

June 14, 2023

9a | Commission
Discussion

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Public Member

STAFF

Carolyn Emery
Executive Officer

Scott Smith
General Counsel

TO: Local Agency Formation Commission
of Orange County

FROM: Executive Officer
Policy Analyst II

SUBJECT: Professional Services Agreement with Chase Design, Inc.

BACKGROUND

The Commission's website serves as the main gateway for the public to OC LAFCO's key information, including meeting agendas, recordings, financial documents and Commissioner and staff contact data. The site also functions as the resource hub for Orange County's agencies, residents and other interested parties through the availability of the agency's fiscal indicators, shared services, and municipal services dashboard web-based programs. The last substantive upgrade to the "oclafco.org" domain was completed in 2020 and included a complete redesign, improved functionality, and bringing the site into legal compliance. Since that time, we have experienced an increase in website visitors, and the site has contributed to optimizing OC LAFCO's communication with its stakeholders.

In concert with the evolution of technology, it is important to complete periodic upgrades and improvements to maintain efficient functionality of the website, including speed in accessing documents and mobile and language access. The staff report highlights the recommendation to continue improvements to the agency website through a contract with Chase Design, Inc. ("Chase Design").

DISCUSSION

The scope of services proposed to be provided by Chase Design includes refining content management of various key documents, information and language access, the enhancement of user navigation for on-site and mobile platforms, and the migration of the agency's fiscal indicators web-based program. One of the key improvements included in the scope is refining web access to the Commission's main transparency repository, the OC LAFCO Bylaws, Policies and Procedures. Enhancements to the site will support the ability for users to download or print these documents more easily.

Chase Design is being recommended by staff to perform improvements to the agency website based on the firm's 23 years of experience in website and graphic design and content management. Additionally, Chase Design has collaborated with OC LAFCO on other projects, including redesigning the agency's logo and rebranding multiple agency communication tools to include the biannual news, agency letterhead and organizational chart and municipal service reviews. Chase Design has performed similar services for numerous public agencies, including cities, counties and LAFCOs throughout the state.

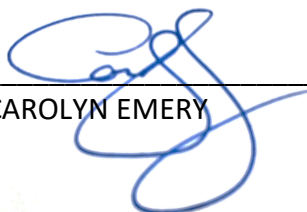
The professional services agreement with Chase Design, Inc. includes a total cost not to exceed \$30,000. The agreement and scope of services are attached to this report for Commission review and consideration.

RECOMMENDED ACTION

Staff recommends the Commission:

1. Approve the professional services agreement with Chase Design, Inc. for services referenced in Attachment 1 and authorize the Executive Officer to execute the agreement.

Respectfully submitted,



CAROLYN EMERY



GAVIN CENTENO

Attachment:

1. Professional Services Agreement with Chase Design, Inc.

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

This Agreement is made effective, _____, 2023, 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, (Government Code Sections 56000 et seq.), and Chase Design, Inc. (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 to complete design and functionality improvements to the agency’s website (hereinafter referred to as “the Project”).

B. Consultant is qualified by virtue of experience, training, education and expertise to provide such services.

C. This Agreement is to establish the terms and conditions for OC LAFCO to retain a 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 October 31, 2023, 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 Consultant pursuant to Exhibit “A” shall not exceed \$30,000.

c. 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. Extra Work.

At any time during the term of this Agreement, OC LAFCO may request that Consultant perform Extra Work. As used herein, "Extra Work" means any work which is determined by OC LAFCO to be necessary for the proper completion of the Project, but which the Parties did not reasonably anticipate would be necessary at the execution of this Agreement. Consultant shall not perform, nor be compensated for, Extra Work without written authorization from the OC LAFCO. For this agreement, the Executive Officer may approve Extra Work up to 10% (\$3,000) of the original contract value total. Any additional work required in excess of this amount shall be approved by the Commission.

In addition to the Extra Work described above, and following the term of this Agreement, Consultant shall be available on an on-call basis at the hourly rate described herein to assist with quality assurance, minor site maintenance and content updates based on separate work authorizations by OC LAFCO.

12. 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.

13. 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.

14. 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.

15. 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.

16. 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.

17. Key Personnel.

Consultant shall assign Chris Chase as the Principal Consultant. The Principal Consultant shall not be removed from the Project or reassigned without the prior written consent of OC LAFCO.

18. 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
OC LAFCO
2677 North Main Street, Suite 1050
Santa Ana, CA 92705

Consultant:
Chris Chase, Principal
Chase Design, Inc.
2011 Palomar Airport Road, Suite 304
Carlsbad, CA 92011

and shall be effective upon receipt thereof.

19. 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.

20. Severability.

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

21. 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**

CHASE DESIGN, INC.

By: _____
Carolyn Emery, Executive Officer

By: _____
Chris Chase, Principal

Dated: _____

Dated: _____

Approved as to form:

Scott C. Smith, General Counsel

Orange County Local Agency Formation Commission

Attest:

Cheryl Carter-Benjamin Commission
Clerk

EXHIBIT "A"

SCOPE AND SCHEDULE OF SERVICES

Development Phases	Deliverables	Timeline
Phase I- Discovery	<ul style="list-style-type: none"> -Define Brand, Target, Audience, Project Goals, Functionality, and context of the website -Review Website Analytics -Define Project Plan -Development of Website Design Types and Elements -Content Development -Review of OC LAFCO Bylaws, Policies and Procedures for reformatting 	June 2023
Phase II-Design	<ul style="list-style-type: none"> -Development and design of Site Map -Development and design of Pages -Development and design of Website Pages 	July 2023
Phase III- Implementation	<ul style="list-style-type: none"> -Development of Navigation Structure -Visual Development -Application of color Scheme to Website -Design Webpages -Create an Intuitive Administration Interface -Content Upload to Website -Reformat and integrate of OC LAFCO Bylaws, Policies and Procedures to website 	July 2023
Phase IV- Quality Assurance	<ul style="list-style-type: none"> -Quality Assurance and Launch -Review Content Display and Accuracy -Test Website Compliance with ADA -Training Staff -Launch, Monitor, Support &Maintenance 	August-October 2023

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

Fee Schedule for
Chase Design, Inc.

The following fee schedule shall apply to work performed under this Agreement:

<u>Name, Title</u>	<u>Hourly Rate</u>
Chris Chase, Consultant	\$150.00

*Charges assume that all meetings are held by conference calls or video conferencing.

Consultant shall bill OC LAFCO for the actual hours incurred in performing the services required under this Agreement in accordance with the fee schedule set forth in this Exhibit B and subject to the provisions of Sections 3 and 11 of this Agreement.

EXHIBIT “C”
INSURANCE REQUIREMENTS

1. Commercial General Liability

- a. The Consultant shall take out and maintain, during the performance of all work under this Agreement, in amounts not less than specified herein, Commercial General Liability Insurance, in a form and with insurance companies acceptable to 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 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.

- 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.

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.

- 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.