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STAFF

Carolyn Emery
Executive Officer

Scott Smith
General Counsel

MEETING DATE: January 8, 2025

TO: Local Agency Formation Commission
of Orange County

FROM: Assistant Executive Officer

SUBJECT: Agreement with Kelly Associates Management
Group for an Employee Classification and
Compensation Assessment

BACKGROUND

During the Strategic Planning session in 2022, the Commission determined it was important to periodically review the agency's employee classification and compensation structure to ensure positions are accurately classified and the agency remains competitive to retain and attract qualified employees. Therefore, the Commission identified an employee classification and compensation assessment as an objective under *Goal One: Staff Development, Retention and Recruitment* incorporated as part of the Commission's 2022-2025 Work Plan.

The agency's existing employee classification and compensation structure was developed in part to a comprehensive Organization Assessment conducted by Kelly Associates Management Group LLC (KAMG) and approved by the Commission in 2018. Considering KAMG's experience in organizational and human resource management for local governments and familiarity with OC LAFCO, staff contacted KAMG for a proposal to conduct a follow-up assessment that would focus on reviewing LAFCO's employee classification and compensation structure. The next section of the report provides additional details on the proposal provided by KAMG and staff's recommendation to approve an agreement with KAMG to conduct the assessment.

DISCUSSION

KAMG's assessment will examine how current employee classifications are defined considering the agency's needs, desired skill levels/qualifications, employee responsibilities, essential job functions, allocation of workload, and internal compatibility among different classifications. Based on identified levels of responsibility, required skills, and performance expectations, KAMG will assess employee compensation in light of comparable positions among other LAFCOs.


In part to the assessment, KAMG will compare OC LAFCO's employee position classifications and compensations with similar LAFCOs, including Los Angeles, Riverside, San Bernardino, San Diego, Santa Clara, and Ventura.

The professional services agreement for the preparation of the assessment is referenced as **Attachment 1** to this report. Staff is recommending the Commission approve the agreement for a total amount not to exceed \$30,000.

RECOMMENDED ACTION

1. Approve the professional services agreement with Kelly Associates Management Group LLC for services referenced in Attachment 1 and authorize the Executive Officer to execute the agreement.

Respectfully Submitted,



LUIS TAPIA

Attachment:

1. Form of Professional Services Agreement with Kelly Associates Management Group.

**AGREEMENT FOR SERVICES BETWEEN
ORANGE COUNTY LOCAL AGENCY FORMATION COMMISSION
AND
KELLY ASSOCIATES MANAGEMENT GROUP LLC**

This Agreement is made effective January 8, 2025 by and between ORANGE COUNTY LOCAL AGENCY FORMATION COMMISSION (hereinafter referred to as “LAFCO”), organized and operating pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, as amended (Government Code Sections 56000 et seq.), and Kelly Associates Management Group LLC (“Consultant”).

RECITALS

A. LAFCO is a public agency of the State of California and is in need of professional consulting services for a Classification and Compensation Assessment (hereinafter referred to as “the Project”).

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

C. This Agreement is to establish the terms and conditions for LAFCO to retain Consultant to provide the services described herein.

AGREEMENT

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Term and Time of Performance.

The term of this Agreement shall be from January 8, 2025 through May 31, 2025, unless terminated in accordance with the procedures outlined in Section 12 of this Agreement. Consultant shall perform its services hereunder in a prompt and timely manner and shall commence performance upon the execution of this Agreement.

2. Services.

Consultant shall provide LAFCO with the services described in the Scope of Services attached hereto as Exhibit “A” and incorporated herein by reference.

3. Compensation.

a. Subject to paragraph 3(b) below, LAFCO shall pay for such services in accordance with the Schedule of Charges set forth in Exhibit “B”, attached hereto and incorporated herein by reference.

b. In no event shall the total amount paid for services rendered by Consultant pursuant to Exhibit "A" exceed the sum of \$30,000 over the term of the Agreement without advanced written approval in the form of an amendment to this Agreement.

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

4. Delays in Performance.

Neither LAFCO nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Agreement, such circumstances include but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war; riots and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage or judicial restraint.

Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

5. Compliance with Law.

Consultant shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local government.

6. 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.

7. Independent Contractor.

It is agreed that Consultant shall act and be an independent contractor and is not an agent or employee of LAFCO and is not entitled to participate in any compensation plans or other benefits LAFCO provides for its employees. All services shall be performed by Consultant or under its supervision. Consultant will determine the means, methods and details of performing the services, subject to the requirements of this Agreement. Any additional personnel performing the services under this Agreement on behalf of Consultant shall also not be employees of LAFCO and shall at all times be under Consultant's exclusive direction and control. Consultant shall be responsible for all reports and obligations respecting such personnel, including but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance and workers' compensation insurance.

8. Integration.

This Agreement represents the entire understanding of LAFCO and Consultant as to those matters contained herein, and supersedes and cancels any prior oral or written understanding, promises or representations with respect to those matters covered hereunder. This Agreement may not be modified or altered except in writing signed by both parties hereto. This is an integrated Agreement.

9. 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 and incorporated herein by reference, in a form and with insurance companies acceptable to LAFCO.

10. Indemnification.

To the fullest extent permitted by law, Consultant shall defend, indemnify and hold LAFCO, its Board, members of the Board, employees, and authorized volunteers free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's services or this Agreement, including without limitation the payment of all consequential damages, expert witness fees and attorney's fees and other related costs and expenses. Notwithstanding the foregoing, to the extent Consultant's services are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant.

In addition, Consultant shall defend, with counsel of LAFCO's choosing and, to the extent permitted by Civil Code Section 2782.8, at Consultant's own cost, expense and risk, any and all claims, suits, actions or other proceedings of every kind covered by this section that may be brought or instituted against LAFCO or its Board, members of the Board, employees, and authorized volunteers. Consultant shall pay and satisfy any judgment, award or decree that may be rendered against LAFCO or its Board, members of the Board, employees, and authorized volunteers as part of any such claim, suit, action or other proceeding. Consultant shall also reimburse LAFCO for the cost of any settlement paid by LAFCO or its Board, members of the Board, employees, or authorized volunteers as part of any such claim, suit, action or other proceeding. Such reimbursement shall include payment for LAFCO's attorney's fees and costs, including expert witness fees. Consultant shall reimburse LAFCO and its Board, members of the Board, employees, and/or authorized volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by LAFCO, its Board, members of the Board, employees, or authorized volunteers.

11. 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.

12. Termination or Abandonment.

a. LAFCO may terminate this Agreement for any reason or no reason by giving thirty (30) calendar days' written notice of termination. LAFCO shall pay Consultant the reasonable value of services rendered for any portion of the work completed prior to termination. If said termination occurs prior to completion of any task for the Project for which a payment request has not been received, the charge for services performed during such task shall be the reasonable value of such services, based on an amount mutually agreed to by LAFCO and Consultant of the portion of such task completed but not paid prior to said termination. LAFCO shall not be liable for any costs other than the charges or portions thereof which are specified herein. Consultant shall not be entitled to payment for unperformed services and shall not be entitled to damages or compensation for termination of work.

b. Consultant may terminate its obligation to provide further services under this Agreement upon thirty (30) calendar days' written notice to LAFCO only in the event of substantial failure by LAFCO to perform in accordance with the terms of this Agreement through no fault of Consultant.

13. Key Personnel.

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

14. Notice.

Any notice or instrument required to be given or delivered by this Agreement may be given or delivered by depositing the same in any United States Post Office, certified mail, return receipt requested, postage prepaid, addressed to:

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

Consultant:
Attn: William Kelly, President
Kelly Associates Management Group LLC
1440 North Harbor Boulevard, Suite 900
Fullerton, CA 92835

and shall be effective upon receipt thereof.

15. Third Party Rights.

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than LAFCO and the Consultant.

16. Severability.

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

17. 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. That is, while LAFCO is not in a position to do so, by signing the acknowledgement at the conclusion of this agreement, the Consultant is certifying that they have not received unemployment insurance payments within the past 12 months arising from work performed as a retiree for any public employer. LAFCO has no way of monitoring the hours that Consultant works for another OCERS employer. As such, it is the responsibility of the Consultant to ensure that the total hours worked for LAFCO and any other OCERS employer do not exceed 960 hours in the aggregate during the fiscal year.

[SIGNATURE PAGE FOLLOWS]

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

**ORANGE COUNTY LOCAL AGENCY
FORMATION COMMISSION**

**KELLY ASSOCIATES MANAGEMENT
GROUP, LLC**

By: _____
Carolyn Emery, Executive Officer
for the Orange County Local Agency
Formation Commission

By: _____
William R. Kelly, President

Dated: _____

Dated: _____

Approved as to form:

General Counsel, Orange County Local
Agency Formation Commission

**EXHIBIT “A”
SCOPE OF SERVICES**

Scope of Work

The consultant, Kelly Associates Management Group LLC, shall work under the direction of the Executive Officer of the Orange County Local Agency Formation Commission (“LAFCO”) and shall provide the services listed below. In no case shall the consultant charges exceed \$30,000, including all meeting and reimbursable expenses. Consultant’s scope of services shall include the following three tasks:

Task	Description
1	Classification Study, Update, and Recommendation
2	Compensation Study and Recommendations

**EXHIBIT “B”
SCHEDULE OF CHARGES**

Professional Fees
for
KELLY ASSOCIATES MANAGEMENT GROUP
LLC

The Professional Fees will be paid as follows:

- 25% of the fixed fee amount (\$7,500) upon execution by LAFCO
- 25% of the fixed fee amount (\$7,500) upon presentation of draft findings to LAFCO
- 50% of the fixed fee amount (\$15,000) upon presentation of a final report to the Commission

Consultant shall submit a statement for services to LAFCO pursuant to paragraph 3(c) for the life of the Project or termination of the Agreement pursuant to paragraph 12 of the Agreement. Statements for services shall itemize charges as they relate to the completion of tasks defined in Exhibit A. Statements for services shall reflect the services performed under this Agreement, in accordance with the schedule of charges set forth in this Exhibit B, and subject provisions of Section 2 of this agreement.

EXHIBIT "C"
INSURANCE REQUIREMENTS

1. Commercial General Liability

- a. The Consultant shall take out and maintain, during the performance of all work under this Agreement, in amounts not less than specified herein, Commercial General Liability Insurance, in a form and with insurance companies acceptable to LAFCO.
- b. Coverage for Commercial General Liability insurance shall be at least as broad as the following: ISO Commercial General Liability coverage (Occurrence Form CG 0001)
- c. Commercial General Liability Insurance must include coverage for the following:
 - i. Bodily Injury and Property Damage
 - ii. Personal Injury/Advertising Injury
 - iii. Premises/Operations Liability
- d. All such policies shall give LAFCO, its Board, members of the Board, employees, and authorized volunteers insured status using ISO endorsement CG2010, CG2033, or equivalent.
- e. The general liability program may utilize either deductibles or provide coverage excess of a self-insured retention, subject to written approval by LAFCO.

2. Workers' Compensation/Employer's Liability

- a. Consultant further certifies and acknowledges that he/she has no employees and that he/she will not employ any person(s) in the work to be performed for LAFCO under this Agreement. With no employees, Consultant further acknowledges that he/she is not subject to the Workers' Compensation Act of the State of California. By execution of this Agreement, Consultant hereby agrees to notify LAFCO in writing, prior to hiring any person(s), full time or part time, to assist in this Agreement and to secure workers' compensation insurance prior to any person beginning work or assisting in the performance of work under this Agreement.

3. 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

4. Evidence Required

- a. Prior to execution of the Agreement, the Consultant shall file with LAFCO evidence of insurance from an insurer or insurers certifying to the coverage of all insurance required herein. Such evidence shall include original copies of the ISO CG 2010 (or insurer's equivalent) signed by the insurer's representative and Certificate of Insurance (ACORD Form 25-S or equivalent). All evidence of insurance shall be signed by a properly authorized officer, agent or qualified representative of the insurer and shall certify the names of the insured, any additional insureds, where appropriate, the type and amount of the insurance, the location and operations to which the insurance applies, and the expiration date of such insurance.

5. Additional Insurance Provisions

- a. The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by LAFCO, is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.
- b. If at any time during the life of the Agreement, the Consultant fails to maintain in full force any insurance required by the Agreement documents LAFCO may terminate the Agreement.
- c. LAFCO may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project.
- d. Neither LAFCO, its Board, members of the Board, employees, or authorized volunteers shall be personally responsible for any liability arising under or by virtue of the Agreement.