

**LOCAL AGENCY FORMATION COMMISSION OF
ORANGE COUNTY**

REGULAR MEETING AGENDA

**Wednesday, December 13, 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 agendized 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.) November 8, 2023 – Regular Commission Meeting Minutes

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

7. PUBLIC HEARING

No public hearing items scheduled.

8. COMMISSION DISCUSSION AND ACTION

a.) Adoption of a Resolution Approving the Fourth Amendment to Memorandum of Agreement for the Position of Executive Officer with Carolyn Emery

The Commission will consider adopting a resolution approving the Fourth Amendment to Memorandum of Agreement for the Position of Executive Officer.

b.) Appointment of 2024 OC LAFCO Officers

The Commission will conduct appointments of the Commission Chair and Vice Chair for 2024.

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 a brief report on activities of the Executive Officer since the last meeting.

a.) The Executive Officer will give a general and oral update on current and potential proposals and activities.

12. INFORMATIONAL ITEMS & ANNOUNCEMENTS

No informational items and announcements scheduled.

12. CLOSED SESSION

No closed session items scheduled.

13. ADJOURNMENT OF REGULAR COMMISSION MEETING

The next Regular Commission Meeting will be held on Wednesday, January 10, 2024, 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

Revised and Approved September 13, 2023

2023



January						
S	M	T	W	T	F	S
	1	2	3	4	5	6
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29	30	31				

April						
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August						
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December						
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24	25	26	27	28	29	30
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, November 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 8:17 a.m.

2. PLEDGE OF ALLEGIANCE

Vice Chair Wagner led the Pledge of Allegiance.

3. ROLL CALL

The following Commissioners were present:

City Members

Wendy Bucknum
Bruce Whitaker (arrived at 8:20 a.m.)
Carol Moore **(Alt.)**

County Member

Donald Wagner **(Vice Chair)**

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

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

The Commission Clerk noted that no supplemental communication was received.

5. PUBLIC COMMENT

Chair Davert requested public comments on any non-agenda item. The Commission Clerk noted that there were no requests to speak from the public.

Chair Davert closed the hearing of public comments.

6. 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 consent calendar items. **Commissioner McGregor** motioned for approval of the consent calendar, and **Commissioner Bucknum** seconded the motion.

6a. – October 11, 2023 - Regular Commission Meeting Minutes

6b. – OC LAFCO 2024 Meeting and Events Calendar

6c. – Orange County Employees Retirement System (OCERS) Fiscal Year 2024-25 Retirement Contribution Rates and Prepayment Program

6d. – CALAFCO Update

MOTION: Approve the Consent Calendar. (Derek J. McGregor)

SECOND: Wendy Bucknum

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

AGAINST: None

ABSTAIN: None

MOTION PASSED: 6-0.

7. PUBLIC HEARING

No public hearing items scheduled.

8. COMMISSION DISCUSSION AND ACTION

8a. – Fiscal Year 2022-23 OC LAFCO Audited Financial Statements

Executive Officer Carolyn Emery introduced Shannon Ayala, Managing Partner with Davis Farr LLP, who presented an overview of the agency's audited financial statements for Fiscal Year ending June 30, 2023. Ms. Ayala stated that an unmodified opinion was issued for the FY 2022-23 OC LAFCO audit dated October 26, 2023, which is the highest level of opinion financial statements can receive.

Chair Davert commented that the annual budget reflected in the audit incorporates the Commission's approach of drawing down the agency's reserves to cover the expenditures until reserve levels are met. He then called for Commission discussion and public comments. There was no discussion from other Commissioners, 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 item. **Vice Chair Wagner** motioned to approve the staff recommended action, and **Commissioner McGregor** seconded the motion.

MOTION: Receive and file OC LAFCO's Fiscal Year 2022-23 audited financial statements prepared by Davis Farr LLP. (Donald Wagner)
SECOND: Derek J. McGregor
FOR: Donald Wagner, Derek J. McGregor, Wendy Bucknum, James Fisler, Bruce Whitaker, Douglass Davert
AGAINST: None
ABSTAIN: None

MOTION PASSED: 6-0.

8b. – Legislative Report (November 2023)

Assistant Executive Officer Luis Tapia presented the staff report and recommended action for Commission consideration.

Chair Davert called for Commission discussion and public comments. Commissioners made general comments. 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 Bucknum** motioned to approve the staff recommended action, and **Vice Chair Wagner** seconded the motion.

MOTION: Receive and file the November 8, 2023 legislative report. (Wendy Bucknum)

SECOND: Donald Wagner
FOR: Wendy Bucknum, Donald Wagner, James Fisler,
Bruce Whitaker, Derek J. McGregor, Douglass Davert
AGAINST: None
ABSTAIN: None

MOTION PASSED: 6-0.

9. COMMISSIONER COMMENTS

Commissioner McGregor provided an oral update on the CALAFCO Annual Conference held in Monterey, including the election for the southern region board seats. Other commissioners made general comments regarding their conference experiences.

Chair Davert noted that the Chair and Vice Chair appointments for next year will be scheduled for the December agenda.

10. EXECUTIVE OFFICER'S REPORT

The Executive Officer noted that there were no items to report.

11. INFORMATIONAL ITEMS & ANNOUNCEMENTS

No informational items and announcements scheduled.

12. CLOSED SESSION

The Commission adjourned to closed session at 8:32 a.m. on the following items:

12a. – PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Pursuant to Government Code section 54957

Title: Executive Officer

12b. – CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code Section 54957.6

Agency designated representative: Commission Chair

Unrepresented employee: Executive Officer

12c. – CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Government Code section 54956.9(d)(2)
Number of potential cases: 1

The Commission reconvened in open session at 9:00 a.m. General Counsel Scott Smith noted that the Commission discussed the closed session items, and there were no reportable actions.

13. ADJOURNMENT OF THE REGULAR COMMISSION MEETING

Chair Davert adjourned the Regular Commission Meeting at 9:00 a.m. to December 13, 2023.

Douglass Davert, Chair
Orange County Local Agency Formation Commission

ATTEST:

By: _____
Cheryl Carter-Benjamin
Commission Clerk

8a | Commission
Discussion

REGULAR MEMBERS

CHAIR
Douglass Davert
Special District Member

VICE CHAIR
Donald P. Wagner
County Member

IMMEDIATE PAST CHAIR
Derek J. McGregor
Public Member

Wendy Bucknum
City Member

James Fisler
Special District Member

Bruce Whitaker
City Member

VACANT
County 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

MEETING DATE: December 13, 2023

TO: Local Agency Formation Commission
of Orange County

FROM: Commission Chair
General Counsel

SUBJECT: Adoption of a Resolution Approving the Fourth
Amendment to Memorandum of Agreement for
the Position of Executive Officer with Carolyn
Emery

BACKGROUND

Carolyn Emery (“Emery”) has served as LAFCO Executive Officer since 2013. The Memorandum of Agreement employing Emery as Executive Officer has been amended from time to time. On July 11, 2018 the Commission and Emery entered into an Amended and Restated Memorandum of Agreement for the Position of LAFCO Executive Officer, followed by the First Amendment on June 12, 2019, Second Amendment on November 10, 2021, and the current Third Amendment on January 11, 2023 (“Agreement”). Sections 4 and 5 of the Agreement provide that the salary provided the Executive Officer may be increased by Commission action.

DISCUSSION

Pursuant to the Agreement and LAFCO policy, on November 8, 2023 the Commission completed Emery’s annual performance evaluation and salary study. The Commission and Emery now desire to amend the Agreement in the form of a Fourth Amendment to Memorandum of Agreement to set 2023-24 compensation.

Government Code subsections 54956(b) and 54957.6(a) require that any final Commission action on executive compensation occur during the non-consent public portion of a regular meeting. The attached Resolution provides final approval of the Fourth Amendment to Memorandum of Agreement presented by the Commission's labor negotiator (its Chair) and accepted by Emery.

RECOMMENDED ACTION

It is recommended that the Commission:

1. Adopt Resolution No. CP 23-05 approving the Fourth Amendment to Memorandum of Agreement for the Position of LAFCO Executive Officer for Carolyn Emery; and
2. Authorize Commission Chair Douglass Davert to execute and the Commission Clerk to attest to these documents.

Respectfully submitted,



SCOTT C. SMITH
OC LAFCO General Counsel



DOUGLASS DAVERT
OC LAFCO Chairperson

Attachment 1: Form of Resolution No. CP 23-05

CP 23-05

RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION OF
ORANGE COUNTY, CALIFORNIA APPROVING THE FOURTH AMENDMENT TO
MEMORANDUM OF AGREEMENT FOR THE POSITION OF LAFCO EXECUTIVE
OFFICER

December 13, 2023

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

WHEREAS, Carolyn Emery ("Emery") has served capably in the position of Executive Officer of the Orange County Local Agency Formation Commission ("Commission" or "LAFCO") since 2013; and

WHEREAS, the Commission and Emery have entered into a series of Memoranda of Agreement for the Position of LAFCO Executive Officer and amendments thereto over the years; and

WHEREAS, on November 8, 2023 the Commission completed its annual evaluation of Emery; and

WHEREAS, LAFCO and Emery have agreed to the compensation, duties, and other terms and conditions in the attached Fourth Amendment to Memorandum of Agreement for the Position of LAFCO Executive Officer, which shall apply to Emery's employment as Executive Officer, effective July 1, 2023; and

NOW, THEREFORE, the Commission DOES HEREBY RESOLVE, DETERMINE, AND ORDER that the Fourth Amendment to Memorandum of Agreement for the Position of LAFCO Executive Officer between LAFCO and Emery, attached to this Resolution as Exhibit "A" and incorporated herein by this reference is hereby approved.

Ayes:

Noes:

STATE OF CALIFORNIA)
) SS.
COUNTY OF ORANGE)

I, Douglass Davert, Chair of the Local Agency Formation Commission of Orange County, California, hereby certify that the above and foregoing resolution was duly and regularly adopted by said Commission at a regular meeting thereof, held on the 13th day of December 2023.

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of December 2023.

Douglass Davert
Chairperson of the Orange County
Local Agency Formation Commission

By: _____
DOUGLASS DAVERT

ATTEST:

Cheryl Carter-Benjamin, Commission Clerk
Orange County LAFCO

EXHIBIT A

FOURTH AMENDMENT TO MEMORANDUM OF AGREEMENT FOR THE POSITION OF
LAFCO EXECUTIVE OFFICER

December 13, 2023

WHEREAS, Carolyn Emery (“Emery”) has been serving as Executive Officer and previously served as Interim Executive Officer and in other positions for Local Agency Formation Commission, County of Orange (“LAFCO”) for more than 20 years; and

WHEREAS, LAFCO and Emery entered into an Amended and Restated Memorandum of Agreement for the Position of LAFCO Executive Officer on July 1, 2018 in order to restate their prior agreements and to memorialize the terms of her employment as Executive Officer going forward (“Agreement”); and

WHEREAS, LAFCO and Emery entered into a First Amendment to Memorandum of Agreement for the Position of LAFCO Executive Officer on June 12, 2019 (“First Amendment”); and

WHEREAS, LAFCO and Emery entered into a Second Amendment to Memorandum of Agreement for the Position of LAFCO Executive Officer on November 10, 2021 (“Second Amendment”); and

WHEREAS, LAFCO and Emery entered into a Third Amendment to Memorandum of Agreement for the Position of LAFCO Executive Officer on January 11, 2023 (“Third Amendment”); and

WHEREAS, after having completed Emery’s 2023 annual performance evaluation, LAFCO and Emery have reached agreement on the terms for her continued appointment as Executive Officer, as provided herein; and

WHEREAS, LAFCO and Emery now desire to amend the Agreement to memorialize the terms for her continued employment by the Commission (“Fourth Amendment”).

NOW, THEREFORE, in consideration for the mutual covenants herein, it is agreed by and between the parties as follows:

1. **Salary.** Section 4 of the Agreement is hereby amended in its entirety to read as follows:

“As salary for services rendered by this appointment, Emery shall receive, effective July 1, 2023, \$230,051 per annum, paid biweekly, which shall be paid in the same manner and at the same times as County of Orange employees generally.”

2. **Remaining Provisions of Agreement.** Except as otherwise specifically set forth in this Fourth Amendment, the remaining provisions of the Agreement shall continue in full force and effect.

3. **Acknowledgment and Consent.** I, Carolyn Emery, acknowledge that I have read and fully understand the terms and conditions of this Fourth Amendment to Memorandum of Agreement for the Position of LAFCO Executive Officer, and I consent and agree to each and every term and condition contained herein.

Carolyn Emery

Douglass Davert, LAFCO Chair

Date

Date

Approved as to form:

Best Best & Krieger LLP, General
Counsel

Date

8b | Commission
Discussion

REGULAR MEMBERS

CHAIR
Douglass Davert
Special District Member

VICE CHAIR
Donald P. Wagner
County Member

IMMEDIATE PAST CHAIR
Derek J. McGregor
Public Member

Wendy Bucknum
City Member

James Fisler
Special District Member

Bruce Whitaker
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VACANT
County 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

MEETING DATE: December 13, 2023

TO: Local Agency Formation Commission
of Orange County

FROM: Executive Officer
Commission Clerk

SUBJECT: Appointment of 2024 OC LAFCO Officers

BACKGROUND

In accordance with the OC LAFCO Bylaws, the Chair and Vice Chair shall be appointed annually by the Commission majority, and newly appointed officers shall take office immediately. In addition to other duties outlined in the Bylaws, the Chair shall preside at all meetings of the Commission and conduct the business of the Commission pursuant to and in compliance with the Commission procedures. The Chair shall preserve order and decorum at all meetings and shall decide all questions of order and procedure, subject to the action of the majority of the Commission. In the event of the Chair's absence, or inability to act as the Chair, the Vice Chair shall have all the powers and duties of the Chair.

For reference, a list of the current and prior year OC LAFCO officers are shown below.

OC LAFCO Officers Recent Appointments			
Year	Chair	Vice Chair	Immediate Past Chair
<i>Current</i>	<i>Douglass Davert</i> (Special District Member)	<i>Donald Wagner</i> (County Member)	<i>Derek J. McGregor</i> (Public Member)
2022	<i>Douglass Davert</i> (Special District Member)	<i>Donald Wagner</i> (County Member)	<i>Derek J. McGregor</i> (Public Member)
2021	<i>Douglass Davert</i> (Special District Member)	<i>Donald Wagner</i> (County Member)	<i>Derek J. McGregor</i> (Public Member)

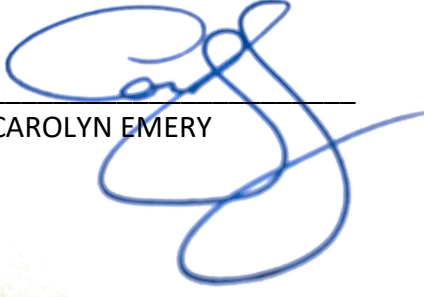
Additionally, the Bylaws indicate that the Executive Committee of the Commission shall be comprised of the current Chair, Vice Chair and Immediate Past Chair. The Executive Committee serves in an advisory role to the full Commission on the agency budgets, strategic and work plans, Public Member selection process and other personnel matters, as warranted.

RECOMMENDED ACTION

Staff recommends the Commission:

1. Appoint a Chair and Vice Chair for 2024.

Respectfully Submitted,



CAROLYN EMERY



CHERYL CARTER-BENJAMIN