



August 11, 2021

8b

**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

**TO:** Local Agency Formation Commission

**FROM:** Executive Officer  
Assistant Executive Officer

**SUBJECT:** Professional Consultant Services Agreement with  
Citygate Associates (*Continued from July 14*)

At the July 14, 2021 regular meeting, the Commission continued consideration of the professional services agreement with Citygate Associates to prepare a Municipal Service Review focused on the provision of harbor patrol services within the Newport Harbor Tidelands (Attachment 1). The Commission continued the item to allow the Sheriff-Coroner's Department to address the Board on this item at the August 11 meeting. However, following the July 14 meeting, staff was notified by the City of Newport Beach that it was withdrawing the City's application for preparation of the MSR. The Sheriff-Coroner's Department and other affected parties have been notified of the application withdrawal, and staff is currently processing a refund to the City of the respective deposit.

Additionally, on August 2, 2021, a comment letter regarding this item was submitted by Friends of Harbors, Beaches and Parks and is referenced as Attachment 2 to this report. No further action by the Commission is required or recommended by staff at this time.

Respectfully submitted,

  
CAROLYN EMERY

  
RAYMOND BARRAGAN

**Attachments:**

1. July 14 Staff Report – Professional Services Agreement with Citygate Associates
2. August 2 Comment Letter Submitted by Friends of Harbors, Beaches and Parks



July 14, 2021

9b

**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

**TO:** Local Agency Formation Commission

**FROM:** Executive Officer  
 Assistant Executive Officer

**SUBJECT:** Professional Consultant Services Agreement with  
 Citygate Associates

**BACKGROUND**

In December 2020, OC LAFCO received an application from the City of Newport Beach to conduct a Municipal Service Review (MSR) focused on the operational efficiency of harbor patrol services within the Newport Harbor Tidelands. As specialized technical expertise is required for this review and scope of work, it is necessary to have an independent professional consultant perform the assessment.

After a competitive process, OC LAFCO staff recommends that the Commission approve the agreement with Citygate Associates to prepare the focused MSR. The firm is highly qualified with expertise in conducting this type of assessment and also has experience in preparing MSRs.

The next section of the report provides a summary of the competitive selection process for this project.

**DISCUSSION**

In order to secure proposals from firms qualified to perform the project scope of work, in April 2021, OC LAFCO released a Request for Proposals (RFPs) for the focused MSR. The RFP was electronically distributed to approximately 45 firms, and the documents were posted on the OC LAFCO website. Additionally, staff and representatives from the City conducted a pre-proposal conference in May to discuss the scope of the work and answer project-related questions from potential consultants. Subsequently, proposals were received from Citygate Associates and RSG, Inc. and evaluated by the OC LAFCO and City staffs. While both proposals met the requirements of the RFP and each firm's qualifications were impressive, Citygate Associates was selected

Professional Consultant Services Agreement with Citygate Associates

July 14, 2021

Page 2 of 2

---

to prepare the focused MSR. The firm's relevant expertise, experience in preparing MSRs, ability to meet the project schedule, and professional references were key to the selection of Citygate Associates. Additionally, the firm has performed over 400 organizational and studies of public safety.

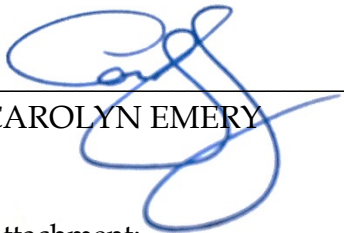
The professional services agreement with Citygate Associates is attached to this report for Commission consideration and includes an amount not to exceed \$89,400. If the agreement is approved by the Commission, the full cost will be funded by application fees already placed on deposit by the City.

### **RECOMMENDED ACTION**

Staff recommends that the Commission:

1. Approve the professional services agreement with Citygate Associates to conduct an MSR focused on the operational efficiency of harbor patrol services within the Newport Harbor Tidelands.

Respectfully submitted,



---

CAROLYN EMERY



---

RAYMOND BARRAGAN

Attachment:

- A. Professional Services Agreement with Citygate Associates

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

This Agreement is made effective \_\_\_\_\_, 2021 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 Citygate Associates (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 preparation and completion of the focused Municipal Service Review for the provision of harbor patrol services within the Newport Harbor City and County Tidelands (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 April 1, 2022, 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 \$89,400. Any additional work must be approved in advance and agreed to by both parties as outlined in section 4.

c. Consultant shall invoice monthly for completed tasks in each phase, to include reimbursable expenses incurred at actual costs (travel), and a five percent (5%) administration charge, as shown in Exhibit B.

d. 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 the alleged negligent acts, errors or omissions caused by the negligence, 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 arising out of, pertaining to, or incident to the alleged negligent acts, errors or omissions caused by the negligence, 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 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. Consultant shall have no duty or obligation to defend, indemnify, and/or pay settlement expenses of LAFCO, its Board, its Board members, employees, or authorized volunteers due to the negligence, errors or omissions caused by the sole negligence, and/or willful misconduct of LAFCO, its Board, its Board members, 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 Stewart Gary, 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:  
Carolyn Emery, Executive Officer  
2677 N. Main Street, Suite 1050  
Santa Ana, CA 92705

Consultant:  
Stewart Gary, Principal Consultant  
Citygate Associates  
600 Coolidge Drive, Suite 150  
Folsom, CA 95630

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.

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

**ORANGE COUNTY LOCAL AGENCY  
FORMATION COMMISSION**

**CITYGATE ASSOCIATES**

By: \_\_\_\_\_  
Douglass Davert, Chair  
Orange County Local Agency  
Formation Commission

By: \_\_\_\_\_  
David C. DeRoos, President  
Citygate Associates

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

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

Approved as to form:

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

Attest:

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

## **EXHIBIT “A” SCOPE OF SERVICES**

**The Scope of Services scheduled to be completed by April 1, 2022.**

### ***PROJECT WORK PLAN***

---

Our Work Plan for this study is comprised of four phases as follows. Consultant estimates a total timeline of five months to deliver the Final MSR Report and present to the Commission in a public hearing. This extended timeframe incorporates a new and valuable step of conducting an initial findings briefing with Orange LAFCO before the Administrative Draft MSR is written, which is a step we view as critical to the project’s success.

<b>Phase 1:    Data Gathering and Document Review</b>
---

#### **Tasks**

##### **1.1    Develop Detailed Project Work Plan and Schedule**

We will develop a detailed work schedule and final project timeline for Orange LAFCO to review. These tools will assist both the consultants and Orange LAFCO staff to monitor the progress of the project.

##### **1.2    Meet with Project Representatives to Initiate Project**

A key to a successful consulting engagement is a mutual understanding of the project’s scope and objectives. Citygate’s Project Team will meet via videoconference with representatives from Orange LAFCO only, then a second time with Orange LAFCO, the City, and a County Sheriff’s representative to

correlate our understandings of the project's scope and ensure that our Work Plan and project schedule are mutually agreeable.

### **1.3 Prepare and Submit Document Request List to County**

We will develop and submit a list of data, documents, and information relevant to this project to the County and Sheriff's Department. We will establish a Dropbox folder for the County to securely and easily transfer electronic files.

Citygate will request the following County operational and personnel resource allocation data associated with providing Harbor services within City and County Tidelands areas of Newport Harbor.

1. Annual cost allocation of full time equivalent (FTE) personnel assigned patrol, response, and/or other on-water duties within these areas.
2. Loaded personnel costs associated with these same assignments, to include: all assignable wages, overtime wages, benefits (including County-funded contributions to sick time, vacation accruals, health care, pension, disability insurance, Social Security, workers' compensation, etc.).
3. Annual cost allocation for non-personnel operational costs associated with these same assignments, to include: supplies, staff travel, training and certifications, uniforms, field equipment, fuel costs, vessel and land vehicle maintenance and repairs, maintenance and replacement of Harbor navigational aids, administrative overhead costs (assigned to this functional area), contracted services, etc.
4. County revenues derived from operations within City and County Tidelands which offset overall operational and personnel costs (rental of County-managed moorings, fees and charges from on-water citations, fees and charges collected for other tidelands-related activities, etc.).
5. Allocation of personnel assignments (staff time) and costs (as described above) including the percentage of overall assignable personnel, in the performance of duties and responsibilities within the City and County Tidelands areas of Newport Harbor versus those activities conducted on the open ocean waters off the coast of the County of Orange and other County Harbor facilities (specifically Huntington Harbor and Dana Point).

### **1.4 Prepare and Submit Document Request List to City**

We will develop and submit a list of data, documents, and information relevant to this project to the City. We will establish a Dropbox folder for the City to securely and easily transfer electronic files.

Citygate will request the following City operational and personnel resource allocation data associated with providing Harbor services within City and County Tideland areas of Newport Harbor.

1. Annual cost allocation of FTE personnel assigned patrol, response, and/or other on-water duties within these areas.
2. Loaded personnel costs associated with these same assignments, to include: all assignable wages, overtime wages, benefits (including City-funded contributions to sick time, vacation accruals, health care, pension, disability insurance, Social Security, workers' compensation, etc.).
3. Annual cost allocation for non-personnel operational costs associated with these same assignments, to include: supplies, staff training and certifications, uniforms, field equipment, fuel costs, vessel and land vehicle maintenance and repairs, maintenance and replacement of Harbor navigational aids, administrative overhead costs (assigned to this functional area), contracted services, etc.
4. City revenues derived from operations within City and County Tidelands which offset overall operational and personnel costs (rental of City-managed moorings, fees and charges from on-water citations, fees and charges collected for other tidelands-related activities, etc.)

### **1.5 Review County Background Data and Information**

Once the requested information has been received, Citygate will review the County's financial ability and operational capacity to provide Harbor patrol services within the MSR focus area.

### **1.6 Review City Background Data and Information**

Once the requested information has been received, Citygate will review the City's financial ability and operational capacity to provide Harbor patrol services within the MSR focus area.

### **1.7 Ongoing Project Management**

Throughout the entire project duration, we will monitor engagement progress and completion of phases, including providing monthly written status reports and oral communications, as needed, to Orange LAFCO's project representative.

## **Meetings and Deliverables**

There will be two online videoconference project start-up meetings. Deliverables include the documentation requests and final project Work Plan and schedule.

**Phase 2: Field Experiences and Field Staff Interviews****Tasks****2.1 Conduct Ride-Alongs with Sheriff's Department Harbor Staff**

To develop a first-hand understanding of the nature and scope of the on-water patrol activities currently conducted by County personnel within the waters of Newport Harbor, Citygate will participate in weekday and weekend ride-along activities with Orange County Sheriff's Department Harbor staff. This will help Citygate ascertain their respective scope of activities, the nature and volume of the activity, staff deployments, volume of activity by Harbor users, etc.

**2.2 Conduct Ride-Alongs with City Harbor Department Staff**

To develop a first-hand understanding of the nature and scope of the on-water patrol activities currently conducted by City personnel within the waters of Newport Harbor, Citygate will participate in weekday and weekend ride-along activities with the City Harbor Department staff. This will help Citygate ascertain the City's scope of activities, the nature and volume of the activity, staff deployments, volume of activity by Harbor users, etc.

**2.3 Conduct Interviews with Sheriff's Department Harbor Staff**

Citygate will interview Sheriff's Department Harbor staff, officers, and other personnel to better understanding current allocation of personnel, resources, Harbor responsibilities, and work volumes between the various agencies. These interviews will be via teleconference or in person as needed, before or after ride-along site days.

**2.4 Conduct Interviews with City Harbor Department Staff**

Citygate will interview City Harbor Department staff, officers, and other personnel to better understanding current allocation of personnel, resources, Harbor responsibilities, and work volumes between the various agencies. These interviews will be via teleconference or in person as needed, before or after ride-along site days.

**2.5 Conduct Interviews with Orange LAFCO and Other Harbor Providers**

As necessary, Citygate will interview representatives via tele/videoconference from Orange LAFCO and other Harbor Area providers, such as the Harbor Master, the United States Coast Guard, and the California Coastal Commission.

## **2.6 Conduct Interviews with Fire Department and Law Enforcement Agencies**

As necessary, Citygate will conduct interviews with the City Fire Department and both City and County law enforcement agencies to understand how they jointly handle on-water fire and emergency medical incidents.

## **2.7 Ongoing Project Management**

Throughout the entire project duration, we will monitor engagement progress and completion of phases, including providing monthly written status reports and oral communications, as needed, to Orange LAFCO's project representative.

### **Meetings and Deliverables**

There will be up to two on-site day trips to conduct the ride-alongs and field interviews. The deliverables in this phase will be the documentation of the field visits and interview notes which are available to Orange LAFCO as needed.

## **Phase 3: Analysis**

### **Tasks**

#### **3.1 Review Harbor Area Primary Functions**

Citygate will analyze the following Harbor Area primary functions from three perspectives: (1) risks to be protected or regulations requiring enforcement, (2) current services provided, and (3) cost of current services or needed additional services.

1. Regional activities – to include annual list of activities and staffing assignments associated with such activities (if any).
2. On-water code enforcement – to include all available data, calls for service, case counts, categories, and staffing assignments associated with such activities.
3. Public safety – to include all available data, calls for service, case counts, categories, and staffing assignments associated with such activities.
4. Environmental stewardship – to include all available data, calls for service, case counts, categories, and staffing assignments associated with such activities.

### **3.2 Review Opportunities for Harbor Area Operational Efficiencies**

Using any identified gaps identified in 3.1 in services needed or cost effectiveness, Citygate will review the following areas to identify opportunities for Harbor Area operational efficiencies:

1. Inter-agency delivery of service overlap that creates a system of overlapping responsibilities and alternatives to the status quo.
2. Service capacity/adequacy deficiencies (proactive and reactive response).
3. Financial accountability (cost effectiveness) of services (allocation of revenue and expenditures).
4. Accountability for community service needs:
  - i. Local representation.
  - ii. Resource allocation.
  - iii. Services meeting regulatory and public needs.

### **3.3 Review Governance Alternatives**

Citygate will use the results from 3.1 and 3.2 and other relevant materials to analyze the option of reassigning all areas of Harbor patrol service responsibility (Harbor, Police, and Fire) within the Harbor Tidelands from the Orange County Sheriff's Department to the City of Newport Beach.

Citygate's analysis will assist both the County and City in determining the risk and liability associated with the City of Newport Beach as the primary agency for the service. Citygate's review of this alternative shall identify and analyze the following, but recognize that other areas may be addressed:

1. Financial impacts to the County and City.
2. Required staffing, training, and scheduling resources.
3. Required equipment, facilities, and other needs.
4. Other areas, as identified by Citygate.

### **3.4 Ongoing Project Management**

Throughout the entire project duration, we will monitor engagement progress and completion of phases, including providing monthly written status reports and oral communications, as needed, to Orange LAFCO's project representative.

## Meetings and Deliverables

In any of the tasks in this phase, Consultant will follow-up by phone or videoconference, as needed, with the agencies to clarify any gaps in our understanding. The findings and recommendations from this phase will be incorporated into an initial findings briefing and then the Administrative Draft MSR.

### Phase 4: Focused MSR Administrative and Final Drafts

#### Tasks

##### 4.1 Prepare Initial Findings Briefing

Citygate's Project Team will prepare an initial briefing PowerPoint of our analysis, findings, and emerging recommendations to discuss with Orange LAFCO as to meeting all of LAFCO's needs. At LAFCO's choice, the agencies can be included.

##### 4.2 Conduct Initial Findings Briefing

Citygate will conduct an initial findings briefing with representatives from Orange LAFCO (and the City and County if desired) to discuss our analysis, findings, emerging recommendations, anomalies in the data, and resolve any remaining issues. Pursuant to input received, we will make any data-driven changes and then refinements, if needed, will be incorporated into the Administrative Draft MSR.

##### 4.3 Prepare and Submit Administrative Draft MSR

In this task, the entire Citygate team will prepare a comprehensive Administrative Draft MSR including appropriate exhibits as needed. Upon completion, an electronic Microsoft Word version will be transmitted to the Orange LAFCO, City, and County staffs for comments using the "track changes" and "insert comments" tools. Changes and comments will need to be returned to Citygate in one document via Orange LAFCO.

##### 4.4 Prepare and Submit Public Draft MSR

Based on the results of the review process, we will make necessary edits and prepare and deliver a Public Draft MSR.

##### 4.5 Present Public Draft MSR at Commission Study Session

Citygate will make an on-site oral presentation of the Public Draft MSR utilizing a PowerPoint presentation at a Commission study session.



**4.6 Prepare and Submit Final MSR Report**

Based on the results of the review process, we will make necessary edits and prepare and deliver a Final MSR Report.

**4.7 Present Final MSR Report at Commission Public Hearing**

Citygate will make an on-site oral presentation of the Final MSR Report utilizing a PowerPoint presentation at a Commission public hearing.

**4.8 Ongoing Project Management**

Throughout the entire project duration, we will monitor engagement progress and completion of phases, including providing monthly written status reports and oral communications, as needed, to Orange LAFCO’s project representative.

**Meetings and Deliverables**

There will be one videoconference meeting to present initial findings to representatives from Orange LAFCO (and the City and County, if desired). There will be one in-person meeting to present the Public Draft MSR in a Commission study session. There will be one final in-person meeting to present the Final MSR Report in a Commission public hearing.

Deliverables for this phase include the initial findings briefing, the Administrative Draft MSR, the Public Draft MSR, and the Final MSR Report.

**PROJECT COMPLETION SCHEDULE**

Phase	Aug.	Sep.	Oct.	Nov.	Dec.
1 Data Gathering and Document Review	● ●				
2 Field Experiences and Field Staff Interviews		● ●			
3 Analysis			● ●		
4 Focused MSR Administrative and Final Drafts				● ● ● ● ● ● ● ●	● ● ● ● ● ● ● ●

- Project Start-Up Videoconference Calls
- Issue Document Request Lists
- Conduct Ride-Alongs
- Conduct Interviews
- Review Harbor Area Primary Functions and Opportunities for Harbor Area Operational Efficiencies
- Review Governance Alternatives
- Prepare Initial Findings Briefing PowerPoint
- Conduct Videoconference Initial Findings Briefing with LAFCO, City, and County Staff
- Submit Administrative Draft MSR
- Submit Public Draft MSR
- In-person Presentation of Public Draft MSR at Commission Study Session
- Submit Final MSR Report
- In-person Presentation of Final MSR Report at Commission Public Hearing

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

Professional Fees  
for  
Citygate Associates

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

*AGREEMENT COSTS*

---

Consultant charges are based on *actual time* spent by our consultants at their established billing rates, plus reimbursable expenses incurred in conjunction with travel, printing, clerical, and support services related to the engagement. Consultant will undertake this study for a “not-to-exceed” total cost based on our Work Plan and Scope of Work, outlined in the following table, which outlines cost per activity/task, as required by Orange LAFCO.

Phase / Task	Project Team Fees	Administration (5% of Hourly Fees)	Reimbursable Expenses	Total Project Amount
<b>Phase 1: Data Gathering and Document Review</b>				
Task 1.1 Develop Detailed Project Work Plan and Schedule	\$500	\$25	\$0	\$525
Task 1.2 Meet with Project Representatives to Initiate Project	\$740	\$37	\$0	\$777
Task 1.3 Prepare and Submit Document Request List to County	\$1,345	\$67	\$0	\$1,412
Task 1.4 Prepare and Submit Document Request List to City	\$1,345	\$67	\$0	\$1,412
Task 1.5 Review County Background Data and Information	\$4,290	\$215	\$0	\$4,505
Task 1.6 Review City Background Data and Information	\$4,290	\$215	\$0	\$4,505
Task 1.7 Ongoing Project Management	\$1,380	\$69	\$0	\$1,449
<b>Phase 1 Subtotal</b>	<b>\$13,890</b>	<b>\$695</b>	<b>\$0</b>	<b>\$14,585</b>
<b>Phase 2: Field Experiences and Field Staff Interviews</b>				
Task 2.1 Conduct Ride-Alongs with Sheriff's Department Harbor Staff	\$3,760	\$188	\$230	\$4,178
Task 2.2 Conduct Ride-Alongs with City Harbor Department Staff	\$3,760	\$188	\$230	\$4,178
Task 2.3 Conduct Interviews with Sheriff's Department Harbor Staff	\$5,080	\$254	\$0	\$5,334
Task 2.4 Conduct Interviews with City Harbor Department Staff	\$5,080	\$254	\$0	\$5,334
Task 2.5 Conduct Interviews with Orange LAFCO and Other Providers	\$2,100	\$105	\$0	\$2,205
Task 2.6 Conduct Interviews with Fire Department and Law Enforcement	\$1,050	\$53	\$0	\$1,103
Task 2.7 Ongoing Project Management	\$1,380	\$69	\$0	\$1,449
<b>Phase 2 Subtotal</b>	<b>\$22,210</b>	<b>\$1,111</b>	<b>\$460</b>	<b>\$23,781</b>
<b>Phase 3: Analysis</b>				
Task 3.1 Review Harbor Area Primary Functions	\$2,930	\$147	\$0	\$3,077
Task 3.2 Review Opportunities for Harbor Area Operational Efficiencies	\$3,790	\$190	\$0	\$3,980
Task 3.3 Review Governance Alternatives	\$2,005	\$100	\$0	\$2,105
Task 3.4 Ongoing Project Management	\$1,380	\$69	\$0	\$1,449
<b>Phase 3 Subtotal</b>	<b>\$10,105</b>	<b>\$505</b>	<b>\$0</b>	<b>\$10,610</b>
<b>Phase 4: Focused MSR Administrative and Final Drafts</b>				
Task 4.1 Prepare Initial Findings Briefings	\$3,340	\$167	\$0	\$3,507
Task 4.2 Conduct Initial Findings Briefings	\$1,870	\$94	\$0	\$1,964
Task 4.3 Prepare and Submit Administrative Draft MSR	\$15,140	\$757	\$0	\$15,897
Task 4.4 Prepare and Submit Public Draft MSR	\$4,235	\$212	\$0	\$4,447
Task 4.5 Present Public Draft MSR at Commission Study Session	\$3,460	\$173	\$841	\$4,474
Task 4.6 Prepare and Submit Final MSR Report	\$2,560	\$128	\$0	\$2,688
Task 4.7 Present Final MSR Report at Commission Public Hearing	\$3,460	\$173	\$841	\$4,474
Task 4.8 Ongoing Project Management	\$2,760	\$138	\$0	\$2,898
<b>Phase 4 Subtotal</b>	<b>\$36,825</b>	<b>\$1,841</b>	<b>\$1,681</b>	<b>\$40,348</b>
<b>Project Total</b>	<b>\$83,030</b>	<b>\$4,152</b>	<b>\$2,141</b>	<b>\$89,323</b>

Total cost of consultant agreement includes one review cycle as described in Task 4 for the Administrative Draft MSR and the Public Draft MSR. Additional report review cycles or processing delays requested by Orange LAFCO would be billed in addition to the contracted amount at Consultant's time and materials rates. When changes are agreed upon, Consultant will provide the Final MSR Report in reproducible Portable Document Format (PDF). The Public Draft MSR will be considered the Final MSR Report if there are no suggested changes within 30 days of the delivery of the Public Draft MSR.

### ***STANDARD HOURLY BILLING RATES***

---

<b>Classification</b>	<b>Rate</b>	<b>Consultant</b>
Citygate President	\$250 per hour	David DeRoos
Public Safety Principal / Project Manager	\$250 per hour	Stewart Gary
Senior Maritime Emergency Services Specialist	\$275 per hour	Dave <del>Badgett</del>
Maritime/Lifeguard Services Specialist	\$195 per hour	Mickey Gallagher
Police Services Specialist	\$195 per hour	Gary Elliott
Local Government Fiscal Specialist	\$215 per hour	Andrew Green
Report Project Administrator	\$135 per hour	Various
Administrative Support	\$95 per hour	Various

### ***BILLING SCHEDULE FOR ADDITIONAL MEETINGS OR SERVICES***

---

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 as indicated in Standard Hourly Billing Rates of this section. 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 to 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.



August 2, 2021

Submitted via email to: [ccarter-benjamin@oclafco.org](mailto:ccarter-benjamin@oclafco.org) and [cemery@oclafco.org](mailto:cemery@oclafco.org)

Ms. Carolyn Emery  
Executive Officer  
Orange County Local Agency Formation Commission (OC LAFCO)  
2677 North Main Street, Suite 1050  
Santa Ana, CA 92705

RE: Municipal Service Review (MSR) for County Service Area (CSA) 26  
SUPPORT for Staff Recommendation on Consultants for Harbor Patrol Study

Dear Ms. Emery,

Friends of Harbors, Beaches and Parks (FHBP) is an Orange County non-profit organization working to protect natural lands, waterways, and beaches. We formed in 1997, after the reorganization of County government in 1996-1997 in the wake of the loss of funds through state reallocations and the County bankruptcy. Our goal is to advocate for and preserve the needed funding for OC Parks. Given the fact that Harbor Patrol services in Newport Harbor are currently funded by OC Parks—that's the link to our involvement.

At the last meeting, several Commissioners made comments that this MSR was “being rushed.” We've been tracking this matter closely for more than a year and, as you know, have had multiple communications with staff on the subject. From our perspective this isn't being rushed and all notices/agendas are posted appropriately and as required by law.

We are pleased to learn that a firm has been recommended by OC LAFCO staff to perform the Study of Harbor Patrol Services in Newport Harbor. We have reviewed the Sheriff's Department letter dated July 13th, 2021 which indicates the Sheriff is never opposed to looking at options to make government more efficient. We believe the Harbor Patrol Study will help to establish the most efficient harbor patrol service in Newport Harbor. And, we do appreciate the fact that the Sheriff's Department Harbor Patrol has been audited a few times over the past decades.

However, we are not aware of any detailed studies that have been performed by OC LAFCO specifically regarding Harbor Patrol services in Newport Harbor. Given the fact that in 2017 the City of Newport Beach established a City run Harbor Department that is now handling many of the day-to-day functions that were previously handled by the Sheriff's Harbor Patrol Bureau, the need to study the efficiency and effectiveness of Harbor Patrol Services in Newport Harbor is even more critical today.



The previous audits or reviews appear to be the result of the irregular structure of the Sheriff's Harbor Patrol Bureau whereby it is funded by one County department (OC Parks), yet operated by another County department (OC Sheriff). If the City has the ability to run a more effective and efficient harbor patrol operation in the City jurisdiction of Newport Harbor, this will solve the irregular structure once and for all.

FHBP supports OC LAFCO entering into the agreement with the staff recommended consultant without further delay. Please distribute our letter to all the LAFCO Commissioners.

Sincerely,



Michael Wellborn  
President

cc: Carol Jacobs, Assistant City Manager Newport Beach ([cjacobs@newportbeachca.gov](mailto:cjacobs@newportbeachca.gov))