



April 8, 2020

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COUNTY MEMBER

**STAFF**

**CAROLYN EMERY**  
EXECUTIVE OFFICER

**TO:** Local Agency Formation Commission

**FROM:** Executive Officer  
Policy Analyst

**SUBJECT:** Professional Services Agreement with Planeteria Media

**BACKGROUND**

The OC LAFCO website serves as a key source of information and communication tool for various Commission stakeholders. The latest substantive update to the website was in 2016. An upgrade is necessary at this time to improve the functionality of the site, enhance agency transparency, and comply with any federal and state requirements for websites.

**DISCUSSION**

The OC LAFCO website currently provides access to numerous documents, including the project application and fee schedule, meeting agendas and minutes, hearing notices, staff reports, agency studies, and maps. While there is a wealth of information on the site, the functionality of the site has become outdated. In the Communications Assessment prepared by CV Strategies, it is noted that there is a need to enhance the agency's website, as it is a key resource that informs and builds an understanding of OC LAFCO's mission and projects.

In February 2020, staff initiated a competitive process for the selection of a firm to complete the upgrade of the agency's website. In order to secure proposals from firms qualified to perform this service, OC LAFCO distributed a Request for Proposals (RFP) to ten consulting firms with experience in developing websites for public sector agencies. Additionally, the RFP was posted on the OC LAFCO website. Three firms responded to the RFP, and after the evaluation of the proposals and interviews of the finalists, Planeteria Media was selected for this project.

Planeteria Media has been in operation since 1999 and specializes in website development. The firm consists of a team of 18 members with expertise in website design, technical development, and content management. The firm's team has demonstrated an understanding of OC LAFCO's project objectives and has relevant experience with projects of similar size and scope. Planeteria Media has created websites for numerous public sector agencies, including several LAFCOs and a variety of cities and counties across the country.

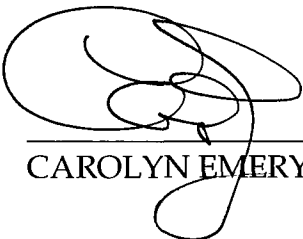
The cost proposal from Planeteria Media is \$17,600. Staff is recommending the inclusion of a ten percent contingency (\$1,760) in the agreement that would allow OC LAFCO to request additional work or meetings, if necessary. Therefore, the recommendation is to approve the agreement for a total amount not to exceed \$19,360.

### RECOMMENDATION

Staff recommends that the Commission:

1. Approve the professional services agreement with Planeteria Media.  
(Attachment A)

Respectfully submitted,



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CAROLYN EMERY



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GAVIN CENTENO

### Attachments:

- A. Professional Services Agreement with Planeteria Media

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

This Agreement is made effective \_\_\_\_\_, 2020 by and between ORANGE COUNTY LOCAL AGENCY FORMATION COMMISSION (hereinafter referred to as "LAFCO"), organized and operating pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, as amended (Government Code Sections 56000 et seq.), and Planeteria Media (hereinafter referred to as "Consultant").

**RECITALS**

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

**AGREEMENT**

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Term and Time of Performance.

The term of this Agreement shall be from the effective date through November 2, 2020 unless terminated in accordance with the procedures outlined in Section 15 of this Agreement. Consultant shall perform its services hereunder in a prompt and timely manner and shall commence performance upon the execution of this Agreement.

2. Services.

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

3. Compensation.

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

b. The compensation for services rendered by the consultant pursuant to Exhibit "A" shall not exceed \$17,600 plus a ten percent contingency for a total amount not to

exceed \$19,360. Any additional work within the contingency amount must be approved in advance and agreed to by both parties as outlined in section 4.

c. Consultant shall submit to LAFCO a statement for services rendered. LAFCO shall cause payment to be made to Consultant within thirty (30) working days from receipt of statement for services and LAFCO's determination that Consultant has adequately performed those services for which LAFCO has been invoiced.

4. Additional Work

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

5. Maintenance of Records.

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

6. Delays in Performance.

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

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

7. Compliance with Law.

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

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

8. Standard of Care.

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

9. Assignment and Sub-consultant.

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

10. Independent Contractor.

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

11. Integration.

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

12. Insurance.

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

13. Indemnification.

To the fullest extent permitted by law, Consultant shall defend, indemnify and hold LAFCO, its Board, members of the Board, employees, and authorized volunteers free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or

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

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

14. Laws, Venue, and Attorneys' Fees.

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

15. Termination or Abandonment.

a. LAFCO may terminate this Agreement for any reason or no reason by giving thirty (30) calendar days' written notice of termination. LAFCO shall pay Consultant the reasonable value of services rendered for any portion of the work completed prior to termination. If said termination occurs prior to completion of any task for the Project for which a payment request has not been received, the charge for services performed during such task shall be the reasonable value of such services, based on an amount mutually agreed to by LAFCO and Consultant of the portion of such task completed but not paid prior to said termination. LAFCO shall not be liable for any costs other than the charges or portions thereof which are specified herein. Consultant shall not be entitled to payment for unperformed services and shall not be entitled to damages or compensation for termination of work.

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

16. Key Personnel.

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

17. Notice.

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

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

Consultant:  
Tyler Coffin, Principal Consultant  
for Planetaria Media  
110 Stony Point Road, Suite 225  
Santa Rosa, CA 95401

and shall be effective upon receipt thereof.

18. Third Party Rights

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

19. Severability

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

20. Acknowledgment.

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

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

**ORANGE COUNTY LOCAL AGENCY  
FORMATION COMMISSION**

**PLANETERIA MEDIA**

By: \_\_\_\_\_  
Carolyn Emery, Executive Officer  
for the Orange County Local Agency  
Formation Commission

By: \_\_\_\_\_  
Tyler Coffin, Principal Consultant  
for Planeteria Media

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

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

Approved as to form:

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



**EXHIBIT "A"**  
**SCOPE OF SERVICES**

<b>Outreach Strategy</b>	<b>Deliverables</b>	<b>Date of Completion</b>
<b>Design Phase I- Discovery</b>	<ul style="list-style-type: none"> <li>-Define Brand, Target, Audience, Project Goals, Functionality and context of the</li> <li>-Review Website Analytics</li> <li>-Define Project Plan</li> <li>-Development of Website Design Types and Elements</li> <li>-Implementation Guide &amp; Timeline</li> <li>-Performance Measures</li> <li>-Content Development</li> </ul>	<b>April 2020</b>
<b>Design Phase II- Architecture &amp; Content Strategy</b>	<ul style="list-style-type: none"> <li>-Development of Site Map</li> <li>-Development of Pages</li> <li>-Development of Website Pages</li> </ul>	<b>May-June 2020</b>
<b>Design Phase III- Visual Design</b>	<ul style="list-style-type: none"> <li>-Development of Navigation Structure</li> <li>-Visual Development</li> <li>-Application of color Scheme to Website</li> <li>-Design Webpages</li> </ul>	<b>June-August 2020</b>
<b>Design Phase IV- Development</b>	<ul style="list-style-type: none"> <li>-Development of Theme Plug-Ins Customization</li> <li>-Create an Intuitive Administration Interface</li> <li>-Content Upload to Website</li> <li>-Identify Content Gaps Between Pages</li> </ul>	<b>August-September 2020</b>
<b>Design Phase V- Quality Assurance &amp; Launch</b>	<ul style="list-style-type: none"> <li>-Quality Assurance and Launch</li> <li>-Review Content Display and Accuracy</li> <li>-Test Website Compliance with ADA</li> <li>-Training Staff</li> <li>-Launch, Monitor, Support &amp; Maintenance</li> </ul>	<b>October 2020</b>

**The Scope of Services scheduled to be completed by November 2, 2020.**

**EXHIBIT “B”  
SCHEDULE OF CHARGES/PAYMENTS**

Professional Fees  
for  
Planeteria Media

The following schedule for charges and payments shall apply to work performed under this Agreement:

<u>Services</u>	<u>Fee</u>	<u>Date of Completion</u>
Discovery	\$1,100	April 2020
Architecture & Content Strategy	\$2,750	June 2020
Visual Design	\$5,500	August 2020
Development	\$5,500	September 2020
Quality Assurance & Launch	\$2,750	October 2020
Costs:	\$17,600	
Contingency (10%):	\$ 1,760	
<b>TOTAL COSTS (not to exceed):</b>	<b>\$19,360</b>	

Other Expenses:

Automobile mileage reimbursement shall be at the current IRS approved rate per mile.

In conformance with Section 4 of the agreement, additional meetings or services can be scheduled and will be billed on a “time and materials” basis at an hourly rate of \$110/hour plus expenses. Statements for services shall itemize charges as they relate to the completion of tasks defined in Exhibit A. Statements for services shall reflect the time incurred in performing the services under this Agreement, in accordance with the fee schedule set forth in this Exhibit B, and subject provisions of Section 2 of this agreement.

## **EXHIBIT "C"**

### **INSURANCE REQUIREMENTS**

#### 1. Commercial General Liability

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

#### 2. Automobile Liability

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

#### 3. Workers' Compensation/Employer's Liability

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

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

4. Minimum Policy Limits Required

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

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

5. Evidence Required

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

6. Required Policy Provisions

- a. Certificates of insurance and policy endorsements shall require 30 days (10 days for non-payment of premium) notice of cancellation to LAFCO. Statements that the carrier "will endeavor" and "that failure to mail such notice shall impose no obligation and liability upon the company, its agents or representatives," will not be acceptable on certificates. If any of the required coverage expires during the term of this Agreement, the Contractor shall deliver renewal certificate(s) including the General Liability

Additional Insured Endorsement to LAFCO at least ten (10) days prior to the expiration date.

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

#### 7. Qualifying Insurers

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

#### 8. Additional Insurance Provisions

- a. The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by LAFCO, is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.
- b. If at any time during the life of the Agreement, the Consultant fails to maintain in full force any insurance required by the Agreement documents LAFCO may terminate the Agreement.
- c. The Consultant shall include all subconsultants as insureds under its policies or shall furnish separate certificates and endorsements for each subconsultant. All coverages for subconsultants shall be subject to all of the requirements stated herein.
- d. LAFCO may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project.
- e. Neither LAFCO, its Board, members of the Board, employees, or authorized volunteers shall be personally responsible for any liability arising under or by virtue of the Agreement.