) or more of the Employers then participating in the Trust. Any such amendment by the Employers shall be set forth in an instrument in writing and shall be delivered to the Trustee, the Trust Administrator and all Plan Administrators not less than one hundred and eighty (180) days before the effective date of such amendment; provided, however, that any party may waive in writing such 180-day requirement with respect to any amendment (and such waiver shall not constitute a waiver with respect to any other amendment); and provided, further, that a waiver in writing of such 180-day requirement by two-thirds (2/3) or more of the Plan Administrators of the Employers participating in the Trust as of the date the amendment is adopted shall constitute a waiver of such 180-day requirement by all of the Employers then participating in the Trust. In addition, the Trust Administrator or the Trustee shall have the right to amend this Trust Agreement from time to time (without the requirement of a vote of Employers) solely for the purpose of keeping the Trust Agreement in compliance with the Code and applicable state law. Any such amendment by the Trust Administrator or the Trustee shall be set forth in an instrument in writing and shall be delivered to the Trustee, the Trust Administrator and all Plan Administrators promptly as each is made.

(b) Any amendment of the Trust Agreement may be current, retroactive or prospective, provided, however, that no amendment shall:

(1) Cause the Assets of any Agency Account to be used for or diverted to purposes other than for the exclusive purpose of funding the Employer's OPEB Obligation or Pension Obligation or both and defraying the reasonable expenses associated with the same.

(2) Permit the Assets of any Agency Account to be used for the benefit of any other Employer.

## **7.3 Termination of Employer's Obligation to Provide Pension Benefits or OPEB**

A termination of the Employer's obligation to provide benefits under the Employer's Pension Plan or OPEB Plan for which the Employer's Agency Account was established shall not, in itself, effect a termination of the Agency Account. Upon a termination of the Employer's obligation to provide benefits under its Pension Plan or OPEB Plan, the Assets of the Employer's Pension Account or OPEB Account, as applicable, will be distributed by the Trustee when directed by the Plan Administrator in accordance with this Section 7.3. From and after the date of such termination and until final distribution of all Assets under the Employer's Agency Account, the Trustee shall continue to have all the powers



provided herein as are necessary or expedient for the orderly liquidation and distribution of such Assets, and the Agency Account shall continue until the Assets have been completely distributed. Any Assets remaining in the Pension Account or OPEB Account will be used first to satisfy any remaining Pension Obligation or OPEB Obligation, respectively, pursuant to the Employer's Pension Plan or OPEB Plan (to the extent that such distribution constitutes the exercise of an "essential governmental function" within the meaning of Section 115 of the Code) and to satisfy any of such Employer's obligations under this Trust Agreement. Any Assets remaining in the Employer's Pension Account or OPEB Account (as applicable) after giving effect to the preceding sentence will be paid to the Employer to the extent permitted by law and consistent with the requirements of Section 115 of the Code.

#### **7.4 Fund Recovery Based on Mistake of Fact**

Except as hereinafter provided or in accordance with Section 7.3, the Assets of the Trust shall never inure to the benefit of the Employer. The Assets shall be held for the exclusive purpose of funding the Employer's OPEB Obligation or Pension Obligation or both and defraying the reasonable expenses associated with the same. However, in the case of a contribution which is made by an Employer because of a mistake of fact, that portion of the contribution relating to the mistake of fact (exclusive of any earnings or losses attributable thereto) may be returned to the Employer, provided such return occurs within two (2) years after discovery by the Employer of the mistake. If any repayment is payable to the Employer, then, as a condition to such repayment, and only if requested by Trustee, the Employer shall execute, acknowledge and deliver to the Trustee its written undertaking, in a form satisfactory to the Trustee, to indemnify, defend and hold the Trustee harmless from all claims, actions, demands or liabilities arising in connection with such repayment.

#### **7.5 Termination of Trust**

(a) The Trust and this Trust Agreement may be terminated by the unanimous agreement of all Employers, which action must be in writing and delivered to the Trustee and Trust Administrator. Upon termination of the Trust under this Section 7.5(a), the Assets of each Employer's Pension Account or OPEB Account, as applicable, will be distributed by the Trustee when directed by the Plan Administrator in accordance with this Section 7.5(a). From and after the date of such termination and until final distribution of all Assets under each Employer's Agency Account, the Trustee shall continue to have all the powers provided herein as are necessary or expedient for the orderly liquidation and distribution of such Assets, and the Agency Account shall continue until the Assets have been completely distributed. Any Assets remaining in the Pension Account or OPEB Account will be used first to satisfy any remaining Pension Obligation or OPEB Obligation, respectively, pursuant to the Employer's Pension Plan and OPEB Plan (to the extent that such distribution constitutes the exercise of an "essential governmental function" within the meaning of Section 115 of the Code) and to

satisfy any of such Employer's obligations under this Trust Agreement. Any Assets remaining in the Employer's Pension Account or OPEB Account (as applicable) after giving effect to the preceding sentence will be paid to the Employer to the extent permitted by law and consistent with the requirements of Section 115 of the Code.

(b) Contributions to the Trust are conditioned on initial qualification of the Trust under Section 115 of the Code. If the Trust receives an adverse determination with respect to its initial qualification, then the Trust and this Trust Agreement will automatically terminate without any action by any Employer or other parties. After such termination, the Assets of each Employer's Pension Account or OPEB Account, as applicable, will be returned by the Trustee to the Employer as directed by the Plan Administrator in accordance with this Section 7.5(b) to the extent permitted by law and consistent with the requirements of Section 115 of the Code. This Section 7.5(b) will cease to apply upon the Trust's receipt of a favorable determination with respect to its initial qualification.

(c) The Trust and this Trust Agreement may be terminated only as described in this Section 7.5. In no case will the assets of the Trust be distributed on termination to an entity that is not a state, a political subdivision of a state or an entity the income of which is excluded from gross income under Section 115 of the Code.

## ARTICLE VIII

### MISCELLANEOUS PROVISIONS

#### 8.1 Nonalienation

Eligible Employees do not have an interest in the Trust. Accordingly, the Trust shall not in any way be liable to attachment, garnishment, assignment or other process, or be seized, taken, appropriated or applied by any legal or equitable process, to pay any debt or liability of an Eligible Employee or any other party. Trust Assets shall not be subject to the claims of any Employer or the claims of its creditors.

#### 8.2 Saving Clause

In the event any provision of this Trust Agreement is held illegal or invalid for any reason, said illegality or invalidity shall not affect the remaining parts of the Trust Agreement, but this instrument shall be construed and enforced as if said provision had never been included.

#### 8.3 Applicable Law

This Trust Agreement and the Trust shall be construed, administered and governed under the Code and the law of the State of California. To the extent any

of the provisions of this Trust Agreement are inconsistent with the Code or applicable state law, the provisions of the Code or state law shall control. In the event, however, that any provision is susceptible to more than one interpretation, such interpretation shall be given thereto as is consistent with the Trust Agreement being a tax-exempt trust within the meaning of the Code.

#### **8.4 Joinder of Parties**

In any action or other judicial proceedings affecting this Trust Agreement, it shall be necessary to join as parties only the Trustee, the Plan Administrator or Delegatee. No participant or other persons having an interest in the Trust or any Agency Account shall be entitled to any notice or service of process unless otherwise required by law. Any judgment entered in such a proceeding or action shall be binding on all persons claiming under this Trust Agreement; provided, however, that nothing in this Trust Agreement shall be construed as to deprive a participant of such participant's right to seek adjudication of such participant's rights under applicable law.

#### **8.5 Employment of Counsel**

The Trustee may consult with legal counsel (who may be counsel for the Trustee, the Trust Administrator or any Employer) with respect to the interpretation of this Agreement or the Trustee's duties hereunder or with respect to any legal proceedings or any questions of law and shall be entitled to take action or not to take action in good faith reliance on the advice of such counsel and charge the Trust and, as applicable, one or more Agency Accounts.

#### **8.6 Gender and Number**

Words used in the masculine, feminine or neuter gender shall each be deemed to refer to the other whenever the context so requires; and words used in the singular or plural number shall each be deemed to refer to the other whenever the context so requires.

#### **8.7 Headings**

Headings used in this Trust Agreement are inserted for convenience of reference only and any conflict between such headings and the text shall be resolved in favor of the text.

#### **8.8 Counterparts**

This Trust Agreement may be executed in an original and any number of counterparts by the Plan Administrator (executing an Adoption Agreement), the Trust Administrator and the Trustee, each of which shall be deemed to be an original of the one and the same instrument.

IN WITNESS WHEREOF, the Plan Administrator (by executing the Adoption Agreement), the Trustee and the Trust Administrator have executed this Trust Agreement by their duly authorized agents on the Effective Date.

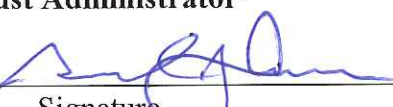
**U.S. BANK NATIONAL ASSOCIATION**

**“Trustee”**

By:   
Signature  
Susan M. Hughes  
Typed or printed name  
Its: Vice President & Relationship Manager

**PUBLIC AGENCY  
RETIREMENT SERVICES**

**“Trust Administrator”**

By:   
Signature  
Daniel Johnson  
Typed or printed name  
Its: President

## AGREEMENT FOR ADMINISTRATIVE SERVICES

This agreement (“Agreement”) is made this \_\_\_\_ day of \_\_\_\_\_, 2021, between Phase II Systems, a corporation organized and existing under the laws of the State of California, doing business as Public Agency Retirement Services and PARS (hereinafter “PARS”) and the [Agency Name] (“Agency”).

WHEREAS, the Agency has adopted the PARS Public Agencies Post-Employment Benefits Trust for the purpose of pre-funding pension obligations and/or Other Post-Employment Benefits (“OPEB”) obligations (“Plan”) and is desirous of retaining PARS as Trust Administrator to the Trust, to provide administrative services.

NOW THEREFORE, the parties agree:

1. **Services.** PARS will provide the services pertaining to the Plan as described in the exhibit attached hereto as “Exhibit 1A” (“Services”) in a timely manner, subject to the further provisions of this Agreement.
2. **Fees for Services.** PARS will be compensated for performance of the Services as described in the exhibit attached hereto as “Exhibit 1B”.
3. **Payment Terms.** Payment for the Services will be remitted directly from Plan assets unless the Agency chooses to make payment directly to PARS. In the event that the Agency chooses to make payment directly to PARS, it shall be the responsibility of the Agency to remit payment directly to PARS based upon an invoice prepared by PARS and delivered to the Agency. If payment is not received by PARS within thirty (30) days of the invoice delivery date, the balance due shall bear interest at the rate of 1.5% per month. If payment is not received from the Agency within sixty (60) days of the invoice delivery date, payment plus accrued interest will be remitted directly from Plan assets, unless PARS has previously received written communication disputing the subject invoice that is signed by a duly authorized representative of the Agency.
4. **Fees for Services Beyond Scope.** Fees for services beyond those specified in this Agreement will be billed to the Agency at the rates indicated in the PARS’ standard fee schedule in effect at the time the services are provided and shall be payable as described in Section 3 of this Agreement. Before any such services are performed, PARS will provide the Agency with a detailed description of the services, terms, and applicable rates for such services. Such services, terms, and applicable rates shall be agreed upon in writing and executed by both parties.
5. **Information Furnished to PARS.** PARS will provide the Services contingent upon the Agency providing PARS the information specified in the exhibit attached hereto as “Exhibit 1C” (“Data”). It shall be the responsibility of the Agency to certify the accuracy, content, and completeness of the Data so that PARS may rely on such information without further audit. It shall further be the responsibility of the Agency to deliver the Data to PARS in such a manner that allows for a reasonable amount of time for the Services to be performed. Unless specified in Exhibit 1A, PARS shall be under no duty to question Data received from the Agency, to compute contributions made to the

Plan, to determine or inquire whether contributions are adequate to meet and discharge liabilities under the Plan, or to determine or inquire whether contributions made to the Plan are in compliance with the Plan or applicable law. In addition, PARS shall not be liable for nonperformance of Services to the extent such nonperformance is caused by or results from erroneous and/or late delivery of Data from the Agency. In the event that the Agency fails to provide Data in a complete, accurate and timely manner and pursuant to the specifications in Exhibit 1C, PARS reserves the right, notwithstanding the further provisions of this Agreement, to terminate this Agreement upon no less than ninety (90) days written notice to the Agency.

6. **Records.** Throughout the duration of this Agreement, and for a period of five (5) years after termination of this Agreement, PARS shall provide duly authorized representatives of Agency access to all records and material relating to calculation of PARS' fees under this Agreement. Such access shall include the right to inspect, audit and reproduce such records and material and to verify reports furnished in compliance with the provisions of this Agreement. All information so obtained shall be accorded confidential treatment as provided under applicable law.
7. **Confidentiality.** Without the Agency's consent, PARS shall not disclose any information relating to the Plan except to duly authorized officials of the Agency, subject to applicable law, and to parties retained by PARS to perform specific services within this Agreement. The Agency shall not disclose any information relating to the Plan to individuals not employed by the Agency, except as such disclosures may be required by applicable law. The Agency can disclose information to its legal counsel and advisors.
8. **Independent Contractor.** PARS is and at all times hereunder shall be an independent contractor. As such, neither the Agency nor any of its officers, employees or agents shall have the power to control the conduct of PARS, its officers, employees, or agents, except as specifically set forth and provided for herein. PARS shall pay all wages, salaries, and other amounts due its employees in connection with this Agreement and shall be responsible for all reports and obligations respecting them, such as social security, income tax withholding, unemployment compensation, workers' compensation, and similar matters.
9. **Indemnification.** PARS and Agency hereby indemnify each other and hold the other harmless, including their respective officers, directors, and employees, from any claim, loss, demand, liability, or expense, including reasonable attorneys' fees and costs, incurred by the other as a consequence of, to the extent, PARS' or Agency's, as the case may be, negligent acts, errors or omissions with respect to the performance of their respective duties hereunder.
10. **Compliance with Applicable Law.** The Agency shall observe and comply with federal, state, and local laws in effect when this Agreement is executed, or which may come into effect during the term of this Agreement, regarding the administration of the Plan. PARS shall observe and comply with federal, state, and local laws in effect when this Agreement is executed, or which may come into effect during the term of this Agreement, regarding Plan administrative services provided under this Agreement.

11. **Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of California. In the event any party institutes legal proceedings to enforce or interpret this Agreement, venue and jurisdiction shall be in any state court of competent jurisdiction.
12. **Force Majeure.** When a party's nonperformance hereunder was beyond the control and not due to the fault of the party not performing, a party shall be excused from performing its obligations under this Agreement during the time and to the extent that its performance is prevented by such cause. Such cause shall include, but not be limited to: any incidence of fire, flood, acts of God or unanticipated communicable disease, acts of terrorism or war commandeering of material, products, plants or facilities by the federal, state or local government, a material act or omission by the other party or any law, ordinance, rule, guidance or recommendation by the federal, state or local government, or any agency thereof, which becomes effective after the date of this Agreement that delays or renders impractical either party's performance under the Agreement.
13. **Ownership of Reports and Documents.** The originals of all letters, documents, reports, and data produced for the purposes of this Agreement shall be delivered to and become the property of the Agency. Copies may be made for PARS but shall not be furnished to others without written authorization from Agency.
14. **Designees.** The Plan Administrator of the Agency, or their designee, shall have the authority to act for and exercise any of the rights of the Agency as set forth in this Agreement, subsequent to and in accordance with the written authority granted by the Governing Body of the Agency, a copy of which writing shall be delivered to PARS. Any officer of PARS, or his or her designees, shall have the authority to act for and exercise any of the rights of PARS as set forth in this Agreement.
15. **Notices.** All notices hereunder and communications regarding the interpretation of the terms of this Agreement, or changes thereto, shall be effected by delivery of the notices in person or by depositing the notices in the U.S. mail, registered or certified mail, return receipt requested, postage prepaid and addressed as follows:
- (A) To PARS: PARS; 4350 Von Karman Avenue, Suite 100, Newport Beach, CA 92660; Attention: President
- (B) To Agency: [Agency]; [Agency Address]; Attention: [Plan Administrator Title]
- Notices shall be deemed given on the date received by the addressee.
16. **Term of Agreement.** This Agreement shall remain in effect for the period beginning \_\_\_\_\_, 2021 and ending \_\_\_\_\_, 2024 ("Term"). This Agreement may be terminated at any time by giving thirty (30) days written notice to the other party of the intent to terminate. Absent a thirty (30) day written notice to the other party of the intent to terminate, this Agreement will continue unchanged for successive twelve-month periods following the Term.
17. **Amendment.** This Agreement may not be amended orally, but only by a written instrument executed by the parties hereto.

18. **Entire Agreement.** This Agreement, including exhibits, contains the entire understanding of the parties with respect to the subject matter set forth in this Agreement. In the event a conflict arises between the parties with respect to any term, condition or provision of this Agreement, the remaining terms, conditions, and provisions shall remain in full force and legal effect. No waiver of any term or condition of this Agreement by any party shall be construed by the other as a continuing waiver of such term or condition.
19. **Attorneys Fees.** In the event any action is taken by a party hereto to enforce the terms of this Agreement the prevailing party herein shall be entitled to receive its reasonable attorney's fees.
20. **Counterparts.** This Agreement may be executed in any number of counterparts, and in that event, each counterpart shall be deemed a complete original and be enforceable without reference to any other counterpart.
21. **Headings.** Headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions.
22. **Effective Date.** This Agreement shall be effective on the date first above written, and also shall be the date the Agreement is executed.

**AGENCY:**

BY: \_\_\_\_\_  
Plan Administrator Name

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

**PARS:**

BY: \_\_\_\_\_  
Tod Hammeras

TITLE: Chief Financial Officer \_\_\_\_\_

DATE: \_\_\_\_\_



EXHIBIT 1A  
SERVICES

PARS will provide the following services for the [Agency Name] Public Agencies Post-Employment Benefits Trust:

1. Plan Installation Services:

- (A) Meeting with appropriate Agency personnel to discuss plan provisions, implementation timelines, actuarial valuation process, funding strategies, benefit communication strategies, data reporting, and submission requirements for contributions/reimbursements/distributions;
- (B) Providing the necessary analysis and advisory services to finalize these elements of the Plan;
- (C) Providing the documentation needed to establish the Plan to be reviewed and approved by Agency legal counsel. Resulting final Plan documentation must be approved by the Agency prior to the commencement of PARS Plan Administration Services outlined in Exhibit 1A, paragraph 2 below.

2. Plan Administration Services:

- (A) Monitoring the receipt of Plan contributions made by the Agency to the trustee of the PARS Public Agencies Post-Employment Benefits Trust (“Trustee”), based upon information received from the Agency and the Trustee;
- (B) Performing periodic accounting of Plan assets, reimbursements/distributions, and investment activity, based upon information received from the Agency and/or Trustee;
- (C) Coordinating the processing of distribution payments pursuant to authorized direction by the Agency, and the provisions of the Plan, and, to the extent possible, based upon Agency-provided Data;
- (D) Coordinating actions with the Trustee as directed by the Plan Administrator within the scope of this Agreement;
- (E) Preparing and submitting a monthly report of Plan activity to the Agency, unless directed by the Agency otherwise;
- (F) Preparing and submitting an annual report of Plan activity to the Agency;
- (G) Facilitating actuarial valuation updates and funding modifications for compliance with the applicable GASB pronouncements and/or statements, if prefunding OPEB obligations;
- (H) Coordinating periodic audits of the Trust;
- (I) Monitoring Plan and Trust compliance with federal and state laws.

3. PARS is not licensed to provide and does not offer tax, accounting, legal, investment or actuarial advice.

**EXHIBIT 1B**  
**FEES FOR SERVICES**

PARS will be compensated for performance of Services, as described in Exhibit 1A based upon the following schedule:

An annual asset fee shall be paid from Plan assets based on the following schedule:

<b><u>For Plan Assets from:</u></b>			<b><u>Annual Rate:</u></b>
\$1	to	\$10,000,000	0.25%
\$10,000,001	to	\$15,000,000	0.20%
\$15,000,001	to	\$50,000,000	0.15%
\$50,000,001	and	above	0.10%

Annual rates are prorated and paid monthly. The annual asset fee shall be calculated by the following formula [Annual rate divided by 12 (months of the year) multiplied by the Plan asset balance at the end of the month]. Trustee and Investment Management Fees are not included.

EXHIBIT 1C  
DATA REQUIREMENTS

PARS will provide the Services under this Agreement contingent upon receiving the following information. Agency is solely responsible for ensuring that all information and documentation provided to PARS is true, correct, and authorized:

1. Executed Legal Documents:
  - (A) Certified Resolution
  - (B) Adoption Agreement to the Public Agencies Post-Employment Benefits Trust
  - (C) Trustee Investment Forms
  
2. Contribution – completed Contribution Transmittal Form signed by the Plan Administrator (or authorized Designee) which contains the following information:
  - (A) Agency name
  - (B) Contribution amount
  - (C) Contribution date
  - (D) Contribution method (Check, ACH, Wire)
  
3. Distribution – completed Payment Reimbursement/Distribution Form signed by the Plan Administrator (or authorized Designee) which contains the following information:
  - (A) Agency name
  - (B) Payment reimbursement/distribution amount
  - (C) Applicable statement date
  - (D) Copy of applicable premium, claim, statement, warrant, and/or administrative expense evidencing payment
  - (E) Signed certification of reimbursement/distribution from the Plan Administrator (or authorized Designee)
  
4. Other information pertinent to the Services as reasonably requested by PARS and Actuarial Provider.

# Accounting & Financial Policies of the Orange County Local Agency Formation Commission

## PART 1 - INTRODUCTION

### 2.1 INTRODUCTION

The following accounting manual is intended to provide an overview of the accounting policies and procedures applicable to OC LAFCO.

This manual documents the financial operations of the organization. Its primary purpose is to formalize accounting policies and selected procedures for the accounting staff and to document internal controls.

All OC LAFCO staff is bound by the policies herein, and any deviation from established policy is prohibited.

## PART 2 - GENERAL POLICIES

### 2.2 ORGANIZATIONAL STRUCTURE

#### A. The Role of the Commission

OC LAFCO is governed by its Commission, which is responsible for the oversight of the organization by:

1. Planning for the future.
2. Establishing broad policies.
3. Identifying and proactively dealing with emerging issues.
4. Interpreting the organization's mission to the public.

B. The Commission is responsible for hiring and periodically evaluating the organization's Executive Officer, who shall be responsible for the day-to-day oversight and management of OC LAFCO. Specific guidelines regarding the composition and election of the Commission are described in the organization's

bylaws.

### C. The Role of the Executive Officer and Staff

The Commission hires the Executive Officer, who reports directly to the Commission. The Executive Officer is responsible for hiring and evaluating all employees of OC LAFCO. All employees report directly to the Executive Officer.

## 2.3 ACCOUNTING OVERVIEW

### A. Organization

1. The accounting functions of OC LAFCO are performed by three employees and an accounting firm who manage and process financial information for OC LAFCO. The positions performing the accounting functions of OC LAFCO are as follows:
  - a. Executive Officer
  - b. Assistant Executive Officer
  - c. Office Manager/Commission Clerk
  - d. Accounting firm accountant and staff
2. Other officers and employees of OC LAFCO who have financial responsibilities are as follows:
  - a. Executive Officer's Designee
  - b. Commission

### B. Responsibilities

1. General Ledger
2. Budgeting
3. Cash and Investment Management
4. Asset Management
5. Purchasing

6. Cash Receipts
7. Accounts Payable
8. Payroll and Benefits
9. External Reporting of Financial Information
10. Annual Audit

## 2.4 BUSINESS CONDUCT

### Practice of Ethical Behavior

- A. Unethical actions, or the appearance of unethical actions, are unacceptable under any conditions. The policies and reputation of OC LAFCO depend to a very large extent on the following considerations.
- B. Each employee must apply her/his own sense of personal ethics, which should extend beyond compliance with applicable laws and regulations in business situations, to govern behavior where no existing regulations provides a guideline. It is each employee's responsibility to apply common sense in business decisions here specific rules do not provide all the answers.
- C. In determining compliance with this standard in specific situations, employees should ask themselves the following questions:
  1. Is my action legal?
  2. Is my action ethical?
  3. Does my action comply with OC LAFCO policy?
  4. Could my action appear to be inappropriate?
  5. Does my action meet my personal code of ethics and behavior?

Each employee should be able to answer "yes" to all of these questions before taking action.

- D. Each OC LAFCO employee is responsible for the ethical business behavior of his/her subordinates. All employees and commissioners must weigh carefully all courses of action suggested in ethical as well as economic terms and base their final decisions on the guidelines provided by this policy as well as their sense of

right and wrong.

- E. All OC LAFCO staff and commissioners will complete ethics training as required by the State of California.

## 2.5 FRAUD POLICY

### A. Scope

This policy applies to any fraud or suspected fraud involving employees, officers or commissioners, as well as vendors, consultants, contractors, funding sources and/or any other parties with a business relationship with OC LAFCO. Any investigative activity required will be conducted without regard to the suspected wrongdoer's length of service, position/title, or relationship with OC LAFCO.

### B. Policy

The Executive Officer, OC LAFCO staff and Commission are responsible for the detection and prevention of fraud, misappropriations, and other irregularities.

Fraud is defined as the intentional, false representation or concealment of a material fact for the purpose of inducing another to act upon it to his or her injury. Each member of the OC LAFCO team will be familiar with the types of improprieties that might occur within his or her area of responsibility and be alert for any indication of irregularity.

Any fraud that is detected or suspected must be reported immediately to the Executive Officer or, alternatively, to the Chair of the OC LAFCO Commission.

### C. Actions Constituting Fraud

The terms fraud, defalcation, misappropriation, and other fiscal irregularities refer to, but are not limited to:

1. Any dishonest or fraudulent act
2. Forgery or alteration of any document or account belonging to OC LAFCO
3. Forgery or alteration of a check, bank, draft, or any other financial document
4. Misappropriation of funds, securities, supplies, equipment, or other assets of OC LAFCO
5. Impropriety in the handling or reporting of money or financial transaction

6. Disclosing confidential and proprietary information to outside parties
7. Accepting or seeking anything of material value from contractors, vendors, or persons providing goods or services to OC LAFCO
8. Destruction, removal or inappropriate use of records, furniture, fixtures, and equipment
9. Any similar or related irregularity

#### D. Other Irregularities

Irregularities concerning an employee's moral, ethical, or behavioral conduct should be resolved by the Executive Officer. If there is a question as to whether an action constitutes fraud, contact the Executive Officer or the Chair of the Commission for guidance.

#### E. Investigation Responsibilities

The Executive Officer has the primary responsibility for the investigation of all suspected fraudulent acts as defined in the policy. The Executive Officer may utilize whatever internal and/or external resources necessary in conducting an investigation. If an investigation substantiates that fraudulent activities have occurred, the Executive Officer will issue a report to appropriate designated personnel and, if appropriate, to the Commission. Decisions to prosecute or refer the examination results to the appropriate law enforcement and/or regulatory agencies for independent investigation will be made in conjunction with legal counsel and senior management, as will final dispositions of the case.

#### F. Confidentiality

The Commission and the Executive Officer will treat all information received confidentially. Any employee who suspects dishonest or fraudulent activity will notify the Executive Officer or the Commission Chair immediately and should not attempt to personally conduct investigations or interviews/interrogations related to any suspected fraudulent act.

Investigation results will not be disclosed or discussed with anyone other than those who have a legitimate need to know. This is important in order to avoid damaging the reputations of person suspected but subsequently found innocent of wrongful conduct and to protect OC LAFCO from potential civil liability.



## G. Authority for Investigation of Suspected Fraud

Members of the Commission will have:

1. Free and unrestricted access to all OC LAFCO records and premises, whether owned or rented; and
2. The authority to examine and copy any portion of the contents of files, desks, cabinets, and other storage facilities on the premises without prior knowledge or consent of any individual who may use or have custody of any such items or facilities when it is within the scope of their investigation.

## 2.6 GENERAL LEDGER AND CHART OF ACCOUNTS

The general ledger is defined as a group of accounts that supports the information shown in the major financial statements. The general ledger is used to accumulate all financial transactions of OC LAFCO and is supported by subsidiary ledgers that provide details for certain accounts in the general ledger. The general ledger is the foundation of the accumulation of data and reports.

### A. Funding Accounting

OC LAFCO utilizes fund accounting. A fund is defined as a fiscal and accounting entity with a self-balancing set of accounts established to record the financial position and results of operations of a specific governmental activity. OC LAFCO has the following funds:

1. General Fund – The government’s primary operating fund. It accounts for all financial resources of the government, except those required to be accounted for in another fund.
2. Special Revenue Funds – Used to account for the proceeds of specific revenue sources that are restricted to expenditures for specified purposes.

### B. Chart of Accounts Overview

The chart of accounts is the framework for the general ledger system, and therefore the basis for OC LAFCO’s accounting system. The chart of accounts consists of account titles and account numbers assigned to the titles. General ledger accounts are used to accumulate transactions and the impact of these transactions on each asset, liability, fund balance, revenue, and expenditure account. OC LAFCO’s chart of accounts is comprised of six types of accounts:

1. Assets

2. Liabilities
3. Fund Balance
4. Revenues
5. Expenses
6. Other Sources and Uses

OC LAFCO utilizes “Classes” in QuickBooks to track Special Revenue Fund activities.

### C. Account Definitions

#### 1. General Ledger

<i>Account Range</i>	<i>Category</i>	<i>Definition</i>
QuickBooks	Assets	<p>Assets are probable future economic benefits obtained or controlled by the organization as a result of past transactions.</p> <p>Capital assets are not required on the fund financial statements, only on the government-wide financial statements.</p>
QuickBooks	Liabilities	<p>Liabilities are probable future sacrifices of economic benefits arising from present obligations of the organization to transfer assets or provide services to other entities in the future as a result of past transactions or events.</p> <p>Liabilities of OC LAFCO are classified as current or long-term.</p> <p>Current liabilities are probable sacrifices of economic benefits that will likely occur within one year of the date of the financial statements or which have a due date of one year or less. Common examples of current liabilities include accounts payable, accrued liabilities, short-term notes payable, and deferred revenue.</p>

		Long-Term Liabilities are probable sacrifices of economic benefits that will likely occur more than one year from the date of the financial statements.
QuickBooks	Fund Balance	Fund Balance is the difference between total assets and total liabilities.
QuickBooks	Revenues	Revenues are inflows or other enhancements of assets, or settlements of liabilities, from delivering or producing goods, rendering services, or other activities that constitute an organization's ongoing major or central operations.
QuickBooks	Expenses	Expenses are outflows or other using up of assets or incurrences of liabilities from delivering or producing goods, rendering services, or carrying out other activities that constitute OC LAFCO's ongoing major or central operations.

All general ledger entries that do not originate from an accounting cycle such as cash receipts or cash disbursements shall be accompanied by supporting documentation, which shall include a reasonable explanation of each such entry.

Examples of such entries include:

1. Recording of non-cash transactions
2. Corrections of posting errors
3. Accruals of income and expenses

### **PART 3 - Policies Associated with Revenues and Cash Receipts**

#### **2.7 REVENUE RECOGNITION POLICIES**

OC LAFCO receives revenue from several types of transactions. Revenue from each of these types of transactions is recognized in the financial statements of OC LAFCO in the following manner:

- A. OC LAFCO Apportionment - Received at the beginning of the fiscal year. Amount is equal to the approved operating budget and is split three ways among the County, the Cities, and the Special Districts. Revenues are recorded in the general fund.
- B. Application and Processing Fees - Provided by incoming project applications.

Filing fees and time and material deposits are collected to offset costs associated with applications and vary with each project. Filing fees are not budgeted as revenue due to the uncertainty of when applications are filed. These fees are accounted for by project and are recorded in a separate special fund.

- C. Interest Income - Interest on investments held by the County, ~~and~~ the Local Agency Investment Fund (LAIF), Orange County Investment Pool (OC Fund), Public Agency Retirement Services (PARS), -or other investments permitted by Commission policy. Interest income held by the County, LAIF and OC Fund is recorded in the general fund. Interest income held by the PARS is recorded in the PARS benefits trust account.
- D. Other Income - Miscellaneous revenues, including copies of agenda packets, minutes, and meeting tapes. Other income is recorded in the general fund.

## 2.8 BILLING/INVOICING POLICIES

### A. Overview

The following is a list of items billed and/or accrued and received by OC LAFCO and the frequency with which each is billed;

#### 1. Annual Billings

- a. OC LAFCO Apportionment - Billings are performed and collected by the County of Orange.

#### 2. Miscellaneous Billings

- a. Filing Fees
- b. Agenda and Minutes (copying fees)
- c. Reimbursements (phone charges, workshops)

### B. Receipt and Handling of Incoming Money

It is the responsibility of the Office Manager to open the mail on a daily basis. All checks must be "restrictively endorsed" upon receipt. The Office Manager stamps all checks with the agency's endorsement stamp ("For Deposit Only, Account #\_\_\_\_\_").

#### 1. Check Log

The Office Manager makes copies of all incoming checks and will place the properly endorsed checks in a lock box. The Office Manager will log the checks

into a spreadsheet, which includes fields for the following information:

- a. Payee
- b. Check number
- c. Amount of check
- d. Date issued
- e. Date of receipt
- f. Date of deposit
- g. Purpose of funds
- h. Related OC LAFCO project number (if applicable)

The lock box will be properly secured, and its access will be limited to a minimum number of OC LAFCO staff.

## 2. Deposits

The Executive Officer, the Assistant Executive Officer, or the Executive Officer's designee will prepare a deposit slip when checks are received by the agency and will deposit funds into the agency's bank account. The Office Manager will place copies of the deposit slips and corresponding bank receipts in the designated folder. The Office Manager will update the check log to reflect the deposits.

## 3. Reconciliation of Accounts

The accounting firm staff will perform a reconciliation of the agency's bank accounts monthly upon receipt of the agency's bank statements. The accounting firm staff will compare the deposit slips to the check log and the agency's bank statements to ensure that all funds are properly deposited and credited to the agency's accounts. The accountant will review the accounting firm staff's work.

### C. Wire Transfers ~~between Agency Accounts~~

The agency will maintain a deposit in an amount equal to estimated costs of quarterly payroll in County Account 770. The remaining balance will be wired to the agency's bank account. ~~The accounting firm staff will prepare a cash flow analysis to determine the short-term cash needs of the agency. Excess cash will be invested in the Local Agency Investment Fund (LAIF) and Orange County Investment Fund (OC Fund), and/or other investment options are approved by~~

the Commission, via wire transfer. The accounting firm staff will prepare a cash flow analysis, and permitted uses for excess cash shall be as follows: (a) contributions to the agency's Public Agency Retirement Services (PARS) Section 115 benefits trust; and (b) investment in the Local Agency Investment Fund (LAIF), Orange County Investment Pool (OC Fund) and/or other investment options approved by the Commission. Wire transfers for such permitted uses shall be processed in accordance with the wire transfer procedures of the County of Orange, OC Fund, LAIF and PARS.

The Executive Officer and the Executive Officer's designee will complete the County of Orange Wire Transfer Request Form. The completed Wire Transfer Form will be signed by BOTH the Executive Officer and the Executive Officer designee. The Office Manager will make a copy of the Wire Transfer Form for the agency's records and will submit hand-deliver the signed Wire Transfer Request Form to the County Auditor-Controller for processing.

The accounting firm staff will compare the Wire Transfer Request Form to the agency's bank statements each month to ensure that all funds are properly transferred and credited to the agency's accounts. Periodically, a withdrawal transfer of funds from LAIF and the OC Fund will be required to maintain ongoing payroll and operating expenses.

LAIF deposits and transfers/withdrawals are completed electronically. All electronic deposits and transfers-withdrawals will be authorized by the Executive Officer and/or the Executive Officer's designee. A log of all deposits and transfers/withdrawals for LAIF will be maintained and documentation of each deposit and transfer withdrawal will be provided to the accounting firm staff.

OC Fund deposits and transfers-withdrawals require at least one (1) full business day to complete a deposit and at least three (3) full business days to complete a withdrawal transfer. Deposits require the completion of a deposit form signed by both the Executive Officer and the Executive Officer designee. Transfers Withdrawals of funds from the agency's bank accounts to the OC Fund require completion of appropriate transfer documents signed by both the Executive Officer and the Executive Officer designee. A log of all deposits and transfers withdrawals for the OC Fund will be maintained and documentation of each deposit and transfer withdrawal will be provided to the accounting firm staff.

Contributions to and payment reimbursements/distributions from the Section 115 benefits trust shall be processed in accordance with the PARS Administrative Agreement. The Executive Officer or the Executive Officer's designee shall complete the required forms to effect any contributions or distributions of the benefits trust account. A record of all transactions of the benefits trust will be maintained and documentation of each contribution and distribution will be provided to the accounting firm staff.

## D. Cash Disbursements

### 1. Vendor Invoices

The Office Manager will receive and open mail, date stamp all invoices, and place invoices in accounting firm staff's folder for processing. The Office Manager will forward all invoices to the Executive Officer or Executive Officer designee for review and approval. The Office Manager will coordinate approval of the invoices and identify a project number for each invoice. The accounting firm staff will record the invoice in QuickBooks and generate the check. All invoices will be approved by the Executive Officer prior to payment. The Office Manager will place a copy of the check and invoice in the respective vendor files. The Office Manager will mail checks to vendors.

### 2. Check-Writing Provisions

The Executive Officer or the Executive Officer designee may sign checks written for less than \$500. Checks written for \$500 or more require the signatures of BOTH the Executive Officer and the Executive Officer's designee. The Office Manager will maintain copies of all checks written on the agency's checking account.

### 3. Reconciliation

The accounting firm staff will perform a reconciliation of the agency's bank accounts monthly upon receipt of the agency's bank statements. This includes a reconciliation of the agency's checking account. The accounting firm staff will compare checks written on the agency's checking account against the agency's bank statements to ensure that all funds are properly debited from the agency's account.

### 4. Stale Checks

In reconciling the agency's checking account, the accounting firm staff will be responsible for identifying checks issued by OC LAFCO which have not been cashed within six months of issuance. The accounting firm staff will notify the Executive Officer of any "stale" checks during the checking account reconciliation process. If any stale checks are identified, the Executive Officer or the Executive Officer's designee will request the bank to issue a "stop payment" and direct the accounting firm staff to prepare a replacement check when necessary.

### 5. Check Stock

Check stock will be maintained in a locked drawer in the Executive Officer's office. Access to the check stock will be restricted to the Executive Officer or

the Executive Officer's designee.

#### 6. Agency Credit Card

All credit card purchases of \$250 or more must be approved, prior to transaction, by BOTH the Executive Officer and the Executive Officer designee. OC LAFCO maintains three (3) credit cards. The Office Manager, Assistant Executive Officer and the Executive Officer each hold one card. All credit card bills must be reviewed by the Executive Officer prior to payment being issued. All purchases made with the OC LAFCO credit cards must be directly related to OC LAFCO's mission.

#### E. Reporting

Reports - Monthly reports, prepared by the accounting firm staff, for OC LAFCO staff and/or Commission will include:

1. Balance Sheet.
2. Cash Flow Statement.
3. Detailed Profit and Loss Statement.
4. Summary Profit and Loss with Budget and Percentages.
5. Separate reports of designated projects as needed.

### **PART 4 - Policies Associated with Expenditures and Disbursements**

#### **2.9 PURCHASING POLICIES AND PROCEDURES**

##### A. Overview

THE POLICIES DESCRIBED IN THIS SECTION APPLY TO ALL PURCHASES OF GOODS AND SERVICES MADE BY OC LAFCO.

It is the policy of OC LAFCO to follow a practice of ethical, responsible and reasonable procedures related to purchasing, agreements and contracts, and related forms of commitment. The policies in this section describe the principles and procedures that all staff shall adhere to in the completion of their designated responsibilities.

##### B. Authorizations and Purchasing Limits

All purchases should adhere to the following guidelines:



Dollar Limit	# of Quotes	Required Communication	Approved by
<i>Goods</i>			
Under \$500	0	Oral	Executive Officer
\$501 - \$10,000	2	Written	Executive Officer
\$10,000 and over	3	Written	Commission
<i>Services</i>			
Under \$500	0	Oral	Executive Officer
\$501 - \$10,000	2	Written	Executive Officer
\$10,001 and over	3	Written	Commission

### C. Evaluation Process for a Request for Proposal (RFP)

When an RFP process is used to solicit vendors/consultants to provide a service or produce a specialized report for OC LAFCO, the Executive Officer shall develop a rating sheet to assist in the review of all submittals. The rating sheet shall include categories specific to the service or report being requested that comprehensively evaluates the individuals and/or firms competing for the OC LAFCO contractual agreement. The Executive Officer shall assign at least two (2) reviewers to participate in the review of the prospective vendor/consultant. Reviewers may include OC LAFCO staff and/or outside experts at the discretion of the Executive Officer.

Upon the Commission's final selection of a vendor/consultant in an open and competitive selection process, the final rating sheet will be made available to the Commission and all competitors upon request.

RFPs should provide for all of the following:

1. A clear and accurate description of the technical requirements for the material, product or service to be procured. In competitive procurements, such a description shall not contain features which unduly restrict competition.
2. Requirements that the bidder/offer must fulfill and all other factors to be used in evaluating bids or proposals.
3. A description, whenever practicable, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.
4. A description of the proper format, if any, in which proposals must be submitted, including the name of the OC LAFCO person to whom proposals should be sent.
5. The date by which proposals are due.

6. Required delivery or performance dates/schedules.
7. Clear indications of the quantity(ies) requested and units of measure.

OC LAFCO may consider vendors/consultants to provide a service or produce a specialized report for OC LAFCO from a list established through an RFP process conducted by other LAFCOs or the County of Orange within the last three calendar years to provide a similar service.

#### D. Special Purchasing Conditions

1. Emergencies: Where equipment, materials, parts, and/or services are needed immediately, quotations will not be necessary if the health, welfare, safety, etc., of staff and protection of organization property are involved.
2. Single Distributor/Source: Where there is only one (1) distributor for merchandise needed and no other product meets the stated needs or specifications, quotations will not be necessary.

#### E. Vendor Files and Required Documentation

The Officer Manager shall create a vendor file for each new vendor from who OC LAFCO purchases goods or services. Copies of purchase orders, contracts, and all vendor invoices will be maintained in the vendor file.

#### F. Sole Source Service Agreements

In the event specialized OC LAFCO consultant services estimated to cost up to \$10,000 annually are needed to assist staff in completing a time-sensitive project or study, the Executive Officer may elect to waive the RFP process, subject to the following findings:

1. The consultant(s) selected offer a combination of skills, education and work experience that uniquely qualifies that individual or firm to provide the OC LAFCO services, and
2. Even with due attention given to the project by staff, normal RFP processes would impair OC LAFCO's ability to meet statutory or Commission deadlines.

An annual report on agency agreements, including sole source service agreements, will be provided to the Commission.

## 2.10 ACCOUNTS PAYABLE MANAGEMENT

### A. Overview

OC LAFCO strives to maintain efficient business practices and sound cost controls. A well-managed accounts payable function can assist in accomplishing this goal, from the purchasing decision through payment and check reconciliation.

The vendor invoice should be supported by an approved purchase order where necessary and should be reviewed and approved by the Executive Officer or the Executive Officer's designee prior to being processed for payment. Invoices and related general ledger account distribution codes are reviewed prior to processing disbursements.

The primary objective for accounts payable and cash disbursements is to ensure that:

1. Disbursements are properly authorized.
2. Invoices are processed in a timely manner.
3. Invoice charges do not exceed the purchase order or OC LAFCO contract amount.

#### B. Processing of Invoices

The following procedures shall be applied to each invoice by the accounting firm staff:

1. Check the mathematical accuracy of the vendor invoice.
2. Compare the nature, quantity and prices of all items ordered per the vendor invoice to the purchase order, packing slip and receiving report.
3. Check the general ledger account identified by the Office Manager and approved by the Assistant Executive Officer, using the Organization's current chart of accounts.
4. Obtain the approval of the Executive Officer (or their designee) associated with the goods or services purchased.

#### C. Payment Discounts

To the extent practical, it is the policy of OC LAFCO to take advantage of all prompt payment discounts offered by vendors. When availability of such discounts is noted, and all required documentation in support of payment is available, payments will be scheduled to take full advantage of the discounts.

#### D. Employee Expense Reimbursements

Whenever OC LAFCO employees desire to be reimbursed for out-of-pocket expenses for item(s) or service(s) appropriately relating to agency business, they shall submit their requests on a reimbursement form approved by the Executive Officer or the Executive Officer designee. Included on the reimbursement form will be an explanation of the agency-related purpose for the expenditure(s), and receipts evidencing each expense shall be attached. Receipts are required to be submitted in conjunction with the expense report form. Failure to submit necessary receipts will result in denial of the reimbursement claim. Expense reports shall be submitted within 90 days after incurring the expense.

It is against the law to falsify expense reports. Penalties for misuse of public resources or violating this policy may include, but are not limited to, the following:

1. The loss of reimbursement privileges.
2. Restitution to the local agency.
3. Civil penalties for misuse of public resources pursuant to Government Code Section 8314.
4. Prosecution for misuse of public resources, pursuant to Section 424 of the Penal Code, penalties for which include 2, 3, or 4 years in prison.

The Executive Officer will review and approve reimbursement requests. Reimbursement requests by the Executive Officer will be reviewed by the Executive Officer designee.

#### E. Commissioner Expense Reimbursements

OC LAFCO shall adhere to Government Code Section 56334 when dealing with issues of commissioner remuneration and reimbursement.

Attendance at a meeting of the Commission or LAFCO-related conference or event engenders a commissioner to be eligible to receive compensation.

Commissioners are eligible to receive reimbursements for travel, meals, lodging, and other reasonable and necessary expenses for attending the above on behalf of OC LAFCO. Reimbursement rates shall coincide with rates set by Internal Revenue Service Publication 463 or its successor publication(s).

Lodging costs shall not exceed the maximum group rate published by the conference or activity sponsor. If the published group rate is unavailable, commissioners shall be reimbursed for comparable lodging at government or IRS rates. Commissioners shall use government or group rates offered by the provider of transportation when available.

Any and all expenses that do not fall within the adopted travel reimbursement policy or the IRS reimbursable rates are required to be approved by the Commission in a public meeting prior to the expense(s) being incurred. Expenses that do not adhere to the adopted travel reimbursement policy or the IRS reimbursable rates, and that do not receive prior approval from the Commission in a public meeting prior to the expense being incurred, shall not be eligible for reimbursement.

OC LAFCO shall provide expense reimbursement report forms to Commissioners who attend the above functions on behalf of the Commission, which shall document that expenses adhere to this policy. Receipts are required to be submitted in conjunction with the expense report form. Failure to submit necessary receipts will result in denial of the reimbursement claim. Expense reports shall be submitted within a reasonable time, and at no time more than 90 days after incurring the expense.

It is against the law to falsify expense reports. Penalties for misuse of public resources or violating this policy may include, but are not limited to, the following:

1. The loss of reimbursement privileges.
2. Restitution to the local agency.
3. Civil penalties for misuse of public resources pursuant to Government Code Section 8314.
4. Prosecution for misuse of public resources, pursuant to Section 424 of the Penal Code, penalties for which include 2, 3, or 4 years in prison.

## **2.11 CREDIT CARD PURCHASES**

### **A. Overview**

The Office Manager, the Assistant Executive Officer, and the Executive Officer are the custodians of the credit cards. When purchases are made, the receipts are retained in accordance with the Commission's retention policy.

### **B. Reconciliation of Statements**

The receipts shall be maintained in the OC LAFCO Purchasing Card binder. When the monthly statements are received, the purchases should be compared to the receipts maintained by the Office Manager. The credit card Statement of Account will be signed by the Executive Officer and the Executive Officer designee verifying that all purchases are valid.

## **2.12 PAYROLL AND RELATED POLICIES**

## A. Payroll Administration

OC LAFCO operates on a bi-weekly payroll. For all OC LAFCO employees, a personnel file is established and maintained with current documentation, as described throughout this section.

The following forms, documents and information shall be obtained and included in the personnel files of all new employees:

1. Letter of Interest and resume.
2. Applicant references (work & personal).
3. Interview questions and notes.
4. Form W-4 Employee Federal Withholding Certificate.
5. State Withholding Certificate.
6. Form I-9 Employment Eligibility Verification.
7. Copy of driver's license.
8. Copy of Social Security card issued by the Social Security Administration.
9. Starting date and scheduled hours.
10. Job title and starting salary.
11. Authorization for direct deposit of paycheck, along with a voided check or deposit slip.

All personnel documents will be maintained within a confidential and protected filing system.

## B. Changes in Payroll Data

It is policy of OC LAFCO that all of the following changes in payroll data are to be authorized in writing:

1. New hires.
2. Terminations.
3. Changes in salaries and pay rates.

4. Voluntary payroll deductions.
5. Changes in income tax withholding status.
6. Court-ordered payroll deductions.

New hires, terminations, and changes in salaries or pay rates shall be authorized in writing by the Executive Officer and forwarded to the County. Salary changes for the Executive Officer are approved by the Commission and authorized in writing by the OC LAFCO Chair.

Voluntary payroll deductions and changes in income tax withholdings status shall be authorized in writing by the individual employee.

Documentation of all changes in payroll data shall be maintained in each employee's personnel file.

#### C. Preparation of Timesheets

Each OC LAFCO employee must sign or initial a Bi-Weekly Timesheet detailing the hours worked, following the close of each pay period. The Executive Officer and/or Executive Officer's designee shall review and sign all staff timesheets. The Officer Manager shall be responsible for reviewing the Executive Officer's timesheet. In addition, each employee shall complete an electronic timesheet through the County of Orange Virtual Timesheet Interface (VTI). As the County of Orange is the payroll agent for OC LAFCO, the VTI timesheets are required. The Office Manager shall also complete a cover sheet identifying the organization, number of employees, and pay period. This form should be signed by the Executive Officer or the Office Manager/Commission Clerk and remitted to the County for processing.

#### D. Review of Payroll

Upon receipt of the bi-weekly payroll reports, the Executive Officer should review the payroll reports for accuracy. This review shall include verification of the following: employee status (active/non-active/terminated), bi-weekly pay (current hourly and total) and vacation accrual and time-off. The Executive Officer shall sign the payroll report indicating that it has been reviewed.

#### E. Distribution of Payroll

It is recommended that payroll payments be transferred electronically by County Payroll into OC LAFCO employees' bank accounts. However, employees may elect to receive bi-weekly payroll checks.

#### F. Independent Contractors and Commissioners

## 1. Independent Contractors

OC LAFCO utilizes private individuals and firms (“Independent Contractors”) to provide a variety of specialized and professional services. The provision of and payment procedures for these services are established and outlined in a written professional services agreement approved by the Executive Officer or the Commission. The following payroll and related policies that apply to an Independent Contractor include:

- a. Payments to OC LAFCO Independent Contractors are made subject to the terms and conditions of the respective professional services agreement. Payments to all independent contractors are prepared by the OC LAFCO accounting staff. No payments to any independent contractor shall be processed through the County of Orange payroll system.
- b. OC LAFCO Independent Contractors shall maintain a separate business location and requested license and insurance requirements.
- c. OC LAFCO Independent Contractors shall use their own equipment and resources (i.e., computer, laptop, cell phone) to provide the services outlined in the respective professional services agreement.
- d. OC LAFCO Independent Contractors must provide a completed IRS “Request for Taxpayer Identification Number and Certification (W-9)” upon execution of the professional services agreement.
- e. OC LAFCO Independent Contractors will be sent a Form 1099 if total compensation paid to that individual/firm for any calendar year, on the cash basis, is \$600 or more. The amount reported on a Form 1099 is equal to the compensation paid to that person during a calendar year (on the cash basis). Excluded from “compensation” are reimbursements of business expenses that have been accounted for by the contractor by supplying receipts and business explanations.

## 2. Commissioners

OC LAFCO Commissioners are not considered OC LAFCO employees. Stipend payments to Commissioners are processed by an independent payroll company and not through the County of Orange payroll system. Under



Internal Revenue Code Section 3401(c), OC LAFCO's treatment of Commissioners as "statutory employees" applies for income tax withholding purposes only, and not for any other purpose.

### PART 5 - Policies Pertaining to Specific Asset and Liability Accounts

#### 2.13 CASH AND CASH MANAGEMENT

##### A. Cash Accounts

The primary operating account provides for routine business check disbursements. All cash and credit card deposits are made to this account. Bank reconciliations are performed by the OC LAFCO accounting firm staff. The following minimum balances shall be maintained in the agency's accounts at all times to ensure there are sufficient funds to cover ongoing operating and payroll expenses:

Savings:	\$205,000
Payroll:	3 Months of Current Payroll Expenses
Checking:	3 Months of Operational Expenses

##### B. Reserve Policy

OC LAFCO currently has three reserve funds restricted to the agency's savings account. These funds are as follows: (1) Contingency; (2) Litigation; and, (3) Unfunded Liability. These accounts are considered "restricted" accounts and are only used for the specific purposes described below:

1. Contingency Reserves - restricted funds to cover any unforeseen future agency loss and/or urgency which includes but is not limited to property or equipment damage, loss or theft. The minimum balance in the Contingency Reserve Account shall be \$100,000.
2. Litigation Reserves - restricted funds for costs related to agency legal challenges. The minimum balance in the Litigation Reserve Account shall be \$75,000.
3. Unfunded Liability Reserve - restricted funds to offset anticipated agency liabilities including employee vacation and administrative leave payouts. The minimum balance in the Unfunded Liability Reserve Account shall be \$30,000.

#### 2.14 INVESTMENTS

##### A. Authority

In accordance with California Government Code Section 56300 et seq., the authority to invest public funds not required for the immediate needs of the agency is expressly delegated to OC LAFCO. The Commission may also delegate this responsibility to the OC LAFCO Executive Committee and the Executive Officer.

The purpose of this section of the policy is to establish investment guidelines for OC LAFCO officials to ensure the stewardship of agency funds. Pursuant to state law, the Commission, Executive Committee, Executive Officer, and Executive Officer Designee, when investing OC LAFCO funds, shall act with care, skill, prudence, and diligence under the circumstance than prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the agency. All investment shall be in conformance with federal, state and other legal requirements.

Investments made pursuant to this policy are limited to those instruments specified by OC LAFCO. The Commission shall review the investment program quarterly.

#### B. Investment Objectives

The specific objectives for all funds invested as defined by this policy are listed in priority order as follows:

##### 1. Safety of Principal

The preservation of principal is of primary importance. Each transaction shall seek to ensure that capital losses are avoided.

##### 2. Legality

Each transaction and the entire investment program must comply with the California Government Code and OC LAFCO's investment policy as defined herein.

##### 3. Liquidity

The invested funds should remain sufficiently flexible to enable OC LAFCO to meet all operating requirements which may be reasonably anticipated.

The managing of OC LAFCO investments shall be subject to the prudent investor standard, a standard of conduct requiring that any investment be made with care, skill, prudence, and diligence in order to safeguard agency funds and maintain the liquidity needs of the agency.

### C. Return on Investment

Investments shall be undertaken to produce an acceptable rate of return after first considering safety of principal and liquidity and the prudent investor standard.

Authority to manage OC LAFCO's investment program is delegated to the OC LAFCO Commission. Management responsibility is hereby delegated to the Executive Committee and the Executive Officer under the direction of the full OC LAFCO Commission.

### D. Authorized Investments

Agency funds that are not required for the immediate needs of OC LAFCO may be invested as follows:

- Investment Funds  
Agency funds not required for immediate needs of OC LAFCO may be remitted to the State Local Agency Investment Fund (LAIF) or the Orange County Investment Pool (OC Fund) for the purpose of investment (Government Code Section 16429.1).
- Section 115 Public Agencies Post-Employment Benefits Trust  
Agency funds from excess net-cash net income and not required for immediate needs of OC LAFCO may be deposited to the benefits trust account managed through an agreement with the Public Agency Retirement Services (PARS). The account is established for agency contributions towards the payment of pension and post-employment benefit obligations and lowering of the agency's overall net pension expenses. The annual transfer to the benefits trust account must not exceed fifty percent (50%) of the excess cash net income at fiscal year-end, unless approved by the Commission.

- Other Investments

Other investments permitted by Government Code Section 53600 may be made subject to prior approval of the Commission and may include the following:

- U.S. Government and Agencies Obligations
- Negotiable Certificates of Deposit issued by a national or state-chartered bank, a state or federal savings and loan association, or a savings bank with ratings equivalent by Fitch to F1 or better.

As deemed appropriate, the Commission may, at any time, further

restrict the securities approved for investment.

#### E. Reporting

The Executive Officer shall submit a quarterly report to the Commission showing investment activity, including yield and earnings and the status of cash by depository.

As part of the Commission's annual audit, the independent auditor shall also evaluate investment performance and conduct an operations audit. The purpose of these examinations shall be to obtain suggestions for improved future performance and to verify that investments have been done in accordance with the policy and all applicable laws.

### 2.15 FIXED ASSET MANAGEMENT

#### A. Capitalization Policy

Physical assets acquired with unit costs in excess of \$2,000 are capitalized as fixed assets on the financial statements. Items with unit costs below this threshold shall be expensed in the year purchased.

Capitalized fixed assets are accounted for at their historical cost and all such assets, except land, are subject to depreciation over their estimated useful lives for government-wide financial statements in accordance with GASB Statement No. 34.

#### B. Contributed Assets

Assets with fair market values in excess of \$2,000 (per unit) that are contributed to OC LAFCO shall be capitalized as fixed assets on the financial statements. Contributed items with market values below this threshold shall be expensed in the year contributed.

Capitalized contributed assets are accounted for at their market value at the time of donation and all such assets, except land, are subject to depreciation for government-wide financial statements.

#### C. Establishment and Maintenance of a Fixed Asset Listing

All capitalized fixed assets shall be recorded in a property log. This log shall include the following information with respect to each asset:

1. Date of acquisition.
2. Cost.

3. Description (including color, model, and serial number).
4. Location of asset.
5. Depreciation method.
6. Estimated useful life.

A physical inventory of all assets capitalized under the preceding policies will be taken on an annual basis by OC LAFCO. This physical inventory shall be reconciled to the property log and adjustments made as necessary. All adjustments resulting from this reconciliation will be approved by the Executive Officer.

#### D. Depreciation and Useful Lives

All capitalized assets are maintained in the special fixed assets account group. Fixed assets are depreciated over their estimated useful lives using the straight-line method only when presenting government-wide financial statements. Fund financial statements do not include fixed assets or depreciation.

In the year of acquisition, depreciation is recorded based on the number of months the asset is in service, counting the month of acquisition as a full month. (Example: an asset purchased on the 15<sup>th</sup> day of the fifth month shall have 8 full months of depreciation (eight-twelfths of one year) recorded for that year.)

Estimated useful lives of capitalized assets shall be determined by the Executive Officer. The following is a list of the estimated useful lives of each category of fixed asset for depreciation purposes:

Furniture and fixtures	Up to 10 yrs.
General office equipment	5 yrs.
Computer hardware and peripherals	3-5 yrs.
Computer software	2-3 yrs.
Leased assets	Life of Lease

For accounting and interim financial reporting purposes, depreciation expenses will be calculated on an annual basis in conjunction with the annual audit.

#### E. Repairs of Fixed Assets

Expenditures to repair capitalized assets shall be expensed as incurred if the repairs do not materially add to the value of the property or materially prolong the estimated useful life of the property.

Expenditures to repair capitalized assets shall be capitalized if the repairs increase the value of property, prolong its estimated useful life, or adapt it to a new or different use. Such capitalized repair costs shall be depreciated over the remaining estimated useful life of the property. If the repairs significantly extend the estimated useful life of the property, the original cost of the property shall also be depreciated over its new, extended useful life.

#### F. Dispositions of Fixed Assets

In the event a non-expendable asset is sold, scrapped, donated or stolen, adjustments need to be made to the fixed asset listing and property log.

### 2.16 ACCRUED LIABILITIES

#### A. Identification of Liabilities

The accounting department shall establish a list of commonly incurred expenses that may have to be accrued at the end of an accounting period. Some of the expenses that shall be accrued by OC LAFCO at the end of an accounting period are:

1. Salaries and wages.
2. Payroll taxes.
3. Vacation pay.
4. Facility expenses payable to the County.

In addition, OC LAFCO shall record a liability for deferred revenue (revenue received but not yet earned) in accordance with the revenue recognition policies described elsewhere in this policy.

### **PART 6 - Policies Associated with Financial Reporting**

#### 2.17 REPORTS RECEIVED FROM THE COUNTY ORANGE

Some reports are provided to OC LAFCO from the County of Orange on a monthly basis. Such reports should be used to reconcile revenues/disbursements for the month, if appropriate.

#### 2.18 FINANCIAL STATEMENTS

Preparing financial statements and communication of key financial information is a necessary and critical accounting function. Financial statements are management tools used in making decisions, in monitoring the achievement of

financial objectives, and as a standard method for providing information to interested parties external to the organization. Financial statements may reflect year-to-year historical comparisons or current year budget to actual comparisons.

The basic financial statements of OC LAFCO that are maintained on an organization-wide basis should include:

A. Monthly Financial Statements

1. YTD Combined Expense Summary by Agency - reports budget, encumbrances, expenditures, and remaining budget amounts by account.
2. YTD Combined Revenue Summary by Agency - reports budgeted and actual revenues by account.

B. Quarterly Financial Statements

1. Balance Sheet - reflects assets, liabilities and fund balance of the organization.
2. Cash Flow Statement - provides aggregate data regarding all agency cash inflows from both ongoing operations and external investment sources and all case outflows that fund agency operations and investments during a given quarter.
3. Statement of Revenue, Expenditures, and Changes in Fund Balance - presents the budget and actual revenues and expenditures of the organization.

C. Annual Financial Statements

1. Annual Audited Financial Statements - to be provided by the Independent Auditor.

## 2.19 ANNUAL AUDIT

A. Role of the Independent Auditor

It is the policy of OC LAFCO to arrange for an annual audit of its financial statements to be conducted by an independent accounting firm. The independent accounting firm selected by OC LAFCO will be required to communicate directly with the Commission upon the completion of their audit. In addition, members of the Commission may initiate communication directly with the independent accounting firm.

Audited financial statements, including the auditor's opinion thereon, will be

submitted to the Commission by the independent accounting firm and the financial statements will be presented for consideration by the Commission at a regular meeting.

#### B. How Often to Review the Selection of the Auditor

In accordance with agency policy and state law, OC LAFCO shall review the selection of its independent auditor in the following circumstances:

1. Anytime there is dissatisfaction with the service of the current firm.
2. When a fresh perspective and new ideas are desired.
3. A change in Auditor every six years should be considered to ensure competitive pricing and a high quality of service.
4. OC LAFCO is restricted from employing a public accounting firm to provide audit services if the lead partner or coordinating audit partner having primary responsibility for the audit, has performed audit services for OC LAFCO for six consecutive fiscal years.

#### C. Selecting an Auditor

The selection of an accounting firm to conduct the annual audit is a task that should be taken very seriously. The following factors shall be considered by OC LAFCO in selecting an accounting firm:

- The firm's reputation in the government community.
- The depth of the firm's understanding of and experience with governmental agencies.
- The demonstrated ability to provide the services requested in a timely manner.
- The ability of firm personnel to communicate with Organization personnel in a professional and congenial manner.

If OC LAFCO decides to prepare and issue a written Request for Proposal (RFP) to be sent to prospective audit firms, the following information shall be included:

- Period of services required.
- Type of contract to be awarded (fixed fee, cost basis, etc.).



- Complete description of the services requested (audit, management letter, etc.).
- Identification of meetings requiring their attendance, such as staff or Commission meetings.
- OC LAFCO Organizational Chart.
- Chart of account information.
- Financial information about the organization.
- Copy of prior year reports (financial statements, management letters, etc.).
- Other information considered appropriate.
- Description of proposal and format requirements.
- Due date of proposals.
- Overview of selection process (i.e. whether finalists will be interviewed, when a decision shall be made, etc.).
- Identification of criteria for selection.

Minimum Proposal Requirements form prospective CPA firms shall be:

- Firm background.
- Biographical information (resumes) of key firm members who will serve OC LAFCO.
- Client references.
- Information about the firm's capabilities.
- Firm's approach to performing an audit.
- Copy of the firm's most recent quality/peer review report, including any accompanying letter of findings.
- Other resources available with the firm.
- Expected timing and completion of the audit.

- Expected delivery of reports.
- Cost estimate including estimated number of hours per staff member.
- Rate per hour for each auditor.
- Other information as appropriate.

#### D. Preparation for the Annual Audit

OC LAFCO shall be actively involved in planning for and assisting with the independent accounting firm in order to ensure a smooth and timely audit of its financial statements. In that regard, the accounting department shall provide assistance to the independent auditors in the following areas:

1. Planning - The Executive Officer is responsible for delegating the assignments and responsibilities to accounting staff in preparation for the audit. Assignments shall be based on the list of requested schedules and information provided by the independent accounting firm.
2. Commission Involvement - Organization staff will do as much work as possible in order to assist the auditors and, therefore, reduce the cost of the audit. The Commission's Executive Committee may assist OC LAFCO in fulfilling its audit oversight responsibilities with regard to (1) the integrity of OC LAFCO's financial statements, (2) OC LAFCO's compliance with legal and regulatory requirements, and (3) the independent auditor's qualifications and independence. In providing this assistance to the full Commission, the Executive Committee may assume audit responsibilities as provided herein and recommend action on all audit matters to the full Commission.

Audit responsibilities of the Executive Committee may include, but is not limited to, the following:

- Review of the auditor's proposed audit scope and approach.
- Review of annual financial audit reports, schedules, and management letter.
- Any serious difficulties or disputes with management encountered during the audit.
- Matters required to be discussed by Statements on Auditing Standards issued by the Auditing Standards Board of the American Institute of Certified Public Accountants or other state or federal

agencies.

- Review of the performance of the auditors, including any issues arising during their most recent quality-control or peer review, and their independence as it relates to OC LAFCO.
  - Review of the Executive Committee's audit responsibilities annually to reassess their adequacy and recommend any proposed changes.
  - Review the Executive Committee's effectiveness in carrying out its responsibilities.
  - Other matters deemed appropriate by the OC LAFCO Chair.
3. Interim Procedures – To facilitate the timely completion of the annual audit, the independent auditors may perform selected audit procedures prior to the organization's year-end. By performing significant portions of audit work as of an interim date, the work required subsequent to year-end is reduced. Organization staff will assist as much as possible in order to provide requested schedules and documents and to otherwise assist the auditors during any interim audit fieldwork that is performed.

Throughout the audit process, it shall be the policy of OC LAFCO to make every effort to provide schedules, documents and information requested by the auditors in a timely manner.

#### E. Concluding the Audit

Upon receipt of a draft of the audited financial statements of OC LAFCO from its independent auditor, the Executive Officer, the OC LAFCO accounting firm staff shall perform a detailed review of the draft, consisting of the following procedures:

1. Carefully read the entire report for typographical errors.
2. Trace and agree with each number in the financial statements and accompanying footnotes to the accounting records and/or internal financial statements of OC LAFCO.
3. Review each footnote for accuracy and completeness.

Any questions or errors noted as part of this review shall be communicated to the independent auditor in a timely manner and resolved to the satisfaction of the Executive Officer.

It shall also be the responsibility of the Executive Officer to review and respond in writing to all management letters or other internal control and compliance report findings and recommendations made by the independent auditor.

Original Adoption Date: 2/9/2005

Date of Last Review:

~~11/13/2019~~ 10/13/21

Revisions: 10/13/21, 11/13/2019, 02/14/2018, 10/14/2015, 4/9/2014, 2/13/2013,  
12/12/2012, 2/8/2012, 2/9/2011, 3/11/2009

# Accounting & Financial Policies of the Orange County Local Agency Formation Commission

## PART 1 - INTRODUCTION

### 2.1 INTRODUCTION

The following accounting manual is intended to provide an overview of the accounting policies and procedures applicable to OC LAFCO.

This manual documents the financial operations of the organization. Its primary purpose is to formalize accounting policies and selected procedures for the accounting staff and to document internal controls.

All OC LAFCO staff is bound by the policies herein, and any deviation from established policy is prohibited.

## PART 2 - GENERAL POLICIES

### 2.2 ORGANIZATIONAL STRUCTURE

#### A. The Role of the Commission

OC LAFCO is governed by its Commission, which is responsible for the oversight of the organization by:

1. Planning for the future.
2. Establishing broad policies.
3. Identifying and proactively dealing with emerging issues.
4. Interpreting the organization's mission to the public.

B. The Commission is responsible for hiring and periodically evaluating the organization's Executive Officer, who shall be responsible for the day-to-day oversight and management of OC LAFCO. Specific guidelines regarding the composition and election of the Commission are described in the organization's

bylaws.

C. The Role of the Executive Officer and Staff

The Commission hires the Executive Officer, who reports directly to the Commission. The Executive Officer is responsible for hiring and evaluating all employees of OC LAFCO. All employees report directly to the Executive Officer.

**2.3 ACCOUNTING OVERVIEW**

A. Organization

1. The accounting functions of OC LAFCO are performed by three employees and an accounting firm who manage and process financial information for OC LAFCO. The positions performing the accounting functions of OC LAFCO are as follows:

- a. Executive Officer
- b. Assistant Executive Officer
- c. Office Manager/Commission Clerk
- d. Accounting firm accountant and staff

2. Other officers and employees of OC LAFCO who have financial responsibilities are as follows:

- a. Executive Officer's Designee
- b. Commission

B. Responsibilities

- 1. General Ledger
- 2. Budgeting
- 3. Cash and Investment Management
- 4. Asset Management
- 5. Purchasing

6. Cash Receipts
7. Accounts Payable
8. Payroll and Benefits
9. External Reporting of Financial Information
10. Annual Audit

## 2.4 BUSINESS CONDUCT

### Practice of Ethical Behavior

- A. Unethical actions, or the appearance of unethical actions, are unacceptable under any conditions. The policies and reputation of OC LAFCO depend to a very large extent on the following considerations.
- B. Each employee must apply her/his own sense of personal ethics, which should extend beyond compliance with applicable laws and regulations in business situations, to govern behavior where no existing regulations provides a guideline. It is each employee's responsibility to apply common sense in business decisions here specific rules do not provide all the answers.
- C. In determining compliance with this standard in specific situations, employees should ask themselves the following questions:
  1. Is my action legal?
  2. Is my action ethical?
  3. Does my action comply with OC LAFCO policy?
  4. Could my action appear to be inappropriate?
  5. Does my action meet my personal code of ethics and behavior?

Each employee should be able to answer "yes" to all of these questions before taking action.

- D. Each OC LAFCO employee is responsible for the ethical business behavior of his/her subordinates. All employees and commissioners must weigh carefully all courses of action suggested in ethical as well as economic terms and base their final decisions on the guidelines provided by this policy as well as their sense of

right and wrong.

- E. All OC LAFCO staff and commissioners will complete ethics training as required by the State of California.

## 2.5 FRAUD POLICY

### A. Scope

This policy applies to any fraud or suspected fraud involving employees, officers or commissioners, as well as vendors, consultants, contractors, funding sources and/or any other parties with a business relationship with OC LAFCO. Any investigative activity required will be conducted without regard to the suspected wrongdoer's length of service, position/title, or relationship with OC LAFCO.

### B. Policy

The Executive Officer, OC LAFCO staff and Commission are responsible for the detection and prevention of fraud, misappropriations, and other irregularities.

Fraud is defined as the intentional, false representation or concealment of a material fact for the purpose of inducing another to act upon it to his or her injury. Each member of the OC LAFCO team will be familiar with the types of improprieties that might occur within his or her area of responsibility and be alert for any indication of irregularity.

Any fraud that is detected or suspected must be reported immediately to the Executive Officer or, alternatively, to the Chair of the OC LAFCO Commission.

### C. Actions Constituting Fraud

The terms fraud, defalcation, misappropriation, and other fiscal irregularities refer to, but are not limited to:

1. Any dishonest or fraudulent act
2. Forgery or alteration of any document or account belonging to OC LAFCO
3. Forgery or alteration of a check, bank, draft, or any other financial document
4. Misappropriation of funds, securities, supplies, equipment, or other assets of OC LAFCO
5. Impropriety in the handling or reporting of money or financial transaction



6. Disclosing confidential and proprietary information to outside parties
7. Accepting or seeking anything of material value from contractors, vendors, or persons providing goods or services to OC LAFCO
8. Destruction, removal or inappropriate use of records, furniture, fixtures, and equipment
9. Any similar or related irregularity

D. Other Irregularities

Irregularities concerning an employee's moral, ethical, or behavioral conduct should be resolved by the Executive Officer. If there is a question as to whether an action constitutes fraud, contact the Executive Officer or the Chair of the Commission for guidance.

E. Investigation Responsibilities

The Executive Officer has the primary responsibility for the investigation of all suspected fraudulent acts as defined in the policy. The Executive Officer may utilize whatever internal and/or external resources necessary in conducting an investigation. If an investigation substantiates that fraudulent activities have occurred, the Executive Officer will issue a report to appropriate designated personnel and, if appropriate, to the Commission. Decisions to prosecute or refer the examination results to the appropriate law enforcement and/or regulatory agencies for independent investigation will be made in conjunction with legal counsel and senior management, as will final dispositions of the case.

F. Confidentiality

The Commission and the Executive Officer will treat all information received confidentially. Any employee who suspects dishonest or fraudulent activity will notify the Executive Officer or the Commission Chair immediately and should not attempt to personally conduct investigations or interviews/interrogations related to any suspected fraudulent act.

Investigation results will not be disclosed or discussed with anyone other than those who have a legitimate need to know. This is important in order to avoid damaging the reputations of person suspected but subsequently found innocent of wrongful conduct and to protect OC LAFCO from potential civil liability.

## G. Authority for Investigation of Suspected Fraud

Members of the Commission will have:

1. Free and unrestricted access to all OC LAFCO records and premises, whether owned or rented; and
2. The authority to examine and copy any portion of the contents of files, desks, cabinets, and other storage facilities on the premises without prior knowledge or consent of any individual who may use or have custody of any such items or facilities when it is within the scope of their investigation.

## 2.6 GENERAL LEDGER AND CHART OF ACCOUNTS

The general ledger is defined as a group of accounts that supports the information shown in the major financial statements. The general ledger is used to accumulate all financial transactions of OC LAFCO and is supported by subsidiary ledgers that provide details for certain accounts in the general ledger. The general ledger is the foundation of the accumulation of data and reports.

### A. Funding Accounting

OC LAFCO utilizes fund accounting. A fund is defined as a fiscal and accounting entity with a self-balancing set of accounts established to record the financial position and results of operations of a specific governmental activity. OC LAFCO has the following funds:

1. General Fund – The government’s primary operating fund. It accounts for all financial resources of the government, except those required to be accounted for in another fund.
2. Special Revenue Funds – Used to account for the proceeds of specific revenue sources that are restricted to expenditures for specified purposes.

### B. Chart of Accounts Overview

The chart of accounts is the framework for the general ledger system, and therefore the basis for OC LAFCO’s accounting system. The chart of accounts consists of account titles and account numbers assigned to the titles. General ledger accounts are used to accumulate transactions and the impact of these transactions on each asset, liability, fund balance, revenue, and expenditure account. OC LAFCO’s chart of accounts is comprised of six types of accounts:

1. Assets

- 2. Liabilities
- 3. Fund Balance
- 4. Revenues
- 5. Expenses
- 6. Other Sources and Uses

OC LAFCO utilizes “Classes” in QuickBooks to track Special Revenue Fund activities.

C. Account Definitions

- 1. General Ledger

<i>Account Range</i>	<i>Category</i>	<i>Definition</i>
QuickBooks	Assets	<p>Assets are probable future economic benefits obtained or controlled by the organization as a result of past transactions.</p> <p>Capital assets are not required on the fund financial statements, only on the government-wide financial statements.</p>
QuickBooks	Liabilities	<p>Liabilities are probable future sacrifices of economic benefits arising from present obligations of the organization to transfer assets or provide services to other entities in the future as a result of past transactions or events.</p> <p>Liabilities of OC LAFCO are classified as current or long-term.</p> <p>Current liabilities are probable sacrifices of economic benefits that will likely occur within one year of the date of the financial statements or which have a due date of one year or less. Common examples of current liabilities include accounts payable, accrued liabilities, short-term notes payable, and deferred revenue.</p>

		Long-Term Liabilities are probable sacrifices of economic benefits that will likely occur more than one year from the date of the financial statements.
QuickBooks	Fund Balance	Fund Balance is the difference between total assets and total liabilities.
QuickBooks	Revenues	Revenues are inflows or other enhancements of assets, or settlements of liabilities, from delivering or producing goods, rendering services, or other activities that constitute an organization’s ongoing major or central operations.
QuickBooks	Expenses	Expenses are outflows or other using up of assets or incurrences of liabilities from delivering or producing goods, rendering services, or carrying out other activities that constitute OC LAFCO’s ongoing major or central operations.

All general ledger entries that do not originate from an accounting cycle such as cash receipts or cash disbursements shall be accompanied by supporting documentation, which shall include a reasonable explanation of each such entry.

Examples of such entries include:

1. Recording of non-cash transactions
2. Corrections of posting errors
3. Accruals of income and expenses

**PART 3 - Policies Associated with Revenues and Cash Receipts**

**2.7 REVENUE RECOGNITION POLICIES**

OC LAFCO receives revenue from several types of transactions. Revenue from each of these types of transactions is recognized in the financial statements of OC LAFCO in the following manner:

- A. OC LAFCO Apportionment - Received at the beginning of the fiscal year. Amount is equal to the approved operating budget and is split three ways among the County, the Cities, and the Special Districts. Revenues are recorded in the general fund.
- B. Application and Processing Fees - Provided by incoming project applications.

Filing fees and time and material deposits are collected to offset costs associated with applications and vary with each project. Filing fees are not budgeted as revenue due to the uncertainty of when applications are filed. These fees are accounted for by project and are recorded in a separate special fund.

- C. Interest Income – Interest on investments held by the County, the Local Agency Investment Fund (LAIF), Orange County Investment Pool (OC Fund), Public Agency Retirement Services (PARS), or other investments permitted by Commission policy. Interest income held by the County, LAIF and OC Fund is recorded in the general fund. Interest income held by the PARS is recorded in the PARS benefits trust account.
- D. Other Income – Miscellaneous revenues, including copies of agenda packets, minutes, and meeting tapes. Other income is recorded in the general fund.

## 2.8 BILLING/INVOICING POLICIES

### A. Overview

The following is a list of items billed and/or accrued and received by OC LAFCO and the frequency with which each is billed;

#### 1. Annual Billings

- a. OC LAFCO Apportionment – Billings are performed and collected by the County of Orange.

#### 2. Miscellaneous Billings

- a. Filing Fees
- b. Agenda and Minutes (copying fees)
- c. Reimbursements (phone charges, workshops)

### B. Receipt and Handling of Incoming Money

It is the responsibility of the Office Manager to open the mail on a daily basis. All checks must be “restrictively endorsed” upon receipt. The Office Manager stamps all checks with the agency’s endorsement stamp (“For Deposit Only, Account #\_\_\_\_\_”).

#### 1. Check Log

The Office Manager makes copies of all incoming checks and will place the properly endorsed checks in a lock box. The Office Manager will log the checks

into a spreadsheet, which includes fields for the following information:

- a. Payee
- b. Check number
- c. Amount of check
- d. Date issued
- e. Date of receipt
- f. Date of deposit
- g. Purpose of funds
- h. Related OC LAFCO project number (if applicable)

The lock box will be properly secured, and its access will be limited to a minimum number of OC LAFCO staff.

## 2. Deposits

The Executive Officer, the Assistant Executive Officer, or the Executive Officer's designee will prepare a deposit slip when checks are received by the agency and will deposit funds into the agency's bank account. The Office Manager will place copies of the deposit slips and corresponding bank receipts in the designated folder. The Office Manager will update the check log to reflect the deposits.

## 3. Reconciliation of Accounts

The accounting firm staff will perform a reconciliation of the agency's bank accounts monthly upon receipt of the agency's bank statements. The accounting firm staff will compare the deposit slips to the check log and the agency's bank statements to ensure that all funds are properly deposited and credited to the agency's accounts. The accountant will review the accounting firm staff's work.

## C. Wire Transfers between Agency Accounts

The agency will maintain a deposit in an amount equal to estimated costs of quarterly payroll in County Account 770. The remaining balance will be wired to the agency's bank account. The accounting firm staff will prepare a cash flow analysis, and permitted uses for excess cash shall be as follows: (a) contributions to the agency's Public Agency Retirement Services (PARS) Section 115 benefits trust; and (b) investment in the Local Agency Investment Fund (LAIF), Orange

County Investment Pool (OC Fund) and/or other investment options approved by the Commission. Wire transfers for such permitted uses shall be processed in accordance with the wire transfer procedures of the County of Orange, OC Fund, LAIF and PARS.

The Executive Officer and the Executive Officer's designee will complete the County of Orange Wire Transfer Request Form. The completed Wire Transfer Form will be signed by BOTH the Executive Officer and the Executive Officer designee. The Office Manager will make a copy of the Wire Transfer Form for the agency's records and will submit the signed Wire Transfer Request Form to the County Auditor-Controller for processing.

The accounting firm staff will compare the Wire Transfer Request Form to the agency's bank statements each month to ensure that all funds are properly transferred and credited to the agency's accounts. Periodically, a withdrawal of funds from LAIF and the OC Fund will be required to maintain ongoing payroll and operating expenses.

LAIF deposits and withdrawals are completed electronically. All electronic deposits and withdrawals will be authorized by the Executive Officer and/or the Executive Officer's designee. A log of all deposits and withdrawals for LAIF will be maintained and documentation of each deposit and withdrawal will be provided to the accounting firm staff.

OC Fund deposits and withdrawals require at least one (1) full business day to complete a deposit and at least three (3) full business days to complete a withdrawal. Deposits require the completion of a deposit form signed by both the Executive Officer and the Executive Officer designee. Withdrawals of funds from the agency's bank accounts to the OC Fund require completion of appropriate transfer documents signed by both the Executive Officer and the Executive Officer designee. A log of all deposits and withdrawals for the OC Fund will be maintained and documentation of each deposit and withdrawal will be provided to the accounting firm staff.

Contributions to and payment reimbursements/distributions from the Section 115 benefits trust shall be processed in accordance with the PARS Administrative Agreement. The Executive Officer or the Executive Officer's designee shall complete the required forms to effect any contributions or distributions of the benefits trust account. A record of all transactions of the benefits trust will be maintained and documentation of each contribution and distribution will be provided to the accounting firm staff.

D. Cash Disbursements

1. Vendor Invoices

The Office Manager will receive and open mail, date stamp all invoices, and place invoices in accounting firm staff's folder for processing. The Office Manager will forward all invoices to the Executive Officer or Executive Officer designee for review and approval. The Office Manager will coordinate approval of the invoices and identify a project number for each invoice. The accounting firm staff will record the invoice in QuickBooks and generate the check. All invoices will be approved by the Executive Officer prior to payment. The Office Manager will place a copy of the check and invoice in the respective vendor files. The Office Manager will mail checks to vendors.

2. Check-Writing Provisions

The Executive Officer or the Executive Officer designee may sign checks written for less than \$500. Checks written for \$500 or more require the signatures of BOTH the Executive Officer and the Executive Officer's designee. The Office Manager will maintain copies of all checks written on the agency's checking account.

3. Reconciliation

The accounting firm staff will perform a reconciliation of the agency's bank accounts monthly upon receipt of the agency's bank statements. This includes a reconciliation of the agency's checking account. The accounting firm staff will compare checks written on the agency's checking account against the agency's bank statements to ensure that all funds are properly debited from the agency's account.

4. Stale Checks

In reconciling the agency's checking account, the accounting firm staff will be responsible for identifying checks issued by OC LAFCO which have not been cashed within six months of issuance. The accounting firm staff will notify the Executive Officer of any "stale" checks during the checking account reconciliation process. If any stale checks are identified, the Executive Officer or the Executive Officer's designee will request the bank to issue a "stop payment" and direct the accounting firm staff to prepare a replacement check when necessary.

5. Check Stock

Check stock will be maintained in a locked drawer in the Executive Officer's office. Access to the check stock will be restricted to the Executive Officer or the Executive Officer's designee.

6. Agency Credit Card



All credit card purchases of \$250 or more must be approved, prior to transaction, by BOTH the Executive Officer and the Executive Officer designee. OC LAFCO maintains three (3) credit cards. The Office Manager, Assistant Executive Officer and the Executive Officer each hold one card. All credit card bills must be reviewed by the Executive Officer prior to payment being issued. All purchases made with the OC LAFCO credit cards must be directly related to OC LAFCO’s mission.

E. Reporting

Reports – Monthly reports, prepared by the accounting firm staff, for OC LAFCO staff and/or Commission will include:

1. Balance Sheet.
2. Cash Flow Statement.
3. Detailed Profit and Loss Statement.
4. Summary Profit and Loss with Budget and Percentages.
5. Separate reports of designated projects as needed.

**PART 4 – Policies Associated with Expenditures and Disbursements**

**2.9 PURCHASING POLICIES AND PROCEDURES**

A. Overview

THE POLICIES DESCRIBED IN THIS SECTION APPLY TO ALL PURCHASES OF GOODS AND SERVICES MADE BY OC LAFCO.

It is the policy of OC LAFCO to follow a practice of ethical, responsible and reasonable procedures related to purchasing, agreements and contracts, and related forms of commitment. The policies in this section describe the principles and procedures that all staff shall adhere to in the completion of their designated responsibilities.

B. Authorizations and Purchasing Limits

All purchases should adhere to the following guidelines:

Dollar Limit	# of Quotes	Required Communication	Approved by
<i>Goods</i>			
Under \$500	0	Oral	Executive Officer

\$501 - \$10,000	2	Written	Executive Officer
\$10,000 and over	3	Written	Commission
<i>Services</i>			
Under \$500	0	Oral	Executive Officer
\$501 - \$10,000	2	Written	Executive Officer
\$10,001 and over	3	Written	Commission

### C. Evaluation Process for a Request for Proposal (RFP)

When an RFP process is used to solicit vendors/consultants to provide a service or produce a specialized report for OC LAFCO, the Executive Officer shall develop a rating sheet to assist in the review of all submittals. The rating sheet shall include categories specific to the service or report being requested that comprehensively evaluates the individuals and/or firms competing for the OC LAFCO contractual agreement. The Executive Officer shall assign at least two (2) reviewers to participate in the review of the prospective vendor/consultant. Reviewers may include OC LAFCO staff and/or outside experts at the discretion of the Executive Officer.

Upon the Commission's final selection of a vendor/consultant in an open and competitive selection process, the final rating sheet will be made available to the Commission and all competitors upon request.

RFPs should provide for all of the following:

1. A clear and accurate description of the technical requirements for the material, product or service to be procured. In competitive procurements, such a description shall not contain features which unduly restrict competition.
2. Requirements that the bidder/offer must fulfill and all other factors to be used in evaluating bids or proposals.
3. A description, whenever practicable, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.
4. A description of the proper format, if any, in which proposals must be submitted, including the name of the OC LAFCO person to whom proposals should be sent.
5. The date by which proposals are due.
6. Required delivery or performance dates/schedules.
7. Clear indications of the quantity(ies) requested and units of measure.

OC LAFCO may consider vendors/consultants to provide a service or produce a specialized report for OC LAFCO from a list established through an RFP process conducted by other LAFCOs or the County of Orange within the last three calendar years to provide a similar service.

D. Special Purchasing Conditions

1. Emergencies: Where equipment, materials, parts, and/or services are needed immediately, quotations will not be necessary if the health, welfare, safety, etc., of staff and protection of organization property are involved.
2. Single Distributor/Source: Where there is only one (1) distributor for merchandise needed and no other product meets the stated needs or specifications, quotations will not be necessary.

E. Vendor Files and Required Documentation

The Officer Manager shall create a vendor file for each new vendor from who OC LAFCO purchases goods or services. Copies of purchase orders, contracts, and all vendor invoices will be maintained in the vendor file.

F. Sole Source Service Agreements

In the event specialized OC LAFCO consultant services estimated to cost up to \$10,000 annually are needed to assist staff in completing a time-sensitive project or study, the Executive Officer may elect to waive the RFP process, subject to the following findings:

1. The consultant(s) selected offer a combination of skills, education and work experience that uniquely qualifies that individual or firm to provide the OC LAFCO services, and
2. Even with due attention given to the project by staff, normal RFP processes would impair OC LAFCO's ability to meet statutory or Commission deadlines.

An annual report on agency agreements, including sole source service agreements, will be provided to the Commission.

## 2.10 ACCOUNTS PAYABLE MANAGEMENT

A. Overview

OC LAFCO strives to maintain efficient business practices and sound cost controls. A well-managed accounts payable function can assist in accomplishing this goal, from the purchasing decision through payment and check reconciliation.

The vendor invoice should be supported by an approved purchase order where necessary and should be reviewed and approved by the Executive Officer or the Executive Officer's designee prior to being processed for payment. Invoices and related general ledger account distribution codes are reviewed prior to processing disbursements.

The primary objective for accounts payable and cash disbursements is to ensure that:

1. Disbursements are properly authorized.
2. Invoices are processed in a timely manner.
3. Invoice charges do not exceed the purchase order or OC LAFCO contract amount.

B. Processing of Invoices

The following procedures shall be applied to each invoice by the accounting firm staff:

1. Check the mathematical accuracy of the vendor invoice.
2. Compare the nature, quantity and prices of all items ordered per the vendor invoice to the purchase order, packing slip and receiving report.
3. Check the general ledger account identified by the Office Manager and approved by the Assistant Executive Officer, using the Organization's current chart of accounts.
4. Obtain the approval of the Executive Officer (or their designee) associated with the goods or services purchased.

C. Payment Discounts

To the extent practical, it is the policy of OC LAFCO to take advantage of all prompt payment discounts offered by vendors. When availability of such discounts is noted, and all required documentation in support of payment is available, payments will be scheduled to take full advantage of the discounts.

D. Employee Expense Reimbursements

Whenever OC LAFCO employees desire to be reimbursed for out-of-pocket expenses for item(s) or service(s) appropriately relating to agency business, they shall submit their requests on a reimbursement form approved by the Executive

Officer or the Executive Officer designee. Included on the reimbursement form will be an explanation of the agency-related purpose for the expenditure(s), and receipts evidencing each expense shall be attached. Receipts are required to be submitted in conjunction with the expense report form. Failure to submit necessary receipts will result in denial of the reimbursement claim. Expense reports shall be submitted within 90 days after incurring the expense.

It is against the law to falsify expense reports. Penalties for misuse of public resources or violating this policy may include, but are not limited to, the following:

1. The loss of reimbursement privileges.
2. Restitution to the local agency.
3. Civil penalties for misuse of public resources pursuant to Government Code Section 8314.
4. Prosecution for misuse of public resources, pursuant to Section 424 of the Penal Code, penalties for which include 2, 3, or 4 years in prison.

The Executive Officer will review and approve reimbursement requests. Reimbursement requests by the Executive Officer will be reviewed by the Executive Officer designee.

#### E. Commissioner Expense Reimbursements

OC LAFCO shall adhere to Government Code Section 56334 when dealing with issues of commissioner remuneration and reimbursement.

Attendance at a meeting of the Commission or LAFCO-related conference or event engenders a commissioner to be eligible to receive compensation.

Commissioners are eligible to receive reimbursements for travel, meals, lodging, and other reasonable and necessary expenses for attending the above on behalf of OC LAFCO. Reimbursements rates shall coincide with rates set by Internal Revenue Service Publication 463 or its successor publication(s).

Lodging costs shall not exceed the maximum group rate published by the conference or activity sponsor. If the published group rate is unavailable, commissioners shall be reimbursed for comparable lodging at government or IRS rates. Commissioners shall use government or group rates offered by the provider of transportation when available.

Any and all expenses that do not fall within the adopted travel reimbursement

policy or the IRS reimbursable rates are required to be approved by the Commission in a public meeting prior to the expense(s) being incurred. Expenses that do not adhere to the adopted travel reimbursement policy or the IRS reimbursable rates, and that do not receive prior approval from the Commission in a public meeting prior to the expense being incurred, shall not be eligible for reimbursement.

OC LAFCO shall provide expense reimbursement report forms to Commissioners who attend the above functions on behalf of the Commission, which shall document that expenses adhere to this policy. Receipts are required to be submitted in conjunction with the expense report form. Failure to submit necessary receipts will result in denial of the reimbursement claim. Expense reports shall be submitted within a reasonable time, and at no time more than 90 days after incurring the expense.

It is against the law to falsify expense reports. Penalties for misuse of public resources or violating this policy may include, but are not limited to, the following:

1. The loss of reimbursement privileges.
2. Restitution to the local agency.
3. Civil penalties for misuse of public resources pursuant to Government Code Section 8314.
4. Prosecution for misuse of public resources, pursuant to Section 424 of the Penal Code, penalties for which include 2, 3, or 4 years in prison.

## **2.11 CREDIT CARD PURCHASES**

### **A. Overview**

The Office Manager, the Assistant Executive Officer, and the Executive Officer are the custodians of the credit cards. When purchases are made, the receipts are retained in accordance with the Commission's retention policy.

### **B. Reconciliation of Statements**

The receipts shall be maintained in the OC LAFCO Purchasing Card binder. When the monthly statements are received, the purchases should be compared to the receipts maintained by the Office Manager. The credit card Statement of Account will be signed by the Executive Officer and the Executive Officer designee verifying that all purchases are valid.

## 2.12 PAYROLL AND RELATED POLICIES

### A. Payroll Administration

OC LAFCO operates on a bi-weekly payroll. For all OC LAFCO employees, a personnel file is established and maintained with current documentation, as described throughout this section.

The following forms, documents and information shall be obtained and included in the personnel files of all new employees:

1. Letter of Interest and resume.
2. Applicant references (work & personal).
3. Interview questions and notes.
4. Form W-4 Employee Federal Withholding Certificate.
5. State Withholding Certificate.
6. Form I-9 Employment Eligibility Verification.
7. Copy of driver's license.
8. Copy of Social Security card issued by the Social Security Administration.
9. Starting date and scheduled hours.
10. Job title and starting salary.
11. Authorization for direct deposit of paycheck, along with a voided check or deposit slip.

All personnel documents will be maintained within a confidential and protected filing system.

### B. Changes in Payroll Data

It is policy of OC LAFCO that all of the following changes in payroll data are to be authorized in writing:

1. New hires.
2. Terminations.

3. Changes in salaries and pay rates.
4. Voluntary payroll deductions.
5. Changes in income tax withholding status.
6. Court-ordered payroll deductions.

New hires, terminations, and changes in salaries or pay rates shall be authorized in writing by the Executive Officer and forwarded to the County. Salary changes for the Executive Officer are approved by the Commission and authorized in writing by the OC LAFCO Chair.

Voluntary payroll deductions and changes in income tax withholdings status shall be authorized in writing by the individual employee.

Documentation of all changes in payroll data shall be maintained in each employee's personnel file.

#### C. Preparation of Timesheets

Each OC LAFCO employee must sign or initial a Bi-Weekly Timesheet detailing the hours worked, following the close of each pay period. The Executive Officer and/or Executive Officer's designee shall review and sign all staff timesheets. The Office Manager shall be responsible for reviewing the Executive Officer's timesheet. In addition, each employee shall complete an electronic timesheet through the County of Orange Virtual Timesheet Interface (VTI). As the County of Orange is the payroll agent for OC LAFCO, the VTI timesheets are required. The Office Manager shall also complete a cover sheet identifying the organization, number of employees, and pay period. This form should be signed by the Executive Officer or the Office Manager/Commission Clerk and remitted to the County for processing.

#### D. Review of Payroll

Upon receipt of the bi-weekly payroll reports, the Executive Officer should review the payroll reports for accuracy. This review shall include verification of the following: employee status (active/non-active/terminated), bi-weekly pay (current hourly and total) and vacation accrual and time-off. The Executive Officer shall sign the payroll report indicating that it has been reviewed.

#### E. Distribution of Payroll

It is recommended that payroll payments be transferred electronically by County



Payroll into OC LAFCO employees' bank accounts. However, employees may elect to receive bi-weekly payroll checks.

## F. Independent Contractors and Commissioners

### 1. Independent Contractors

OC LAFCO utilizes private individuals and firms ("Independent Contractors") to provide a variety of specialized and professional services. The provision of and payment procedures for these services are established and outlined in a written professional services agreement approved by the Executive Officer or the Commission. The following payroll and related policies that apply to an Independent Contractor include:

- a. Payments to OC LAFCO Independent Contractors are made subject to the terms and conditions of the respective professional services agreement. Payments to all independent contractors are prepared by the OC LAFCO accounting staff. No payments to any independent contractor shall be processed through the County of Orange payroll system.
- b. OC LAFCO Independent Contractors shall maintain a separate business location and requested license and insurance requirements.
- c. OC LAFCO Independent Contractors shall use their own equipment and resources (i.e., computer, laptop, cell phone) to provide the services outlined in the respective professional services agreement.
- d. OC LAFCO Independent Contractors must provide a completed IRS "Request for Taxpayer Identification Number and Certification (W-9)" upon execution of the professional services agreement.
- e. OC LAFCO Independent Contractors will be sent a Form 1099 if total compensation paid to that individual/firm for any calendar year, on the cash basis, is \$600 or more. The amount reported on a Form 1099 is equal to the compensation paid to that person during a calendar year (on the cash basis). Excluded from "compensation" are reimbursements of business expenses that have been accounted for by the contractor by supplying receipts and business explanations.

### 2. Commissioners

OC LAFCO Commissioners are not considered OC LAFCO employees. Stipend payments to Commissioners are processed by an independent payroll company and not through the County of Orange payroll system. Under

Internal Revenue Code Section 3401(c), OC LAFCO's treatment of Commissioners as "statutory employees" applies for income tax withholding purposes only, and not for any other purpose.

### PART 5 - Policies Pertaining to Specific Asset and Liability Accounts

#### 2.13 CASH AND CASH MANAGEMENT

##### A. Cash Accounts

The primary operating account provides for routine business check disbursements. All cash and credit card deposits are made to this account. Bank reconciliations are performed by the OC LAFCO accounting firm staff. The following minimum balances shall be maintained in the agency's accounts at all times to ensure there are sufficient funds to cover ongoing operating and payroll expenses:

Savings:	\$205,000
Payroll:	3 Months of Current Payroll Expenses
Checking:	3 Months of Operational Expenses

##### B. Reserve Policy

OC LAFCO currently has three reserve funds restricted to the agency's savings account. These funds are as follows: (1) Contingency; (2) Litigation; and, (3) Unfunded Liability. These accounts are considered "restricted" accounts and are only used for the specific purposes described below:

1. Contingency Reserves - restricted funds to cover any unforeseen future agency loss and/or urgency which includes but is not limited to property or equipment damage, loss or theft. The minimum balance in the Contingency Reserve Account shall be \$100,000.
2. Litigation Reserves - restricted funds for costs related to agency legal challenges. The minimum balance in the Litigation Reserve Account shall be \$75,000.
3. Unfunded Liability Reserve - restricted funds to offset anticipated agency liabilities including employee vacation and administrative leave payouts. The minimum balance in the Unfunded Liability Reserve Account shall be \$30,000.

#### 2.14 INVESTMENTS

##### A. Authority

In accordance with California Government Code Section 56300 et seq., the authority to invest public funds not required for the immediate needs of the agency is expressly delegated to OC LAFCO. The Commission may also delegate this responsibility to the OC LAFCO Executive Committee and the Executive Officer.

The purpose of this section of the policy is to establish investment guidelines for OC LAFCO officials to ensure the stewardship of agency funds. Pursuant to state law, the Commission, Executive Committee, Executive Officer, and Executive Officer Designee, when investing OC LAFCO funds, shall act with care, skill, prudence, and diligence under the circumstance than prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the agency. All investment shall be in conformance with federal, state and other legal requirements.

Investments made pursuant to this policy are limited to those instruments specified by OC LAFCO. The Commission shall review the investment program quarterly.

B. Investment Objectives

The specific objectives for all funds invested as defined by this policy are listed in priority order as follows:

1. Safety of Principal

The preservation of principal is of primary importance. Each transaction shall seek to ensure that capital losses are avoided.

2. Legality

Each transaction and the entire investment program must comply with the California Government Code and OC LAFCO's investment policy as defined herein.

3. Liquidity

The invested funds should remain sufficiently flexible to enable OC LAFCO to meet all operating requirements which may be reasonably anticipated.

The managing of OC LAFCO investments shall be subject to the prudent investor standard, a standard of conduct requiring that any investment be made with care, skill, prudence, and diligence in order to safeguard agency funds and maintain the liquidity needs of the agency.

### C. Return on Investment

Investments shall be undertaken to produce an acceptable rate of return after first considering safety of principal and liquidity and the prudent investor standard.

Authority to manage OC LAFCO's investment program is delegated to the OC LAFCO Commission. Management responsibility is hereby delegated to the Executive Committee and the Executive Officer under the direction of the full OC LAFCO Commission.

### D. Authorized Investments

Agency funds that are not required for the immediate needs of OC LAFCO may be invested as follows:

- Investment Funds  
Agency funds not required for immediate needs of OC LAFCO may be remitted to the State Local Agency Investment Fund (LAIF) or the Orange County Investment Pool (OC Fund) for the purpose of investment (Government Code Section 16429.1).
- Section 115 Public Agencies Post-Employment Benefits Trust  
Agency funds from excess cash net income and not required for immediate needs of OC LAFCO may be deposited to the benefits trust account managed through an agreement with the Public Agency Retirement Services (PARS). The account is established for agency contributions towards the payment of pension and post-employment benefit obligations and lowering of the agency's overall net pension expenses. The annual transfer to the benefits trust account must not exceed fifty percent (50%) of the excess cash net income at fiscal year-end, unless approved by the Commission.
- Other Investments

Other investments permitted by Government Code Section 53600 may be made subject to prior approval of the Commission and may include the following:

- U.S. Government and Agencies Obligations
- Negotiable Certificates of Deposit issued by a national or state-chartered bank, a state or federal savings and loan association, or a savings bank with ratings equivalent by Fitch to F1 or better.

As deemed appropriate, the Commission may, at any time, further

restrict the securities approved for investment.

#### E. Reporting

The Executive Officer shall submit a quarterly report to the Commission showing investment activity, including yield and earnings and the status of cash by depository.

As part of the Commission's annual audit, the independent auditor shall also evaluate investment performance and conduct an operations audit. The purpose of these examinations shall be to obtain suggestions for improved future performance and to verify that investments have been done in accordance with the policy and all applicable laws.

### 2.15 FIXED ASSET MANAGEMENT

#### A. Capitalization Policy

Physical assets acquired with unit costs in excess of \$2,000 are capitalized as fixed assets on the financial statements. Items with unit costs below this threshold shall be expensed in the year purchased.

Capitalized fixed assets are accounted for at their historical cost and all such assets, except land, are subject to depreciation over their estimated useful lives for government-wide financial statements in accordance with GASB Statement No. 34.

#### B. Contributed Assets

Assets with fair market values in excess of \$2,000 (per unit) that are contributed to OC LAFCO shall be capitalized as fixed assets on the financial statements. Contributed items with market values below this threshold shall be expensed in the year contributed.

Capitalized contributed assets are accounted for at their market value at the time of donation and all such assets, except land, are subject to depreciation for government-wide financial statements.

#### C. Establishment and Maintenance of a Fixed Asset Listing

All capitalized fixed assets shall be recorded in a property log. This log shall include the following information with respect to each asset:

1. Date of acquisition.
2. Cost.

3. Description (including color, model, and serial number).
4. Location of asset.
5. Depreciation method.
6. Estimated useful life.

A physical inventory of all assets capitalized under the preceding policies will be taken on an annual basis by OC LAFCO. This physical inventory shall be reconciled to the property log and adjustments made as necessary. All adjustments resulting from this reconciliation will be approved by the Executive Officer.

D. Depreciation and Useful Lives

All capitalized assets are maintained in the special fixed assets account group. Fixed assets are depreciated over their estimated useful lives using the straight-line method only when presenting government-wide financial statements. Fund financial statements do not include fixed assets or depreciation.

In the year of acquisition, depreciation is recorded based on the number of months the asset is in service, counting the month of acquisition as a full month. (Example: an asset purchased on the 15<sup>th</sup> day of the fifth month shall have 8 full months of depreciation (eight-twelfths of one year) recorded for that year.)

Estimated useful lives of capitalized assets shall be determined by the Executive Officer. The following is a list of the estimated useful lives of each category of fixed asset for depreciation purposes:

Furniture and fixtures	Up to 10 yrs.
General office equipment	5 yrs.
Computer hardware and peripherals	3-5 yrs.
Computer software	2-3 yrs.
Leased assets	Life of Lease

For accounting and interim financial reporting purposes, depreciation expenses will be calculated on an annual basis in conjunction with the annual audit.

E. Repairs of Fixed Assets

Expenditures to repair capitalized assets shall be expensed as incurred if the repairs do not materially add to the value of the property or materially prolong the estimated useful life of the property.

Expenditures to repair capitalized assets shall be capitalized if the repairs increase the value of property, prolong its estimated useful life, or adapt it to a new or different use. Such capitalized repair costs shall be depreciated over the remaining estimated useful life of the property. If the repairs significantly extend the estimated useful life of the property, the original cost of the property shall also be depreciated over its new, extended useful life.

F. Dispositions of Fixed Assets

In the event a non-expendable asset is sold, scrapped, donated or stolen, adjustments need to be made to the fixed asset listing and property log.

**2.16 ACCRUED LIABILITIES**

A. Identification of Liabilities

The accounting department shall establish a list of commonly incurred expenses that may have to be accrued at the end of an accounting period. Some of the expenses that shall be accrued by OC LAFCO at the end of an accounting period are:

1. Salaries and wages.
2. Payroll taxes.
3. Vacation pay.
4. Facility expenses payable to the County.

In addition, OC LAFCO shall record a liability for deferred revenue (revenue received but not yet earned) in accordance with the revenue recognition policies described elsewhere in this policy.

**PART 6 - Policies Associated with Financial Reporting**

**2.17 REPORTS RECEIVED FROM THE COUNTY ORANGE**

Some reports are provided to OC LAFCO from the County of Orange on a monthly basis. Such reports should be used to reconcile revenues/disbursements for the month, if appropriate.

**2.18 FINANCIAL STATEMENTS**

Preparing financial statements and communication of key financial information is a necessary and critical accounting function. Financial statements are management tools used in making decisions, in monitoring the achievement of

financial objectives, and as a standard method for providing information to interested parties external to the organization. Financial statements may reflect year-to-year historical comparisons or current year budget to actual comparisons.

The basic financial statements of OC LAFCO that are maintained on an organization-wide basis should include:

A. Monthly Financial Statements

1. YTD Combined Expense Summary by Agency - reports budget, encumbrances, expenditures, and remaining budget amounts by account.
2. YTD Combined Revenue Summary by Agency - reports budgeted and actual revenues by account.

B. Quarterly Financial Statements

1. Balance Sheet - reflects assets, liabilities and fund balance of the organization.
2. Cash Flow Statement - provides aggregate data regarding all agency cash inflows from both ongoing operations and external investment sources and all case outflows that fund agency operations and investments during a given quarter.
3. Statement of Revenue, Expenditures, and Changes in Fund Balance - presents the budget and actual revenues and expenditures of the organization.

C. Annual Financial Statements

1. Annual Audited Financial Statements - to be provided by the Independent Auditor.

## 2.19 ANNUAL AUDIT

A. Role of the Independent Auditor

It is the policy of OC LAFCO to arrange for an annual audit of its financial statements to be conducted by an independent accounting firm. The independent accounting firm selected by OC LAFCO will be required to communicate directly with the Commission upon the completion of their audit. In addition, members of the Commission may initiate communication directly with the independent accounting firm.

Audited financial statements, including the auditor's opinion thereon, will be



submitted to the Commission by the independent accounting firm and the financial statements will be presented for consideration by the Commission at a regular meeting.

B. How Often to Review the Selection of the Auditor

In accordance with agency policy and state law, OC LAFCO shall review the selection of its independent auditor in the following circumstances:

1. Anytime there is dissatisfaction with the service of the current firm.
2. When a fresh perspective and new ideas are desired.
3. A change in Auditor every six years should be considered to ensure competitive pricing and a high quality of service.
4. OC LAFCO is restricted from employing a public accounting firm to provide audit services if the lead partner or coordinating audit partner having primary responsibility for the audit, has performed audit services for OC LAFCO for six consecutive fiscal years.

C. Selecting an Auditor

The selection of an accounting firm to conduct the annual audit is a task that should be taken very seriously. The following factors shall be considered by OC LAFCO in selecting an accounting firm:

- The firm's reputation in the government community.
- The depth of the firm's understanding of and experience with governmental agencies.
- The demonstrated ability to provide the services requested in a timely manner.
- The ability of firm personnel to communicate with Organization personnel in a professional and congenial manner.

If OC LAFCO decides to prepare and issue a written Request for Proposal (RFP) to be sent to prospective audit firms, the following information shall be included:

- Period of services required.
- Type of contract to be awarded (fixed fee, cost basis, etc.).

- Complete description of the services requested (audit, management letter, etc.).
- Identification of meetings requiring their attendance, such as staff or Commission meetings.
- OC LAFCO Organizational Chart.
- Chart of account information.
- Financial information about the organization.
- Copy of prior year reports (financial statements, management letters, etc.).
- Other information considered appropriate.
- Description of proposal and format requirements.
- Due date of proposals.
- Overview of selection process (i.e. whether finalists will be interviewed, when a decision shall be made, etc.).
- Identification of criteria for selection.

Minimum Proposal Requirements form prospective CPA firms shall be:

- Firm background.
- Biographical information (resumes) of key firm members who will serve OC LAFCO.
- Client references.
- Information about the firm's capabilities.
- Firm's approach to performing an audit.
- Copy of the firm's most recent quality/peer review report, including any accompanying letter of findings.
- Other resources available with the firm.
- Expected timing and completion of the audit.

- Expected delivery of reports.
- Cost estimate including estimated number of hours per staff member.
- Rate per hour for each auditor.
- Other information as appropriate.

#### D. Preparation for the Annual Audit

OC LAFCO shall be actively involved in planning for and assisting with the independent accounting firm in order to ensure a smooth and timely audit of its financial statements. In that regard, the accounting department shall provide assistance to the independent auditors in the following areas:

1. Planning - The Executive Officer is responsible for delegating the assignments and responsibilities to accounting staff in preparation for the audit. Assignments shall be based on the list of requested schedules and information provided by the independent accounting firm.
2. Commission Involvement - Organization staff will do as much work as possible in order to assist the auditors and, therefore, reduce the cost of the audit. The Commission's Executive Committee may assist OC LAFCO in fulfilling its audit oversight responsibilities with regard to (1) the integrity of OC LAFCO's financial statements, (2) OC LAFCO's compliance with legal and regulatory requirements, and (3) the independent auditor's qualifications and independence. In providing this assistance to the full Commission, the Executive Committee may assume audit responsibilities as provided herein and recommend action on all audit matters to the full Commission.

Audit responsibilities of the Executive Committee may include, but is not limited to, the following:

- Review of the auditor's proposed audit scope and approach.
- Review of annual financial audit reports, schedules, and management letter.
- Any serious difficulties or disputes with management encountered during the audit.
- Matters required to be discussed by Statements on Auditing Standards issued by the Auditing Standards Board of the American Institute of Certified Public Accountants or other state or federal

agencies.

- Review of the performance of the auditors, including any issues arising during their most recent quality-control or peer review, and their independence as it relates to OC LAFCO.
  - Review of the Executive Committee’s audit responsibilities annually to reassess their adequacy and recommend any proposed changes.
  - Review the Executive Committee’s effectiveness in carrying out its responsibilities.
  - Other matters deemed appropriate by the OC LAFCO Chair.
3. Interim Procedures – To facilitate the timely completion of the annual audit, the independent auditors may perform selected audit procedures prior to the organization’s year-end. By performing significant portions of audit work as of an interim date, the work required subsequent to year-end is reduced. Organization staff will assist as much as possible in order to provide requested schedules and documents and to otherwise assist the auditors during any interim audit fieldwork that is performed.

Throughout the audit process, it shall be the policy of OC LAFCO to make every effort to provide schedules, documents and information requested by the auditors in a timely manner.

#### E. Concluding the Audit

Upon receipt of a draft of the audited financial statements of OC LAFCO from its independent auditor, the Executive Officer, the OC LAFCO accounting firm staff shall perform a detailed review of the draft, consisting of the following procedures:

1. Carefully read the entire report for typographical errors.
2. Trace and agree with each number in the financial statements and accompanying footnotes to the accounting records and/or internal financial statements of OC LAFCO.
3. Review each footnote for accuracy and completeness.

Any questions or errors noted as part of this review shall be communicated to the independent auditor in a timely manner and resolved to the satisfaction of the Executive Officer.

It shall also be the responsibility of the Executive Officer to review and respond in writing to all management letters or other internal control and compliance report findings and recommendations made by the independent auditor.

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12/12/2012, 2/8/2012, 2/9/2011, 3/11/2009

**8b** | Commission  
Discussion

**REGULAR MEMBERS**

CHAIR  
**Douglass Davert**  
Special District Member

VICE CHAIR  
**Donald P. Wagner**  
County Member

IMMEDIATE PAST CHAIR  
**Derek J. McGregor**  
Public Member

**Lisa Bartlett**  
County Member

**Wendy Bucknum**  
City Member

**James Fisler**  
Special District Member

**Mike Posey**  
City Member

**ALTERNATES**

**Katrina Foley**  
County Member

**Kathryn Freshley**  
Special District Member

**Peggy Huang**  
City Member

**Lou Penrose**  
Public Member

**STAFF**

**Carolyn Emery**  
Executive Officer

**Scott Smith**  
General Counsel

October 13, 2021

**TO:** Local Agency Formation Commission  
of Orange County

**FROM:** Executive Officer

**SUBJECT:** 2021 Orange County LAFCO Strategic Plan

**BACKGROUND**

On September 8, the Commission held its 24<sup>th</sup> Strategic Planning Workshop. Facilitated by Marilyn Snider of Snider and Associates, the workshop provided an opportunity for Commissioners and staff to refresh the LAFCO mission statement, reflect on the accomplishments and challenges of the past year, and identify six-month strategic goals and objectives. A key outcome of the workshop was the development of the agency's strategic plan.

The proposed 2021 Orange County LAFCO Strategic Plan was made available to the public through the agency website on September 10 and includes the following elements:


- ❖ LAFCO Mission Statement
- ❖ 2021-2024 Agency Goals
- ❖ Six-Month Strategic Objectives (9/08/2021 – 3/08/2022)
- ❖ Next Steps/Follow-Up Process

At the October 13 Regular Meeting, the Commission will receive public input and consider approval of the Strategic Plan.

**RECOMMENDED ACTION**

1. Approve the 2021 Orange County LAFCO Strategic Plan.

Respectfully submitted,



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CAROLYN EMERY

Attachment 1: 2021 Orange County LAFCO Strategic Plan



**“PROPOSED”** STRATEGIC PLAN

September 8, 2021

**MISSION STATEMENT**

**LAFCO serves Orange County cities, special districts, and the county to ensure effective and efficient delivery of municipal services.**

**THREE-YEAR GOALS**

2021-2024 \* not in priority order

- ▶ **Optimize external communication**
- ▶ **Facilitate a continuing dialogue of South County governance options**
- ▶ **Refine and enhance the MSR process**

O R A N G E C O U N T Y L A F C O  
**SIX-MONTH STRATEGIC OBJECTIVES**  
 September 8, 2021 through March 8, 2022

THREE-YEAR GOAL: OPTIMIZE EXTERNAL COMMUNICATION						
WHEN	WHO	WHAT	STATUS			COMMENTS
			DONE	ON TARGET	REVISED	
1. Oct. 15, 2021	Ray Barragan – lead, working with Carolyn Emery and Gavin Centeno	Make the updated website available to the public				
2. At the Feb. 9, 2022 Commission meeting	Ray Barragan and Gavin Centeno	Report to Commissioners on increased public engagement from stakeholders (public comments, attendance at public meetings, and sign-ups for bi-annual news).				



THREE-YEAR GOAL: FACILITATE A CONTINUING DIALOGUE OF SOUTH COUNTY GOVERNANCE OPTIONS						
WHEN	WHO	WHAT	STATUS			COMMENTS
			DONE	ON TARGET	REVISED	
1. By Nov. 1, 2021	Lisa Bartlett	Present to the OCLAFCO Commissioners an update on the establishment of the South Orange County Connected Communities (SOCCC).				
2. By Jan. 1, 2022	Carolyn Emery and Ray Barragan	Prepare a document that outlines the processes for potential governance options for SOCCC.				
3. March 1, 2022	Carolyn Emery and Lisa Bartlett	Present the governance options document to the SOCCC.				

THREE-YEAR GOAL: REFINE AND ENHANCE THE MSR PROCESS*						
WHEN	WHO	WHAT	STATUS			COMMENTS
			DONE	ON TARGET	REVISED	
1. By Feb. 1, 2022	Luis Tapia and Gavin Centeno, co-leads, with input from Carolyn Emery, Cheryl Carter-Benjamin and Ray Barragan	Survey other LAFCOs to examine the types of MSRs they use and report results to the Commission.				
2. FUTURE OBJECTIVE By June 2022	Carolyn Emery, working with the Staff (Luis Tapia, Gavin Centeno, Chery Carter-Benjamin, Ray Barragan)	Develop and present to the Commission a template that describes each type of MSR and identifies what would be required under each type.				
3. FUTURE OBJECTIVE By Dec. 2022	Carolyn Emery, working with the Staff (Luis Tapia, Gavin Centeno, Chery Carter-Benjamin, Ray Barragan)	Develop a matrix using the above template to assign each agency to a particular type of MSR that could range from a simple reaffirmation of the prior MSR to a more comprehensive review.				

\* Excludes Application-Based/Focused MSRs

**NEXT STEPS/FOLLOW-UP PROCESS**

<b>WHEN</b>	<b>WHO</b>	<b>WHAT</b>
By Sept. 9, 2021	Carolyn Emery	Distribute the retreat record to all invitees
Within 48 hours of receipt	All recipients	Read the retreat record.
By Sept. 14, 2021	Cheryl Carter-Benjamin	Post the proposed Strategic Plan on the OCLAFCO website.
By Sept. 22, 2021	LAFCO Team Carolyn Emery - lead	Review the "Current Internal Weaknesses/Challenges" list for possible action items.
At the Oct. 13, 2021 Commission meeting	Carolyn Emery	Present the proposed Strategic Plan to the Board of Commissioners for action and for public input.
Monthly  By the 22 <sup>nd</sup> of the month	Ray Barragan and Gavin Centeno  Objective "Leads"	Monitor progress on the goals and objectives and revise objectives (add, amend and/or delete), as needed.  Report directly to Cheryl the status of the Objective.
Monthly	Cheryl Carter-Benjamin	Prepare and distribute the updated Strategic Plan Monitoring Matrix to OCLAFCO Commissioners
March 9, 2022 (Wednesday) 8:00 am – 2:30 pm	OC LAFCO Commissioners OC LAFCO Staff	Strategic Planning Retreat to: - more thoroughly assess progress on the Goals and Strategic Objectives. - identify Core Values for OC LAFCO - develop Objectives for the next six months.

## S.W.O.T. ANALYSIS

Strengths – Weaknesses - Opportunities - Threats

### STRENGTHS AND ACCOMPLISHMENTS OF ORANGE COUNTY LAFCO

#### Brainstormed List of Perceptions from all Participants:

- Santa Margarita Water District annexation
- Fully staffed- assistant executive officer
- Legislative reports
- Updates to Commission
- Municipal service reviews
- Actions in accordance with the CKH Act
- Commission deliberation
- Diligent and professional staff
- Leadership by EO
- Development of staff
- Improved outreach to stakeholders
- Proactive on County/City/District Issues
- Surviving COVID – business continuity
- Processing and completing applications without undue delays (notably San Juan)
- Increasing community presence/outreach
- Completed MSRs scheduled for the year
- Completed MSR for San Juan Capistrano for the divesture of their water and wastewater utility
- Completed the review and consultation with SJC and Santa Margarita Water District for annexation of SJC's water and wastewater utility
- Consulting with south county un-incorporated communities about future governance options
- Significant projects of work plan completed.
- Improved agency branding and communications tools.
- Enhanced communications with commissioners
- Filled staff vacancy and maintained morale in pandemic environment.
- Strengthened collaboration with southern region EOs, staff, and commissioners.
- San Juan water/wastewater utilities annexation.
- Efficient operations despite challenges with the pandemic
- Fiscally sound agency
- We continued to do business during Covid
- We continued outreach in south county
- We instituted a nice newsletter (lafco update)
- We stuck to business. No mission creep (remember homeless was almost put into our strategic plan a couple years ago?)

### CURRENT INTERNAL WEAKNESSES/CHALLENGES

#### Brainstormed List of Perceptions from all Participants:

- Presentations of the resources LAFCO can provide all agencies and public.
- Backup leadership is in training
- Dealing with diverse commissioners
- Controlling outside Influences
- Operational and communication challenges due to virtual/non-live interactions
- Limitations of COVID (ongoing)

- Delays in MSR, other work plan items
- Use/function of technology for meetings
- Website still needs updating
- None that I observed
- Ability to keep up with technology with limited resources/no full-time IT staff
- Informing agencies and public about LAFCO resources
- Limited staff
- Limited budget
- Our Zoom meetings don't seem as smooth as others I participate in. We seem to have issues a lot of times.
- We don't seem to be rotating executive committee much in the last few years; one person has been on it for a very long time

## **EXTERNAL FACTORS/TRENDS THAT WILL/MIGHT HAVE A POSITIVE IMPACT ON ORANGE COUNTY LAFCO IN THE NEXT THREE YEARS**

### **Brainstormed List of Perceptions from all Participants:**

- South County communities exploring Incorporation
- Political
- Legislation
- Technological
- Quick virtual meeting opportunities on isolated issues
- Need for shared services between agencies
- Improved fiscal responsibilities
- Strong economy
- Increasing developer interest
- Changing demographics
- Learning to adapt to Covid 19 which may be with us for many years
- Fiscal impacts on agencies may require LAFCO as a resource/facilitator.
- Desire for agencies to obtain more local control may require LAFCO as a facilitator/resource.
- Use of technology to reduce expenditures (telework, virtual meetings)
- Member agencies may look for more efficient ways to provide service due to financial challenges from pandemic therefore increasing project applications
- I hope Covid gets under control and we will be able to meet in person. Better dialogue in person. Better energy.
- Political extremism will not be looked on favorably. More business will get done and OCLAFCO may see a lot of agenda items concerning islands, annexations, etc.

## **EXTERNAL FACTORS/TRENDS THAT WILL/MIGHT HAVE A NEGATIVE IMPACT ON ORANGE COUNTY LAFCO IN THE NEXT THREE YEARS**

### **Brainstormed List of Perceptions from all Participants:**

- Funding agencies with budget constraints
- Legislation
- Environmental
- Economic
- More personal agendas
- A general trend in the inability to compromise
- Changing political perspectives/personalities
- Lack of forthright leaders
- COVID
- Changing demographics

- State mandates
- High inflation and housing issues weakening OC economically
- Possible collapse of housing and commercial property values lowering tax revenues for the cities and county, forcing financial stress for the agencies
- The loss of reliable electric power
- Legislation to increase transparency with current resources/IT staff
- Climate change and drought and effects on member agencies
- Economic and health impacts from pandemic and effect on member agencies and agency budget
- Legislation circumventing the LAFCO process
- If Covid hangs around the economy will sink. So will quality of life. Scarcity of supplies. It all adds up to end of business as we have known it. There could be challenges here.
- State mandates, Cal LAFCO agenda



# ORANGE COUNTY LAFCO STRATEGIC PLAN ELEMENTS

Marilyn Snider, Strategic Planning Facilitator \* Snider and Associates (510) 531-2904

## **MISSION/PURPOSE STATEMENT**

States WHY the organization exists and WHOM it serves

## **THREE YEAR GOALS**

WHAT the organization needs to accomplish (consistent with the Mission and moving the organization towards its Vision) – usually limited to 4 or 5 key areas

## **SIX MONTH STRATEGIC OBJECTIVES**

HOW the Goals will be addressed: By when, who is accountable to do what for each of the Goals

## **NEXT STEPS/FOLLOW-UP PROCESS**

Regular, timely monitoring of progress on the goals and objectives; includes setting new objectives every six months

## **“SWOT” ANALYSIS**

Assess the organization's:

- Internal **S**trengths      - Internal **W**eaknesses
- External **O**pportunities      - External **T**hreats

**From:** [Carolyn Emery](#)  
**To:** [Cheryl Carter-Benjamin](#)  
**Subject:** RE: Strategic Plan - Comments from Mesa  
**Date:** Tuesday, October 5, 2021 4:19:27 PM

---

-----Original Message-----

From: Stacy Lynne Taylor <stacyt@mesawater.org>  
Sent: Tuesday, October 5, 2021 1:44 PM  
To: Carolyn Emery <cemery@oclafco.org>  
Cc: Cheryl Carter-Benjamin <ccarter-benjamin@oclafco.org>; Paul E. Shoenberger, PE <pauls@mesawater.org>; James Fisler <jim@jimfisler.com>  
Subject: RE: Strategic Plan - Comments from Mesa  
Importance: High

Greetings OC LAFCO Commissioners and staff, on behalf of Mesa Water District (Mesa Water®), attached please find our feedback as redlined edits (see pages 1, 6 and 8 of the PDF) to the document that resulted from OC LAFCO's Strategic Planning Workshop last month. We appreciate the opportunity to provide this input, thank you,

Stacy Lynne Taylor  
Water Policy Manager  
Mesa Water District  
1965 Placentia Ave • Costa Mesa, CA 92627 tel 714.791.0848 • dept 949.631.1201 StacyT@MesaWater.org •  
MesaWater.org



ORANGECOUNTYLAFCO

STRATEGIC PLANNING WORKSHOP

8 September 2021 • via Zoom

Marilyn Snider, Facilitator – Snider and Associates (510) 459-5540 Gail  
Tsuboi, Graphic Recorder – Tsuboi Design (925) 376-9151

**MISSION STATEMENT**

**OC LAFCO collaboratively serves Orange County cities, special districts, and the county**

**to ~~ensure~~ facilitate the effective and efficient delivery of ~~municipal~~ local government services benefitting Orange County's public.**

**THREE-YEAR GOALS**

2021-2024 \* not in priority order

- ▶ **Optimize external communication**
- ▶ **Facilitate a continuing dialogue of South County governance options**
- ▶ **Refine and enhance the MSR process**

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## IDENTIFY THREE-YEAR GOALS

**Brainstormed list of possible goals from which the Three-Year Goals were developed**

- Provide outstanding customer service.
- Focus (continue to focus) on external communications and engage the public
- Increase Public Awareness
- Fulfill state mandates.
- Participate in legislative committees.
- Update/adjust the work plan in light of COVID-19 and other external forces
- EO/AEO continue outreach and communication plan to stakeholders
- Streamline future MSR process for reconfirmation.
- Develop a program to educate local leaders on governance issues
- Improve legislative advocacy/platform.
- Shared services opportunities-potentially public safety as an area of importance
- Continue to develop staff in all levels
- Continue with the process of South County Governance by informing and facilitating decisions relating to organizational alternatives and timing, including review of existing community interrelationships and SOCCC.
- Accelerate and expand MSR process to look at (a) remaining unincorporated islands and (b) redundancies/inefficiencies and economies of scale in service delivery.
- Process county islands and other applications
- Balance commission structure



ORANGECOUNTYLAFCO  
**SIX-MONTH STRATEGIC OBJECTIVES**

September 8, 2021 through March 8, 2022

THREE-YEAR GOAL: OPTIMIZE EXTERNAL COMMUNICATION						
WHEN	<u>WHO</u>	<u>WHAT</u>	STATUS			COMMENTS
			DONE	ON TARGET	REVISED	
1. Oct. 15, 2021	Ray Barragan – lead, working with Carolyn Emery and Gavin Centeno	Make the updated website available to the public <u>and implement performance metrics (e.g., Google Analytics)</u>				
2. At the Feb. 9, 2022 Commission meeting	Ray Barragan and Gavin Centeno	Report to Commissioners on increased public engagement from stakeholders ( <u>i.e., public comments, attendance at public meetings, and sign- ups for biannual news, website performance metrics, etc.</u> ).				

THREE-YEAR GOAL: FACILITATE A CONTINUING DIALOGUE OF SOUTH COUNTY GOVERNANCE OPTIONS						
WHEN	WHO	WHAT	STATUS			COMMENTS
			DONE	ON TARGET	REVISED	
1. By Nov. 1, 2021	Lisa Bartlett	Present to the OCLAFCO Commissioners an update on the establishment of the South Orange County Connected Communities (SOCCC).				
2. By Jan. 1, 2022	Carolyn Emery and Ray Barragan	Prepare a document that outlines the processes for potential governance options for SOCCC.				
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WHEN	WHO	WHAT	STATUS			COMMENTS
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1. By Feb. 1, 2022	Luis Tapia and Gavin Centeno, coleads, with input from Carolyn Emery, Cheryl Carter-Benjamin and Ray Barragan	Survey other LAFCOs to examine the types of MSRs they use and report results to the Commission.				
2. FUTURE OBJECTIVE By June 2022	Carolyn Emery, working with the Staff (Luis Tapia, Gavin Centeno, Chery CarterBenjamin, Ray Barragan)	Develop and present to the Commission a <u>template matrix</u> that <u>categorizes and</u> describes each type of MSR and <u>identifies outlines what would the elements be</u> required under each type.				
3. FUTURE OBJECTIVE By Dec. 2022	Carolyn Emery, working with the Staff (Luis Tapia, Gavin Centeno, Chery CarterBenjamin, Ray Barragan)	Develop a <u>template, using the above</u> matrix, <u>using the above template</u> to assign each <u>agency-OC LAFCO customer agency</u> to a particular type of MSR <u>that could range ranging</u> from a simple reaffirmation of the prior MSR to a more comprehensive <u>review MSR</u> .				

\* Excludes Application-Based/Focused MSRs





## NEXT STEPS/FOLLOW-UP PROCESS

<b>WHEN</b>	<b>WHO</b>	<b>WHAT</b>
By Sept. 9, 2021	Carolyn Emery	Distribute the retreat record to all invitees
Within 48 hours of receipt	All recipients	Read the retreat record.
By Sept. 14, 2021	Cheryl Carter-Benjamin	Post the proposed Strategic Plan on the OCLAFCO website.
By Sept. 22, 2021	LAFCO Team Carolyn Emery - lead	Review the "Current Internal Weaknesses/Challenges" list for possible action items.
At the Oct. 13, 2021 Commission meeting	Carolyn Emery	Present the proposed Strategic Plan to the Board of Commissioners for action and for public input.
Monthly  By the 22 <sup>nd</sup> of the month	Ray Barragan and Gavin Centeno  Objective "Leads"	Monitor progress on the goals and objectives and revise objectives (add, amend and/or delete), as needed.  Report directly to Cheryl the status of the Objective.
Monthly	Cheryl Carter-Benjamin	Prepare and distribute the updated Strategic Plan Monitoring Matrix to OCLAFCO Commissioners
March 9, 2022 (Wednesday) 8:00 am – 2:30 pm	OC LAFCO Commissioners OC LAFCO Staff	Strategic Planning Retreat to: - more thoroughly assess progress on the Goals and Strategic Objectives. - identify Core Values for OC LAFCO - develop Objectives for the next six months.

## **STRATEGIC PLAN ELEMENTS**

Marilyn Snider, Strategic Planning Facilitator \* Snider and Associates (510) 531-2904

### **“SWOT” ANALYSIS**

Assess the organization's:  
- Internal **S**trengths      - Internal **W**eaknesses -  
External **O**pportunities      - External **T**hreats

### **MISSION/PURPOSE STATEMENT**

States WHY the organization exists and WHOM it serves

### **VISION STATEMENT**

A vivid, descriptive image of the future—what the organization will BECOME

### **CORE VALUES**

What the organization values, recognizes and rewards—strongly held beliefs that are freely chosen, publicly affirmed, and acted upon with consistency and repetition

### **THREE YEAR GOALS**

WHAT the organization needs to accomplish (consistent with the Mission and moving the organization towards its Vision) – usually limited to 4 or 5 key areas

### **KEY PERFORMANCE MEASURES**

What success will look like upon achievement of the goal

### **SIX MONTH STRATEGIC OBJECTIVES**

HOW the Goals will be addressed: By when, who is accountable to do what for each of the Goals

### **FOLLOW-UP PROCESS**

Regular, timely monitoring of progress on the goals and objectives; includes setting new objectives every six months

## REGULAR MEMBERS

CHAIR

**Douglass Davert**  
Special District Member

VICE CHAIR

**Donald P. Wagner**  
County Member

IMMEDIATE PAST CHAIR

**Derek J. McGregor**  
Public Member

**Lisa Bartlett**  
County Member

**Wendy Bucknum**  
City Member

**James Fisler**  
Special District Member

**Mike Posey**  
City Member

## ALTERNATES

**Katrina Foley**  
County Member

**Kathryn Freshley**  
Special District Member

**Peggy Huang**  
City Member

**Lou Penrose**  
Public Member

## STAFF

**Carolyn Emery**  
Executive Officer

**Scott Smith**  
General Counsel

October 13, 2021

**8c** | Commission  
Discussion

**TO:** Local Agency Formation Commission  
of Orange County

**FROM:** General Counsel

**SUBJECT:** Assembly Bill 361 – Open Meetings and Teleconferences for  
State and Local Agencies

## BACKGROUND

The Governor has issued a series of executive orders in connection with the COVID-19 pandemic, which included a waiver of all physical-presence requirements under the Brown Act. The most recent of these orders was set to expire on September 30, 2021. AB 361, which took effect as an urgency measure on September 16, leaves this determination to local agencies, subject to certain findings they must make then renew periodically to allow virtual or telephonic meetings during the pendency of the COVID-19 pandemic.

Staff requested a summary of AB 361 and its application to LAFCO, which is discussed in the next section of this report.

## DISCUSSION

AB 361 permits many of the meeting adaptations allowed under the earlier Executive Order (which acted as a temporary waiver of the Brown Act's in-person attendance requirements), while also adding new requirements to the management of remote and teleconference public meetings. It permits the Commission to hold virtual meetings without making each Commissioner's location a meeting site for others in any of the following circumstances:

1. The Commission holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.
2. The Commission holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees. (This meeting has been noticed under this section.)

3. The Commission holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to the preceding subparagraph, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

AB 361 also imposes three new requirements for virtual public meetings:

1. Local agencies hosting teleconference meetings in lieu of traditional in-person public meetings must permit direct public comment during the teleconference, and must leave open the opportunity for public comment until the comment period for a given item is closed during the ordinary course of the meeting. The opportunity to make public comment must be of a sufficient duration to allow actual public participation.
2. Legislative bodies may allow public comments to be submitted prior to a meeting, but must also allow the public to participate in real time through call-in or internet-based service.
3. Any action by the governing body during a public teleconference meeting must occur while the agency is actively and successfully broadcasting to members of the public through a call-in option or an internet-based service option. If a technical disruption within the agency's control prevents members of the public from either viewing the meeting of the public agency, or prevents members of the public from offering public comment, the agency must cease all action on the meeting agenda until the disruption ends and the broadcast is restored. Action taken during an agency-caused disruption may be challenged as a violation of the Brown Act.

In order to continue to qualify for AB 361's waiver of in-person meeting requirements, the Commission would need to make findings at this meeting that (a) state or local officials continue to recommend measures to promote social distancing, or that (b) an in-person meeting would constitute an imminent risk to the safety of attendees. The attached resolution accomplishes this and is attached for Commission consideration.

If approved by the Commission, these findings would then need to be renewed every 30 days for remote meetings to continue. Because the Commission meets regularly on the second Wednesday of a given month, it is possible that more than 30 days may elapse between consecutive meetings. AB 361 is silent as to whether special meetings are required on a more frequent basis to keep up with the thirty-day renewal of findings requirement, although scheduling such meetings would ensure strict compliance. Alternatively, if the Commission does not meet within thirty days after its prior meeting, the Commission should make its renewed findings at the beginning of its next meeting prior to any other action or discussion.

To implement AB 361 the Commission would also need to modify its platform for public participation. To date, only Commissioners, staff, and invited panelists have been permitted to comment on Commission meetings in real time. To continue with virtual meetings, the Commission would have to institute some means for others to participate through video or voice transmission.

**RECOMMENDED ACTION:**

1. Adopt LAFCO Resolution No. CP 21-08 authorizing virtual Commission regular meetings pursuant to AB 361.
2. Within 30 days after your first AB 361 meeting on October 13, 2021, the Commission must make formal findings that (a) state or local officials continue to recommend measures to promote social distancing, or that (b) an in-person meeting would constitute an imminent risk to the safety of attendees.

Respectfully submitted,



SCOTT SMITH  
General Counsel

Attachment 1: LAFCO Resolution No. CP 21-08

CP 21-08

RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF ORANGE COUNTY  
AUTHORIZING VIRTUAL COMMISSION MEETINGS PURSUANT TO AB 361

October 13, 2021

On the motion of Commissioner \_\_\_\_\_, duly seconded and carried, the following resolution was adopted:

WHEREAS, the Orange County Local Agency Formation Commission (“Commission”) is committed to preserving and nurturing public access and participation in meetings of the Commission; and

WHEREAS, all meetings of the Commission are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend and participate in the Commission’s meetings; and

WHEREAS, starting in March 2020, in response to the spread of COVID-19 in the State of California, the Governor issued a number of executive orders aimed at containing the COVID-19 virus; and

WHEREAS, among other things, these orders waived certain requirements of the Brown Act to allow legislative bodies to meet virtually; and

WHEREAS, pursuant to the Governor’s executive orders, the Commission has been holding virtual meetings during the pandemic in the interest of protecting the health and safety of the public, Commission staff and Commissioners; and

WHEREAS, the Governor’s executive order related to the suspension of certain provisions of the Brown Act expires on September 30, 2021; and

WHEREAS, on September 16, 2021 the Governor signed AB 361 (in effect as of October 1, 2021 – Government Code Section 54953(e)), which allows legislative bodies to meet virtually provided there is a state of emergency, and either (1) state or local officials have imposed or recommended measures to promote social distancing; or (2) the legislative body determines by majority vote that meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, such conditions now exist in Orange County, specifically, a state of emergency has been proclaimed related to COVID-19, state and local officials are



recommending measures to promote social distancing, and because of the ongoing threat of COVID-19, meeting in person would present imminent risks to the health and safety of attendees;

NOW, THEREFORE, BE IT RESOLVED BY THE ORANGE COUNTY LOCAL AGENCY FORMATION COMMISSION AS FOLLOWS:

Section 1. Recitals.

The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. Remote Teleconference Meetings.

Consistent with the provisions of Government Code Section 54953(e), the Commission finds and determines that (1) a state of emergency related to COVID-19 is currently in effect; (2) state and local officials have recommended measures to promote social distancing in connection with COVID-19; and (3) due to the COVID-19 emergency, meeting in person would present imminent risks to the health and safety of attendees. Based on such facts, findings and determinations, the Commission authorizes staff to conduct remote teleconference meetings of the Commission under the provisions of Government Code Section 54953(e).

Section 3. Effective Date of Resolution.

This Resolution shall take effect upon adoption and shall be effective for 30 days unless earlier extended by a majority vote of the Commission in accordance with Section 4 of this Resolution.

Section 4. Extension by Motion.

The Commission may extend the application of this Resolution by motion and majority vote by up to 30 days at a time, provided that it makes all necessary findings consistent with and pursuant to the requirements of Section 54953(e)(3).

PASSED AND ADOPTED by the Orange County Local Agency Formation Commission this 13<sup>th</sup> day of October 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

STATE OF CALIFORNIA)

) SS.

COUNTY OF ORANGE )

I, Douglass Davert, Chair of the Local Agency Formation Commission of Orange County, California, hereby certify that the above and foregoing resolution was duly and regularly adopted by said Commission at a regular meeting thereof, held on the 13<sup>th</sup> day of October 2021.

IN WITNESS WHEREOF, I have hereunto set my hand this 13<sup>th</sup> day of October 2021.

DOUGLASS DAVERT

Chair of the Local Agency Formation Commission of  
Orange County

By: \_\_\_\_\_  
DOUGLASS DAVERT