

LOCAL AGENCY FORMATION COMMISSION OF ORANGE COUNTY

REGULAR MEETING AGENDA

**Wednesday, April 12, 2023
8:15 a.m.**

**County Administrative North (CAN)
First Floor Multipurpose Room 101
400 W. Civic Center Drive, Santa Ana, CA 92701**

Any member of the public may request to speak on any agenda item at the time the Commission is considering the item.

1. CALL THE MEETING TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

**4. ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATION
(Communications received after agenda distribution for agenda items.)**

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 by the Commission on off-agenda items unless authorized by law.

6. CONSENT CALENDAR

a.) March 8, 2023 – Regular Commission Meeting Minutes

The Commission will consider approval of the March 8, 2023 meeting minutes.

b.) Fiscal Year 2022-23 Quarterly Financial Report (Third Quarter)

The Commission will receive the third quarter financial report of Fiscal Year 2022-23.

c.) Orange County Employees Retirement System (OCERS) Revised FY 2023-24 Contribution Rates

The Commission will consider adoption of retirement contribution rates, recently revised and approved by the Orange County Employee Retirement System (OCERS) Board of Retirement.

7. PUBLIC HEARING

No public hearing items scheduled.

8. COMMISSION DISCUSSION AND ACTION

a.) Changes to Retiree Medical Program

The Commission will receive a report on the recent changes to the Retiree Medical Program and consider participation in the County's Health Reimbursement Arrangement Plan.

b.) Legislative Report (April 2023)

The Commission will receive an update on current legislative activities and consider the adoption of positions on proposed legislation of LAFCO interest.

c.) Professional Consultant Services Agreements for the Orange County Water District Municipal Service Review

The Commission will consider two professional consultant services agreements to prepare the municipal service review and sphere of influence update for the Orange County Water District.

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 the 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

a.) Bi-Annual Ethics Training and Sexual Harassment Avoidance Training Requirements

In accordance with State law, Commissioners and staff are required to complete ethics and sexual harassment avoidance training bi-annually. This year's training must be completed and respective certificates submitted to the Commission Clerk by December 31, 2023.

12. CLOSED SESSION

Conference with Legal Counsel- Anticipated Litigation

Significant exposure to litigation pursuant to Government Code section 54956.9(d)(2)

Number of potential cases: 1

13. ADJOURNMENT OF REGULAR COMMISSION MEETING

The Commission will adjourn to the next Regular Commission Meeting on Wednesday, May 10, 2023 at 8:15 a.m. at the County Administrative North (CAN), First Floor Multipurpose Room 101, 400 W. Civic Center Drive, Santa Ana, CA 92701.

PUBLIC PARTICIPATION:

The Local Agency Formation Commission of Orange County welcomes your participation. The public may share general comments or comments on agenda items through the following options:

- 1) **In-person** comments may be provided during the general comment period on off-agenda items and during the hearing of a specific agenda item. In accordance with the OC LAFCO guidelines, each speaker's comments may not exceed three (3) minutes for the respective item. If you have documents for the Commission, please bring 15 copies and submit to the Commission Clerk for distribution.
- 2) **Written** general comments or comments on specific agenda items may be submitted by email to the Commission Clerk at ccarter-benjamin@oclafco.org. Comments received no less than twenty-four (24) hours prior to the regular meeting will be distributed to the Commission and included in the record.

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 www.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.

AMERICANS WITH DISABILITIES ACT (ADA)

All regular meeting agendas and associated reports are available at www.oclafco.org. Any person with a disability under the Americans with Disabilities Act (ADA) may receive a copy of the agenda or associated reports upon request. Any person with a disability covered under the ADA may also request a disability-related modification or accommodation, including auxiliary aids or services, to participate in a public meeting. Requests for copies of meeting documents and accommodations shall be made with OC LAFCO staff at (714) 640-5100 at least three business days prior to the respective meeting.

2023 MEETING AND EVENTS CALENDAR

Approved November 9, 2022

2023



January						
S	M	T	W	T	F	S
	1	2	3	4	5	6
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21	22	23	24	25	26	27
28	29	30	31			

April						
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23	24	25	26	27	28	29
30						

July						
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30	31					

October						
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29	30	31				

February						
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26	27	28				

May						
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28	29	30	31			

August						
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November						
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March						
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26	27	28	29	30	31	

June						
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11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

September						
S	M	T	W	T	F	S
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December						
S	M	T	W	T	F	S
					1	2
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10	11	12	13	14	15	16
17	18	19	20	21	22	23
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31						

- OC LAFCO Regular Meeting (*begins at 8:15 a.m.*)
Location: County Administrative North, First Floor Multipurpose Room 101, 400 W. Civic Center Dr., Santa Ana, CA 92701.
- Office closure due to legal holidays and flexible work schedule.
- CALAFCO Annual Conference - October 18 - 20, 2023 at Hyatt Regency Monterey.

DRAFT MINUTES

OC LAFCO REGULAR MEETING

Wednesday, March 8, 2023
8:15 a.m.

County Administrative North (CAN)
First Floor Multipurpose Room 101
400 W Civic Center Drive, Santa Ana, CA. 92701

1. CALL TO ORDER

Chair Davert called the meeting of the Local Agency Formation Commission of Orange County (OC LAFCO) to order at 8:15 a.m.

2. PLEDGE OF ALLEGIANCE

Commissioner McGregor led the Pledge of Allegiance.

3. BOARD APPOINTMENTS – COMMISSIONERS DO AND MOORE

Chair Davert noted the recent board appointments, and the Oaths of Office were administered for the new appointments by Commission Clerk Cheryl Carter-Benjamin.

4. ROLL CALL

The following Commissioners were present:

City Members

Wendy Bucknum
Carol Moore (**Alt.**)

County Members

Donald Wagner (**Vice Chair**)
Andrew Do

Special District Members

Douglass Davert (**Chair**)
James Fisler
Kathryn Freshley (**Alt.**)

Public Members

Derek J. McGregor
Lou Penrose (**Alt.**)

The following staff members and general counsel were present:

- Executive Officer Carolyn Emery
- Assistant Executive Officer Luis Tapia
- Policy Analyst Gavin Centeno

- Policy Analyst Amanda Castro
- Commission Clerk Cheryl Carter-Benjamin
- General Counsel Scott Smith

5. ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATION (Received After Agenda Distribution)

Executive Officer Carolyn Emery noted that no supplemental communication was received.

6. PUBLIC COMMENT

Chair Davert requested public comments on any non-agenda items. Commission Clerk Cheryl Carter-Benjamin noted that there were no requests to speak from the public.

Chair Davert closed the hearing of public comments.

7. CONSENT CALENDAR

Chair Davert called for a motion on the consent calendar. There was no discussion from Commissioners, and the Commission Clerk noted that there were no requests from the public to speak on the item. **Commissioner Fisler** motioned for approval of the consent calendar, and **Commissioner Bucknum** seconded the motion.

7a. – Approval of Minutes – January 11, 2023 Regular Commission Meeting Minutes

MOTION: Approve the Consent Calendar. (James Fisler)
SECOND: Wendy Bucknum
FOR: James Fisler, Wendy Bucknum, Andrew Do, Derek J. McGregor,
Donald Wagner, Douglass Davert
AGAINST: None
ABSTAIN: Carol Moore

MOTION PASSED: 6-0-1.

8. PUBLIC HEARING

8a. – FY 2023-24 OC LAFCO Proposed Budget and Fee Schedule

Assistant Executive Officer Luis Tapia presented the staff report and recommended actions for the proposed budget and updated fee schedule for fiscal year 2023-24.

General questions and clarifications asked by the Commissioners were addressed by the staff and the Commission's accountant, Ian Berg. **Chair Davert** opened the public hearing. The

Commission Clerk noted that there were no requests from the public to speak on the item. **Chair Davert** closed the public hearing.

Chair Davert called for a motion on the recommended actions. **Commissioner Wagner** motioned to approve the staff recommended actions, and **Commissioner Bucknum** seconded the motion.

MOTION: Adopt the FY 2023-24 OC LAFCO Proposed Budget and direct the Executive Officer to distribute the document for review and comment to the Board of Supervisors, cities, and special districts; Direct staff to schedule a public hearing for consideration and adoption of the FY 2023-24 OC LAFCO Final Budget at the May 10, 2023 regular meeting; and Adopt Resolution No. CP23-02 approving the 2023-24 Fee Schedule. (Donald Wagner)

SECOND: Wendy Bucknum

FOR: Donald Wagner, Wendy Bucknum, Andrew Do, James Fisler, Derek J. McGregor, Carol Moore, Douglass Davert

AGAINST: None

ABSTAIN: None

MOTION PASSED: 7-0.

9. COMMISSION DISCUSSION AND ACTION

9a. – OC LAFCO Bylaws, Policies and Procedures Handbook Amendments

Commission Clerk Cheryl Carter-Benjamin gave an overview of the proposed amendments to OC LAFCO's policies and procedures and noted some corrections to errors in the document and that staff and general counsel were available to address any questions.

Chair Davert called for Commission discussion and public comments. The Commissioners noted general comments and corrections. **Commissioner Do** requested staff to bring back amendments to current policies or a new one to address language access for non-English-speaking communities. The Commission Clerk noted that there were no requests from the public to speak on the item. **Chair Davert** called for a motion on the item. **Commissioner Moore** motioned to approve the staff recommended action with noted revisions, and **Commissioner Bucknum** seconded the motion.

MOTION: Adopt the OC LAFCO Handbook, as amended, including noted revisions. (Carol Moore)

SECOND: Wendy Bucknum

FOR: Carol Moore, Wendy Bucknum, Andrew Do, James Fisler, Derek J. McGregor, Donald Wagner, Douglass Davert

AGAINST: None

ABSTAIN: None

MOTION PASSED: 7-0.

9b. – Legislative Report (March 2023)

Assistant Executive Officer Luis Tapia gave the staff presentation and provided staff recommended actions.

Chair Davert called for Commission discussion and public comments. Commissioners made general comments, and the Commission Clerk noted that there were no requests from the public to speak on the item.

Chair Davert called for a motion on the recommended actions. **Vice Chair Wagner** motioned to approve the staff recommended actions, and **Commissioner Do** seconded the motion.

MOTION: Adopt a “*Support*” position on SB 878, 879, and 880 and “*Watch*” position on AB 557 and SB 411; Direct staff to send position letter to bill author. (Donald Wagner)

SECOND: Andrew Do

FOR: Donald Wagner, Andrew Do, Wendy Bucknum, James Fisler, Derek J. McGregor, Carol Moore, Douglass Davert

AGAINST: None

ABSTAIN: None

MOTION PASSED: 7-0.

10. COMMISSIONER COMMENTS

General comments were made by the Commissioners.

Commissioner McGregor provided an oral update on CALAFCO activities and their biannual strategic meeting and noted that the plan would be presented at the next CALAFCO Board meeting.

Chair Davert provided general comments on the MSR process for the OCWD application.

11. EXECUTIVE OFFICER’S REPORT

The Executive Officer noted her presentation during CSDA webinar and the opportunity it provided to highlight the great work of the Commission on the San Juan Capistrano utilities’ transfer to Santa Margarita Water District. Ms. Emery also noted the importance of informing

of MSRs to assist agencies and the public in understanding the mandate and the respective process.

12. INFORMATIONAL ITEMS & ANNOUNCEMENTS

No informational items and announcements.

13. CLOSED SESSION

The Commission adjourned to closed session at 8:50 a.m.

The Commission reconvened in open session at 9:05 a.m., and General Counsel Scott Smith noted that there were no reportable actions.

14. ADJOURNMENT OF THE REGULAR COMMISSION MEETING

Chair Davert adjourned the Regular Commission Meeting at 9:05 a.m. to April 12, 2023.

Douglass Davert, Chair
Orange County Local Agency Formation Commission

By: _____
Cheryl Carter-Benjamin
Commission Clerk

April 12, 2023

6b | Consent
Calendar**REGULAR MEMBERS**

CHAIR

Douglass Davert
Special District Member

VICE CHAIR

Donald P. Wagner
County Member

IMMEDIATE PAST CHAIR

Derek J. McGregor
Public Member**Wendy Bucknum**
City Member**Andrew Do**
County Member**James Fisler**
Special District Member**Vacant**
City Member**ALTERNATES****Katrina Foley**
County Member**Kathryn Freshley**
Special District Member**Carol Moore**
City Member**Lou Penrose**
Public Member**STAFF****Carolyn Emery**
Executive Officer**Scott Smith**
General Counsel**TO:** Local Agency Formation Commission
of Orange County**FROM:** Executive Officer**SUBJECT:** Fiscal Year 2022-2023 Quarterly Financial Report
(*Third Quarter*)

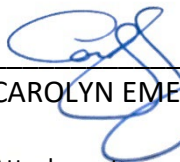
The attached quarterly financial report provides an assessment of the agency's budget and investment portfolio for the period of January 1 through March 31, 2023. Upon review by the Commission, the quarterly reports are published on the transparency page of the agency's website. The next review of the agency's financial status will be presented in July 12 year-end report.

RECOMMENDED ACTION

Staff recommends the Commission:

1. Receive and file the Fiscal Year 2022-2023 Financial Quarterly Report (*Third Quarter*).

Respectfully Submitted,



CAROLYN EMERY

Attachment:

1. Fiscal Year 2022-2023 Financial Quarterly Report (Third Quarter)



Quarterly Financial Report

Fiscal Year 2022-23 (Third Quarter)

Prepared: April 12, 2023

HIGHLIGHTS:

FY 2022-23 Budget Overview – Pages 2-4

Balance Sheet & Reserves Analysis – Pages 5-6

FY 2022-23 BUDGET OVERVIEW

This report provides a summary of the agency's budget and investment portfolio performance for the period of January 1, 2023 through March 31, 2023.¹ The Fiscal Year 2022-23 budget of approximately \$1.5 million supports the operations of the Commission and the resources needed to accomplish the work plan. During the third quarter, the overall expenditures were at approximately 67 percent, slightly below the target level of three quarters completed for the fiscal year.

Revenues

As of March 31, the OC LAFCO budgeted revenues were at 79 percent (\$1,242,344), with majority of the revenue supported through the funding apportionment collected from the County, cities and special districts, and the remaining attributed to the agency's interest earned from its investment portfolio.

Another source of OC 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. No filing fees were received during the third quarter, however, fees on deposit with the agency total \$44,189 from fees collected during previous quarters and fiscal years for applications not yet completed. These filing fees are shown in the financial overview as revenue within the Special Fund column.

Expenditures

The General Fund expenditures as of March 31, 2023 are below the third quarter target level totaling \$1,048,287 or approximately 67% 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.²

Total Funds Used				
	1 st Qtr.	2 nd Qtr.	3 rd Qtr.	4 th Qtr.
Target	25%	50%	75%	100%
Actual	18%	41%	67%	-

Most expenditures during the third quarter are within target levels with expenses attributed to key operational costs, such as, salaries, benefits and office lease, and professional services, including audit, accounting, legal and consultant services. Line items that include expenses of memberships, travel and registration, human resources, and office equipment are above the target level of the third quarter due to expenditures of these areas being due or expended at the beginning of the fiscal year or one-time expenses. Hence, anticipated expenses within these line items are expected to balance within budgeted levels by fiscal year-end.

¹ All financial statements contained in this report are on an accrual accounting basis.

² Actual expenditures for the quarterly reporting are unaudited and subject to change.

Balances and Investment Report

The following table illustrates the balance of OC LAFCO's bank accounts as of March 31, 2023:

As of 03/31/23	Balance
770-Payroll Account	\$309,327
Wells Fargo Checking	\$165,046
Wells Fargo Savings	<u>\$213,879</u>
Total	\$688,252

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. Additionally, the agency earns investment revenue through the Section 115 Public Agencies Post-Employment Benefits Trust (Trust). The current balance of the Trust account at the end of the third quarter is \$54,993. This represents an overall loss of approximately \$7,007 from the agency's initial deposit of \$62,000, yet is an improvement since the second quarter. Staff will assess the opportunity to transfer to the Section 115 account at the end of the 2022-23 fiscal year.

The following table illustrates the balance of OC LAFCO's investment portfolio as of March 31, 2023.

As of 03/31/23	Balance
LAIF	\$317,312
OC Fund	\$504,303
PARS Trust	<u>\$ 54,993</u>
Total	\$876,608

APPENDIX A
OC LAFCO - Quarterly Budget Overview³
January 1, 2023 – March 31, 2023

	YTD Special Revenue Funds	1st Qtr. General Fund	2nd Qtr. General Fund	3rd Qtr. General Fund	YTD General Fund	TOTAL FY 22/23 Budget	General Fund
Revenue:							
Addition/(Use) of Unreserved Equity	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 322,090	0.0%
LAFCO Apportionment	-	1,216,871	10,859	-	1,227,730	1,227,730	100.0%
Filing Fees	44,189	-	-	-	-	-	0.0%
Misc Revenue	-	-	-	-	-	-	0.0%
Interest & Dividends	-	724	5,362	7,567	13,653	6,300	216.7%
PARS Trust Investment Gain/Loss	-	(2,592)	2,391	1,162	961	-	0.0%
Total Revenue	\$ 44,189	\$ 1,215,003	\$ 18,612	\$ 8,729	\$ 1,242,344	\$ 1,556,120	79.8%
Expenditures:							
Salaries	\$ 10,068	\$ 123,295	\$ 123,460	\$ 136,816	\$ 383,572	\$ 574,500	66.8%
Hourly Employees	-	-	1,645	4,538	6,182	20,800	29.7%
Benefits & Insurance							
Optional Benefit Plan	-	-	15,000	-	15,000	18,500	81.1%
Deferred Compensation	-	3,655	3,734	3,838	11,227	17,500	64.2%
Retirement Benefits	-	52,462	54,067	57,341	163,869	250,300	65.5%
Health Insurance	-	14,910	15,116	14,015	44,041	65,600	67.1%
Retiree Health Benefits	-	4,155	4,295	4,545	12,995	19,300	67.3%
Dental Insurance	-	585	705	1,419	2,709	2,700	100.3%
Life Insurance	-	84	84	83	251	460	54.5%
Workers Compensation	-	-	-	3,514	3,514	3,520	99.8%
Medicare	-	1,795	2,043	2,039	5,877	8,900	66.0%
Unemployment Insurance	-	17	-	-	17	-	0.0%
Salary Continuance	-	309	319	341	970	1,510	64.2%
Accidental Death Insurance	-	21	21	21	62	170	36.4%
Executive Car Allowance	-	1,800	2,400	1,200	5,400	7,200	75.0%
Total - Benefits & Insurance	10,068	79,792	97,784	88,356	265,931	395,660	67.2%
Information Technology	-	2,370	3,130	1,657	7,156	12,800	55.9%
Telephone & Internet	-	3,022	3,051	2,137	8,210	14,500	56.6%
County of Orange	-	213	209	1,308	1,730	8,200	21.1%
General Liability Insurance	-	1,913	1,913	1,913	5,738	7,600	75.5%
Memberships	-	8,919	9,019	9,128	27,066	36,400	74.4%
Office Equipment/Supplies	-	11,414	2,342	3,437	17,193	22,500	76.4%
Professional Services:							
Legal	15	6,341	13,518	20,872	40,731	60,000	67.9%
Accounting/Audit	-	14,500	13,985	10,500	38,985	49,700	78.4%
Human Resources	-	1,050	7,744	-	8,794	10,000	87.9%
Mapping/Archiving	-	850	850	850	2,550	9,300	27.4%
Other Professional Services	-	57,268	43,075	18,524	118,866	150,000	79.2%
Total - Professional Services	15	80,009	79,172	50,746	209,927	279,000	75.2%
Investment Admin Fees	-	320	108	76	503	660	76.2%
SBE	12,846	-	-	-	-	-	0.0%
Public Noticing	4,742	1,019	-	-	1,019	11,650	8.7%
Unincorporated Areas Program	-	-	-	-	-	8,000	0.0%
Rents/Maintenance	-	34,973	26,230	26,924	88,127	104,100	84.7%
Equipment Leases	-	1,367	1,659	1,409	4,435	8,700	51.0%
Comm. & Staff Expense	-	124	885	233	1,242	7,000	17.7%
Comm. Stipends & Taxes/Fees	-	2,041	3,696	1,332	7,069	15,950	44.3%
Professional Development	-	-	52	-	52	5,000	1.0%
Transportation/Travel	-	4,457	3,711	2,859	11,027	13,600	81.1%
Commission Meeting Expense	-	1,304	463	342	2,109	9,500	22.2%
Refund of Deposit	3,319	-	-	-	-	-	0.0%
Total Expenditures	30,990	356,550	358,526	333,210	1,048,287	1,556,120	67.4%
Total Net Income (Loss)	\$ 13,199	\$ 858,453	\$ (339,914)	\$ (324,481)	\$ 194,057	\$ -	

*No assurance provided on financial statements. Financial statements do not include a statement of cash flows. Substantially all disclosures required by accounting principles generally accepted in the United States not included

³ Financial data represents pre-audited amounts, which does not include all year-end adjustments.

Balance Sheet and Reserves Balance Analysis

This report includes the balance sheet to provide an understanding of OC LAFCO's financial status. The financial document on this page summarizes the agency's assets and liabilities as of March 31, 2023. 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 March 31, 2023

	Mar 31, 23
ASSETS	
Current Assets	
Cash and Investments	
County Acct-Payroll	\$ 309,327
Wells Fargo Checking	165,046
Wells Fargo Savings	213,879
OC Fund	504,303
Investment Acct - LAIF	317,312
PARS Trust	54,993
Fair Market Value Adjustments	(11,317)
Total Cash and Investments	1,553,543
Other Current Asset	
Prepaid Expenses - Other	9,000
Retirement Prepaid Expense	75,744
Total Other Current Asset	84,744
Total Current Assets	1,638,286
Fixed Assets	22,028
Other Assets	
Right to Use Assets	799,586
Pension Deposit	190,542
Def. Outflows Pension Related	396,140
Deferred OPEB Contributions	8,794
Deferred Outflows OPEB Related	34,000
Total Other Assets	1,429,062
TOTAL ASSETS	3,089,376
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Accrued Liability	7,000
Salaries Payable	27,369
Compensated Absences	46,394
Total Current Liabilities	80,763
Long Term Liabilities	
Lease Liabilities	823,326
Deferred Inflows OPEB Related	44,000
Net OPEB Liability	103,000
Net Pension Liability	912,794
Def. Inflows Pension Related	746,724
Total Long Term Liabilities	2,629,844
Total Liabilities	2,710,607
Equity	378,769
TOTAL LIABILITIES & EQUITY	\$ 3,089,376

*No assurance provided on financial statements. Financial statements do not include a statement of cash flows. Substantially all disclosures required by accounting principles generally accepted in the United States not included.

APPENDIX C
OC LAFCO RESERVE BALANCE
As of March 31, 2023

Cash & Investments Description	Mar 31, 2023 Balance	Commission Approved Balances	Balance Excess / (Deficiency)
County Payroll	\$ 309,327	\$ 247,740 ¹	\$ 61,587
Checking - Wells Fargo	165,046	141,290 ¹	23,756
Savings - Wells Fargo	213,879	205,000 ¹	8,879
OC Fund Investment	504,303	-	504,303
LAIF Investment	317,312	-	317,312
PARS Trust	54,993	-	54,993
Total	\$ 1,564,860	\$ 594,030	\$ 970,830 ²

Footnotes:

1 - Per the Cash and Cash Management Policy, the Commission must maintain \$594,030 during fiscal year 2022/23 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.

April 12, 2023

REGULAR MEMBERS**CHAIR**
Douglass Davert
Special District Member**VICE CHAIR**
Donald P. Wagner
County Member**IMMEDIATE PAST CHAIR**
Derek J. McGregor
Public Member**Wendy Bucknum**
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County Member**Kathryn Freshley**
Special District Member**Carol Moore**
City Member**Lou Penrose**
Public Member**STAFF****Carolyn Emery**
Executive Officer**Scott Smith**
General Counsel**TO:** Local Agency Formation Commission
of Orange County**FROM:** Executive Officer**SUBJECT:** Revised Employer/Employee OCERS Contribution Rates
(Fiscal Year 2023-2024)**BACKGROUND**

On November 9, 2022, the Commission adopted a resolution approving the Orange County Employees Retirement System (OCERS) employer/employee contribution rates for Fiscal Year 2023-24 established by the OCERS Board of Retirement. Currently, there are three retirement plans available to OC LAFCO through its participation as an independent member of OCERS: 1) 2.7%@55 Plan, 2) non-PEPRA 1.62 Plan, and 3) PEPRA 1.62 Plan.

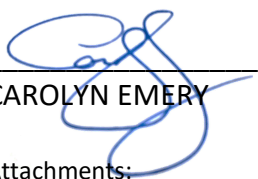
On February 21, 2023, the OCERS Board of Retirement adopted revisions to the contribution rates for the PEPRA 1.62 Plan to reflect a future service benefit enhancement effective June 30, 2023. The benefit enhancement is due to a change involving the participants of the Plan. Changes to the employer and employee contribution rates are reflected in Attachment 1 and include a slight change of 33.25% to 33.23% to the Commission's contribution rate for the PEPRA 1.62 Plan. Other plan rates previously approved by the Commission remain the same.

RECOMMENDED ACTION

Staff recommends the Commission:

1. Adopt Resolution No. CP 22-08R approving the employer/employee contribution rates for Fiscal Year 2023-24, as revised and adopted by OCERS on February 21, 2023.

Respectfully submitted,



CAROLYN EMERY

Attachments:

1. OCERS Contribution Rates (Revised 2/21/23)
2. OC LAFCO Resolution No. CP 22-08R


**Active Participating
Employers:**

CITY OF SAN JUAN
CAPISTRANO

COUNTY OF ORANGE

ORANGE COUNTY
CEMETERY DISTRICT

ORANGE COUNTY CHILDREN
& FAMILIES COMMISSION

ORANGE COUNTY
EMPLOYEES RETIREMENT
SYSTEM

ORANGE COUNTY FIRE
AUTHORITY

ORANGE COUNTY IN-HOME
SUPPORTIVE SERVICES
PUBLIC AUTHORITY

ORANGE COUNTY LOCAL
AGENCY FORMATION
COMMISSION

ORANGE COUNTY PUBLIC
LAW LIBRARY

ORANGE COUNTY
SANITATION DISTRICT

ORANGE COUNTY
TRANSPORTATION
AUTHORITY

SUPERIOR COURT OF
CALIFORNIA, COUNTY
OF ORANGE

TRANSPORTATION
CORRIDOR AGENCIES

March 24, 2023

Ms. Carolyn Emery
Orange County Local Agency Formation Commission
2677 N. Main Street, Suite 1050
Santa Ana, CA 92705

Re: **REVISED Employer/Employee Contribution Rates 2023/2024-Rate Group 2, Plan T**

Dear Ms. Emery:

The attached schedules reflect revised employer and employee contributions rates for fiscal year 2023/2024 for Rate Group 2, Plan T which were adopted by the Board of Retirement on February 21, 2023 to reflect the future service benefit enhancement effective July 1, 2023. The change in contribution rates is a result of 2022 negotiations between the Superior Court of California, County of Orange (Superior Court) and Orange County Employees Association (OCEA) to adopt Plan U on a go forward basis for all existing employees (represented and unrepresented) in Plan T and any future PEPRA eligible employees with an effective date of July 1, 2023.

The attached schedules include both the revised employer rates and a listing of the employee contribution rates for your various plans. Additional plan information, including a detailed breakdown of the UAAL by rate group, can be found in the Actuarial Valuation as of December 31, 2021 located on the OCERS website at: www.ocers.org Forms & Publications, Financial Reports page.

If you have any questions or require additional information, feel free to contact me at (714) 558-6201 or by email at bshott@ocers.org.

Regards,

Brenda Shott
Assistant CEO of Finance and Internal Operations

cc: Luis Tapia, Erica Lin, Teresa White, Evarista Narciso

**** Revised 2/21/23 ****

**Orange County Local Agency Formation Commission
Employer Contribution Rates
Effective Pay Period 15, June 30, 2023**

Rate Group	Plan	Rate	
#2	I & J **	Normal	14.67%
		UAAL	<u>26.14%</u>
		Total	40.81%
#2	P	Normal	6.22%
		UAAL	<u>26.14%</u>
		Total	32.36%
#2	T - PEPPRA	Normal	7.09%
		UAAL	<u>26.14%</u>
		Total	33.23%

**** Reverse Pickups:**

Orange County LAFCO bargaining units under the 2.7% at 55 plans are subject to an employee-paid reverse pickup which has not been accounted for in the employer rate above. Any reverse pickup arrangements are between the plan sponsors and employee bargaining units. The reverse pickup rate schedule is available online at:

<https://www.ocers.org/sites/main/files/file-attachments/reversepickups.pdf>

**** Revised 2/21/23 ****

**Orange County Local Agency Formation Commission
Employee Contribution Rates
Effective Pay Period 15, June 30, 2023**

Entry Age	Plan I (2.7% @ 55)	Plan J (2.7% @ 55)	Plan P (1.62% @ 65)	PEPRA
				Plan T (1.62% @ 65)
15	10.39%	9.98%	6.45%	5.04%
16	10.39%	9.98%	6.45%	5.04%
17	10.57%	10.15%	6.57%	5.13%
18	10.76%	10.33%	6.68%	5.22%
19	10.95%	10.51%	6.80%	5.32%
20	11.14%	10.70%	6.92%	5.41%
21	11.34%	10.89%	7.04%	5.51%
22	11.54%	11.08%	7.17%	5.60%
23	11.74%	11.27%	7.29%	5.70%
24	11.95%	11.47%	7.42%	5.80%
25	12.16%	11.67%	7.55%	5.91%
26	12.38%	11.88%	7.69%	6.01%
27	12.60%	12.09%	7.82%	6.12%
28	12.82%	12.30%	7.96%	6.22%
29	13.05%	12.52%	8.10%	6.33%
30	13.29%	12.75%	8.24%	6.45%
31	13.53%	12.98%	8.39%	6.56%
32	13.77%	13.21%	8.53%	6.68%
33	14.02%	13.45%	8.69%	6.80%
34	14.28%	13.70%	8.84%	6.92%
35	14.55%	13.95%	9.00%	7.04%
36	14.83%	14.21%	9.16%	7.17%
37	15.12%	14.48%	9.33%	7.30%
38	15.41%	14.73%	9.49%	7.44%
39	15.69%	14.98%	9.67%	7.57%
40	15.97%	15.23%	9.85%	7.72%
41	16.24%	15.47%	10.03%	7.86%
42	16.51%	15.72%	10.22%	8.01%
43	16.79%	15.97%	10.40%	8.16%
44	17.08%	16.23%	10.58%	8.30%
45	17.39%	16.47%	10.75%	8.44%
46	17.72%	16.68%	10.92%	8.57%
47	17.96%	16.83%	11.09%	8.72%
48	18.20%	16.92%	11.27%	8.86%
49	18.35%	16.91%	11.46%	9.01%
50	18.42%	16.80%	11.63%	9.15%
51	18.37%	16.56%	11.77%	9.28%
52	18.19%	16.20%	11.88%	9.38%
53	17.86%	16.73%	11.94%	9.44%

**** Revised 2/21/23 ****
Orange County Local Agency Formation Commission
Employee Contribution Rates
Effective Pay Period 15, June 30, 2023
 (continued)

Entry Age	Plan I (2.7% @ 55)	Plan J (2.7% @ 55)	Plan P (1.62% @ 65)	PEPRA Plan T
				(1.62% @ 65)
54	17.28%	17.28%	11.94%	9.46%
55	17.28%	17.28%	11.86%	9.42%
56	17.28%	17.28%	11.69%	9.33%
57	17.28%	17.28%	11.44%	9.19%
58	17.28%	17.28%	11.81%	9.49%
59	17.28%	17.28%	12.20%	9.80%
60	17.28%	17.28%	12.20%	9.80%
61	17.28%	17.28%	12.20%	9.80%
62	17.28%	17.28%	12.20%	9.80%
63	17.28%	17.28%	12.20%	9.80%
64	17.28%	17.28%	12.20%	9.80%
65	17.28%	17.28%	12.20%	9.80%
66 and thereafter	17.28%	17.28%	12.20%	9.80%

Average entry age and discounted percentages applicable to employee contributions paid under Section 31581.1 are:

Rate Group	Plan	Discounted Percentage	Average Entry Age
#2	Plan I (General)	99.43%	38
#2	Plan J (General)	99.01%	38
#2	Plan P (General)	98.41%	38

CP 22-08R**RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION
OF ORANGE COUNTY, CALIFORNIA
ADOPTING REVISED RETIREMENT RATES FOR FY 2023-24****April 12, 2023**

On motion of Commissioner _____, duly seconded by and carried, the following resolution was adopted:

WHEREAS, the California State Legislature adopted AB 2838 in its 1999-2000 legislative session, which, in part, required that Local Agency Formation Commissions throughout the State of California become independent public agencies effective January 1, 2001; and

WHEREAS, the Local Agency Formation Commission of Orange County (“OC LAFCO”) applied and was accepted as an independent member agency under the Orange County Employees Retirement System (“OCERS”) on or about January 1, 2001; and

WHEREAS, as a result of OC LAFCO being an independent member agency under OCERS since 2001, OC LAFCO must annually adopt both the employee and employer rates as approved by OCERS; and

WHEREAS, in August 2004, the County of Orange reached agreement with a number of General Member bargaining units and certain unrepresented employees to implement a 2.7% at 55 retirement formula for both past and future service; and

WHEREAS, on February 9, 2005, OC LAFCO approved implementation of a 2.7% at 55 retirement formula, for future service only, beginning July 1, 2005; and

WHEREAS, the cost to migrate to the 2.7% at 55 retirement formula was paid for by OC LAFCO employees and did not result in additional cost to OC LAFCO except for an annual employer contribution of 0.51 percent and annual modifications made in the retirement rates as determined by OCERS; and

WHEREAS, on December 12, 2012, OC LAFCO rescinded the 2.7% at 55 retirement formula for employees hired by OC LAFCO on or after December 12, 2012; and

WHEREAS, the new 2.7% at 55 retirement formula only applies to active employees and new employees hired between July 1, 2005 and December 11, 2012; and

WHEREAS, on April 20, 2010, the County of Orange approved implementation of a 1.62% at 65 retirement formula for new County employee hires only effective on or after July 1, 2010; and

WHEREAS, on June 9, 2010, OC LAFCO approved implementation of a 1.62% at 65 retirement formula, for new OC LAFCO employee hires only, beginning July 1, 2010; and

WHEREAS, on February 9, 2011, OC LAFCO adopted a temporary resolution establishing that new employees enrolled in the 1.62% at 65 retirement formula are subject to pay the reverse pickup cost; and

WHEREAS, on June 8, 2011, OC LAFCO adopted a revised resolution replacing the February 9, 2011 resolution, establishing OC LAFCO as responsible for the employee reverse pickup, the annual employer contribution of 0.51 percent and annual modifications made in the retirement rates for the 1.62% at 65 as determined by OCERS; and

WHEREAS, on September 12, 2012, the California Public Employees' Pension Reform Act (AB 340) was chaptered into law and became effective January 1, 2013; and

WHEREAS, the California Public Employees' Pension Reform Act (AB 340) imposed certain limitations on public employee pension formulas for public employees considered new members, as that term is defined by Government Code Section 7522.04(f) ("New Members"); and

WHEREAS, the enactment of the California Public Employees' Pension Reform Act (AB 340) required OCERS to establish two versions of the 1.62% at 65 retirement plan, one for new OC LAFCO employees that are not New Members ("non-PEPRA 1.62 Plan") and one for new OC LAFCO employees that are New Members ("PEPRA 1.62 Plan"); and

WHEREAS, on November 9, 2022, OC LAFCO adopted a resolution approving the employer/employee contribution rates for 2023-24 adopted by the OCERS Board of Retirement on June 20, 2022; and

WHEREAS, on February 21, 2023, the OCERS Board of Retirement adopted revised employer/employee contribution rates for the "PEPRA 1.62 Plan for 2023-24;" and

WHEREAS, the employer retirement rate for the 1.62% at 65 retirement plan, as established by OCERS, for 2023-24 is 32.36 percent for new OC LAFCO employees that are not New Members ("non-PEPRA" 1.62 Plan); and

WHEREAS, the revised employer retirement rate for the "PEPRA 1.62 Plan," as established by OCERS, for 2023-24 is 33.23 percent; and

WHEREAS, the employer retirement rate for the 2.7% at 55 retirement plan, as established by OCERS, for 2023-24 is 40.81 percent.

NOW, THEREFORE, the Local Agency Formation Commission of Orange County
DOES HEREBY RESOLVE, DETERMINE AND ORDER as follows:

OC LAFCO adopts and approves implementation of 2023-24 retirement rates as revised and established by OCERS, effective June 30, 2023.

AYES:

NOES:

[illegible]

I, Douglass Davert, Chair of the Local Agency Formation Commission of Orange County, hereby certify that the above and foregoing resolution was duly and regularly adopted by said Commission at a regular meeting thereof, held on the 12th day of April 2023.

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of April 2023.

Douglass Davert
Chair of the Local Agency Formation Commission
of Orange County

By: Douglass Davert

8a | Commission
Discussion

April 12, 2023

TO: Local Agency Formation Commission
of Orange County**FROM:** Executive Officer**SUBJECT:** Changes to Retiree Medical Program**REGULAR MEMBERS****CHAIR**
Douglass Davert
Special District Member**VICE CHAIR**
Donald P. Wagner
County Member**IMMEDIATE PAST CHAIR**
Derek J. McGregor
Public Member**Wendy Bucknum**
City Member**Andrew Do**
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County Member**Kathryn Freshley**
Special District Member**Carol Moore**
City Member**Lou Penrose**
Public Member**STAFF****Carolyn Emery**
Executive Officer**Scott Smith**
General Counsel**BACKGROUND**

On February 15, 2023, OC LAFCO staff was informed by the County of significant changes to the Retiree Medical Program which were approved by the Board of Supervisors on December 20, 2022. These changes will take effect on June 16, 2023, but OC LAFCO staff in employment prior to June 16, 2023 will have until a future date to be determined by the County, but likely in early August, to choose between a modified version of the Retiree Medical Grant and an alternative option comprised of a health reimbursement arrangement. These options will be described in greater detail below. OC LAFCO staff that retire prior to June 16, 2023, will be grandfathered under the current Retiree Medical Program and Grant.

Current Retiree Medical Grant

OC LAFCO Employees are eligible for the Retiree Medical Grant on the same terms as that provided to members of the Orange County Managers Association ("OCMA"). The Retiree Medical Grant is a monthly allowance that is only available to eligible employees that retire under the Orange County Employees Retirement System (OCERS) and can only be applied towards the cost of a County-sponsored health insurance or Medicare premiums. The monthly allowance is based on a specified dollar amount or each full year of credited service up to a maximum of twenty-five (25) years. This monthly allowance is adjusted if an employee retires before or after age 60, and then reduced by 50% at eligibility for cost-free Medicare. There are other elements of the benefit but the preceding are the main components.

The Retiree Medical Grant is not a vested benefit and is not guaranteed to current or future OC LAFCO employees.

New Retiree Medical Program

The Retiree Medical Grant will be frozen effective June 16, 2023. Accordingly, all new OC LAFCO employees hired on or after June 16, 2023, and existing employees with less than 1 year of credited service as of June

1, 2023, will only be eligible for a County-sponsored health reimbursement arrangement (“HRA”) which consists of an initial contribution of \$60 per pay period for full-time employees and \$30 per pay period for part-time employees. This contribution will be increased by 2.5% annually for each first full pay period beginning July 2024. The funds in the HRA will only be available upon separation from employment and can only be used to reimburse substantiated eligible medical expenses.

Current OC LAFCO employees who do not retire prior to June 16, 2023, will be given a choice between the two options described below. The election period will start sometime after the 4th of July holiday and conclude 30 days thereafter. The effective date of the election will occur after the conclusion of the election period but a definite date has yet to be determined by the County. Once made, the election is irrevocable.

Option 1: Rollover Value of Retiree Medical Grant to HRA

Under this option, an employee will receive a one-time deposit into the HRA of \$855 for each full year of credited services as of June 15, 2023. There is no cap on the years of credited service so long as they were accrued prior to June 16, 2023. The funds in the HRA will only be available upon separation from employment, retirement or otherwise, and can only be used to reimburse substantiated eligible medical expenses of the employee and his or her dependents.

Option 2: Retain Frozen Grant

Under this option, an employee will be eligible for a modified version of the Retiree Medical Grant only upon retirement from OC LAFCO and through OCERS. No further years of credited service will accrue after June 15 2023. The monthly allowance can only be applied towards the cost of a County-sponsored health plan and be equal to a specified amount times the years of credited service through June 15, 2023 but no more than 25 years. No age adjustment will be made for those retiring before or after age 60, but the allowance will be reduced by 50% at Medicare eligibility without cost. Cost of living adjustments will no longer apply on or after June 16, 2023. The value of any years of credited service in excess of 25 years as of June 15, 2023, will be converted into a one-time contribution to the HRA equal to \$855 per year.

Both Option 1 and Option 2 include the employer contribution to the HRA beginning in July 2023 which is described in the first paragraph of this section. If an employee fails to choose an option by the election deadline, Option 2 will be the default.

OC LAFCO Specific Considerations

After OC LAFCO staff was informed of the changes to the County retiree medical program as described above, we engaged in a series of discussions with County staff to gain further clarity on the options available to OC LAFCO, if any.

In the course of these discussions the following was confirmed:

- OC LAFCO does not have to mirror the \$60/\$30 per pay period contribution to the HRA that the County will be making on behalf of its employees as of July 2023. OC LAFCO can determine its own contribution amount. However, staff recommends that OC LAFCO mirror the County's contribution amount for the time being.
- OC LAFCO does not have the option to continue to offer the unmodified Retiree Medical Grant to its employees. Pursuant to Section 6 of the Participation Agreement between OC LAFCO and the County, a condition to accessing the County Services (defined broadly to include payroll and human resources, participation in health plans, health and dependent care reimbursement programs, 457(b) deferred compensation plan, etc.) is that OC LAFCO employees participate in said Services, including the retiree medical program, on the same terms and conditions as County employees.
- It is highly unlikely that the County will permit OC LAFCO to maintain employees retiring prior to June 16, 2023 in the grandfathered Retiree Medical Grant while OC LAFCO provides health benefits, including retiree health benefits, to active employees through another platform. While it is legally possible, it would require an amendment to the Participation Agreement and, more importantly, consent by the County to administer the retiree health program for retired OC LAFCO employees only.
- However, the County has indicated that any funds contributed to the County-sponsored HRA, including the conversion of retiree medical grant into a lump sum contribution to the HRA, will remain available to OC LAFCO employees even if the OC LAFCO discontinues its participation in the County retiree medical program.

SUMMARY

Staff recommends the Commission mirror the \$60/\$30 per pay period contribution to the HRA that the County will be making on behalf of its employees as of July 2023. If the Commission approves this recommendation, staff will proceed with notifying the County in order to meet their deadline for this matter. Additionally, staff will work with the Commission's accountant to appropriately account for any associated costs within the final FY 2023-24 budget to be considered by the Commission in May.

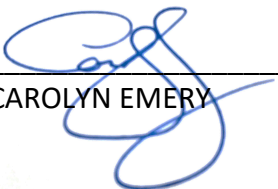
Finally, while it is definitive that the retiree medical benefit is not a vested benefit for employees, it should be noted that the elimination of the Retiree Medical Grant on a go forward basis and the high cost of the County's retiree health insurance plan may pose significant challenges to OC LAFCO's ability to both retain staff and attract new talent. As such, the Commission may want to consider exploring the availability of other platforms that can provide at least a comparable benefit to the existing County Retiree Medical Grant to both existing retirees and employees. Should the Commission direct staff to explore this option, staff will seek to present this information to the Commission ahead of the conclusion of the election period for OC LAFCO employees established by the County.

RECOMMENDED ACTIONS

Staff recommends that the Commission:

1. Confirm that OC LAFCO will mirror the HRA contribution amounts established by the County and provide appropriate notification to the County.
2. Discuss exploring the availability of other platforms that can provide health insurance benefits to OC LAFCO employees that are at least comparable to the County health benefits.
3. Provide additional direction to staff, if warranted.

Respectfully submitted,



CAROLYN EMERY

April 12, 2023

TO: Local Agency Formation Commission
of Orange County**FROM:** Executive Officer
Assistant Executive Officer**SUBJECT:** Legislative Report (April 2023)**REGULAR MEMBERS****CHAIR**
Douglass Davert
Special District Member**VICE CHAIR**
Donald P. Wagner
County Member**IMMEDIATE PAST CHAIR**
Derek J. McGregor
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Special District Member**Carol Moore**
City Member**Lou Penrose**
Public Member**STAFF****Carolyn Emery**
Executive Officer**Scott Smith**
General Counsel**BACKGROUND**

Since the 2023 legislative session began, a total of 2,632 bills have been introduced in the Legislature. Many of these bills are moving swiftly through the legislative committees, and some are experiencing amendments to further define their purpose. To date, the Commission has reviewed a total of five bills and adopted positions on three bills of LAFCO interest.

This report provides an update on legislation presented to the Commission in the March legislative report, an introduction of Senate Bill 360 and recommended actions for Commission consideration.

UPDATE TO PREVIOUSLY REVIEWED LEGISLATION

The table below provides the status of each bill reviewed by the Commission during the current legislative session.

Bill	Description	Commission's Adopted Position	Status
AB 557	Proposes to remove the sunset date of January 1, 2024, which would terminate the ability for local agencies to hold meetings by teleconference during a state of emergency previously established through the signing of AB 361 by the Governor.	Watch	AB 557 is currently with the Assembly Local Government Committee. The hearing date had not been identified as of April 5, 2023.

Bill	Description	Commission's Adopted Position	Status
SB 411	Proposes to remove the sunset date of January 1, 2026, which would terminate the ability for members of a local agency to participate in meetings via teleconference under specific and limited circumstances.	Watch	SB 411 is currently with the Senate Governance and Finance Committee. The hearing date had not been identified as of April 5, 2023.
SB 878 SB 879 SB 880	Yearly Validating Acts are meant to retroactively fix typographical, grammatical, and procedural errors that might invalidate boundary changes or bond issues.	Support	SB 878, SB 879, and SB 880 are currently with the Senate Governance and Finance Committee. The hearing date had not been identified as of April 5, 2023.

AB 1753 (Assembly Local Government Committee): Reorganization

In the March 8 legislative report, staff provided a summary of the draft language included in this year's Omnibus Bill and recommended the Commission adopt a **Watch** position as the bill language was not in print and a bill number had not been assigned. Since then, the language has become AB 1753 and the CALAFCO Legislative Committee has participated in several discussions with legislative staff to finalize the bill. Current bill language includes the following:

- **Delivery of Executed Resolutions:** The proposed language would allow the Executive Officer, following an approved change of organization or reorganization, to transmit a copy of the resolution adopted by the Commission using email or electronic means and confirm receipt by the intended recipient through electronic read receipt or other means.
- **Application to Initiate Proceedings:** The proposed language would clarify that prior to the Executive Officer deeming an application complete, any agreements for the exchange of property tax revenues required in accordance with state law must be received by LAFCO.

As a co-sponsor of AB 1753, CALAFCO has requested support letters from LAFCOs be sent to the Assembly Local Government Committee. As the bill aligns with the Commission's legislative policy to support legislation that further provides clarity and consistency to the CKH Act to further LAFCO's Authority, staff recommends the Commission adopt a **Support** position.

RECOMMENDED ACTION: Adopt **SUPPORT** position on AB 1753.

Support: CALAFCO

Oppose: None on record.

BILL LOCATION/STATUS: Assembly Local Government Committee. Next hearing date: April 19, 2023.

NEW LEGISLATION

SB 360 (Blakespear) California Coastal Commission: Member Voting

The California Coastal Act of 1976 establishes the California Coastal Commission and prescribes the membership and duties of its Commission. The Act does not preclude or prevent any member or employee of the Coastal Commission who is an employee of another public agency, a county supervisor or city council person, or a member of Association of Bay Area Governments, San Diego Comprehensive Planning Organization, and the Southern California Association of Governments from voting or otherwise acting upon a matter as a member of the Coastal Commission. This bill proposes to further support opportunities for locally elected officials to effectively serve their communities by expanding the list of offices that a locally elected official may be seated on concurrently involving the Coastal Commission, LAFCOs and Joint Powers Authority (JPAs). Staff recommends the Commission adopt a **Support** position on SB 360.

RECOMMENDED ACTION: Adopt **SUPPORT** position on SB 360.

Support: CALAFCO

OPPOSE: None on record.

BILL LOCATION/STATUS: Senate Natural Resource and Water Committee. No hearing date scheduled at the time of agenda distribution.

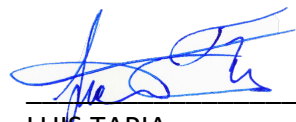
RECOMMENDED ACTIONS

Staff recommends the Commission:

1. Adopt a **Support** position on AB 1753 and SB 360.
2. Direct staff to send position letters to respective bill authors.

Respectfully submitted,


CAROLYN EMERY


LUIS TAPIA

Attachments:

1. Assembly Bill 1753 (Assembly Local Government Committee)
2. Senate Bill 360 (Blakespear)

Exhibits:

- A. Letter of Support – AB 1753
- B. Letter of Support – SB 360

[Home](#)[Bill Information](#)[California Law](#)[Publications](#)[Other Resources](#)[My Subscriptions](#)[My Favorites](#)**AB-1753 Local government: reorganization.** (2023-2024)

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Date Published: 03/02/2023 09:00 PM

CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

ASSEMBLY BILL**NO. 1753****Introduced by Committee on Local Government****March 02, 2023**

An act to amend Sections 56658 and 56882 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 1753, as introduced, Committee on Local Government. Local government: reorganization.

Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, provides the sole and exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts. The act requires a petitioner or legislative body desiring to initiate proceedings for a change of organization or reorganization to submit an application to the executive officer of the principal county. The act specifies when an application is complete and acceptable for filing, and requires the executive officer to immediately issue a certificate of filing when an application is accepted for filing, as specified.

Upon the filing of an application or a resolution pursuant to the act, but prior to the issuance of a certificate of filing, existing law requires the executive officer to give notice of the filing to the assessor and auditor of each county within which the territory subject to the jurisdiction change is located, as specified. Existing law prohibits the executive officer from issuing a certificate pursuant to the provisions described above until resolutions are adopted by specified counties and cities in which they agree to accept the exchange of property tax revenues. Existing law authorizes a county and any local agency within the county to develop and adopt a master property tax transfer agreement, as specified.

This bill would, if applicable, prohibit the executive officer from accepting for filing an application for change or organization or reorganization and issuing a certificate of filing pursuant to the provisions described above, and would provide that an application is not deemed accepted for filing pursuant to the provisions described above, if an agreement for the exchange of property tax revenues has not been adopted pursuant to the provisions described above.

The act requires a local agency formation commission, after a hearing on a proposed change of organization, to, within 35 days of the hearing, adopt a resolution making determinations approving or disapproving the proposal,

with or without conditions, as specified. The act requires the executive officer to mail a copy of the resolution to specified persons or entities.

This bill would recast that provision to require the executive officer to transmit a copy of the resolution to specified persons or entities, and would require the executive officer to confirm receipt by the intended recipient through electronic read receipt or other means if the executive officer transmits a copy of the resolution using email or electronic means.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 56658 of the Government Code is amended to read:

56658. (a) Any petitioner or legislative body desiring to initiate proceedings shall submit an application to the executive officer of the principal county.

(b) (1) Immediately after receiving an application and before issuing a certificate of filing, the executive officer shall give mailed notice that the application has been received to each affected local agency, the county committee on school district organization, and each school superintendent whose school district overlies the affected territory. The notice shall generally describe the application and the affected territory. The executive officer shall not be required to give notice pursuant to this subdivision if a local agency has already given notice pursuant to subdivision (c) of Section 56654.

(2) It is the intent of the Legislature that an application for incorporation or disincorporation shall be processed in a timely manner. With regard to an application that includes an incorporation or disincorporation, the executive officer shall immediately notify all affected local agencies and any applicable state agencies by mail and request the affected agencies to submit the required data to the commission within a reasonable timeframe established by the executive officer. Each affected agency shall respond to the executive officer within 15 days acknowledging receipt of the request. Each affected local agency and the officers and departments thereof shall submit the required data to the executive officer within the timelines established by the executive officer. Each affected state agency and the officers and departments thereof shall submit the required data to the executive officer within the timelines agreed upon by the executive officer and the affected state departments.

(3) If a special district is, or as a result of a proposal will be, located in more than one county, the executive officer of the principal county shall immediately give the executive officer of each other affected county mailed notice that the application has been received. The notice shall generally describe the proposal and the affected territory.

(c) Except when a commission is the lead agency pursuant to Section 21067 of the Public Resources Code, the executive officer shall determine within 30 days of receiving an application whether the application is complete and acceptable for filing or whether the application is incomplete.

(d) *(1) If applicable, the executive officer shall not accept for filing an application for a change of organization or reorganization and issue a certificate of filing pursuant to subdivision (f) and an application shall not be deemed accepted for filing pursuant to subdivision (e) if an agreement for the exchange of property tax revenues has not been adopted pursuant to paragraph (6) of subdivision (b) or subdivision (d) of Section 99 of the Revenue and Taxation Code.*

(2) The executive officer shall not accept an application for filing and issue a certificate of filing for at least 20 days after giving the mailed notice required by subdivision (b). The executive officer shall not be required to comply with this subdivision in the case of an application which meets the requirements of Section 56662 or in the case of an application for which a local agency has already given notice pursuant to subdivision (c) of Section 56654.

(e) If the appropriate fees have been paid, an application shall be deemed accepted for filing if no determination has been made by the executive officer within the 30-day period. An executive officer shall accept for filing, and file, any application submitted in the form prescribed by the commission and containing all of the information and data required pursuant to Section 56652.

(f) When an application is accepted for filing, the executive officer shall immediately issue a certificate of filing to the applicant. A certificate of filing shall be in the form prescribed by the executive officer and shall specify the

date upon which the proposal shall be heard by the commission. From the date of issuance of a certificate of filing, or the date upon which an application is deemed to have been accepted, whichever is earlier, an application shall be deemed filed pursuant to this division.

(g) If an application is determined not to be complete, the executive officer shall immediately transmit that determination to the applicant specifying those parts of the application which are incomplete and the manner in which they can be made complete.

(h) Following the issuance of the certificate of filing, the executive officer shall proceed to set the proposal for hearing and give published notice thereof as provided in this part. The date of the hearing shall be not more than 90 days after issuance of the certificate of filing or after the application is deemed to have been accepted, whichever is earlier. Notwithstanding Section 56106, the date for conducting the hearing, as determined pursuant to this subdivision, is mandatory.

SEC. 2. Section 56882 of the Government Code is amended to read:

56882. (a) The executive officer shall ~~mail~~ *transmit* a copy of the resolution adopted by the commission making determinations addressed to each of the following persons or entities:

~~(a)~~

(1) The proponents, if any, where the proceedings for change of organization were initiated by petition.

~~(b)~~

(2) Each affected local agency whose boundaries would be changed by the proposal.

(b) If the executive officer transmits a copy of the resolution using email or electronic means, the executive officer shall confirm receipt by the intended recipient through electronic read receipt or other means.



California

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SB-360 California Coastal Commission: member voting. (2023-2024)

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Date Published: 02/08/2023 09:00 PM

CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

SENATE BILL

NO. 360**Introduced by Senator Blakespear****February 08, 2023**

An act to amend Section 30318 of the Public Resources Code, relating to coastal resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 360, as introduced, Blakespear. California Coastal Commission: member voting.

Existing law, the California Coastal Act of 1976, establishes the California Coastal Commission and prescribes the membership and duties of the commission. The act provides that its provisions do not preclude or prevent any member or employee of the commission who is also an employee of another public agency, a county supervisor or city councilperson, or a member of specified associations or organizations, and who has in that designated capacity voted or acted upon a particular matter, from voting or otherwise acting upon that matter as a member or employee of the commission.

This bill would apply the latter provision to members of a joint powers authority and members of the local agency formation commission.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 30318 of the Public Resources Code is amended to read:

30318. Nothing in this division shall preclude or prevent any member or employee of the commission who is also an employee of another public agency, a county supervisor or city councilperson, member of the Association of Bay Area Governments, member of the Association of Monterey Bay Area Governments, *member of a joint powers authority, member of the local agency formation commission*, delegate to the Southern California Association of Governments, or member of the San Diego Comprehensive Planning Organization, and who has in that designated capacity voted or acted upon a particular matter, from voting or otherwise acting upon that matter as a member or employee of the commission. Nothing in this section shall exempt any such member or employee of the commission from any other provision of this article.

REGULAR MEMBERS

CHAIR

Douglass Davert
Special District Member

VICE CHAIR

Donald P. Wagner
County Member

IMMEDIATE PAST CHAIR

Derek J. McGregor
Public Member

Wendy Bucknum
City Member

Andrew Do
County Member

James Fisler
Special District Member

Vacant
City Member

ALTERNATES

Katrina Foley
County Member

Kathryn Freshley
Special District Member

Carol Moore
City Member

Lou Penrose
Public Member

STAFF

Carolyn Emery
Executive Officer

Scott Smith
General Counsel

April 12, 2023

Honorable Cecilia M. Aguiar-Curry, Chair
Assembly Local Government Committee
California State Assembly
1020 N Street, Room 157
Sacramento, CA 95814

RE: **Support** – AB 1753 (Aguiar-Curry): Committee on Local Government: Omnibus Bill

Dear Chair Aguiar-Curry:

The Local Agency Formation Commission of Orange County (OC LAFCO) is pleased to support the Assembly Local Government Committee Omnibus Bill (AB 1753), sponsored by the California Association of Local Agency Formation Commissions (CALAFCO).

AB 1753 proposes technical, non-substantive changes to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act), which governs the work of LAFCOs. These changes allow for greater clarity of language within the CKH Act for all stakeholders and further support OC LAFCO's ability to fulfill its role in encouraging the efficient delivery of municipal services by our respective local governments.

This legislation ensures that the CKH Act remains a vital and practical law that is consistently applied throughout the State. The Commission appreciates the effort of CALAFCO and your Committee's authorship of this bill and support of the mission of LAFCOs.

Respectfully,

Douglass Davert
Chair

cc: Members, Assembly Local Government Committee
Jimmy MacDonald, Consultant, Assembly Local Government Committee
William Weber, Consultant, Assembly Republican Caucus
René LaRoche, Executive Director, CALAFCO

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Special District Member

Carol Moore
City Member

Lou Penrose
Public Member

STAFF

Carolyn Emery
Executive Officer

Scott Smith
General Counsel

April 12, 2023

Senate Member Catherine Blakespear
California State Senate
1021 O Street, Suite 7340
Sacramento, CA 95814

RE: **Support** – SB 360 (Blakespear): California Coastal
Commission: Member Voting

Dear Senator Blakespear:

The Local Agency Formation Commission of Orange County (OC LAFCO) is pleased to support Senate Bill 360 (SB 360), which proposes to allow employees or members of a Joint Powers Authority (JPA) or commissioners of a Local Agency Formation Commission (LAFCO) to concurrently participate as a member of the California Coastal Commission. Existing law under the California Coastal Act of 1976 does not preclude or prevent any member or employee of the Coastal Commission who is an employee of another public agency, a county supervisor or city councilperson, or a member of specified associations or organizations from voting or otherwise acting upon a matter as a member of the Coastal Commission. If SB 360 is approved by the Legislature and signed into law by the Governor, it would further support opportunities for locally elected officials to effectively serve their communities by expanding the list of offices that a locally elected official may be seated on concurrently involving the Coastal Commission, LAFCOs, and JPAs.

For the reason stated above, OC LAFCO supports SB 360.

Respectfully,

Douglass Davert
Chair

cc: René LaRoche, Executive Director, CALAFCO

April 12, 2023

REGULAR MEMBERS**CHAIR**
Douglass Davert
Special District Member**VICE CHAIR**
Donald P. Wagner
County Member**IMMEDIATE PAST CHAIR**
Derek J. McGregor
Public Member**Wendy Bucknum**
City Member**Andrew Do**
County Member**James Fisler**
Special District Member**Vacant**
City Member**ALTERNATES****Katrina Foley**
County Member**Kathryn Freshley**
Special District Member**Carol Moore**
City Member**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:** Professional Consultant Services Agreements for the
Orange County Water District Municipal Service Review**BACKGROUND**

In October 2022, OC LAFCO received an application from the Orange County Water District (OCWD) to conduct a focused Municipal Service Review (MSR) on the potential consolidation of OCWD and the Municipal Water District of Orange County (MWDOC). OCWD's application was submitted in response to a report prepared by the Orange County Grand Jury, *Water in Orange County Needs "One Voice."* The report discusses the consolidation of OCWD and MWDOC into a single County wholesale water agency to increase the efficiency and effectiveness in delivering imported water and groundwater, major infrastructure investments, development of forward-thinking policies and practices, and opportunities at the local, State and federal levels in legislation, policy making and receiving subsidies and grants.

An MSR for OCWD was last conducted in 2013, and in part to the Commission's five-year cycle for MSRs and Sphere of Influence (SOI) Updates, the District's next review was scheduled to begin in 2023. In light of the District's application, the OCWD MSR process will now include a comprehensive review of the District in accordance with the state mandate and a feasibility analysis of the potential consolidation of OCWD and MWDOC. As a note, the most recent five-year cycle MSR for MWDOC was conducted and approved by the Commission in 2020. The MSR did not, however, include a discussion of potential consolidation of the agencies.

For assistance in preparing specialized technical assessments and fiscal analyses, OC LAFCO often uses professional consultants with expertise in these areas. This staff report provides a summary of the Request for Proposal (RFP) process conducted for assistance in preparing the OCWD MSR and a recommendation for approval by the Commission to engage two consultants.

DISCUSSION

To secure proposals from firms qualified to complete the scope of work for the OCWD MSR, OC LAFCO released an RFP on January 9, 2023. The RFP delineated a scope of work composed of the following key components: 1) Conduct a review of the municipal services currently provided by the OCWD in accordance with the provisions of Government Code Sections 56425 (*Spheres of Influence*) and 56430 (*Municipal Service Reviews*); 2) Prepare a fiscal feasibility analysis focused on the potential consolidation of OCWD and MWDOC; and 3) Review and prepare an assessment of any required legislative changes involving governance structures for the potential consolidation of OCWD and MWDOC.

The RFP was electronically distributed to 40 firms, and the respective documents were posted on the agency's website. In part to the competitive process, OC LAFCO staff conducted a subsequent pre-proposal conference for staff and representatives from OCWD to address any questions from interested consultants. Afterwards, a proposal was received from Albert A. Webb Associates (WEBB) and reviewed by OC LAFCO staff to ensure that it addressed the requirements of the scope of work. Additionally, the firm was invited to participate in an interview to address additional questions from OC LAFCO and OCWD regarding the firm's experience and qualifications. Following the interview, WEBB was selected by OC LAFCO staff to perform the study based on its understanding of the project, the proposed personnel's experience and qualifications on the numerous areas covered by the scope of work, and submittal of a proposal that addressed the components of the RFP.

WEBB is located in Riverside County and since 1945 has consistently provided civil engineering, planning, municipal finance, and environmental services to several agencies in southern California, including special districts, cities, counties, and regional agencies. The firm's finance division brings experience in municipal finance, fiscal analyses and financial modeling and is further complemented with direct expertise in the areas of groundwater and imported water, engineering, water resources planning, California Environmental Quality Act, and Geographic Information Systems. WEBB's in-depth knowledge in these areas will assist in addressing the components of the OCWD MSR scope of work.

To review and prepare an assessment of the required legislative changes concerning the consolidation of OCWD and MWDOC, staff is recommending the Commission engage the services of Mr. John J. Schatz. Mr. Schatz has 34 years of legal counsel experience in the areas of surface and groundwater rights and water supplies, and the proceedings delineated by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. Staff believes the expertise of Mr. Schatz in these areas, as well as familiarity with Orange County local agencies, will assist in the objective assessment of critical areas including the Districts' principal acts and the legal impediments and potential impacts of consolidation concerning governance. As a note, if approved by the Commission, the professional consulting services provided by Mr. Schatz will be limited to the governance component outlined in the scope of work and will not include or overlap with the legal services provided by the Commission's general counsel, Best Best & Krieger.

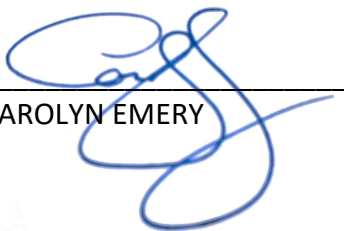
The professional service agreement with WEBB includes a total cost not to exceed **\$264,390**. The agreement with Mr. John J. Schatz includes a total cost not to exceed **\$15,000**. Both agreements are attached to this report for Commission review and consideration. If the agreements are approved by the Commission, the full costs will be funded by additional application fees to be provided by OCWD.

RECOMMENDED ACTIONS

Staff recommends the Commission:

1. Approve the professional services agreement with Albert A. Webb Associates (WEBB) for services referenced in Attachment 1, Exhibit A and authorize the Executive Officer to execute the agreement.
2. Approve the professional services agreement with John J. Schatz for services referenced in Attachment 2, Exhibit A and authorize the Executive Officer to execute the agreement.

Respectfully submitted,


CAROLYN EMERY
LUIS TAPIA

Attachments:

1. OC LAFCO Professional Services Agreement with Albert A. Webb Associates (WEBB)
2. OC LAFCO Professional Services Agreement with John J. Schatz

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

This Agreement is made effective, _____, by and between ORANGE COUNTY LOCAL AGENCY FORMATION COMMISSION (hereinafter referred to as “OC 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 ALBERT A. WEBB ASSOCIATES (hereinafter referred to as “Consultant”).

RECITALS

A. OC LAFCO is a public agency of the State of California and is in need of professional consulting services for the preparation of a Municipal Service Review (MSR) and Sphere of Influence (SOI) Update for the Orange County Water District (OCWD), including a feasibility analysis of the potential consolidation of OCWD and the Municipal Water District of Orange County (MWDOC) (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 OC 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 July 31, 2024 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 OC LAFCO with the services described in the Scope of Services attached hereto as Exhibit “A”.

3. Compensation.

a. Subject to paragraph 3(b) below, OC 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 \$264,390. 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 (i.e., mileage, overnight shipping, teleconference services, and noticing) as shown in Exhibit “B”.

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

4. Additional Work

If changes in the work seem merited by Consultant or OC LAFCO, and informal consultations with the other party indicate that a change is warranted, it shall be processed by OC LAFCO in the following manner: Consultant shall forward a letter outlining the changes to OC LAFCO with a statement of estimated changes in fee or time schedule. An amendment to the Agreement shall be prepared by OC LAFCO and executed by both parties before performance of such services or OC 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 OC LAFCO.

6. Delays in Performance.

Neither OC 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 OC 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 OC 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 OC LAFCO and is not entitled to participate in any compensation plans or other benefits OC 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 OC 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 OC 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 OC LAFCO.

13. Indemnification.

To the fullest extent permitted by law, Consultant shall defend, indemnify and hold OC 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 OC 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 OC 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 OC 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 OC LAFCO for the cost of any settlement paid by OC 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 OC LAFCO's attorney's fees and costs, including expert witness fees. Consultant shall reimburse OC 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 OC 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 OC 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 OC 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. OC LAFCO may terminate this Agreement for any reason or no reason by giving thirty (30) calendar days' written notice of termination. OC 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 OC LAFCO and Consultant of the portion of such task completed but not paid prior to said termination. OC 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 OC LAFCO only in the event of substantial failure by OC LAFCO to perform in accordance with the terms of this Agreement through no fault of Consultant.

16. Key Personnel.

Consultant shall assign Stephanie Standerfer as the Vice President. The Vice President shall not be removed from the Project or reassigned without the prior written consent of OC 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:

OC LAFCO:
Carolyn Emery, Executive Officer
2677 N. Main Street, Suite 1050

Santa Ana, CA 92705

Consultant:
Stephanie Standerfer, Vice President
Albert A. Webb Associates
3788 McCray Street
Riverside, CA 92506

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 OC 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**

Albert A. Webb Associates

By: _____
Carolyn Emery, Executive Officer

By: _____
Stephanie Standerfer, Vice President

Dated: _____

Dated: _____

Approved as to form:

Scott C. Smith, General Counsel

Attest:

Cheryl Carter-Benjamin,
Commission Clerk

EXHIBIT “A” SCOPE OF SERVICES and SCHEDULE

The Consultant will prepare a focused Municipal Service Review (MSR) on the potential consolidation of the Orange County Water District and the Municipal Water District of Orange County. To prepare the MSR, the Consultant will analyze the following areas of relevance:

Albert A. Webb Associates (“WEBB” or “Consultant”) will prepare the Municipal Service Review (MSR) update for Orange County Water District (OCWD), which includes a Sphere of Influence (SOI) review for OCWD’s existing SOI. The MSR will also include a consolidation feasibility analysis as requested by the OCWD application to OC LAFCO, which will include findings related to changes in the SOI.

Task 1: Project Initiation

Within 30 days of agreement approval, WEBB will schedule the following kickoff meetings in this order:

1. Virtual meeting with OC LAFCO and their legal consultant that has been obtained for this effort (“Legal Consultant”).
2. In-person meeting with OCWD, OC LAFCO, Legal Consultant, and MWDOC.

WEBB will circulate agendas ahead of each meeting to ensure understanding of our scope of services, objectives, critical paths and schedule, define roles and responsibilities, and define lines of communication. An initial data needs request will be included in the agenda. Prior to the kickoff meetings:

- WEBB will review past MSRs for OCWD and MWDOC and summarize the past findings in a matrix.
- OC LAFCO to provide MSR questionnaire and WEBB will propose revisions to be discussed at kickoff meeting.
- OC LAFCO will be responsible for sending out notifications to the subject and affected agencies.

Timing and work products:

- *April-May 2023*
- *Deliverables: agenda, data needs request, updated questionnaire, matrix of prior MSR findings*

Task 2: Data Collection and Analysis

First, WEBB will compile demographic data available from OC LAFCO to develop discussions for the MSR on: existing and future population estimates, city and county land use plans, and locations of DUCs – for both OCWD and MWDOC service areas. OC LAFCO to provide:

- Shapefiles/boundaries of each affected agency, each SOI, and each DUC in the study area.
- OC LAFCO’s report preferences (e.g., font, appearance, etc.) to be consistent with other MSRs in the county.

EXHIBIT “A” SCOPE OF SERVICES and SCHEDULE

Second, WEBB will distribute the OC LAFCO MSR questionnaire to OCWD, MWDOC, and other agencies as determined in consultation with OC LAFCO. WEBB will analyze the feedback from the notifications OC LAFCO sent as part of Task 1 to the subject and affected agencies.

Third, WEBB will work with OCWD to compile an understanding of their existing and future facilities, locations of service deficiencies, financial data pertinent to the MSR/SOI study, including budgets, assets, liabilities, retirement plans.

Fourth, WEBB will be in close contact with OC LAFCO’s Legal Consultant to ensure our efforts align. The findings of Legal Consultant are a critical path and determine whether Task 2.3, below, can proceed.

Timing:

- August 2023
- *Deliverables: Analysis of responses from subject and affected agencies to OC LAFCO notification*

Task 2.1: MSR Determinations

WEBB will prepare the draft MSR findings per Gov. Code Section 56430 for OC LAFCO review.

1. Municipal Service Review (MSR) Criteria Detail (Gov. Code Section 56430)
 - a. ***Growth and population projections for the affected area:*** Consultant will analyze current and future population and demographic characteristics as they relate to the service area of OCWD and delivery for existing and proposed service area of OCWD. Analysis will include discussion of how OCWD is planning to meet future needs given demographic trends and population projections.
 - b. ***The location and characteristics of any disadvantaged unincorporated communities (DUCs) within or contiguous to the SOI:*** Consultant will obtain from OC LAFCO staff the current DUCs that are within and contiguous to the OCWD SOI.
 - c. ***Present and planned capacity of public facilities, adequacy of public services, and infrastructure needs or deficiencies in any disadvantaged and unincorporated communities within or contiguous to the sphere of influence:*** Consultant will obtain from OCWD a listing of existing and planned facilities, real property assets, and infrastructure within the DUCs identified in previous Subtask “b”. Analysis will identify present sufficiency and future requirements.
 - d. ***Financial ability of agencies to provide services:*** A detailed financial analysis will be conducted on the present and future capacity of OCWD to support the current and future servicing needs of the OCWD service area.
 - e. ***Status of, and opportunities for, shared services:*** Consultant will analyze existing facilities and service area of OCWD for duplication of efforts and to address potential economies of scale to be gained through shared opportunities.

EXHIBIT “A”
SCOPE OF SERVICES and SCHEDULE

- f. **Accountability for community service needs, including governmental structure and operational efficiencies.** Consultant will review the current government structure of OCWD, including performed audits and the availability of the findings to the public as well as efforts made by OCWD to encourage public participation and ensure accountability.
- g. **Any other matter related to effective or efficient service delivery, as required by commission policy.** Consultant will discuss with OC LAFCO.

Timing and work products:

- September 2023
- Deliverables: Draft MSR findings for existing OCWD SOI.

Task 2.2: SOI Determinations

WEBB will prepare the draft SOI findings per Gov. Code Section 56425 for OC LAFCO review.

1. Sphere of Influence (SOI) Criteria Detail (Gov. Code Section 56425)

- a. **The present and planned land uses in the area, including agricultural and open-space lands.** Consultant will analyze existing and future land use designations within OCWD SOI and their compatibility with local general plans. Analysis will include protection of prime agricultural, open space, and recreational public benefit land use designations.
- b. **Present and probable need for public facilities and services in the area.** Consultant will review present service provisions and facilities, and present capacity to support future requirements for OCWD will be conducted. Consideration will be given to potential changes in service area/program size while maintaining or increasing efficiencies.
- c. **The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide:** Consultant will review the present infrastructure, facilities, and service programming while analyzing the ability of OCWD to access and address its own local service demands.
- d. **The existence of any social or economic communities of interest in the area if the commission determines that they are relevant to the agency:** Consultant will review existing socio-economic communities of interest for OCWD to determine current service deficiencies, challenges, and opportunities in addressing the needs of each community while planning for the future.
- e. **For an update of a sphere of influence of a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structure fire protection that occurs pursuant to subdivision (g)*1 on or after July 1, 2012 along with the present and probable need for those public facilities and services of any DUCs within the existing SOI:** Consultant will

¹ Subdivision (g) of Section 56425 states: *On or before January 1, 2008, and every five years thereafter, the commission shall, as necessary, review and update each sphere of influence.*

EXHIBIT “A”
SCOPE OF SERVICES and SCHEDULE

review the present and future needs by DUCs within existing OCWD SOI for said public facilities and services.

Timing and work products:

- *September 2023*
- *Deliverables: Draft SOI findings for existing OCWD SOI.*

Task 2.3: Consolidation Analysis

In addition to factors of Government Code Sections 56425 and 56430, the MSR shall also include an analysis involving the potential consolidation of OCWD and MWDOC. The analysis shall involve, but not be limited to, Government Code Sections 56653, 56700, 56826.5, 56865, 57150(d), 57500, 57502, 57077.2 and assess the following:

- (1) Fiscal sustainability involving the consolidation of OCWD and MWDOC’s operations, infrastructures, programs, contracts and agreements, retirement plans and other obligations of both Districts.
- (2) The potential opportunities of consolidation involving an increase in efficiency and effectiveness involving the following areas:
 - a. Provision and management of wholesale imported water, groundwater, and recycled water services
 - b. Infrastructure investments
 - c. Legislative advocacy
 - d. Local, state and federal funding, including subsidies and grants

Relative to potential consolidation of OCWD and MWDOC, WEBB will also analyze the following:

- i. Districts’ revenues and expenditures
- ii. Districts’ audited financials
- iii. Districts’ rates, fees and assessments and potential impacts to each involving consolidation
- iv. Districts’ rate studies and projections
- v. Potential impacts to water supply reliability involving consolidation
- vi. Districts’ debt obligations and potential impacts involving consolidation
- vii. Districts’ Current and projected staffing levels involving consolidation
- viii. Transition cost projections involving consolidation

Given the complexities of the relationships, this task includes additional meeting time with OC LAFCO, OCWD, MWDOC, and OC LAFCO Legal Consultant. The success of this analysis is contingent on the prompt provision of requested data from all agencies involved.

Timing and work products:

- *March 2024*
- *Deliverables: Draft consolidation analysis results for hypothetical consolidation scenario of OCWD and MWDOC.*

EXHIBIT “A”
SCOPE OF SERVICES and SCHEDULE

Task 3: Administrative Draft Report

WEBB will provide OC LAFCO and their Legal Consultant for review and comment an administrative draft report that combines the efforts of Tasks 2.0-2.3, above. The analysis will be two-fold: OCWD in its current state as a standard 5-year MSR update; and a feasibility analysis of the potential consolidation of OCWD and MWDOC. We understand OCWD and MWDOC will also have an opportunity to review and comment on the Administrative Draft Report. WEBB will respond to one round of comments from MWDOC, OCWD, and OC LAFCO and update the report for Task 4, below. An opportunity to comment from MWDOC and OCWD is not a commitment to accepting any/all comments provided by the agency. WEBB will provide electronic drafts and expects to receive one electronic version using tracked changes feature from each agency.

Timing and work products:

- *April 2024*
- *Deliverables: Administrative Draft Report*

Task 4: Public Review Draft Report

After internal reviews in Task 3 are complete, WEBB will prepare a public review draft MSR that has internal OC LAFCO and agency comments incorporated per direction by OC LAFCO staff. We have budgeted for the Public Review Draft to be distributed to OC LAFCO staff, OCWD, MWDOC, and Legal Consultant to review all changes prior to public release. WEBB will work with OC LAFCO to notify of the availability of the report and publish the draft report in an accessible location for 30-day review period. WEBB will present in-person the findings of the report to the OC LAFCO Board of Commissioners at one public meeting. We assume no hard copies of the public review draft report will be required.

Timing and work products:

- *May 2024*
- *Deliverables: Public review draft report, presentation to Commission.*

Task 5: Final Report

WEBB will collect all public comments received during the 30-day public review period and prepare a Response to Comments document to append to the final draft MSR report. We have assumed in our budget that all responses to comments and the final draft report will be reviewed by OC LAFCO staff and Legal Consultant prior to finalization. WEBB will present in-person the findings of the report to OC LAFCO Commissioners at a public meeting. We assume no hard copies of the final report will be required.

Timing and work products:

- *June 2024-July 2024*
- *Deliverables: Final draft report, Responses to Comments, presentation to Commission.*

EXHIBIT “A” SCOPE OF SERVICES and SCHEDULE

Task 6: Project Management

This task accounts for 12 hours of standard monthly internal project management effort that is required including, monthly invoicing and schedule updates. This task also includes 60 hours of ongoing internal and external meetings with OC LAFCO, the affected Districts, and OC LAFCO Legal Consultant. Preparing agendas and meeting minutes by the Project Manager or her designee are also included. If this amount of time (60 hours) is exceeded, then additional budget authorization will be needed. This task includes 8 hours of support from WEBB’s business development and marketing team as-needed for report covers, file sharing/sharepoint support, powerpoint slide preparation support, and exhibits.

Task 7: Expenses

This task includes up to \$400 for WEBB and/or WEBB Municipal Finance mileage expenses for mileage to in-person meetings that are necessary for this effort.

Assumptions

WEBB assumes the following tasks will be handled by OC LAFCO’s Legal Consultant and are not a part of WEBB’s scope of work:

- Metropolitan Water District of Southern California representation, advocacy and coordination of programs and operations.
- Clarity and accountability with one County wholesale agency.
- Recommended and required legislative changes involving governance structures involving potential consolidation of Districts formed under different principal acts.
- Potential impacts of consolidation on governance of the groundwater basin and wholesale water supplies and the respective producers and members.
- Potential impacts to current and future representation of Orange County on the Metropolitan Water District of Southern California (MWD).
- Possible Board structure and representation options involving consolidation.

Additional assumptions include:

- Any and all complete information needed for WEBB to complete the MSR, SOI and Consolidation report from any and all parties will be provided to WEBB in a timely manner.
- One in person meeting would be included for the Initial Kickoff meeting; all other meetings during report development would be virtual.
- OC LAFCO Hearings and presentations (2 hearings included) are assumed to be in person.
- Effort will be billed monthly as time and materials not to exceed without prior authorization from OC LAFCO.

EXHIBIT “B”
SCHEDULE OF CHARGES/PAYMENTS

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

Based on the Scope of Services described in Exhibit A, the services provided by the Consultant shall not exceed \$264,390 inclusive of the hours and reimbursable expenses pursuant to the Consultant’s Billing Rate and Fee Schedule. Transportation mileage will be reimbursed at the current IRS approved rate per mile. Services provided will be billed on a time and materials basis, so actual cost may be less than the not to exceed amount. A budget detail and workflow schedule are also presented within this Exhibit B (see page 15).

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

ATTACHMENT 1



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

Proposal 015788 – OC LAFCO Municipal Service Review, Sphere of Influence Update for OCWD

Item	Description	Sam Gershon	Bradley Sackett	Stephanie Standerfer	Autumn DeWoody	Monica Tobias	Kristopher Danielson	Virginia Waters	Chandler Drachslin	Cheryl DeGano	Total Hours	Subtotal - Labor	WEBB Municipal Finance, LLC	Expenses	Total/task ¹
	Billout Rate	\$302	\$302	\$302	\$220	\$220	\$272	\$142	\$189	\$287					
	Total Hours per Associate	46	8	25	326	58	64	56	38	44	665	\$153,508	\$110,466	\$400	\$264,390
Task 1	Project Initiation (kickoff w/ OC LAFCO, OCWD, MWDOC)	4		4	8	4	4				24	\$ 6,144	\$3,776		\$9,920
Task 2	Data Collection & Document Review (questionnaire, analysis, answer 10 questions)	4	2	4	24	16	6	8	8	8	80	\$18,396	\$22,962		\$41,360
Task 2.1	MSR Determinations	6	2	2	40	8	20	8	3	8	97	\$23,019	\$11,276		\$34,300
Task 2.2	SOI Determinations	2	2	2	30	8	10	8	3	6	71	\$16,317	\$4,404		\$20,720
Task 2.3	Consolidation Analysis	6	2	2	80	8	8	8	8	6	128	\$28,926	\$38,522		\$67,450
Task 3	Administrative Draft Report (additional analysis, findings for MSR, SOI, and Consolidation)	8		1	32	8	8	8	8	8	81	\$18,638	\$6,602		\$25,240
Task 4	Public Review Draft Report (include agency comments, presentation to Commission)	8		1	16	4	4	8	4	4	49	\$11,246	\$7,762		\$19,010
Task 5	Final Report (include response to comments and presentation of final to Commission)	8		1	16	2	4	8	4	4	47	\$10,806	\$9,122		\$19,930
Task 6	Project Management (12 for PM, 8 for BD, 60 for meetings)			8	80						88	\$20,016	\$6,040		\$26,060
Task 7	Expenses (mileage)	-	-	-	-	-	-	-	-	-		\$ -		\$400	\$400
Total		46	8	25	326	58	64	56	38	44	665	\$153,508	\$110,466	\$400	\$264,390

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 OC 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 OC 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 OC 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 OC 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 OC 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.

**EXHIBIT “C”
INSURANCE REQUIREMENTS**

- 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 OC LAFCO and will be in a form and with insurance companies acceptable to OC 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 OC 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.

**EXHIBIT “C”
INSURANCE REQUIREMENTS**

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 OC 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 OC 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 OC 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 OC 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 OC 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 OC 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 OC LAFCO may terminate the Agreement.

EXHIBIT "C"
INSURANCE REQUIREMENTS

- 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. OC LAFCO may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project.
- e. Neither OC 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.

REGULAR MEMBERS

CHAIR
Douglass Davert
Special District Member

VICE CHAIR
Donald P. Wagner
County Member

IMMEDIATE PAST CHAIR
Derek J. McGregor
Public Member

Wendy Bucknum
City Member

Andrew Do
County Member

James Fisler
Special District Member

Vacant
City Member

ALTERNATES

Katrina Foley
County Member

Kathryn Freshley
Special District Member

Carol Moore
City Member

Lou Penrose
Public Member

STAFF

Carolyn Emery
Executive Officer

Scott Smith
General Counsel

April 12, 2023

John J. Schatz, Esq.
P.O. Box 7775
Laguna Niguel, CA 92607-7775
Email: Jschatz13@cox.net

SUBJECT: Letter of Agreement for Professional Legal Consulting Services

Dear Mr. Schatz:

This letter shall be our Agreement regarding the Professional Legislative Consulting Services described below ("Services") to be provided by John J. Schatz, Esq. ("Consultant") as an independent contractor to the Orange County Local Agency Formation Commission ("OC LAFCO") in connection with the Municipal Service Review (MSR) and Sphere of Influence (SOI) Update for the Orange County Water District (OCWD)("Project").

The services to be provided are more particularly described in the Scope of Services attached hereto as Exhibit "A" and incorporated herein by this reference.

Consultant shall perform all Services under this Letter of Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California, and consistent with all applicable laws, including those which require the payment of prevailing wage rates and the performance of other requirements on "public works" and "maintenance" projects if they apply. Consultant represents that it, its employees and subconsultants have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services and that such licenses and approvals shall be maintained throughout the term of this Agreement.

Compensation for the Services shall be based on the actual amount of time spent in adequately performing the Services at the rate of \$300.00 per hour; however, unless expressly agreed in writing in advance by the OC LAFCO, the cost to the OC LAFCO for the Services shall not exceed the total amount of Fifteen Thousand Dollars (\$15,000.00).

Invoices shall be submitted to the OC LAFCO monthly as performance of the Services progresses. OC LAFCO shall review and pay the approved charges within thirty (30) days of receipt of such invoices. If the OC LAFCO disputes any of Consultant's fees, the OC LAFCO shall give written notice to Consultant, within thirty (30) days of receipt of an invoice, of any disputed fees set forth therein.

Services on the Project shall begin immediately and be completed by July 31, 2024, unless extended by the Executive Officer in writing. The OC LAFCO may terminate this Letter of Agreement at any time with or without cause. If the OC LAFCO finds it necessary to terminate this Letter of Agreement without cause before Project completion, Consultant shall be entitled to be paid in full for those Services adequately completed prior to the notification of termination. Consultant may terminate this Letter of Agreement for cause only.

Consultant agrees to procure and maintain, at Consultant's expense all insurance specified in Exhibit "B" attached hereto and by this reference incorporated herein. Consultant shall require all subconsultants to carry the same policies and limits of insurance that the Consultant is required to maintain, unless otherwise approved in writing by the OC LAFCO.

To the fullest extent permitted by law, Consultant shall defend, indemnify and hold the OC LAFCO, its officials, officers, employees, agents and volunteers free and harmless from any and all claims, demands, causes of action, expenses, liabilities, losses, damages and injuries to property or persons, including wrongful death, in any manner arising out of negligent acts, omissions or willful misconduct of Consultant, its officials, officers, employees, agents, consultants and contractors arising out of or in connection with the performance of this Agreement, including, without limitation, the payment of all consequential damages, attorneys' fees and other related costs and expenses. The only limitations on this provision shall be those imposed by Civil Code Sections 2782 and 2782.8.

If you agree with the terms of this Letter of Agreement, please indicate by signing and dating where indicated below.

**ORANGE COUNTY
LOCAL AGENCY FORMATION COMMISSION**

JOHN J. SCHATZ, ESQ.

By: _____
Carolyn Emery
Executive Officer

By: _____
John J. Schatz, Esq.

ATTEST:

By: _____
Cheryl Carter-Benjamin
Commission Clerk

APPROVED AS TO FORM:

By: _____
Scott C. Smith
General Counsel

EXHIBIT "A"**SCOPE OF SERVICES**

In connection with the preparation of the Municipal Service Review (MSR) and Sphere of Influence (SOI) Update for the Orange County Water District (OCWD), Consultant shall provide services as provided herein involving the potential consolidation of OCWD and MWDOC. The analysis shall involve, but not be limited to, Government Code Sections 56653, 56700, 56826.5, 56865, 57150(d), 57500, 57502, 57077.2 and assess the following:

- (1) Required legislative changes involving governance structures concerning the potential consolidation of districts formed under different principal acts.
- (2) Legal impediments that must be addressed before or concurrently with OC LAFCO proceedings for special district consolidation or reorganization.
- (3) Potential impacts of consolidation to the governance of the groundwater basin and wholesale water supplies and the respective producers and members.
- (4) Potential impacts to current and future representation of Orange County on the Metropolitan Water District of Southern California (MWD).
- (5) Options for board structure and representation options involving consolidation.

EXHIBIT "B"**INSURANCE REQUIREMENTS**

Prior to commencement of the Services, Consultant shall provide proof of Professional Liability insurance with coverage of not less than \$1,000,000 per occurrence and \$1,000,000 in the general aggregate, and Automobile Liability insurance with coverage of at least \$1,000,000. Defense costs shall be paid in addition to the limits. If Consultant is an employer or otherwise hires one or more employees during the term of this Project, Consultant shall also provide proof of workers' compensation coverage as required by the State of California and Employer's Liability Insurance with a limit of not less than \$1,000,000 per accident for bodily injury and disease, together with a waiver of subrogation endorsement stating that the insurer waives all rights of subrogation against the OC LAFCO, its officials, officers, employees, agents and volunteers.

Any self-insured retentions or deductibles must be declared and approved by the OC LAFCO. Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law. Requirement of specific coverage or minimum limits contained in this Exhibit are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Any subconsultants used to perform the Services shall meet all requirements set forth in this Exhibit unless waived in writing by the OC LAFCO.