

SECTION 4:
Administrative
Policies
and Procedures

Software License Agreement Policy

I. PURPOSE

The Orange County Local Agency Formation Commission (OC LAFCO) has developed unique web-based programs (Fiscal Trends Analysis Program and Shared Services Program) to fulfill the State requirement for municipal service review of local agencies (Government Code §56430). While these programs were developed for use by OC LAFCO, the Commission has received indications of interest to license the programs for use by other LAFCOs and governmental agencies throughout California.

The purpose of this policy is to establish the material terms upon which OC LAFCO is willing to license the web-based programs to other public agencies, with the emphasis on ensuring that OC LAFCO's investment in the web-based programs is protected and that OC LAFCO does not become subject to liability or additional cost as a result of its willingness to share these programs with other agencies.

Public agencies purchasing the license for use of the web-based programs would avoid the extensive effort and resources required to develop like programs while allowing flexibility to adjusting programs to fit the needs of their agency. Licensing of the web-based programs for a nominal fee represents good government and the shared services effort supported by the Commission.

II. POLICY STATEMENT

OC LAFCO will establish a licensing program to provide the Fiscal Trends Analysis Program and the Shared Services Program as a bundle of web-based programs to other government agencies through a software license agreement in the form attached to this policy as Exhibit A. It is the policy of this Commission to delegate to the Executive Officer the authority to review, process, and approve all standard software license agreements. The licensing program shall include the payment of a modest license fee by licensed users to enable OC LAFCO to recover a portion of its web-based software development costs. The licensing program shall be limited to LAFCOs and other governmental agencies in the State of California as the web-based programs have been developed to serve a governmental purpose.

III. ADMINISTRATION OF THE LICENSING PROGRAM

1. License Agreement

The web-based programs shall only be licensed to LAFCOs and other governmental agencies that have duly authorized and executed a copy of the attached License Agreement and have paid the license fee.

2. Executive Officer Approval

Approval by the Executive Officer is required prior to the execution of a License Agreement for the use of the Commission's web-based programs. Each such License Agreement shall be placed on the agenda of the next OC LAFCO regular meeting as an information item after a request has been approved by the Executive Officer. Except as authorized pursuant to paragraph 3 below, the approval of non-standard contract terms to the License Agreement shall require review and approval by the Commission prior to execution.

3. Approval of Non-Substantive Changes to Contractual Terms

The Executive Officer shall have the authority to make non-substantive changes to the contractual terms of the License Agreement if legal counsel has provided written guidance that the requested changes will not have a material impact on the rights and obligations of OC LAFCO and will not substantially increase its liability risk.

4. Enforcement of License Agreement

The Executive Officer shall establish a process to periodically verify that licensed users are in compliance with their obligations under the License Agreement.

5. Pricing

The initial license fee to be paid by licensed users for the Fiscal Trends Analysis and Shared Services Program shall be set at a bundled price of \$3,500 for both programs.

Originally Adopted: 3/13/2013

Last Reviewed: 3/8/2023

Revised: Not Applicable

ORANGE COUNTY LOCAL AGENCY FORMATION COMMISSION

SOFTWARE LICENSE AGREEMENT

(Fiscal Trends Analysis Program/Shared Services Program)

This Software License Agreement ("Agreement") is made and entered into as of the date set forth on the signature page hereto ("Effective Date") by and between the ORANGE COUNTY LOCAL AGENCY FORMATION COMMISSION ("Licensor") and the undersigned public agency licensee ("Licensee").
COMMISSION ("Licensor") and the undersigned public agency licensee ("Licensee").

RECITALS

- A. Licensor has developed two web-based software programs for use in its operations: The Fiscal Trends Analysis Program ("FTAP") and the Shared Services Program ("SSP").
- B. As a result of interest from other public agencies, Licensor has agreed to make the FTAP and the SSP available for public agency use in accordance with the terms and conditions set forth in this Agreement and Licensee desires a license to use the FTAP and SSP subject to such terms.

NOW, THEREFORE, in consideration of the mutual covenants and promises to set forth herein, and for other good and valuable consideration received, the parties hereby agree as follows:

1. DEFINITIONS

1.1 "Shared Services Program" shall mean the Shared Services Program developed and owned by OC LAFCO that lies within the Joomla! ® content management system software. Joomla! ® is an open-source content management system for publishing content. The Shared Services Program requires Joomla! ® to operate.

1.2 "Licensee Enhancement" shall mean any modification to the Visual Output of the Licensed Software, including, but not limited to, a revision, modification, translation, abridgement, condensation, expansion, collection, compilation or any other change in the manner in which Visual Output is generated or displayed.

1.3 "Documentation" shall mean all manuals, user documentation, and other related materials pertaining to the Licensed Software which are furnished in order to ensure proper and/or ease of use of the Products by Licensee.

1.4 "Licensed Software" shall mean the FTAP and SSP in object code format running on a web-based platform.

1.5 “Authorized Use” shall mean (a) the internal use of the Licensed Software for Licensee’s normal business activities by its employees, agents and contractors who are providing services to Licensee in accordance with the terms and conditions set forth in this Agreement; and (b) the use of the FTAP through a portal on the Licensee’s website by public users who are granted access by Licensee, provided, however, that such use is limited to obtaining Visual Output of data or information concerning the jurisdiction or service area of Licensee and is further subject to Licensee’s compliance with the terms and conditions set forth in this Agreement. The Authorized Use of SSP shall be restricted to users described in clause (a) above, as well as public agency or non-profit users who are located within the jurisdiction of Licensee and whose use is consistent with the purpose of the SSP. SSP use shall be password protected and all users of SSP shall consent in advance to the Shared Services Program User Agreement which is attached hereto as Exhibit “A”. The Authorized Use of the Licensed Software by Licensee shall not include the activities of joint power authorities, or other separate legal entities, regardless of whether Licensee is a member of those agencies.

1.6 “Visual Output” shall mean the visual presentation of data or information by the Licensed Software, including graphic display output, reports, graphs or other documents (whether printed or stored digitally in a format such as Adobe PDF).

2. LICENSE

2.1 Grant of License. Licensor hereby grants, and Licensee hereby accepts, subject to the terms and conditions of this Agreement, a revocable, non-exclusive, non-transferable, and non-assignable right to use the Licensed Software solely for the Authorized Use, from the Effective Date of this Agreement until this Agreement is terminated or expires in accordance with its terms. Pursuant to the license granted hereunder, Licensee shall have the right to install the Licensed Software on servers owned or under the control of Licensee and on the Licensee’s website for access in connection with the Authorized Use and to maintain copies of the Licensed Software for backup and archival purposes. Licensee shall not use the Licensed Software for any purpose not specifically authorized in this Agreement.

2.2 Use of Visual Output. The license granted herein shall include the right of Licensee to distribute Visual Output of Licensee’s data and information in connection with the Authorized Use of FTAP. Licensee shall not distribute Visual Output that displays data or information owned by Licensor or any other public agency without the prior written consent of Licensor. Licensee may charge fees for the distribution of Visual Output of its data and information provided that such fees are for the sole purpose of recovering costs consistent with Licensee’s normal business practices.

2.3 Licensee Enhancements. Licensee may modify the Licensed Software with Licensee Enhancements in connection with the Authorized Use and shall have the right to use such Licensee Enhancements as long as it maintains a valid license in the Licensed Software. Licensee may, but is not obligated to, share Licensee Enhancements with Licensor or any other public agency who holds a valid license from Licensor to use the Licensed Software. Except for the Licensee Enhancements, Licensee shall not have the right to create or develop any improvements or derivative works in the Licensed Software or to take any action in violation of the conditions contained in Section 6.3.

2.4 Ownership of Licensed Software and Documentation. Licensee acknowledges that the Licensed Software and Documentation, including all intellectual property embodied in the Licensed Software and Documentation and any improvements or derivations thereof, are the sole property of Licensor. Except for the rights expressly granted to Licensee herein, including the right of Licensee to create and use the Licensee Enhancements, Licensee shall not have any right, title, or interest in or to the Licensed Software or Documentation or any copies thereof. Licensors make no claim of ownership or copyright in or to the Licensed Software and Documentation or any data provided by Licensor in connection with the Licensed Software. All copyrights associated with the Licensed Products and Documentation, and any improvements or derivations thereof, are reserved by Licensor. Nothing contained in this Agreement shall be construed as conferring any license or right with respect to any trademark, trade name, brand name, or the name of Licensor.

2.5 Ownership of Data. Licensee shall retain ownership of all Licensee data or information that is used in connection with the Licensed Software.

3. DELIVERY, INSTALLATION, AND SUPPORT

3.1 Delivery of Licensed Software. Licensor shall deliver the Licensed Software to Licensee in industry standard executable file program format. At the option of Licensor, the Licensed Software shall be delivered by digital download or on media compatible with Licensee's computer system. If Licensee has special delivery and/or format requirements, a predetermined mutually agreed upon service charge will be included in the price of the initial delivery and all subsequent deliveries to which the special requirements apply.

3.2 Installation. Licensee shall be solely responsible for the proper installation and configuration of the Licensed Software in accordance with the Documentation provided by Licensor.

3.3 Support and Maintenance. For the first thirty (30) days following delivery of the Licensed Software, Licensor shall make a reasonable effort to provide Licensee with assistance in the form of responses to questions concerning

issues related to the installation and use of the Licensed Software. Licensee will be provided with an email address to communicate support questions to Licensor. Normal hours of operation for Licensor are 8:00 a.m. to 5:00 p.m. Licensee may further identify errors in the Licensed Software to Licensor, but Licensor shall not be responsible for correcting such errors or creating patches, bug fixes or providing any new version or upgrade of the Licensed Software.

3.4 No Right to New Versions. Licensee shall be provided with the current version of the Licensed Software. Licensor, in its sole discretion, may provide Licensee with updated versions of the Licensed Software, but has no obligation to update or maintain the Licensed Software or to distribute new versions of the Licensed Software to Licensee.

4. LICENSE FEE

4.1 License Fee. In consideration of the license and rights granted pursuant to Section 2 above, Licensee shall pay to Licensor a one-time license fee for the Licensed Software in the amount of Three Thousand Five Hundred Dollars (\$3,500.00). The license fee shall be due and payable within thirty (30) days of the Effective Date and prior to the delivery of the Licensed Software. Licensee acknowledges that the grant of the license for the Licensed Software is an accommodation to Licensee and other public agencies to avoid the duplication of cost and effort to develop similar programs and that the Licensee Fee is intended to reimburse Licensor for a portion of its costs in the development of the Licensed Software and does not reflect the market value of the Licensed Software or any profit to Licensor.

4.2 Taxes. Licensee shall be solely responsible for the payment of all sales, use or other taxes which are applicable to the payment of the licensee fee and the use of the Licensed Software and shall indemnify and defend Licensor from any claim for such taxes by any taxing authority.

5. WARRANTY, INDEMNITY, AND LIMITATION OF LIABILITY

5.1 No Warranty. The Licensed Software is provided to Licensee in its current version and operation condition “as is” without warranty of any kind, either expressed or implied, as to the accuracy, thoroughness, value, quality, validity, merchantability, suitability, condition, usage, content, interpretation, sequence, or timeliness. Licensor does not warrant that the content or accuracy of the Licensed Software will meet the requirements of Licensee or that the Licensed Software will be error-free. Licensor explicitly disclaims any representations and warranties, including, without limitation, any implied warranty of merchantability or fitness for a particular purpose.

5.2 Defects. Licensee accepts the Licensed Software with any and all defects and Licensor does not warrant that any defects will be corrected. Licensee acknowledges that errors and omissions may occur in the Licensed Software, including the interface between the Licensed Software and any database that is used by Licensee in connection with the Licensed Software.

5.3 Suitability to Licensee. It is the sole responsibility of Licensee to test the Licensed Software and the Visual Output to ensure that the operation of the Licensed Software will satisfy the business needs and any regulatory requirements applicable to Licensee. Licensee assumes the entire risk as to determining the suitability of the Licensed Software for Licensee's needs.

5.4 Limitation of Liability. In no event will Licensor be liable for any direct, indirect, consequential, incidental, punitive, exemplary, or special damages however caused and on any theory of liability, including, but not limited to; loss of use, data or profits; procurement or substitution of goods or services; lost profits, savings, or sales due to business interruption arising out of the use of or inability to use the Licensed Software, even if Licensor has been advised of the possibility of such damages.

5.5 Indemnity for Third Party Claims. Licensee is solely responsible for any third-party claims which arise in connection with the use of the Licensed Software by Licensee and its users. Licensee shall indemnify, defend, and hold Licensor harmless from and against any liability, claims, or actions, including all costs, expenses, and reasonable attorneys' fees incurred (including an appropriate allocation of in-house counsel costs) in defending against such liability, claims, or actions, made against Licensor by such third parties, arising out of or in connection with (i) the use of the Licensed Software by Licensee and any contractor, user or member of the public who is granted access to the Licensed Software by Licensee; or (ii) which may be alleged to have been caused, either directly or indirectly, by the acts, conduct, omissions, negligence or lack of good faith of Licensee, its officers, employees, or agents, in anyway related to or arising out of the subject matter of this Agreement.

5.6 Claims of Infringement. In the event that there is any claim by a third party that the Licensed Software in the form delivered by Licensor to Licensee infringes upon the intellectual property rights of such third party, then Licensor shall indemnify and defend Licensee against any such claim, provided, however, that in connection with defending such claim, Licensor may terminate this Agreement and require Licensee to cease any further use of the Licensed Software and the sole liability of Licensor to Licensee in connection with such termination shall be a refund of the license fee set forth in Section 4.1. Licensor shall not be responsible for any claim of infringement that arises as a result of any modification of the Licensed Software by Licensee or the use of any Licensee Enhancements.

6. PROTECTION OF LICENSED PRODUCT

6.1 Proprietary Notices. Licensee agrees to respect and not to remove, obliterate, or cancel from view any copyright, trademark, confidentiality, or other proprietary notice, mark, or legend appearing on the Licensed Software or on the Visual Output, including, but not limited to, any such notices displayed to the user during the operation of the Licensed Software and any such notices in the Documentation, and agrees to use its best efforts to reproduce and include the same on any copy of the Licensed Software any portion thereof distributed to Licensee's consultants, agents and contractors. Printouts of the Licensed Software shall bear the following notice:

Copyright 2013, All rights reserved.

This program is the proprietary property of Orange County Local Agency Formation Commission.

Licensee shall use the same reasonable effort to include the above notice on all Visual Output and shall at all times exert no lesser effort than that Licensee uses to protect Licensee's own intellectual property. Licensee further agrees to use its best and reasonable efforts to require all contractors, consultants, and agents using the Licensed Software pursuant to the Authorized Use to include the above notice on all Visual Output. Licensee may add its own notice for the protection of data or information owned by Licensee that is displayed using the Licensed Software.

6.2 Shared Services Program Requirements. Licensee shall restrict access to the SSP to users who are consistent with the Authorized Use and shall set up a system for the registration of such users for password protected for access to the SSP. Licensee shall further ensure that prior to being granted access to the SSP, each authorized user has accepted the end-user agreement which is attached hereto as Exhibit "A".

6.3 Additional Conditions on Use. As a condition to the use of the Licensed Software, Licensee hereby covenants and agrees to abide by the following conditions and restrictions:

(a) Licensee shall not: (i) sell, rent, lease, assign, lend, sub-license, or otherwise convey, transfer, or grant any right in or to the Licensed Software, in whole or in part; (ii) utilize the Licensed Software with any service bureau or time-sharing system; or (iii) allow any private party to make use of the Licensed Software except for public use of the FATP as allowed in the Authorized Use.

(b) Except for Licensee Enhancements, Licensee shall not decompile,

reverse engineer, or enhance any of the Licensed Software in any form or create any derivative works of the Licensed Software for any purpose.

(c) Onsite use of the Licensed Software by consultants under contract to Licensee is permissible only for the purpose for which they are under contract to Licensee.

(d) Licensee shall be exclusively responsible for the supervision and control of the use of the Licensed Software by employees, agents and other authorized users in accordance with the terms and conditions of this Agreement.

7. CONFIDENTIALITY AND INJUNCTIVE RELIEF

7.1 Acknowledgment. Licensee hereby acknowledges and agrees that the Licensed Software is valuable and proprietary, embodying substantial creative efforts, trade secrets, and confidential information, ideas, and expressions of Licensor. Accordingly, Licensee agrees to treat the Licensed Software as confidential information in accordance with the confidentiality requirements and conditions set forth below.

7.2 Injunctive Relief. Licensee acknowledges that the unauthorized use, transfer, assignment, sublicensing, or disclosure of the Licensed Software, Documentation, Licensee Enhancements or copies thereof will (i) substantially diminish the value to Licensor to the trade secrets, copyrights, and other proprietary interests that are the subject of this Agreement; (ii) render Licensor's remedy at law for such unauthorized use, disclosure, or transfer inadequate; and (iii) cause irreparable injury. If Licensee breaches any of its obligations with respect to the use or confidentiality of the Licensed Software, Documentation, or Licensee Enhancements, Licensor, they shall be entitled to equitable relief to protect its interests therein, including, but not limited to, preliminary and permanent injunctive relief.

7.3 Licensed Software and Documentation. Licensee shall take all reasonable precautions to protect and maintain the confidentiality of the Licensed Software and Documentation, including those precautions Licensee employs to protect its own confidential information. Licensee understands and acknowledges that the Licensed Software is proprietary, confidential, and excluded from public disclosure under the California Public Records Act ("CPRA") and under the federal Freedom of Information Act, 5 U.S.C. 552 ("FOIA"). In the event a request for information is submitted under the CPRA or the FOIA, the Licensee will consult with the Licensor for response and possible objection. To the maximum extent allowed by law, the Licensee will protect the Licensed Software as a confidential record that is exempt from disclosure.

7.4 Maintenance of Confidential Information. Each party agrees to keep all confidential information disclosed to it by the other party in accordance herewith, and to protect the confidentiality thereof, in the same manner in which it protects the confidentiality of similar information and data of its own (at all times exercising at least a reasonable degree of care in the protection of confidential information); provided, however, that neither party shall have such obligation with respect to the use of disclosure to others of any confidential information that can be established to have: (a) been known publicly; (b) become known publicly, without fault on the part of the receiving party, subsequent to disclosure by the disclosing party; (c) been known otherwise by the receiving party before communication by the disclosing party; (d) been received by the receiving party without any obligation of confidentiality from a source (other than Licensor or Licensee) lawfully having possession of such information or, (e) which is required to be disclosed pursuant to any local, state or federal law or regulation. Upon ten (10) days written notice to Licensee, Licensor shall have the right to inspect and audit Licensee's procedures and to examine Licensee's computer systems in order to determine whether such procedures and computer systems comply with the requirements set forth in this agreement.

8. TERM OF AGREEMENT

This Agreement shall be effective on the Effective Date and shall remain in effect unless terminated in accordance with the terms and conditions of Section 9.

9. DEFAULT AND TERMINATION

9.1 Events of Default. This Agreement may be terminated by Licensor if Licensee (i) fails to perform or comply with the terms of this Agreement relating to the use of the Licensed Software; or (ii) fails to strictly comply with the provisions of Section 6 (Protection of Licensed Software) or of Section 7 (Confidentiality and Injunctive Relief); (iii) makes an assignment in violation of Section (Non- assignability), including any assignment in connection with any bankruptcy or receivership action; or (iv) is dissolved, liquidated or ceases doing business.

9.2 Effective Date of Termination. Termination under subparagraphs 9.1 (ii) (iii) or (iv) shall be effective on notice. Termination under subparagraph 9.1(i) shall be effective thirty (30) days after notice of termination to Licensee if the defaults have not been cured within the notice period.

9.3 Obligations on Expiration or Termination. Upon expiration or termination of this Agreement, Licensee shall cease and desist all use of the Licensed Software, and Licensee shall promptly deliver to Licensor at termination all full, or partial, copies of the Licensed Software and Documentation in Licensee's possession or under its control. Licensee shall further cease any use of the Licensee Enhancements. Licensee acknowledges that its failure to comply with the obligations of this Section will constitute unauthorized use of the Licensed Software, entitling Licensor to equitable relief as specified herein.

10. GENERAL TERMS

10.1 Notice. Except for support requests, all notices, authorizations, and requests in connection with this Agreement shall be delivered in person or sent via overnight courier and notice shall be effective upon receipt; Notices shall be sent to the address set forth on the signature page to this Agreement until such time as either party provides notice of a change in address.

10.2 Non-Assignability. Licensee may not assign or transfer this Agreement or all or any part of its rights hereunder, by operation of law or otherwise, without the prior written consent of Licensor. Any unauthorized assignment or transfer shall be null and void and shall constitute grounds for immediate termination of this Agreement under Section 9 above. This Agreement shall inure to the benefit of and be binding upon any permitted assignee.

10.3 Governing Law and Venue. The validity, interpretation, construction and performance of this Agreement shall be governed by the laws of the State of California, without regard to the conflicts of laws principals thereof. Venue for any action brought to enforce the terms of this Agreement shall be in the federal and state courts, as appropriate, situated in the County of Orange, California, and Licensee hereby submits to the jurisdiction of such courts.

10.4 Severability. If any provision of this Agreement shall be held by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remaining provisions shall remain in full force and effect.

10.5 Entire Understanding. This Agreement contains the entire understanding and agreement between the parties respecting the subject matter hereof and all prior quotations, invoices, negotiations, understandings, representations, and agreements of the parties, whether oral or written, are superseded in their entirety.

10.6 Modifications to Agreement. This Agreement may not be supplemented, modified amended, released, or discharged except by an instrument in writing signed by each party's duly authorized representative.

10.7 Headings Not Controlling. All captions and headings in this Agreement are for purposes of convenience only and shall not affect the construction or interpretation of any of its provisions.

10.8 Consent to Breach Not Waiver. Any waiver by either party of any default or breach hereunder shall not constitute a waiver of any provision of this Agreement or of any subsequent default or breach of the same or a different kind.

10.9 Exhibits. All exhibits to this Agreement are hereby incorporated by reference and made a part hereof.

10.10 Warranty of Licensee. Licensee is a public or government entity duly formed under the laws of the State of California. The person signing on behalf of Licensee is an elected official or member of senior management who is authorized by the governing body of Licensee to enter into this Agreement and bind Licensee to the terms hereof.

[signature page follows]

IN WITNESS WHEREOF, the parties have caused their duly authorized representatives to execute and deliver this Agreement as of the date this Agreement is signed by Licensor.

LICENSOR:

ORANGE COUNTY LOCAL AGENCY FORMATION COMMISSION

By:

Name:

Title:

Notice Address:

Attn: Executive Officer
2677 North Main Street, Suite 1050, Santa Ana,
CA 92705

LICENSEE:

Name of Organization _____

By:

Name:

Title:

Notice Address: _____

EXHIBIT "A"
SHARED SERVICES PROGRAM END-USER AGREEMENT

Legal Disclaimer; Website. Welcome to the official website of [INSERT NAME OF LICENSEE] ("Agency") Shared Services Program ("Program"). Agency makes no guarantees concerning the information contained in this website. This includes accuracy of content. Agency is not responsible for the results of any defects or misinformation that may be found to exist in this site, or any lost profits or any other consequential damages that may result from use of the website or such defects or misinformation. Users should not assume this website is error free. Users shall keep themselves fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner arising out of use of the website, information gathered from the website and work associated with the website and Program, including but not limited to all public contracting requirements. Users, and not Agency, shall be liable for all violations of such laws and regulations in connection with the website, including but not limited to any direct, incidental, consequential, indirect or punitive damages arising out of use of the website, Program or contracts arising out of information found on the website. User agrees to defend, indemnify and hold harmless Agency, its agencies, officers, employees, representatives and agents from and against all claims and expenses, including attorneys' fees, arising out of User's use of this website, the Program or materials and information contained on this website. Please note that by visiting this website, you agree to the User Agreement terms and conditions listed, including but not limited to acceptance of liability, indemnification and waivers.

This website may provide names and advertisements for contractors or references or links to other sites and information that may be useful or informative. These advertisements, references or links to third party sites are not intended, and should not be interpreted by readers, as constituting or implying Agency's endorsement, sponsorship or recommendation of the information, products or services found there. Agency makes no guarantees concerning such names, advertisements, sites and information, including the quality of contractors or accuracy, currency, content, or quality of any such sites and information. Agency shall not be liable for any direct, incidental, consequential, indirect or punitive damages arising out of use of such contractors or access to, inability to access, or any use of the content of this site or the content of any site(s) referenced in or linked to this site, including without limitation any damages resulting from use of contractors or damages to, or viruses that may infect, your computer equipment or other property, even if Agency is expressly advised of the possibility of such damages. Agency does not guarantee or warrant accurate and up-to-date information on this website.

Any information provided by you to Agency, including but not limited to feedback, questions, comments, and suggestions are non-confidential and may become a public record subject to public inspection pursuant to law. Agency has no obligation of any kind with respect to such information and is free to reproduce, use, and disclose the information to others without limitation.

Use of e-mail and any messaging system shall in no way be deemed to constitute public comment or legal notice to Agency, with respect to any existing or potential claim or cause of action against Agency or any of its agencies, officers, employees, agents, or representatives, where notice to Agency is required by any federal, state or local laws, ordinances, charter provisions, rules, or regulations.

Agency reserves the right to delete, modify or supplement the content of this site, including the content of this User Agreement, at any time. In establishing and maintaining this website, Agency does not intend to and is not establishing a forum or other means for public discourse, exchange of opinions or discussion on any issue. The Program website is a nonpublic forum and is limited to use for sharing information relating to contract services in order to enhance public efficiency and cost-effectiveness, consistent with the purpose and intent of the Program. Agency reserves the right to determine what additional information shall and shall not be placed on this website, including links to and from external websites. Agency does not endorse or provide preferential treatment to any third-party websites or associated organizations or persons. This website and the Program shall not be available to the public at large. The website and Program are intended to promote, and speech is limited to advertising and communications that promote, a commercial transaction. Further, the intent of the website and Program is to enhance opportunities for shared services to increase governmental efficiency, not to create a forum for public speech. Information posted by users on this website shall be limited to information furthering the narrow intent of the website and Program.

INTELLECTUAL PROPERTY

Access to and use of this website, as well as the links contained herein, is subject to all applicable laws of the United States, the State of California, and any other laws involving copyrighted materials and intellectual property. With the exception of public documents, the materials and content on this website, including text, graphics, images, charts, photographs, pictures, layout, presentation, code and software may be protected by copyrights, trademarks, service marks, patents or other proprietary right and laws.

Copyrights. All content presented on this website, including but not limited to, text, graphics, logos, button icons, images, audio clips, and software, is the sole legal property of the Orange County Local Agency Formation Commission ("OCLAFCO") and/or Agency, unless otherwise noted, and is protected by United States and international copyright laws (17 U.S.C. and the Berne Convention). You may not use, copy, modify, distribute, display, license, transmit, or sell any material on this website, in whole or in part, in any form or by any means, including, but not limited to, electronic, mechanical, photocopying, recording, or otherwise, without the express written permission and consent of Agency.

ADDITIONAL DISCLAIMERS

Information and materials contained on this website are distributed and transmitted "as is" without any warranties of any kind, either express or implied, including, without limitation, warranties of title or implied warranties of merchantability or fitness for a particular purpose. Website content is subject to change at any time without notice; Agency does not warrant that access to this website will be uninterrupted or error free.

In addition to the language set forth above, NEITHER AGENCY, OCLAFCO, NOR ANY OF THEIR RESPECTIVE EMPLOYEES, CONTRACTORS, AGENTS, OFFICERS, REPRESENTATIVES OR ELECTED OFFICIALS SHALL BE LIABLE FOR ANY OF THE FOLLOWING: viruses or contamination of hardware, software, peripherals or property of a user of this website; delays, inaccuracies, errors or omissions resulting from use of this website or from information or materials contained on this website; any special, indirect, incidental or consequential damages arising from the use

of or inability to use the website or materials contained on the website regardless of whether such materials are provided by Agency or a third party. Additionally, neither Agency nor its employees, contractors, agents, officers, representatives or elected officials shall be liable for any direct, indirect, incidental, special, exemplary, or consequential damages (including, but not limited to, procurement or substitute goods or services; loss of use, data, or profits; or business interruption) however caused and on any theory of liability, whether in contract, strict liability, or tort (including negligence or otherwise) arising in any way out of the use of the Program and this website, even if advised of the possibility of such damage. This disclaimer of liability applies to any damages or injury, including but not limited to those caused by any failure of performance, error, omission, interruption, deletion, defect, delay in operation or transmission, computer virus, communication line failure, theft or destruction or unauthorized access to, alteration of, or use of record, whether for breach of contract, tortious behavior, negligence or under any other cause of action.

This User Agreement shall be governed and interpreted in accordance with the laws of the state of California, without giving effect to any principles of conflict of laws. Any action at law or equity arising out of or relating to these terms shall be filed only in a state or federal court located in Orange County, California. By using this website, users consent and submit to the personal jurisdiction of such court for the purposes of litigation.

This User Agreement constitutes the entire terms and conditions relating to the subject matter. If any of these terms or conditions shall be deemed unlawful, void or for any reason unenforceable, then such terms or conditions shall be deemed severable from the remaining terms and conditions and shall not affect the validity and enforceability of any remaining portion of this policy.