

# OC LAFCO ByLaws, Policies and Procedures



## INTRODUCTION

The **Local Agency Formation Commission of Orange County (OC LAFCO) Bylaws, Policies and Procedures** contain the bylaws, accounting, personnel and general policies and procedures of the Commission. OC LAFCO's governing statute, the Cortese-Knox-Hertzberg Government Reorganization Act of 2000 (Government Code Section 56000 et seq.) requires that each LAFCO adopt written policies and procedures. Since its formation in 1963, OC LAFCO has adopted individual policies and procedures necessary in accordance with State Law and at the direction of the Commission. These policies and procedures are revisited and updated regularly to incorporate any changes in State law or in policies adopted by the Commission in the preceding year. The OC LAFCO policies and procedures are intended to better inform OC LAFCO, its staff, public agencies and citizens of Orange County about the operations, responsibilities and functions of OC LAFCO. The OC LAFCO policies and procedures contained herein generally do not reiterate or interpret State law. They are intended to supplement State law and reflect the unique circumstances and conditions in Orange County.

For ease of reference, the Commission policies are divided into five major Sections: (1) OC LAFCO Bylaws; (2) Accounting and Financial Policies and Procedures; (3) Personnel Policies and Procedures; (4) Administrative Policies and Procedures; and, (5) Project Processing Policies and Procedures. An outline of these policies may be found within the Table of Contents provided on the next page. Additionally, the policies may be accessed and downloaded from the same outline or the individual links provided for each policy document.

Any questions concerning the Commission's adopted policies and procedures can be directed to the Commission's Executive Officer or Assistant Executive Officer:

Carolyn Emery, OC LAFCO Executive Officer  
2677 North Main Street  
Suite 1050  
Santa Ana, CA 92705  
(714) 640-5100  
[www.oclafco.org](http://www.oclafco.org)

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SECTION 1:

# COMMISSION BYLAWS





# Bylaws of the Local Agency Formation Commission of Orange County

## ARTICLE – GENERAL<sup>1</sup>

### 1.1 TITLE

This Commission shall be entitled and known as the Local Agency Formation Commission of Orange County (“OC LAFCO”), hereinafter referred to as the “Commission.”

### 1.2 MISSION

Adopted November 10, 2021, the mission of the Commission is as follows: “OC LAFCO serves Orange County cities, special districts, and the county to ensure effective and efficient delivery of municipal services.”

The Commission ensures logical and timely changes in governmental boundaries (Government Code §56001); conducts special studies which review ways to reorganize, simplify and streamline governmental structures (Government Code §56301); and prepares spheres of influence for each city and special district within the county (Government Code §56425). The Commission promotes the provision of efficient and economical services while encouraging the protection of agricultural and open space lands (Government Code §56001 and §53000). Further efforts include discouraging urban sprawl and encouraging orderly formation and development of local agencies based upon local conditions and circumstances (Government Code §56301).

Local Agency Formation Commissions (LAFCOs) are independent commissions that are not a part of county government. While serving on the commission, all commission members shall exercise their independent judgment on behalf of the interests of residents, property owners, and the public as a whole in furthering the purposes of this division. Any member appointed on behalf of local governments shall represent the interests of the public as a whole and not solely the interests of the appointing authority (Government Code §56325.1).

### 1.3 AUTHORITY

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<sup>1</sup> Note: All code notations in the Bylaws refer to the California Government Code unless otherwise noted.



The conduct of the Commission is governed by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, Sections 56000 et seq. of the California Government Code, as amended, and hereinafter referred to as the “CKH Act.” The provisions of these bylaws are not intended to preempt state law. In the event of a conflict between the provisions set forth in these bylaws and those set forth in the CKH Act, the provisions of the CKH Act shall prevail.

#### **1.4 FUNDING**

The Commission annually adopts a budget in accordance with the provisions of the CKH Act. The County Auditor-Controller, in consultation with Commission staff, is responsible for apportioning the Commission’s net operational costs to the County, the cities, and the independent special districts according to formulas established under Government Code §56381 of the CKH Act.

### **ARTICLE 2 – DEFINITIONS**

- 1.5 Alternate Member: The person appointed to serve and vote in place of a regular member under any of the circumstances set forth in Section 1.15 below.
- 1.6 Board of Supervisors: The Orange County Board of Supervisors.
- 1.7 Chair: The person appointed annually by majority vote of the Commission to maintain order and decorum of the Commission’s regular and special meetings and responsible for the appointment of members to agency subcommittees.
- 1.8 Vice Chair: The person appointed annually by majority vote of the Commission to perform the duties of the Chair if the Chair is absent or disabled.
- 1.9 Commission: The Orange County Local Agency Formation Commission.
- 1.10 Commissioners: All members of the Commission, both regular and alternate.
- 1.11 County: The County of Orange, California.
- 1.12 OC LAFCO: The Orange County Local Agency Formation Commission.
- 1.13 Members: All regular and alternate members of the Orange County Local Agency Formation Commission.

### **ARTICLE 3 – ORGANIZATION**

#### **1.14 COMPOSITION**

The Commission shall consist of seven regular members and four alternate members (Government Code §56325 and §56332). All commissioners must be residents of Orange County.

#### **1.15 SELECTION/APPOINTMENT OF MEMBERS**

- A. County: The County Board of Supervisors shall appoint two regular commissioners and one alternate commissioner from the Board's membership to serve on the Commission (Government Code §56325).
- B. City: The City Selection Committee shall appoint two regular commissioners and one alternate commissioner to serve on the Commission. Each of whom shall be a mayor or city council member from one of the County's incorporated communities (Government Code §56325). Such appointments shall be made in accordance with the procedure established by the City Selection Committee and described in the rules and regulations of that body.
- C. Special Districts: The Special Districts Selection Committee shall appoint two regular commissioners and one alternate commissioner from the special districts within the County (Government Code §56332). Such appointments shall be made in accordance with the procedure established by the Special Districts Selection Committee and described in the rules and regulations of that body.
- D. Public Member: The public member and one alternate public member are appointed by a majority vote of the Commission in accordance with Government Code §56325(d) and in the manner detailed in the policy and procedures adopted by the Commission.

#### **1.16 TERMS OF OFFICE**

- A. The term of office of each Commission member shall be four years, expiring on June 30 in the year in which the term of the member expires.
- B. Any member may be removed at any time without cause by the body appointing that member. If a member who is a city, County, or special district officer ceases to hold that position during his or her term, that member's seat on the Commission shall become vacant.
- C. Any vacancy in the membership of the Commission shall be filled for the unexpired term by appointment by the body that originally appointed the member whose office has become vacant. If a regular member seat becomes vacant, the alternate member in that category shall serve in his/her place until such time as a new regular member has been appointed.

### **1.17 ROLE OF ALTERNATE MEMBERS**

- A. In each member category, the alternate commissioner shall serve and vote in place of a regular member who is absent or disqualifies/recuses him/herself from voting on a specific matter before the Commission (Government Code §56331).
- B. All alternate members are expected to attend all Commission meetings, even if the regular member(s) is (are) present. As a matter of policy, because alternate members may at any time be called upon to vote in place of a regular member, the Commission encourages alternate members to participate in discussion of issues before the Commission. Alternate members are expected to be qualified to vote when called upon and to be briefed as to the potential litigation. Therefore, alternate members are considered covered by the attorney-client privilege and are expected to attend closed sessions.
- C. The Commission further encourages alternate members to attend CALAFCO conferences and university courses.

### **1.18 COMMISSION OFFICERS**

The Chair and Vice Chair shall be the officers of the Commission, chosen by current regular members of the Commission.

- A. The Chair and the Vice Chair shall be appointed by a majority vote of the Commission each year at the January meeting or the next regular meeting thereafter and shall take office immediately. If a vacancy of a Commission officer occurs during the year, it shall be filled by majority vote of the Commission at the next regular meeting following occurrence of the officer vacancy.
- B. The term of office for the Chair and Vice Chair shall normally be twelve months or until the officer's membership on the Commission terminates, whichever occurs sooner. However, if either the Chair or Vice Chair rotates into an alternate position, he or she may serve on a pro tempore basis until the Commission appoints a successor.
- C. The Chair shall preside at all meetings of the Commission and shall conduct the business of the Commission pursuant to, and in compliance with, the procedures prescribed by these rules. 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.
- D. The Chair has the authority to act outside a meeting, in consultation with the Executive Officer, on procedural and administrative matters that cannot reasonably be deferred to the next Commission meeting. The Chair's authority

shall include the signing of contracts for urgently needed goods and services if the Executive Officer is unavailable.

- E. The Chair, with the exception of the Executive Committee, shall appoint members to all committees of the Commission, including the authority to create special-purpose committees not named in these Bylaws.
- F. The Executive Committee of the Commission shall generally be comprised of the current Chair, Vice Chair, and immediate past Chair. The Executive Committee meets as needed to discuss preliminary agency budgets and other agency issues and serves in an advisory role to the full Commission.
- G. 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.
- H. In the event both the Chair and Vice Chair are absent from a Commission meeting at which a quorum is present, the Immediate Past Chair shall act as Chair pro tempore for that meeting.
- I. In the event that the Chair, Vice Chair and Immediate Past Chair are absent from a Commission meeting at which a quorum is present, the voting members present shall appoint a member to act as Chair pro tempore for that meeting.

#### **1.19 REMOVAL OF MEMBERS**

The Commission may recommend to the appointing authority that a member be removed for the following reasons:

- A. The absence of that member from three consecutive meetings or more than half of the meetings in any twelve-month period.
- B. Malfeasance of office or dereliction of duty by that member.
- C. Failure to complete required financial disclosure documents in a timely manner.

#### **1.20 COMPENSATION**

- A. Each member in attendance at any Commission regular or special meeting shall receive a stipend of \$100 per meeting, up to a maximum of \$200 per month. A W-2 Form (IRS wage and tax statement) shall be issued to each Commissioner no later than January 31st of each year.
- B. Members appointed to committees shall receive \$50 for attendance at committee meetings or half the amount paid for attendance at Commission

meetings (as set forth in item “A” above). As specified under item “A” (above), the maximum amount paid to any Commissioner in a given month shall not exceed \$200.

- C. Members will be reimbursed at the currently applicable IRS rates for reasonable and necessary mileage expenses incurred for meeting attendance and other Commission business, including committee meetings and CALAFCO functions. Mileage expenses are not included in the wage and tax statement.
- D. Members attending CALAFCO functions (i.e., conferences, workshops, Executive Board meetings) shall be compensated for the expenses associated with conference registration, accommodations, parking, mileage, and car rental. Commissioners shall not receive a stipend for attending such functions. However, if a Commissioner serves as a CALAFCO Board Member, he/she shall receive a stipend for attending CALAFCO Executive Board meetings (as set forth in items “A” and “B” above).
- E. Commissioners are not employees of OC LAFCO and are not eligible for any employee benefits.

#### **1.21 FINANCIAL DISCLOSURE**

- A. OC LAFCO members are subject to the requirements of the Levine Act and California Fair Political Practices Commission (FPPC), including annual filing of the Statement of Economic Interests (Form #700) with the Orange County Board of Supervisors Office by the date determined by the FPPC.
- B. Any member of the Commission not in compliance with this requirement is subject to the fines and penalties established by the FPPC.

#### **1.22 ELIGIBILITY OF COMMISSIONERS FOR STAFF POSITIONS**

The Commission shall not accept the application of any current regular or alternate Commissioner for an OC LAFCO staff position unless such application is accompanied by the Commissioner’s signed letter of resignation.

#### **1.23 EXECUTIVE OFFICER**

- A. The Executive Officer shall be appointed by resolution of the Commission to serve at the pleasure of the Commission. S/he or her/his representative shall prepare or cause to be prepared an agenda for each meeting and maintain a record of all proceedings as required by law and these bylaws and as instructed by the Commission. S/he, or a designee, shall set all hearing dates, publish all necessary advertisements and any other notices as provided herein below, and shall oversee

the performance of all other clerical and administrative services required by the Commission.

- B. In addition, the Executive Officer shall:
  - 1. Hire and discharge all other employees of the Commission as may be necessary to effectively facilitate the business of the Commission.
  - 2. Call on other County departments for information as the need arises.
  - 3. Approve all necessary forms used by the Commission and staff and cause them to be prepared and safely keep all necessary records and Commission minutes.
  - 4. Carry out all orders and directions as instructed by the Commission.

#### **1.24 GENERAL COUNSEL**

- A. The OC LAFCO General Counsel shall be appointed by the Commission and shall serve at the pleasure of the Commission.
- B. OC LAFCO General Counsel shall:
  - 1. Attend all meetings of the Commission.
  - 2. Give all requested advice on legal matters.
  - 3. Represent the Commission in legal actions unless the Commission specifically makes other arrangements.

### **ARTICLE 4 – MEETINGS/CONDUCT OF BUSINESS**

#### **1.25 REGULAR MEETINGS**

- A. Regular Commission meetings are held the second Wednesday of each month at 8:15 a.m. in the County Administrative North (CAN), First Floor Multipurpose Room 101, 400 W. Civic Center Drive in Santa Ana, CA 92701.
- B. The Commission shall establish a schedule of its upcoming meetings at least six months in advance. The Commission shall adopt a calendar detailing its annual meeting schedule for the following year at the regular Commission meeting in November, or the next regular meeting thereafter. This meeting schedule will be attached to the monthly agenda mail-out and posted to the OC LAFCO website.
- C. Notwithstanding any other provision of these Bylaws, all meetings of the Commission shall be noticed and held in accordance with the Ralph M. Brown Act,

the “Open Meeting Law,” Government Code Sections 54950 – 54963.

### **1.26 SPECIAL MEETINGS**

- A. The Chair or Executive Officer may call a special meeting of the Commission. Also, the Chair shall call a special meeting if requested by three or more commissioners.
- B. Special meetings of the Commission shall be called in the manner provided by Section 54956 of the Government Code. Required statutory notice shall be given to all regular and alternate members. The order calling the special meeting shall specify the time and place of the meeting and the business to be transacted at such meeting, and no other business shall be considered at the meeting.

### **1.27 NOTICE OF MEETINGS/AGENDAS**

- A. The Executive Officer shall provide notice of all regular and special meetings in accordance with the “Open Meeting Law,” Section 54954.1 of the Government Code, and applicable provisions of the CKH Act.
- B. The Executive Officer, in consultation with the Chair, shall prepare the agenda for each meeting, which will serve as written notice of regular and special meetings of the Commission. Unless otherwise directed by the Commission, the Executive Officer shall set as many matters for hearing as can be reasonably heard. Each agenda item will specify a single subject to be considered.
- C. Though the order of business may vary slightly per the Executive Officer or Commission’s discretion, agendas will include the following items:
  - 1. Call to Order.
  - 2. Pledge of Allegiance.
  - 3. Roll Call.
  - 4. Approval of Minutes.
  - 5. Public Comments – 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 on off-agenda items unless authorized by law.
  - 6. Consent Calendar.
  - 7. Public Hearing.



8. Commission Discussion and Action -- includes items requiring discussion and action from the Commission. Actions may include receive and file of reports or approval/adoption by the Commission.
  9. Commissioner Comments – an opportunity for commissioners to comment on items not listed on the agenda, provided that the subject matter is within the jurisdiction of the Commission and that no action or discussion by a quorum of the Commission may be taken on off-agenda items unless authorized by law.
  10. Executive Officer’s Report.
  11. Informational Items.
  12. Closed Session.
  13. Adjournment.
- D. The regular meeting agenda packet will be sent by electronic means or mailed or faxed upon request to at least the following:
1. Each Commission member and OC LAFCO staff.
  2. Affected County agencies.
  3. To any person or entity requesting a copy of the agenda in writing as follows:
    - a. OC LAFCO staff shall provide electronic access to the meeting agenda and agenda packet to any person who has filed a written request for such materials at the time the agenda is posted.
    - b. Upon request, OC LAFCO staff shall provide a written copy of the meeting agenda and agenda packet in accordance with Orange County OC LAFCO’s established fee schedule.

A request for a written copy of the meeting agenda and agenda packet is valid for one calendar year in which it is filed and must be renewed with LAFCO staff following January 1 of each year.

    - c. Failure of the requesting person to receive the agenda does not constitute grounds for invalidation of actions taken at the meeting.
  4. The Executive Officer shall provide additional notice of specific applications in the manner required by the CKH act for that application. Such notices shall be

sent to the applicant, affected property owners or citizens, and other persons or entities as the Commission or the Executive Officer may deem appropriate.

- E. Meeting agendas will be posted at least 72 hours in advance of the meeting in the following locations:
  - 1. On the OC LAFCO website at [www.oclafco.org](http://www.oclafco.org).
  - 2. Submitted to the County of Orange, Clerk of the Board for posting at the digital kiosk located at 601 North Ross Street, Santa Ana, CA 92701.
- F. The Executive Officer shall complete a staff report, including his/her recommendations, not less than seven days prior to the hearing. Copies of the staff report, along with the agenda, shall be furnished to each Commissioner and to other parties as required by the CKH Act (Government Code §56665), including:
  - 1. Persons designated in the application.
  - 2. Each city and/or local agency whose boundaries or sphere of influence would be changed by the proposal or recommendations.
  - 3. Each affected local agency which has filed a request for the report with the Executive Officer.

#### **1.28 QUORUM AND MAJORITY**

- A. Four Commissioners present in person and entitled to vote shall constitute a quorum.
- B. Commissioners may participate in commission meetings via video and/or teleconferencing and count towards the quorum as long as the requirements of Government Code Section 54953 are followed. In summary, Government Code Section 54953 requires:
  - 1. Agendas must be posted at any location where a Commissioner is video and/or teleconferencing, and each teleconference location must be identified in the meeting notice and agenda.
  - 2. Each video and/or teleconference location must be accessible to the public, and members of the public must have an opportunity to address the Commission at each teleconference location.
  - 3. The video and/or teleconference location must be within the jurisdictional boundaries of Orange County.

- C. An affirmative vote of four or more commissioners is required to make an action of the Commission, unless a more specific vote requirement is provided in the CKH Act. Proxy votes are not allowed.
- D. All members of the Commission, including the city alternate, the county alternate, special district alternate, and the public member alternate, shall attend all meetings of the Commission. The alternate members qualify to vote only in the place of the class of the Commission member to who s/he serves as alternate.

### **1.29 CONDUCT OF MEETINGS**

- A. Each meeting shall begin with the Chair’s call to order, followed by the pledge of allegiance, and then the roll call. Thereafter, the order of business shall follow as outlined in the agenda prepared by the Executive Officer.
- B. The usual order of business is as follows, though may vary according to the Executive Officer or Commission’s discretion:
  - 1. Call to Order
  - 2. Pledge of Allegiance
  - 3. Roll Call
  - 4. Approval of Minutes
  - 5. Public Comments
    - a. Per Government Code Section 54954.3, any member of the public wishing to address the commission on a topic NOT listed on the agenda, but within the jurisdiction of the Commission, may do so during this section of the agenda.
    - b. Those wishing to address the Commission during the public comment session may submit a speaker card to the Commission Clerk in advance of the Chair calling for public comments. Each speaker shall be allotted three minutes to address the Commission, subject to the discretion of the Chair.
    - c. Except as permitted under the “Open Meeting Law,” the Commission cannot discuss or act on an item that is not listed on the agenda.
  - 6. Consent Calendar
    - a. Consent items are voted on in a group with one motion.
    - b. If any member of the Commission desires that a separate vote be taken on any individual matter listed with the consent items, then that matter may be

removed from the consent calendar and voted on separately.

- c. Discussion and public comment on any matter listed within the consent items may occur without removing that matter from the consent calendar for a separate vote.
- d. A Commissioner may record an abstention on one or more matters listed on the consent calendar by so stating at the time the vote is taken.

## 7. Public Hearing

The Commission shall conduct matters noticed for public hearing as follows:

- a. The Executive Officer or staff designee shall present the staff report. The report should describe the nature of the application, discuss all factors required in Section 56668 of the Government Code, and present the Executive Officer's recommendations.
- b. Commissioners may address staff and ask questions concerning matters in the staff report.
- c. The Chair shall open the public hearing.
  - 1) Speaker cards are available for those wishing to address the Commission during the public hearing. Speakers may submit a speaker card to the Commission Clerk in advance of the Chair opening the public hearing.
  - 2) Speakers are requested to identify themselves when presenting before the Commission. However, Government Code Section 54953.3 provides that no member of the public shall be required to register his/her name or provide other information.
  - 3) The applicant/main proponent of an item and representatives of the affected agencies shall be allowed three minutes to address the Commission. Each additional speaker shall be allotted three minutes. Time limits are subject to the discretion of the Chair. Speakers will be called to address the Commission in the following order:
    - a) The applicant or applicant's representative and representative(s) from the agency(ies) involved in, or affected by, the change of organization will be asked to speak first to add any pertinent data or testimony to the staff report.
    - b) The public will then be invited to give testimony. When a group

wishes to present before the Commission, the Chair may request that a spokesperson be chosen by the group to address the Commission.

- 4) Commissioners may question any participant in the proceedings.
  - 5) The Chair shall close the public hearing following the receipt of testimony and rebuttals.
  - 6) Following closure of the public hearing, the members will discuss the matter under consideration among them and/or act on the matter. Discussion may or may not be preceded by a motion made by any voting member of the Commission and a second made by another.
  - 7) Further testimony from the applicant or the public may not be accepted without reopening the public hearing, except that commissioner may direct questions to specific members of the public who have already offered testimony in order to clarify any point made during the public hearing.
8. Commission Discussion
  9. Commissioner Comments
  10. Executive Officer's Report
  11. Informational Items
  12. Closed Session
  13. Adjournment
- C. The Chair may allocate time for argument by interested parties and testimony by witnesses as may be necessary for the expedition of the Commission's business.
- D. Motions and Voting
1. Any voting commissioner may introduce or second any motion. The Chair may make or second any motions without relinquishing the Chair.
  2. The question of approval or denial of a proposal, whether it is the approval of a proposed annexation, incorporation, or formation or a procedural or organizational matter, may be voted upon by voice vote or may be put to the question by the Chair with a unanimous vote stipulated and recorded if there is no objection.



I [Commission Clerk] of the Local Agency Formation Commission of Orange County, California, hereby certify the foregoing to be a full, true, and correct copy of the duly adopted bylaws of the Local Agency Formation Commission of Orange County, California, currently in effect on the date herein below set forth.

IN WITNESS WHEREOF, I have hereunto set my hand this [insert day, month, and year].

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Commission Clerk

**Originally Adopted: Pre-1977**

**Last Reviewed: 3/8/2023**

**Last Revised: 3/8/2023**



SECTION 2:

# ACCOUNTING AND FINANCE POLICIES AND PROCEDURES



# Accounting and Financial Policies of the Orange County Local Agency Formation Commission

## PART 1 – INTRODUCTION

### **2.1 INTRODUCTION**

The following accounting manual is intended to provide an overview of the accounting policies and procedures applicable to OC LAFCO.

This manual documents the financial operations of the organization. Its primary purpose is to formalize accounting policies and selected procedures for the accounting staff and to document internal controls.

All OC LAFCO staff is bound by the policies herein, and any deviation from established policy is prohibited.

## PART 2 – GENERAL POLICIES

### **2.2 ORGANIZATIONAL STRUCTURE**

#### A. The Role of the Commission

OC LAFCO is governed by its Commission, which is responsible for the oversight of the organization by:

1. Planning for the future
2. Establishing broad policies
3. Identifying and proactively dealing with emerging issues
4. Interpreting the organization's mission to the public

B. The Commission is responsible for hiring and periodically evaluating the organization's Executive Officer, who shall be responsible for the day-to-day oversight and management of OC LAFCO. Specific guidelines regarding the composition and election of the Commission are described in the organization's bylaws.

### C. The Role of the Executive Officer and Staff

The Commission hires the Executive Officer, who reports directly to the Commission. The Executive Officer is responsible for hiring and evaluating all employees of OC LAFCO. All employees report directly to the Executive Officer.

## 2.3 ACCOUNTING OVERVIEW

### A. Organization

1. The accounting functions of OC LAFCO are performed by three employees and an accounting firm who manage and process financial information for OC LAFCO. The positions comprising the accounting functions of OC LAFCO are as follows:
  - a. Commission Clerk/Office Manager
  - b. Executive Officer
  - c. Assistant Executive Officer
  - d. Accounting firm staff and accountant
2. Other officers and employees of OC LAFCO who have financial responsibilities are as follows:
  - Executive Officer's Designee
  - Commission

### B. Responsibilities

1. General Ledger
2. Budgeting
3. Cash and Investment Management
4. Asset Management
5. Purchasing
6. Cash Receipts

7. Accounts Payable
8. Payroll and Benefits
9. External Reporting of Financial Information
10. Annual Audit

## **2.4 BUSINESS CONDUCT**

### Practice of Ethical Behavior

- A. Unethical actions, or the appearance of unethical actions, are unacceptable under any conditions. The policies and reputation of OC LAFCO depend to a very large extent on the following considerations.
- B. Each employee must apply her/his own sense of personal ethics, which should extend beyond compliance with applicable laws and regulations in business situations, to govern behavior where no existing regulations provide a guideline. It is each employee's responsibility to apply common sense in business decisions here specific rules do not provide all the answers.
- C. In determining compliance with this standard in specific situations, employees should ask themselves the following questions:
  1. Is my action legal?
  2. Is my action ethical?
  3. Does my action comply with OC LAFCO policy?
  4. Could my action appear to be inappropriate?
  5. Does my action meet my personal code of ethics and behavior?

Each employee should be able to answer "yes" to all of these questions before acting.

- D. Each OC LAFCO employee is responsible for the ethical business behavior of her/his subordinates. All employees and commissioners must carefully weigh all courses of action suggested in ethical as well as economic terms and base their final decisions on the guidelines provided by this policy as well as their sense of right and wrong.
- E. All OC LAFCO staff will complete ethics training as required by the State of California.

## **2.5 FRAUD POLICY**

A. Scope

This policy applies to any fraud or suspected fraud involving employees, officers or directors, as well as members, vendors, consultants, contractors, funding sources and/or any other parties with a business relationship with OC LAFCO. Any investigative activity required will be conducted without regard to the suspected wrongdoer's length of service, position/title, or relationship with OC LAFCO.

B. Policy

The Executive Officer, OC LAFCO staff and Commission are responsible for the detection and prevention of fraud, misappropriations, and other irregularities.

Fraud is defined as the intentional, false representation or concealment of a material fact for the purpose of inducing another to act upon it to his or her injury. Each member of the OC LAFCO team will be familiar with the types of improprieties that might occur within his or her area of responsibility and be alert for any indication of irregularity.

Any fraud that is detected or suspected must be reported immediately to the Executive Officer or, alternatively, to the Chair of the OC LAFCO Commission.

C. Actions Constituting Fraud

The terms fraud, defalcation, misappropriation, and other fiscal irregularities refer to, but are not limited to:

1. Any dishonest or fraudulent act
2. Forgery or alteration of any document or account belonging to OC LAFCO
3. Forgery or alteration of a check, bank, draft, or any other financial document
4. Misappropriation of funds, securities, supplies, equipment, or other assets of OC LAFCO
5. Impropriety in the handling or reporting of money or financial transaction
6. Disclosing confidential and proprietary information to outside parties
7. Accepting or seeking anything of material value from contractors, vendors, or persons providing goods or services to OC LAFCO

8. Destruction, removal or inappropriate use of records, furniture, fixtures, and equipment
9. Any similar or related irregularity

D. Other Irregularities

Irregularities concerning an employee's moral, ethical, or behavioral conduct should be resolved by the Executive Officer. If there is a question as to whether an action constitutes fraud, contact the Executive Officer or the Chair of the Commission for guidance.

E. Investigation Responsibilities

The Executive Officer has the primary responsibility for the investigation of all suspected fraudulent acts as defined in the policy. The Executive Officer may utilize whatever internal and/or external resources necessary in conducting an investigation. If an investigation substantiates that fraudulent activities have occurred, the Executive Officer will issue a report to appropriate designated personnel and, if appropriate, to the Commission. Decisions to prosecute or refer the examination results to the appropriate law enforcement and/or regulatory agencies for independent investigation will be made in conjunction with legal counsel and senior management, as will final dispositions of the case.

F. Confidentiality

The Commission and the Executive Officer will treat all information received confidentially. Any employee who suspects dishonest or fraudulent activity will notify the Executive Officer or the Commission Chair immediately and should not attempt to personally conduct investigations or interviews/interrogations related to any suspected fraudulent act.

Investigation results will not be disclosed or discussed with anyone other than those who have a legitimate need to know. This is important in order to avoid damaging the reputations of person suspected but subsequently found innocent of wrongful conduct and to protect OC LAFCO from potential civil liability.

G. Authority for Investigation of Suspected

Fraud Members of the Commission will have:

1. Free and unrestricted access to all OC LAFCO records and premises, whether owned or rented.

2. The authority to examine and copy any portion of the contents of files, desks, cabinets, and other storage facilities on the premises without prior knowledge or consent of any individual who may use or have custody or any such items or facilities when it is within the scope of their investigations.

## **2.6 GENERAL LEDGER AND CHART OF ACCOUNTS**

The general ledger is defined as a group of accounts that supports the information shown in the major financial statements. The general ledger is used to accumulate all financial transactions of OC LAFCO and is supported by subsidiary ledgers that provide details for certain accounts in the general ledger. The general ledger is the foundation of the accumulation of data and reports.

### **A. Funding Accounting**

OC LAFCO utilizes fund accounting. A fund is defined as a fiscal and accounting entity with a self-balancing set of accounts established to record the financial position and results of operations of a specific governmental activity. OC LAFCO has the following funds:

1. General Fund – The government’s primary operating fund. It accounts for all financial resources of the government, except those required to be accounted for in another fund.
2. Special Revenue Funds – Used to account for the proceeds of specific revenue sources that are restricted to expenditure for specified purposes.

### **B. Chart of Accounts Overview**

The chart of accounts is the framework for the general ledger system, and therefore the basis for OC LAFCO’s accounting system. The chart of accounts consists of account titles and account numbers assigned to the titles. General ledger accounts are used to accumulate transactions and the impact of these transactions on each asset, liability, fund balance, revenue, and expenditure account OC LAFCO’s chart of accounts is comprised of six types of accounts:

1. Assets
2. Liabilities
3. Fund Balance



4. Revenues

5. Expenses

6. Other Sources and Uses

OC LAFCO utilizes "Classes" in QuickBooks to track Special Revenue Fund activities.

C. Account Definitions

1. General Ledger

| <b>Account Range</b> | <b>Category</b> | <b>Definition</b>   |
|----------------------|-----------------|---|
| QuickBooks           | Assets          | <p>Assets are probable future economic benefits obtained or controlled by the organization as a result of past transactions.</p> <p>Capital assets are not required on the fund financial statements, only on the government-wide financial statements.</p>   |
| QuickBooks           | Liabilities     | <p>Liabilities are probable future sacrifices of economic benefits arising from present obligations of the organization to transfer assets or provide services to other entities in the future as a result of past transactions or events.</p> <p>Liabilities of OC LAFCO are classified as current or long-term.</p> <p>Current liabilities are probable sacrifices of economic benefits that will likely occur within one year of the date of the financial statements or which have a due date of one year or less. Common examples of current liabilities include accounts payable, accrued liabilities, short-term notes payable, and deferred revenue.</p> <p>Long-Term Liabilities are probable sacrifices of economic benefits that will likely occur more than one year from the date of the financial statements.</p> |
| QuickBooks           | Fund Balance    | Fund Balance is the difference between total assets and total liabilities.  |
| QuickBooks           | Revenues        | Revenues are inflows or other enhancements of assets, or settlements of liabilities, from delivering or producing goods, rendering services, or other activities that constitute an organization's ongoing major or central operations.   |

|            |          |  |
|------------|----------|--|
| QuickBooks | Expenses | Expenses are outflows or other using up of assets or incurrences of liabilities from delivering or producing goods, rendering services, or carrying out other activities that constitute OC LAFCO's ongoing major or central operations. |
|------------|----------|--|

All general ledger entries that do not originate from an accounting cycle such as cash receipts or cash disbursements shall be accompanied by supporting documentation, which shall include a reasonable explanation of each such entry. Examples of such entries include:

1. Recording of non-cash transactions
2. Corrections of posting errors
3. Accruals of income and expenses

### **PART 3 – Policies Associated with Revenues and Cash Receipts**

#### **2.7 REVENUE RECOGNITION POLICIES**

OC LAFCO receives revenue from several types of transactions. Revenue from each of these types of transactions is recognized in the financial statements of OC LAFCO in the following manner:

- A. OC LAFCO Apportionment – Received at the beginning of the fiscal year. Amount is equal to the approved operating budget and is split three ways among the County, the Cities, and the Special Districts. Revenues are recorded in the general fund.
- B. Application and Processing Fees – Provided by incoming project application. Filing fees and time and material deposits are collected to offset costs associated with applications and vary with each project. Filing fees are not budgeted as revenue due to the uncertainty of when applications are filed. These fees are accounted for by the project manager and recorded in a separate special fund.
- C. Interest Income – Interest on investments held by the County, the Local Agency Investment Fund (LAIF), Orange County Investment Pool (OC Fund), Public Agency Retirement Services (PARS), or other investments permitted by Commission policy. Interest income held by the County, LAIF, and OC Fund is recorded in the general fund. Interest income held by the PARS is recorded in the PARS benefits trust account.
- D. Other Income – Miscellaneous revenues, including copies of agenda packets, minutes, and meeting tapes. Other income is recorded in the general fund.

#### **2.8 BILLING/INVOICING POLICIES**

- A. Overview  
The following is a list of items billed and/or accrued and received by OC LAFCO and the frequency with which each is billed:

1. Annual Billings
  - a. OC LAFCO Apportionment – Billings are performed and collected by the County

of Orange.

## 2. Miscellaneous Billings

- a. Filing Fees
- b. Agenda and Minutes copying fees
- c. Reimbursements (phone charges, workshops)

## B. Receipt and Handling of Incoming Money

It is the responsibility of the Office Manager to open the mail on a daily basis. All checks must be “restrictively endorsed” upon receipt. The Office Manager stamps all checks with the agency’s endorsement stamp (“For Deposit Only, Account #\_\_\_\_.”).

### 1. Check Log

The Office Manager makes copies of all incoming checks and will place the properly endorsed checks in a lock box. The Office Manager will further log the checks into a spreadsheet, which includes fields for the following information:

- a. Payee
- b. Check number
- c. Amount of check
- d. Date issued
- e. Date of receipt
- f. Date of deposit
- g. Purpose of funds
- h. Related OC LAFCO project number (if applicable)

The lock box will be properly secured, and its access will be limited to a minimum number of OC LAFCO staff.

### 2. Deposits

The Executive Officer, the Assistant Executive Officer, or the Executive Officer’s designee will prepare a deposit slip when checks are received by the agency and will deposit funds into the agency’s bank account. The Office Manager will place copies of the deposit slips and corresponding bank receipts in the designated folder. The

Office Manager will update the check log to reflect the deposits.

### 3. Reconciliation of Accounts

The accounting firm staff will perform a reconciliation of the agency's bank accounts once monthly upon receipt of the agency's bank statements. The accounting firm staff will compare the deposit slips to the check log and the agency's bank statements to ensure that all funds are properly deposited and credited to the agency's accounts. The accountant will review the accounting firm staff's work.

### C. Wire Transfers

The agency will maintain a deposit in an amount equal to estimated costs of quarterly payroll in County Account 770. The remaining balance will be wired to the agency's bank account. The accounting firm staff will prepare a cash flow analysis and permitted uses for excess cash shall be as follows: (a) contributions to the agency's Public Agency Retirement Services (PARS) Section 115 benefits trust; and (b) investment in the Local Agency Investment Fund (LAIF), Orange County Investment Pool (OC Fund) and/or other investment options approved by the Commission. Wire transfers for such permitted uses shall be processed in accordance with the wire transfer procedures of the County of Orange, OC Fund, LAIF and PARS.

The Executive Officer and the Executive Officer's designee will complete the County of Orange Wire Transfer Request Form. The completed Wire Transfer Form will be signed by BOTH the Executive Officer and the Executive Officer designee. The Office Manager will make a copy of the Wire Transfer Form for the agency's records and will submit the signed Wire Transfer Request Form to the County Auditor – Controller for processing.

The accounting firm staff will compare the Wire Transfer Request Form to the agency's bank statements each month to ensure that all funds are properly transferred and credited to the agency's accounts. Periodically, a withdrawal of funds from LAIF and the OC Fund will be required to maintain ongoing payroll and operating expenses.

LAIF deposits and withdrawals are completed electronically. All electronic deposits and withdrawals will be authorized by the Executive Officer and/or the Executive Officer's designee. A log of all deposits and withdrawals for LAIF will be maintained and documentation of each deposit and withdrawal will be provided to the accounting firm staff.

OC Fund deposits and withdrawals require at least one (1) full business day to complete a deposit and at least three (3) full business days to complete a withdrawal. Deposits require the completion of a deposit form signed by both the Executive Officer and the Executive Officer designee. Withdrawals of funds from the agency's bank accounts to the OC Fund require the completion of appropriate transfer documents signed by both the Executive Officer and the Executive Officer designee. A log of all deposits and withdrawals for the OC Fund will be maintained and documentation of each deposit and withdrawal will be provided to the accounting firm staff.

Contributions to and payment reimbursements/distributions from the Section 115 benefits trust shall be processed in accordance with the PARS Administrative Agreement. The Executive Officer or the Executive Officer's designee shall complete the required forms to affect any contributions or distributions of the benefits trust account. A record of all transactions of the benefits trust will be maintained and documentation of each contribution and distribution will be provided to the accounting firm staff.

#### D. Cash Disbursements

##### 1. Vendor Invoices

The Office Manager will receive, and open mail and date stamp all invoices, and place invoices in the accounting firm staff's folder for processing. The Office Manager will forward all invoices to the Executive Officer or Executive Officer designee for review and approval. The Office Manager will coordinate approval of the invoices and identify a project number for each invoice. The accounting firm staff will record the invoice in QuickBooks and generate the check. All invoices will be approved by the Executive Officer prior to payment. The Office Manager will place a copy of the check and invoice in the respective vendor files. The Office Manager will mail checks to vendors.

##### 2. Check-Writing Provisions

The Executive Officer or the Executive Officer designee may sign checks written for less than \$500. Checks written for \$500 or more require the signatures of BOTH the Executive Officer and the Executive Officer designee. The Office Manager will maintain copies of all checks written on the agency's checking account.

##### 3. Reconciliation

As stated previously, the accounting firm staff will perform a reconciliation of the agency's bank accounts once monthly upon receipt of the agency's bank statements. This includes a reconciliation of the agency's checking account. The accounting firm staff will compare checks written on the agency's checking account against the agency's bank statements to ensure that all funds are properly debited from the agency's account.

##### 4. Stale Checks

In reconciling the agency's checking account, the accounting firm staff will be responsible for identifying checks issued by OC LAFCO which have not been cashed within six months of issuance. The accounting firm staff will notify the Executive Officer of any "stale" checks during the checking account reconciliation process. If any stale checks are identified, the Executive Officer or the Executive Officer's designee will request the bank to issue a "stop payment" and direct the accounting firm staff to prepare a replacement check when necessary.

## 5. Check Stock

Check stock will be maintained in a locked drawer in the Executive Officer's office. Access to the check stock will be restricted to the Executive Officer or the Assistant Executive Officer.

## 6. Agency Credit Card

All credit card purchases of \$250 or more must be approved, prior to the transaction, by BOTH the Executive Officer and the Executive Officer designee. OC LAFCO maintains three (3) credit cards. The Office Manager, Assistant Executive Officer and the Executive Officer each hold one card. All credit card bills must be reviewed by the Executive Officer prior to payment being issued. All purchases made with the OC LAFCO credit cards must be directly related to OC LAFCO's mission.

## E. Reporting

Reports – Monthly reports, prepared by the accounting firm staff, for OC LAFCO staff and/or Commission will include:

1. Balance Sheet
2. Cash Flow Statement
3. Detailed Profit and Loss Statement
4. Summary Profit and Loss with Budget and Percentages
5. Separate reports of designated projects as needed

## **PART 4 – Policies Associated with Expenditures and Disbursements**

### **2.9 PURCHASING POLICIES AND PROCEDURES**

#### A. Overview

THE POLICIES DESCRIBED IN THIS SECTION APPLY TO ALL PURCHASES OF GOODS AND SERVICES MADE BY OC LAFCO.

It is the policy of OC LAFCO to follow a practice of ethical, responsible and reasonable procedures related to purchasing, agreements and contracts, and related forms of commitment. The policies in this section describe the principles and procedures that all staff shall adhere to in the completion of their designated responsibilities.



B. Authorizations and Purchasing Limits

All purchases should adhere to the following guidelines:

| Dollar Limit      | # of Quotes | Required Communication | Approved by       |
|-------------------|-------------|------------------------|-------------------|
| <i>Goods</i>      |             |                        |                   |
| Under \$500       | 0           | Oral                   | Executive Officer |
| \$501 - \$10,000  | 2           | Written                | Executive Officer |
| \$10,000 and over | 3           | Written                | Commission        |
| <i>Services</i>   |             |                        |                   |
| Under \$500       | 0           | Oral                   | Executive Officer |
| \$501 - \$10,000  | 2           | Written                | Executive Officer |
| \$10,001 and over | 3           | Written                | Commission        |

C. Evaluation Process for a Request for Proposal (RFP)

When an RFP process is used to solicit vendors/consultants to provide a service or produce a specialized report for OC LAFCO, the Executive Officer shall develop a rating sheet to assist in the review of all submittals. The rating sheet shall include categories specific to the service or report being requested which comprehensively evaluates the individuals and/or firms competing for the OC LAFCO contractual agreement. The Executive Officer shall assign at least two (2) reviewers to participate in the review of the prospective vendor/consultant. Reviewers may include OC LAFCO staff and/or outside experts at the discretion of the Executive Officer.

Upon the Commission's final selection of a vendor/consultant in an open and competitive selection process, the final rating sheet will be made available to the Commission and all competitors upon requests.

RFPs should provide for all of the following:

1. A clear and accurate description of the technical requirements for the material, product or service to be procured. In competitive procurements, such a description shall not contain features which unduly restrict competition.
2. Requirements which the bidder/offer must fulfill and all other factors to be used in evaluating bids or proposals.
3. A description, whenever practicable, of technical requirements in terms of functions to be performed or performance required, including the range of acceptable characteristics or minimum acceptable standards.
4. A description of the proper format, if any, in which proposals must be submitted, including the name of the OC LAFCO person to whom proposals should be sent.

5. The date by which proposals are due.
6. Required delivery or performance dates/schedules.
7. Clear indications of the quantity(ies) requested and unit(s) of measure.

OC LAFCO may consider vendors/consultants to provide a service or produce a specialized report for OC LAFCO from a list established through an RFP process conducted by other LAFCOs or the County of Orange within the last three calendar years to provide a similar service.

#### D. Special Purchasing Conditions

1. Emergencies: Where equipment, materials, parts, and/or services are needed immediately, quotations will not be necessary if the health, welfare, safety, etc., of staff and protection of Organization property is involved.
2. Single Distributor/Source: Where there is only one (1) distributor for merchandise needed and no other product meets the stated needs or specifications, quotations will not be necessary.

#### E. Vendor Files and Required Documentation

The Officer Manager shall create a vendor file for each new vendor from whom OC LAFCO purchases goods or services. Copies of purchase orders, contracts, and all vendor invoices will be maintained in the vendor file.

#### F. Sole Source Service Agreements

In the event specialized OC LAFCO consultant services estimated to cost up to \$10,000 annually are needed to assist staff in completing a time-sensitive project or study, the Executive Officer may elect to waive the RFP process, subject to the following findings:

1. The consultant(s) selected offer a combination of skills, education and work experience that uniquely qualifies that individual or firm to provide the OC LAFCO services.
2. Even with due attention given to the project by staff, normal RFP processes would impair OC LAFCO's ability to meet statutory or Commission deadlines.

An annual report on agency agreements, including sole source service agreements, will be provided to the Commission.

## **2.10 ACCOUNTS PAYABLE MANAGEMENT**

### A. Overview

OC LAFCO strives to maintain efficient business practices and sound cost control. A

well-managed accounts payable function can assist in accomplishing this goal from the purchasing decision through payment and check reconciliation.

The vendor invoice should be supported by an approved purchase order where necessary and should be reviewed and approved by the Executive Officer or the Executive Officer's designee prior to being processed for payment. Invoices and related general ledger account distribution codes are reviewed prior to processing disbursements.

The primary objective for accounts payable and cash disbursements is to ensure that:

1. Disbursements are properly authorized.
2. Invoices are processed in a timely manner.
3. Invoice charges do not exceed the purchase order or OC LAFCO contract amount.

#### B. Processing of Invoices

The following procedures shall be applied to each invoice by the accounting firm staff:

1. Check the mathematical accuracy of the vendor invoice.
2. Compare the nature, quantity and prices of all items ordered per the vendor invoice to the purchase order, packing slip and receiving report.
3. Check the general ledger account identified by the Office Manager and approved by the Assistant Executive Officer, using the Organization's current chart of accounts.
4. Obtain the approval of the Executive Officer (or their designee) associated with the goods or services purchased.

#### C. Payment Discounts

To the extent practical, it is the policy of OC LAFCO to take advantage of all prompt payment discounts offered by vendors. When availability of such discounts is noted, and all required documentation in support of payment is available, payments will be scheduled to take full advantage of the discounts.

#### D. Employee Expense Reimbursements

Whenever OC LAFCO employees desire to be reimbursed for out-of-pocket expenses for item(s) or service(s) appropriately relating to agency business, they shall submit their requests on a reimbursement form approved by the Executive Officer or the Executive Officer designee. Included on the reimbursement form will be an explanation of the agency-related purpose for the expenditure(s), and receipts evidencing each expense shall be attached. Receipts are required to be submitted in conjunction with the expense

report form. Failure to submit necessary receipts will result in denial of the reimbursement claim. Expense reports shall be submitted within 90 days after incurring the expense.

It is against the law to falsify expense reports. Penalties for misuse of public resources or violating this policy may include, but are not limited to, the following:

1. The loss of reimbursement privileges
2. Restitution to the local agency
3. Civil penalties for misuse of public resources pursuant to Government Code Section 8314
4. Prosecution for misuse of public resources, pursuant to Section 424 of the Penal Code, penalties for which include 2, 3, or 4 years in prison

The Executive Officer will review and approve reimbursement requests. Reimbursement requests by the Executive Officer will be reviewed by the Executive Officer designee.

#### E. Commissioner Expense Reimbursements

OC LAFCO shall adhere to Government Code Section 56334 when dealing with issues of commissioner remuneration and reimbursement.

Attendance at a meeting of the Commission or LAFCO-related conference or event engenders a commissioner to be eligible to receive compensation.

Commissioners are eligible to receive reimbursements for travel, meals, lodging, and other reasonable and necessary expenses for attending the above on behalf of OC LAFCO. Reimbursement rates shall coincide with rates set by Internal Revenue Service (IRS) Publication 463 or its successor publication(s).

Lodging costs shall not exceed the maximum group rate published by the conference or activity sponsor. If the published group rate is unavailable, commissioners shall be reimbursed for comparable lodging at government or IRS rates. Commissioners shall use government or group rates offered by the provider of transportation when available.

Any and all expenses that do not fall within the adopted travel reimbursement policy or the IRS reimbursable rates are required to be approved by the Commission in a public meeting prior to the expense(s) being incurred. Expenses that do not adhere to the adopted travel reimbursement policy or the IRS reimbursable rates, and that do not receive prior approval from the Commission in a public meeting prior to the expense being incurred, shall not be eligible for reimbursement.

OC LAFCO shall provide expense reimbursement report forms to Commissioners who attend the above functions on behalf of the Commission, which shall document that

expenses adhere to this policy. Receipts are required to be submitted in conjunction with the expense report form. Failure to submit necessary receipts will result in denial of the reimbursement claim. Expense reports shall be submitted within a reasonable time, and at no time more than 90 days after incurring the expense.

It is against the law to falsify expense reports. Penalties for misuse of public resources or violating this policy may include, but are not limited to, the following:

1. The loss of reimbursement privileges
2. Restitution to the local agency
3. Civil penalties for misuse of public resources pursuant to Government Code Section 8314
4. Prosecution for misuse of public resources, pursuant to Section 424 of the Penal Code, penalties for which include 2, 3, or 4 years in prison

## **2.11 CREDIT CARD PURCHASES**

### **A. Overview**

The Office Manager, the Assistant Executive Officer, and the Executive Officer are the custodians of the credit cards. When purchases are made, the receipts are retained in accordance with the Commission's retention policy.

### **B. Reconciliation of Statements**

The receipts shall be maintained in the OC LAFCO Purchasing Card binder. When the monthly statements are received, the purchases should be compared to the receipts maintained by the Office Manager. The credit card Statement of Account will be signed by the Executive Officer and the Executive Officer designee verifying that all purchases are valid.

## **2.12 PAYROLL AND RELATED POLICIES**

### **A. Payroll Administration**

OC LAFCO operates on a bi-weekly payroll. For all OC LAFCO employees, a personnel file is established and maintained with current documentation, as described throughout this section.

The following forms, documents and information shall be obtained and included in the personnel files of all new employees:

1. Letter of Interest and resume
2. Applicant references (work & personal)

3. Interview questions and notes
4. Form W-4 Employee Federal Withholding Certificate
5. State Withholding Certificate
6. Form I-9 Employment Eligibility Verification
7. Copy of driver's license
8. Copy of Social Security card issued by the Social Security Administration
9. Starting date and scheduled hours
10. Job title and starting salary
11. Authorization for direct deposit of paycheck, along with a voided check or deposit slip

All personnel documents will be maintained within a confidential and protected filing system.

#### B. Changes in Payroll Data

It is policy of OC LAFCO that all of the following changes in payroll data are to be authorized in writing:

1. New hires
2. Terminations
3. Changes in salaries and pay rates
4. Voluntary payroll deductions
5. Changes in income tax withholding status
6. Court-ordered payroll deductions

New hires, terminations, and changes in salaries or pay rates shall be authorized in writing by the Executive Officer and forwarded to the County. Salary changes for the Executive Officer are approved by the Commission and authorized in writing by the OC LAFCO Chair.

Voluntary payroll deductions and changes in income tax withholdings status shall be authorized in writing by the individual employee.

Documentation of all changes in payroll data shall be maintained in each employee's

personnel file.

C. Preparation of Timesheets

Each OC LAFCO employee must sign or initial a Bi-Weekly Timesheet detailing the hours worked, following the close of each pay period. The Executive Officer shall review and sign all staff timesheets. The Office Manager shall be responsible for reviewing the Executive Officer's timesheet. In addition, each employee shall complete an electronic timesheet through the County of Orange Virtual Timesheet Interface (VTI). As the County of Orange is the payroll agent for OC LAFCO, the VTI timesheets are required. The Office Manager shall also complete a cover sheet identifying the organization, number of employees, and pay period. This form should be signed by the Executive Officer or the Office Manager/Commission Clerk and remitted to the County for processing.

D. Review of Payroll

Upon receipt of the bi-weekly payroll reports, the Executive Officer should review the payroll reports for accuracy. This review shall include verification of the following: employee status (active/non-active/terminated), bi-weekly pay (current hourly and total) and vacation accrual and time-off. The Executive Officer shall sign the payroll report indicating that it has been reviewed.

E. Distribution of Payroll

It is recommended that payroll payments be transferred electronically by County Payroll into OC LAFCO employees' bank accounts. However, employees may elect to receive bi-weekly payroll checks.

F. Independent Contractors and Commissioners

1. Independent Contractors

OC LAFCO utilizes private individuals and firms ("Independent Contractors") to provide a variety of specialized and professional services. The provision of and payment procedures for these services are established and outlined in a written professional services agreement approved by the Executive Officer or the Commission. The following payroll and related policies that apply to an Independent Contractor include:

- a. Payments to OC LAFCO Independent Contractors are made subject to the terms and conditions of the respective professional services agreement. Payments to all independent contractors are prepared by the OC LAFCO accounting staff. No payments to any independent contractor shall be processed through the County of Orange payroll system.
- b. OC LAFCO Independent Contractors shall maintain a separate business location and maintain requested license and insurance requirements.

- c. OC LAFCO Independent Contractors shall use their own equipment and resources (i.e., computer, laptop, cell phone) to provide the services outlined in the respective professional services agreement.
- d. OC LAFCO Independent Contractors must provide a completed IRS “Request for Taxpayer Identification Number and Certification (W-9)” upon execution of the professional services agreements.
- e. OC LAFCO Independent Contractors will be sent a Form 1099 if total compensation paid to that individual/firm for any calendar year, on the cash basis, is \$600 or more. The amount reported on a Form 1099 is equal to the compensation paid to that person during a calendar year (on the cash basis). Excluded from “compensation” are reimbursements of business expenses that have been accounted for by the contractor by supplying receipts and business explanations.

2. Commissioners

OC LAFCO Commissioners are not considered OC LAFCO employees. Stipend payments to Commissioners are processed by an independent payroll company and not through the County of Orange payroll system. Under Internal Revenue Code Section 3401(c), OC LAFCO’s treatment of Commissioners as “statutory employees” applies for income tax withholding purposes only, and not for any other purpose.

**PART 5 – Policies Pertaining to Specific Asset and Liability Accounts**

**2.13 CASH AND CASH MANAGEMENT**

A. Cash Accounts

The primary operating account provides for routine business check disbursements. All cash and credit card deposits are made to this account. Bank reconciliations are performed by the OC LAFCO accounting firm staff. The following minimum balances shall be maintained in the agency’s accounts at all times to ensure there are sufficient funds to cover ongoing operating and payroll expenses:

|           |                                      |
|-----------|--------------------------------------|
| Savings:  | \$205,000                            |
| Payroll:  | 3 Months of Current Payroll Expenses |
| Checking: | 3 Months of Operational Expenses     |

B. Reserve Policy

OC LAFCO currently has three reserve funds restricted to the agency’s savings account. These funds are as follows: (1) Contingency; (2) Litigation; and (3) Un funded Liability. These accounts are considered “restricted” accounts and are only used for the specific purposes described below:



1. Contingency Reserves – restricted funds to cover any unforeseen future agency loss and/or urgency which includes but is not limited to property or equipment damage, loss or theft. The minimum balance in the Contingency Reserve Account shall be \$100,000.
2. Litigation Reserves – restricted funds for cost related to agency legal challenges. The minimum balance in the Litigation Reserve Account shall be \$75,000.
3. Unfunded Liability Reserve – restricted funds to offset anticipated agency liabilities including employee vacation and administrative leave payouts. The minimum balance in the Unfunded Liability Reserve Account shall be \$30,000.

## **2.14 INVESTMENTS**

### **A. Authority**

In accordance with California Government Code Section 56300 et seq., the authority to invest public funds not required for the immediate needs of the agency is expressly delegated to the Orange County Local Agency Formation Commission (OC LAFCO). The Commission may also delegate this responsibility to the OC LAFCO Executive Committee and the Executive Officer.

The purpose of this section of the policy is to establish investment guidelines for OC LAFCO officials to ensure the stewardship of agency funds. Pursuant to state law, the Commission, Executive Committee, Executive Officer, and Executive Officer Designee, when investing OC LAFCO funds, shall act with care, skill, prudence, and diligence under the circumstance than prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the agency. All investments shall be in conformance with federal, state and other legal requirements.

Investments made pursuant to this policy are limited to those instruments specified by OC LAFCO. The Commission shall review the investment program quarterly.

### **B. Investment Objectives**

The specific objectives for all funds invested as defined by this policy are listed in priority order as follows:

1. Safety of Principal  
The preservation of principal is of primary importance. Each transaction shall seek to ensure that capital losses are avoided.
2. Legality

Each transaction and the entire investment program must comply with the California Government Code and OC LAFCO's investment policy as defined

herein.

### 3. Liquidity

The invested funds should remain sufficiently flexible to enable OC LAFCO to meet all operating requirements which may be reasonably anticipated.

The managing of OC LAFCO investments shall be subject to the prudent investor standard, a standard of conduct requiring that any investment be made with care, skill, prudence, and diligence in order to safeguard agency funds and maintain the liquidity needs of the agency.

### C. Return on Investment

Investments shall be undertaken to produce an acceptable rate of return after first considering safety of principal and liquidity and the prudent investor standard.

Authority to manage OC LAFCO's investment program is delegated to the OC LAFCO Commission. Management Responsibility is hereby delegated to the Executive Committee and the Executive Officer under the direction of the full OC LAFCO Commission.

### D. Authorized Investments

Agency funds are not required for the immediate needs of OC LAFCO but may be invested as follows:

- Investment Funds  
Agency funds not required for immediate needs of OC LAFCO may be remitted to the State Local Agency Investment Fund (LAIF) or the Orange County Investment Pool (OC Fund) for the purpose of investment (Government Code Section 16429.1).
- Section 115 Public Agencies Post-Employment Benefits Trust  
Agency funds from excess cash net income and not required for immediate needs of OC LAFCO may be deposited to the benefits trust account managed through an agreement with the Public Agency Retirement Services (PARS). The account is established for agency contributions and lowering of the agency's overall net pension expenses. The annual transfer to the benefits trust account must not exceed fifty percent (50%) of the excess cash net income at fiscal year-end, unless approved by the Commission.
- Other Investments

Other investments are permitted by Government Code Section 53600 may be made subject to prior approval of the Commission and may include the following:

- o U.S. Government and Agencies Obligations.

- o Negotiable Certificates of Deposit issued by a nationally or state-chartered bank, a state or federal savings and loan association, or a savings bank with ratings equivalent by Fitch to F1 or better.

As deemed appropriate, the Commission may, at any time, further restrict the securities approved for investment.

#### E. Reporting

The Executive Officer shall submit a quarterly report to the Commission showing investment activity, including yield and earnings and the status of cash by depository.

As part of the Commission's annual audit, the independent auditor shall also evaluate investment performance and conduct an operations audit. The purpose of these examinations shall be to obtain suggestions for improved future performance and to verify that investments has been done in accordance with the policy and all applicable laws.

### **2.15 FIXED ASSET MANAGEMENT**

#### A. Capitalization Policy

Physical assets acquired with unit costs in excess of \$2,000 are capitalized as fixed assets on the financial statements. Items with unit costs below this threshold shall be expensed in the year purchased.

Capitalized fixed assets are accounted for at their historical cost and all such assets, except land, are subject to depreciation over their estimated useful lives, for government-wide financial statements in accordance with GASB Statement No. 34.

#### B. Contributed Assets

Assets with fair market values in excess of \$2,000 (per unit) that are contributed to OC LAFCO shall be capitalized as fixed assets on the financial statements. Contributed items with market values below this threshold shall be expensed in the year contributed.

Capitalized contributed assets are accounted for at their market value at the time of donation and all such assets, except land, are subject to depreciation for government-wide financial statements.

#### C. Establishment and Maintenance of a Fixed Asset Listing

All capitalized fixed assets shall be recorded in a property log. This log shall include the following information with respect to each asset:

1. Date of acquisition.

2. Cost
3. Description (including color, model, and serial number)
4. Location of asset
5. Depreciation method
6. Estimated useful life

A physical inventory of all assets capitalized under the preceding policies will be taken on an annual basis by OC LAFCO. This physical inventory shall be reconciled to the property log and adjustments made as necessary. All adjustments resulting from this reconciliation will be approved by the Executive Officer.

#### D. Depreciation and Useful Lives

All capitalized assets are maintained in the special fixed assets account group. Fixed assets are depreciated over their estimated useful lives using the straight- line method only when presenting government-wide financial statements. Fund financial statements do not include fixed assets or depreciation.

In the year of acquisition, depreciation is recorded based on the number of months the asset is in service, counting the month of acquisition as a full month (Example: an asset purchased on the 15<sup>th</sup> day of the fifth month shall have eight full months of depreciation (eight-twelfths of one year) recorded for that year).

Estimated useful lives of capitalized assets shall be determined by the Executive Officer. The following is a list of the estimated useful lives of each category of fixed asset for depreciation purposes:

|                                   |               |
|-----------------------------------|---------------|
| Furniture and fixtures            | Up to 10 yrs. |
| General office equipment          | 5 yrs.        |
| Computer hardware and peripherals | 3-5 yrs.      |
| Computer software                 | 2-3 yrs.      |
| Leased assets                     | Life of Lease |

For accounting and interim financial reporting purposes, depreciation expense will be calculated on an annual basis in conjunction with the annual audit.

#### E. Repairs of Fixed Assets

Expenditures to repair capitalized assets shall be expensed as incurred if the repairs do not materially add to the value of the property or materially prolong the estimated useful life of the property.

Expenditures to repair capitalized assets shall be capitalized if the repairs increase the value of property, prolong its estimated useful life, or adapt it to a new or different use. Such capitalized repair costs shall be depreciated over the remaining estimated useful life of the property. If the repairs significantly extend the estimated useful life of the property, the original cost of the property shall also be depreciated over its new, extended useful life.

F. Dispositions of Fixed Assets

In the event a non-expendable asset is sold, scrapped, donated or stolen, adjustments need to be made to the fixed asset listing and property log.

## **2.16 ACCRUED LIABILITIES**

A. Identification of Liabilities

The accounting department shall establish a list of commonly incurred expenses that may have to be accrued at the end of an accounting period. Some of the expenses that shall be accrued by OC LAFCO at the end of an accounting period are:

1. Salaries and wages
2. Payroll taxes
3. Vacation pay
4. Facility expenses payable to the County

In addition, OC LAFCO shall record a liability for deferred revenue (revenue received but not yet earned) in accordance with the revenue recognition policies described elsewhere in this manual.

## **PART 6 – Policies Associated with Financial Reporting**

### **2.17 REPORTS RECEIVED FROM THE COUNTY OF ORANGE**

Some reports are provided to OC LAFCO from the County of Orange on a monthly basis. Such reports should be used to reconcile revenues/disbursements for the month, if appropriate.

### **2.18 FINANCIAL STATEMENTS**

Preparing financial statements and communicating key financial information is a necessary and critical accounting function. Financial statements are management tools used in making decisions, in monitoring the achievement of financial objectives, and as a standard method for providing information to interested parties external to the organization. Financial statements may reflect year-to-year historical comparisons or

current year budget to actual comparisons.

The basic financial statements of OC LAFCO that are maintained on an organization-wide basis should include:

A. Monthly Financial Statements

1. YTD Combined Expense Summary by Agency – reports budget, encumbrances, expenditures, and remaining budget amounts by account.
2. YTD Combined Revenue Summary by Agency – reports budgeted and actual revenues by account.

B. Quarterly Financial Statements

1. Balance Sheet – reflects assets, liabilities and fund balance of the organization.
2. Cash Flow Statement – provides aggregate data regarding all agency cash inflows from both ongoing operations and external investment sources and all case outflows that fund agency operations and investments during a given quarter.
3. Statement of Revenue, Expenditures, and Changes in Fund Balance – presents the budget and actual revenues and expenditures of the organization.

C. Annual Financial Statements

1. Annual Audited Financial Statements – to be provided by the Independent Auditor.

## **2.19 ANNUAL AUDIT**

A. Role of the Independent Auditor

It is the policy of OC LAFCO to arrange for an annual audit of its financial statements to be conducted by an independent accounting firm. The independent accounting firm selected by OC LAFCO will be required to communicate directly with the Commission upon the completion of their audit. In addition, members of the Commission may initiate communication directly with the independent accounting firm.

Audited financial statements, including the auditor’s opinion thereon, will be submitted to the Commission by the independent accounting firm and the financial statements will be presented for consideration by the Commission at a regular meeting.

B. How Often to Review the Selection of the Auditor

In accordance with agency policy and state law, OC LAFCO shall review the selection of its independent auditor in the following circumstances:

1. Anytime there is dissatisfaction with the service of the current firm.
2. When a fresh perspective and new ideas are desired.
3. A change in Auditor every six years should be considered to ensure competitive pricing and a high quality of service.
4. OC LAFCO is restricted from employing a public accounting firm to provide audit services if the lead partner or coordinating audit partner having primary responsibility for the audit, has performed audit services for OC LAFCO for six consecutive fiscal years.

#### C. Selecting an Auditor

The selection of an accounting firm to conduct the annual audit is a task that should be taken very seriously. The following factors shall be considered by OC LAFCO in selecting an accounting firm:

- The firm's reputation in the government community.
- The depth of the firm's understanding of and experience with governmental agencies.
- The demonstrated ability to provide the services requested in a timely manner.
- The ability of firm personnel to communicate with Organization personnel in a professional and congenial manner.

If OC LAFCO decides to prepare and issue a written Request for Proposal (RFP) to be sent to prospective audit firms, the following information shall be included:

- Period of services required
- Type of contract to be awarded (fixed fee, cost basis, etc.)
- Complete description of the services requested (audit, management letter, etc.)
- Identification of meetings requiring their attendance, such as staff or Commission meetings
- Organization chart of OC LAFCO
- Chart of account information
- Financial information about the organization

- Copy of prior year reports (financial statements, management letters, etc.)
- Other information considered appropriate
- Description of proposal and format requirements
- Due date of proposals
- Overview of selection process (i.e., whether finalists will be interviewed, when a decision shall be made, etc.)
- Identification of criteria for selection

Minimum Proposal Requirements form prospective CPA firms shall be:

- Firm background
- Biographical information (resumes) of key firm member who will serve OC LAFCO
- Client references
- Information about the firm's capabilities
- Firm's approach to performing an audit
- Copy of the firm's most recent quality/peer review report, including any accompanying letter of findings
- Other resources available with the firm
- Expected timing and completion of the audit
- Expected delivery of reports
- Cost estimate including estimated number of hours per staff member
- Rate per hour for each auditor
- Other information as appropriate

#### D. Preparation for the Annual Audit

OC LAFCO shall be actively involved in planning for and assisting with the independent accounting firm in order to ensure a smooth and timely audit of its financial statements. In that regard, the accounting department shall provide



assistance to the independent auditors in the following areas:

1. Planning – The Executive Officer is responsible for delegating the assignments and responsibilities to accounting staff in preparation for the audit. Assignments shall be based on the list of requested schedules and information provided by the independent accounting firm.
2. Commission Involvement – Organization staff will do as much work as possible in order to assist the auditors and, therefore, reduce the cost of the audit. The Commission's Executive Committee may assist OC LAFCO in fulfilling its audit oversight responsibilities with regard to (1) the integrity of OC LAFCO's financial statements, (2) OC LAFCO's compliance with legal and regulatory requirements, and (3) the independent auditor's qualifications and independence. In providing this assistance to the full Commission, the Executive Committee may assume audit responsibilities as provided herein and recommend action on all audit matters to the full Commission.

Audit responsibilities of the Executive Committee may include, but is not limited to, the following:

- Review of the auditor's proposed audit scope and approach.
  - Review of annual financial audit reports, schedules, and management letter.
  - Any serious difficulties or disputes with management encountered during the audit.
  - Matters required to be discussed by Statements on Auditing Standards issued by the Auditing Standards Board of the American Institute of Certified Public Accountants or other state or federal agencies.
  - Review of the performance of the auditors, including any issues arising during their most recent quality-control or peer review, and their independence as it relates to OC LAFCO.
  - Review of the Executive Committee's audit responsibilities annually to reassess their adequacy and recommend any proposed changes.
  - Review the Executive Committee's effectiveness in carrying out its responsibilities.
  - Other matters deemed appropriate by the OC LAFCO Chair.
3. Interim Procedures – To facilitate the timely completion of the annual audit, the independent auditors may perform selected audit procedures prior to the organization's year-end. By performing significant portions of audit work as of an interim date, the work required subsequent to year-end is

reduced. Organization staff will assist as much as possible in order to provide requested schedules and documents and to otherwise assist the auditors during any interim audit fieldwork that is performed.

Throughout the audit process, it shall be the policy of OC LAFCO to make every effort to provide schedules, documents and information requested by the auditors in a timely manner.

#### E. Concluding the Audit

Upon receipt of a draft of the audited financial statements of OC LAFCO from its independent auditor, the Executive Officer, the OC LAFCO accounting firm staff shall perform a detailed review of the draft, consisting of the following procedures:

1. Carefully read the entire report for typographical errors.
2. Trace and agree each number in the financial statements and accompanying footnotes to the accounting records and/or internal financial statements of OC LAFCO.
3. Review each footnote for accuracy and completeness.

Any questions or errors noted as part of this review shall be communicated to the independent auditor in a timely manner and resolved to the satisfaction of the Executive Officer.

It shall also be the responsibility of the Executive Officer to review and respond in writing to all management letter or other internal control and compliance report findings and recommendations made by the independent auditor.

**Originally Adopted: 2/9/2005**  
**Last Reviewed: 3/8/2023**  
**Last Revised: 10/13/2021**

SECTION 3:

# PERSONNEL POLICIES AND PROCEDURES



**Personnel Policies and Procedures  
of the  
Orange County Local Agency Formation Commission**

**PART 1 – EMPLOYMENT**

**3.1 EMPLOYEE ACKNOWLEDGEMENT FORM**

PLEASE READ THE FOLLOWING POLICIES AND PROCEDURES, FILL OUT AND RETURN THIS PORTION TO THE OC LAFCO COMMISSION CLERK OR IMMEDIATE SUPERVISOR WITHIN FIVE BUSINESS DAYS.

I acknowledge that I have received and read a copy of the Orange County Local Agency Formation Commission (“OC LAFCO”) employee policy and procedures and understand all the policies, guidelines, and procedures stated within. I understand that I am responsible for reading these policies and for knowing and complying with the policies set forth herein during my employment with OC LAFCO.

Additionally, I specifically acknowledge that I have read and understand the following policies: Equal Employment Opportunity, Timekeeping, Overtime Pay, and Policy Against Harassment, Discrimination, and Retaliation.

The personnel policies and procedures describe important information about OC LAFCO, and I understand that I should consult the OC LAFCO Executive Officer regarding any questions I might have. I have entered into my employment relationship with OC LAFCO voluntarily and acknowledge that there is no specific length of employment. Accordingly, either I or OC LAFCO can terminate the relationship at will, with or without cause, at any time, so long as there is no violation of applicable federal or state law. Furthermore, I acknowledge that these policies and procedures are not a contract of employment.

I understand and agree that the terms of this Acknowledgment may not be modified or superseded except by a written agreement signed by me and the OC LAFCO Executive Officer, that no other employee or representative of OC LAFCO has the authority to enter into any such agreement, and that any agreement to employ me for any specified period of time or that is otherwise inconsistent with the terms of this Acknowledgment will be unenforceable unless in writing and signed by myself and the OC LAFCO Executive Officer. I further understand and agree that if the terms of this Acknowledgment are inconsistent with any guideline or practice of OC LAFCO now or in the future, the terms of this Acknowledgment shall control.

Since the information, policies, and benefits described herein are necessarily subject to change, I acknowledge that revisions to them may occur, except to OC LAFCO’s policy of employment-at-will. I understand that OC LAFCO reserves the right to modify,

supplement or rescind any or all of its policies whenever it deems necessary or useful to do so, at any time with or without notice.

I have carefully read this Acknowledgement Form.

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EMPLOYEE'S NAME (printed)

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EMPLOYEE'S SIGNATURE

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DATE

## **DISCLAIMER**

THESE POLICIES AND PROCEDURES ARE NOT DESIGNED TO EXPLAIN EVERY EMPLOYMENT SITUATION OR OUTLINE EVERY RELEVANT POLICY OR PRACTICE. THESE POLICIES AND PROCEDURES ARE NOT INTENDED TO CONSTITUTE AN EMPLOYMENT CONTRACT OR A GUARANTY OF FUTURE EMPLOYMENT. EMPLOYMENT WITH OC LAFCO IS "AT-WILL." THESE POLICIES AND PROCEDURES SUPERSEDE ANY AND ALL WRITTEN DOCUMENTS OR ORAL REPRESENTATIONS THAT CONTRADICT THE AT-WILL NATURE OF YOUR EMPLOYMENT, EXCEPT WHERE EXPRESSLY SUPERSEDED BY CONTRACT.

OC LAFCO RESERVES THE RIGHT TO REVISE, MODIFY, DELETE, OR ADD TO ANY AND ALL POLICIES, PROCEDURES, WORK RULES, OR BENEFITS STATED IN THESE POLICIES AND PROCEDURES OR IN ANY OTHER DOCUMENT, EXCEPT FOR THE POLICY OF AT-WILL EMPLOYMENT. ANY CHANGES TO THESE POLICIES AND PROCEDURES WILL BE DISTRIBUTED IN WRITING TO ALL EMPLOYEES SO THAT EMPLOYEES MAY BE AWARE OF THE NEW POLICIES.

### **3.2 AT-WILL EMPLOYMENT**

#### **A. Overview**

The intent of this policy is to establish the At-Will-Employment Policy of OC LAFCO.

#### **B. Policy**

Employment at OC LAFCO is and shall be at all times on an at-will basis at all phases of employment. That means that either OC LAFCO or an employee may terminate an employee's employment at any time, for any reason, with or without cause or advance notice. The employment relationship between OC LAFCO and its employees is for an unspecified term and may be terminated by the employee, or OC LAFCO Executive Officer or the Commission of OC LAFCO ("Commission") at any time, with or without cause or advanced notice. Also, OC LAFCO reserves the right to transfer, demote, suspend, or administer discipline with or without cause or advance notice.

None of the policies, procedures, or contents of this herein is intended to create any contractual obligations which in any way conflict with OC LAFCO's policy of At-Will-Employment. The at-will relationship can only be modified by a written agreement signed by the employee and the OC LAFCO Executive Officer.

### **3.3 EQUAL EMPLOYMENT OPPORTUNITY POLICY**

#### **A. Overview**

The intent of this policy is to establish the Equal Employment Opportunity Policy of OC LAFCO.

#### **B. Policy**

OC LAFCO is strongly committed to providing equal opportunity to all employees and applicants for employment. OC LAFCO does not discriminate on the basis of race (including but not limited to, hair texture and protective hairstyles such as braids, locks, and twists), color, religious creed (including religious dress and religious grooming practices), national origin, ancestry, citizenship status, age (40 years and older), sex (including pregnancy, perceived pregnancy, childbirth, breastfeeding, or related medical conditions), gender, gender identity and expression (including transgender identity and expression), because an individual has transitioned (to live as the gender with which they identify), is transitioning (or is perceived to be transitioning), sexual orientation, sex stereotyping, marital status, domestic partner status, reproductive health decision making (protected under §12920 of the Government Code in California), military service and veteran status, physical and/or

mental disability (including HIV and AIDS), legally protected medical condition or information (including genetic information,) protected medical leaves (requesting or approved), status as a victim of domestic violence, sexual assault or stalking, enrollment in a public assistance program, or any other basis protected by local, state or federal laws. Any such discrimination is unlawful and all persons involved in the operations of OC LAFCO are prohibited from engaging in this type of conduct. OC LAFCO strictly prohibits the harassment of any individual on any basis listed above (see the Policy Against Harassment for further clarification).

OC LAFCO prohibits unlawful harassment, discrimination, and retaliation based on:

1. Any combination of the above characteristics;
2. A perception that the person has any of the above characteristics or any combination of those characteristics;
3. A perception that the person is associated with a person who has, or is perceived to have, any of those characteristics of any combination of the above characteristics.

This policy applies to all employment practices, including recruitment, advertising, job application procedures, hiring, placement, firing, advancement, compensation training, benefits, transfers, social and recreational programs, and any other terms, conditions and privileges of employment.

Any employees with questions or concerns about equal employment opportunities in the workplace are encouraged to bring these issues to the attention of the Executive Officer or his/her designee or Chair of the Commission or General Counsel. To ensure our workplace is free of artificial barriers, violation of this policy including any improper retaliatory conduct will lead to discipline, up to and including discharge. All employees must cooperate with all investigations conducted pursuant to this policy.

An employee who believes that he or she has been subjected to any form of unlawful discrimination should make a complaint, preferably written, to the Executive Officer, or if it involves the Executive Officer, to the Chair of the Commission or General Counsel. Complaints should be specific and should include the names of individuals involved and the names of any witnesses. OC LAFCO will immediately undertake an effective, thorough and objective investigation and attempt to resolve the situation. If OC LAFCO determines that unlawful discrimination has occurred, effective remedial action will be taken to determine any future discrimination.

Employees will not be retaliated against for bringing a complaint in good faith under the Equal Employment Opportunity Commitment Policy or the Policy against Harassment, or for honestly assisting in investigating such a complaint, even if the investigation produces insufficient evidence that there has been a violation, or if the



charges cannot be proven. However, disciplinary action may be taken if false or frivolous accusations are made in bad faith.

### **3.4 LACTATION ACCOMMODATION**

OC LAFCO provides accommodations to lactating employees who need to express breastmilk during work hours in accordance with applicable law. OC LAFCO will provide a room or other location (not a bathroom) for employees to express breastmilk in private.

OC LAFCO will ensure that the lactation room or location will:

1. Be in close proximity to the employee's work area, shielded from view, and free from intrusion while the employee is expressing milk.
2. Be clean, safe and free of hazardous materials.
3. Contain a surface to place a breast pump and other personal items.
4. Contain a place to sit.
5. Have access to electricity or alternative devices, including, but not limited to, extension cords or charging stations, needed to operate an electric or battery powered breast pump.

In addition, OC LAFCO will provide access to a sink with running water and a refrigerator suitable for storing milk (or other cooling device suitable for storing milk) in close proximity to an employee's workspace. In the event that more than one employee needs use of the lactation room, OC LAFCO will discuss alternative options with the employees to determine what arrangement addresses their needs, such as finding an alternative space or creating a schedule for such use.

OC LAFCO shall also provide a reasonable amount of break time for an employee to express any breast milk each time that she needs to do so. The break time, if possible, should run concurrently with any break time already provided to the employee. Break time for a nonexempt employee that does not run concurrently with rest time already authorized for the employee is unpaid. However, if the employee performs any work during such break, she must accurately record all time worked and OC LAFCO will compensate her for such time.

Employees who are nursing have a right to request a lactation accommodation. Such requests may be made verbally or in writing, should indicate the need for the accommodation in order to express breastmilk at work, and should be directed to OC LAFCO's Executive Officer. OC LAFCO shall respond to such requests in a reasonable manner, not exceeding five business days. If OC LAFCO cannot provide break time, location, or other reasonable accommodations in accordance with this policy, it will inform the requesting employee in writing. Because lactation accommodation needs may change over time, employees may request changes to existing accommodations by

a written request to OC LAFCO’s Executive Officer that describes the nature of the change that is requested.

OC LAFCO prohibits any form of retaliation or discrimination against an employee for exercising or attempting to exercise any rights provided under the above policies. Any such conduct or violations of the above-referenced policies should be reported to OC LAFCO’s Executive Officer. Employees also have the right to file a complaint with the California Labor Commissioner for violation of a lactation accommodation right described in the policy above.

### **3.5 REASONABLE ACCOMMODATION**

#### **A. Overview**

The intent of this policy is to establish the Reasonable Accommodation Policy of OC LAFCO.

#### **B. Policy**

To carry out OC LAFCO’s commitment to providing equal opportunity for all employment applicants and employees, OC LAFCO will provide reasonable accommodations, including as required under applicable laws, in accordance with this policy. As previously stated, no program or activity administered by the employer shall exclude from participation, deny benefits to or subject to discrimination any individual based on an employee’s actual or perceived disability or based on an employee’s association with someone who has an actual or perceived disability.

Reasonable Accommodation to Disability and Religion: OC LAFCO will provide reasonable accommodations for applicants and employees with disabilities in accordance with the American with Disabilities Act (the “ADA”) and California law, and for applicants and employees based on their sincerely held religious beliefs, practices, or observance under state and federal law. An employment applicant or employee who seeks a reasonable accommodation in order to perform essential job functions should make such a request in writing to the attention of the OC LAFCO Executive Officer or his/her designee. The request must identify (a) the job-related functions at issue; and (b) the desired accommodation(s). Following receipt of the request, the Executive Officer or his/her designee may require additional information, such as reasonable documentation of the existence of a disability or additional explanation as to the effect of the disability on the employee’s ability to perform their essential functions (or the applicant’s ability to perform the essential functions of a desired position) but will not require disclosure of diagnosis or genetic history.

OC LAFCO will engage in the interactive process, as defined by the FEHA and ADA, to determine whether an applicant or employee is able to perform the essential functions of their position. During this process, OC LAFCO will examine potential reasonable accommodations that will make it possible for the employee or applicant to perform the essential functions of the position. Such interactive process will include a meeting with the employee or applicant, OC LAFCO's designated representative(s), and, if necessary, the employee or applicant's health care provider. OC LAFCO will determine, in its sole discretion, whether reasonable accommodation(s) can be made, and the type of reasonable accommodation(s) to provide. OC LAFCO will not provide an accommodation that would impose an undue hardship upon OC LAFCO or that is not required by law. OC LAFCO will inform the employee or applicant of any decisions made under this section in writing.

**Reasonable Accommodations Relating to Pregnancy:** OC LAFCO will provide reasonable accommodations to employees who are affected by a pregnancy, childbirth, or related medical conditions, as medically advisable. Such accommodations may consist of:

1. Modified work duties or a modified schedule to permit earlier or later hours or more frequent breaks; stools, chairs or other furniture; modified or acquired equipment or devices; reduced work hours; or other accommodations.
2. Temporary transfers to a less strenuous or less hazardous position if such transfer can be reasonably accommodated.
3. A "Pregnancy-Related Disability Leave" if the employee is disabled by pregnancy, as described in OC LAFCO's leave of absence policy.

Employees seeking a pregnancy-related accommodation, including transfer under this policy, should notify OC LAFCO's Executive Officer or Assistant Executive Officer. This notice must be timely and be provided by employees in advance when the need for reasonable accommodation is foreseeable; in all other circumstances, notice must be provided as soon as practicable. Failure to give advance notice when the need is foreseeable may delay the reasonable accommodation or transfer until 30 days after the date the employee provides notice (unless such delay would endanger the health of the employee, her pregnancy or her coworkers).

**Reasonable Accommodations for Victims of Domestic Violence, Stalking, or Sexual Assault:** OC LAFCO will also provide reasonable accommodations for an employee who is the victim of domestic violence, stalking or sexual assault if: (i) the employee has disclosed that status to OC LAFCO, and (ii) the employee requests an accommodation for the employee's safety while at work.

In such circumstances, OC LAFCO will engage, in good faith, in a timely and interactive process with the employee to determine an effective reasonable accommodation. In this process, the employee may be asked to provide: (i) a written statement, signed by the employee or someone acting on the employee's behalf, certifying that the accommodation is for the purposes stated above, and (ii) a certification confirming the employee's status as a victim of domestic violence, sexual assault or stalking. Six months after the date of each previous certification, OC LAFCO may request a recertification of such status. OC LAFCO will maintain any such certification as confidential if it identifies the employee as a victim of domestic violence, sexual assault or stalking, disclosing such information only as required by law, or as needed to protect the employee's workplace safety, and with prior notice of such disclosure to the employee.

Retaliation and Discrimination Prohibited: OC LAFCO prohibits discrimination, discharge, retaliation, or any other unlawful acts against an individual because such person requests or receives an accommodation under this (or another applicable) policy, or because such individual engaged in any other conduct protected by the law. Additionally, as addressed in OC LAFCO's separate policy on harassment, discrimination and retaliation, OC LAFCO prohibits unlawful harassment, discrimination or retaliation against any employee on the basis of an individual's disability, religion, religious creed, sex (including pregnancy, childbirth and related medical conditions), status as a victim of domestic violence, sexual assault or stalking, or any other status as protected by law.

### **3.6 POLICY AGAINST HARASSMENT, DISCRIMINATION, AND RETALIATION**

#### **A. Overview**

The intent of this policy is to establish the Policy Against Harassment for OC LAFCO.

#### **B. Policy**

OC LAFCO is committed to providing a professional workplace in which individuals are treated with respect and in a manner consistent with OC LAFCO's high expectations of ethical conduct. This necessarily means that OC LAFCO prohibits unlawful harassment, discrimination, and retaliation in accordance with applicable laws. OC LAFCO prohibits and will not tolerate harassment of employees, applicants, or persons providing services pursuant to a contract based on factors such as sex (which includes harassment based on sex, pregnancy, perceived pregnancy, childbirth, breastfeeding, and related medical conditions), as well as harassment, discrimination, and retaliation based on such factors as race (including hair texture, protective hairstyles such as braids, locs, and twists and other traits associated with race), color, religion and religious creed (including religious dress and religious

grooming practices), national origin, ancestry, citizenship, age (40 years and older), mental disability and physical disability (including HIV and AIDS), legally-protected medical condition or information (including genetic information), protected medical leaves (requesting or approved for leave under the Family and Medical Leave Act or the California Family Rights Act), military and/or veteran status, service, or obligation, reserve status, national guard status, marital status, domestic partner status, gender, gender identity (including transgender identity), gender expression (including transgender expression), because an individual has transitioned or is (or is perceived to be) transitioning, sex stereotyping, sexual orientation, status as a victim of domestic violence, sexual assault or stalking, enrollment in a public assistance program, engaging in protected communications regarding employee wages or otherwise exercising rights protected under the National Labor Relations Act or California Fair Pay Act, requesting a reasonable accommodation on a protected basis such as disability or sincerely-held religious belief, practice, or observance, or any other characteristic protected by federal, state, or local laws.

OF LAFCO prohibits unlawful harassment, discrimination, and retaliation based on:

1. Any combination of the above characteristics;
2. A perception that the person has any of the above characteristics or any combination of those characteristics;
3. A perception that the person is associated with a person who has, or is perceived to have, any of those characteristics of any combination of the above characteristics.

OC LAFCO strongly disapproves of and will not tolerate harassment, discrimination, or retaliation against employment applicants, employees, unpaid interns, or volunteers by officials, managers, supervisors, co-workers or third parties with whom employees come into contact, consistent with applicable law. Similarly, OC LAFCO will not tolerate harassment, discrimination, or retaliation by its employees directed toward non-employees with whom OC LAFCO employees have a business, service, or professional relationship (such as independent contractors, vendors, clients, volunteers, or interns). All such harassment is prohibited by OC LAFCO and is against the law.

### C. Definition

Harassment is generally defined as verbal, physical, or visual conduct that creates an intimidating, offensive, or hostile working environment, or that interferes with an employee's work performance, and that is based on a protected status. Such conduct constitutes harassment when (1) submission to the conduct is made either an explicit or implicit condition of employment; (2) submission or rejection of the conduct is used as the basis for an employment decision; or (3) the harassment interferes with

an employee's work performance or creates an intimidating, hostile, or offensive work environment.

As the definition above shows, harassing conduct can take many forms and may include, but is not limited to, the following (when based upon an employee's protected status as noted above): slurs, jokes, statements, gestures, assault, impeding or blocking another's movement or otherwise physically interfering with normal work, pictures, drawings, or cartoons, violating someone's "personal space," foul or obscene language, leering, stalking, staring, noises, unwanted or offensive letters or poems, offensive emails, texts, gifs, memes, or voicemail messages.

Prohibited unlawful harassment includes, but not limited to, the following behavior:

1. Verbal conduct such as epithets, derogatory jokes or comments, slurs or unwanted sexual advances, invitations or comments.
2. Visual conduct such as derogatory and/or sexually oriented posters, photography, cartoons, drawing or gestures.
3. Physical conduct such as assault, unwanted touching, blocking normal movement or interfering with work because of sex, race or any other protected basis.
4. Threats, demands to submit to sexual requests as a condition of continued employment, or to avoid some other loss, and offers of employment benefits in return for sexual favors.

#### D. Reporting and Complaint Procedure

##### Internal Reporting

Any incidents of discrimination, harassment, or retaliation, including work-related harassment by any OC LAFCO personnel or any other person, or any conduct believed to violate this policy should promptly submit a complaint, preferably written, to the Executive Officer, or if it involves the Executive Officer, to the Chair of the Commission and General Counsel. It is the responsibility of all of us to contribute to a work environment that is free of unlawful bias, discrimination, harassment, and retaliation. Failure to bring forth a complaint prevents OC LAFCO from having the opportunity to correct the situation.

Managers and supervisors have a special responsibility under this policy. All levels of management and all supervisors are responsible for compliance with this Policy Against Harassment, Discrimination, and Retaliation and for ensuring that everyone in their department is aware of, understands and adheres to this policy. Supervisors

and managers who receive complaints or who observe or learn of discriminatory, harassing, or retaliatory conduct must immediately inform the Executive Officer, or if it involves the Executive Officer, the Chair of the Commission and General Counsel, so that an investigation may be initiated.

Complaints should be specific and include the names of individuals involved and names of any witnesses. Individuals making such complaints must report the facts as accurately and as completely as possible. Every reported complaint of harassment, discrimination, and retaliation is taken seriously by OC LAFCO. Every reported complaint, including allegations of misconduct, will be investigated thoroughly and promptly by impartial and qualified personnel. OC LAFCO will immediately undertake an effective, thorough and objective investigation and attempt to resolve the situation. OC LAFCO will maintain confidentiality to the extent possible. If OC LAFCO determines that unlawful harassment has occurred, effective remedial action will be taken commensurate with the severity of the offense, up to and including termination. Appropriate action will also be taken to deter any future unlawful harassment.

Typically, the investigation will include the following steps: an interview of the employee who lodged the complaint to obtain complete details regarding the alleged harassment, discrimination, or retaliation; interviews of anyone who is alleged to have engaged in such conduct to respond to the claims; and interview of any employees who may have witnessed, or who may have knowledge of, the alleged conduct. The Executive Officer, or if it involves the Executive Officer, the Chair of the Commission and General Counsel, will notify the employee who lodged the complaint of progress during the investigation, including documentation where applicable, and timely notification of the results of the investigation. The investigation will be handled in as confidential a manner as possible consistent with a fair, timely, and thorough investigation (e.g., parties will receive appropriate due process, OC LAFCO will reach reasonable conclusions based on the evidence collected, etc.). Employees (or other complainants) making complaints are expected to cooperate fully with the person or persons designated to investigate the complaint.

OC LAFCO prohibits conduct severe enough to be unlawful. Yet even more, OC LAFCO's workplace conduct standards also prohibit conduct and comments which are not severe enough to violate state or local or federal law—but which are still inappropriate in the workplace. For example, OC LAFCO prohibits abusive conduct in the workplace—whether or not it is based on a protected category. As a result, OC LAFCO will take prompt, appropriate, and effective corrective action (e.g., remedial measures) any time it is established that discrimination, harassment, or retaliation in violation of this policy has occurred—whether or not such violation also violates the law.

Corrective action may include, for example: training, referral to counseling, or disciplinary action ranging from a verbal or written warning to termination of employment, depending on the circumstances.

### External Reporting

In addition to OC LAFCO internal complaint procedure, an employee may file an external complaint by contacting the following:

1. Department of Civil Rights (CRD) [formerly known as the Department of Fair Employment and Housing (DFEH)] at 800-884-1684 or visiting <https://calcivilrights.ca.gov/contactus/>.
2. Equal Employment Opportunity Commission (EEOC) at 800-669-4000 or visiting <https://www.eeoc.gov/contact-eeoc>.

OC LAFCO will not tolerate retaliation against an individual for good faith reports of harassment, discrimination, or retaliation; assisting another in making a report; cooperating in an investigation; filing an administrative complaint with a government agency; or engaging in other protected activity. Such retaliation is a separate violation of the law and of OC LAFCO policy and is subject to disciplinary action up to employment termination. Individuals who believe they have experienced or been threatened with such retaliation, and any manager or supervisor who learns of possible retaliation, must immediately report it using the same Complaint Reporting Process above.

#### E. Sexual Harassment and Sexual Harassment Prevention Training

Sexually harassing conduct in particular may include all of the above prohibited actions, as well as other unwelcome conduct, such as requests for sexual favors, conversation containing sexual comments, and other unwelcome sexual advances. For example, sexual harassment can be:

- Verbal: sexual innuendoes, sexually suggestive or degrading comments, text messages, gifs, memes, sexual jokes or slurs, graphic commentaries about a person's body, or repeated sexual advances or invitations.
- Nonverbal: displaying sexually suggestive objects, pictures, cartoons, magazines, calendars or posters, or making suggestive or insulting sounds, leering, whistling, or obscene gestures.
- Physical: offensive touching, brushing against a person's body, unwanted hugging or kissing, or impeding or blocking a person's normal movement.



Sexually harassing conduct may arise if a reasonable person subjected to the conduct would find that the harassment so altered working conditions as to make it more difficult to do that person's job. Sexually harassing conduct can occur regardless of the sex, sexual orientation, or gender identity of the harasser or of the person being harassed. Sexually harassing conduct need not be motivated by sexual desire to be violate of this policy.

All non-managerial employees must attend a one-hour Sexual Harassment Prevention Training, and all managerial employees must attend a two-hour Sexual Harassment Prevention Training. All OC LAFCO employees will be required to attend a sexual harassment prevention training every two years as assigned by Administration. Managers will receive two hours of training every two years as assigned by Administration. Staff may be required to attend additional anti-harassment or other sensitivity trainings in regard to any protected class. OC LAFCO employees may refer to the Department of Civil Rights (CRD) [formerly known as the Department of Fair Employment and Housing (DFEH)] sexual harassment prevention online training course appropriate for their position. You may also visit <https://calcivilrights.ca.gov/> to access the online training courses.

#### F. Retaliation

Employees will not be retaliated against for bringing a complaint in good faith under the Equal Employment Opportunity Policy or the Policy Against Harassment, or for honestly assisting in investigating such a complaint, even if the investigation produces insufficient evidence that there has been a violation, or if the charges cannot be proven. However, disciplinary action may be taken if false or frivolous accusations are made in bad faith. An employee who believes that he or she has been subjected to any form of unlawful retaliation should promptly make a complaint, preferably written, in the same manner as described above. Complaints of harassment will be investigated, and appropriate action will be taken to protect OC LAFCO employees from any form of unlawful retaliation.

### **3.7 PERFORMANCE MANAGEMENT**

#### A. Overview

The intent of the performance review process is to create a supportive, safe, professional performance review process and an environment that optimizes the employee's ability to receive and actualize constructive performance feedback and that motivates the employee to authentically and actively pursue personal and professional growth/excellence.

## B. Performance Review Policy – General Employees

A review and discussion of each employee's performance is conducted to:

1. Ensure assigned projects/tasks are completed at an acceptable level of quality to effectively serve the mission, vision, and values of the agency.
2. Plan for maximizing employee performance to serve the agency's needs.
3. Motivate and assist employees in achieving their personal growth and career objectives.

## C. Performance Review Procedure – General Employees

The discussion of job performance and goals on an informal, weekly basis is strongly encouraged. The formal employee performance review process will include: Assessment of Employee Job Performance – At the beginning of the fiscal year, both the employee and supervisor will complete an assessment of his/her job performance. The assessment will include a summary of projects/tasks completed and a well-organized, clear and in-depth self-analysis of job performance as related to projects/tasks.

1. Assessment of Employee Professional Strengths and Weakness – Both employee and supervisor will prepare an individual written statement of employee's professional and personal strengths and weaknesses as they relate to the work environment.
2. Discussion of Employee Assessments – Following preparation of the assessments (job performance and professional strengths and weaknesses), a meeting will be convened with the employee/supervisor to compare, contrast and discuss assessments/statements and identify areas for goal setting.
3. Development of Discussion of Goals – Based upon discussion with supervisor, employee prepares draft annual goals for discussion and review with the Assistant Executive Officer and/or Executive Officer. Goals should be specific, concise, measurable and represent commitment to professional growth.
4. Finalization of Goals and Performance Review – Following goal development, a meeting will be convened involving employee/Assistant Executive Officer/Executive Officer to jointly discuss and finalize employee goals. The employee will be responsible for preparing the final, agreed to written goals and submitting them to supervisor.

Performance reviews will be completed for all General Employees by no later than the end of the first quarter of each fiscal year.

While merit-based pay adjustments are awarded by OC LAFCO in an effort to recognize truly superior employee performance, positive performance evaluations do not always guarantee increases in salary or promotions. Salary increases, and promotions are solely within the discretion of OC LAFCO and depend on many factors in addition to performance. Pay increases or bonuses will be tied to the accomplishment of specific established employee goals.

After receiving their review an employee will be required to sign the evaluation report acknowledging that it has been presented and discussed between the employee and the Assistant Executive Officer or the Executive Officer. OC LAFCO's provision of performance evaluations does not alter the at will employment relationship.

D. Policy for Executive Officer Performance Evaluation Process (Adopted March 13, 2024)

1. As part of the performance evaluation process, the Executive Officer will prepare a year-end report summarizing the status and accomplishments of the goals and objectives included in the agency's three-year strategic/work plan adopted by the Commission.
2. The Executive Officer will complete a self-evaluation indicating his/her performance relative to the adopted goals and objectives.
3. The Chair or his/her designee will provide each Commissioner with the Executive Officer's self-evaluation and a blank evaluation form for that Commissioner's completion prior to the full Commission closed session performance discussion.
4. The Chair or his/her designee will lead the Commission's closed session discussion on the Executive Officer's performance, soliciting feedback and input from all Commissioners.
5. The Chair will be given financial parameters for negotiating compensation with the Executive Officer and delegated authority to represent the Commission in compensation discussions with the Executive Officer.
6. The Chair and his/her designee, if applicable, will meet with the Executive Officer to provide the Commission's feedback, sentiments of the discussion and to negotiate compensation.

7. The Chair will report back to the Board to close out the Executive Officer Evaluation Process and work with General Counsel to prepare any necessary agenda items and public action required to complete the process.
8. The Executive Committee will meet with the Executive Officer as warranted to check on the progress of the strategic/work plan and discuss any necessary adjustments for discussion with the full Commission.

### **3.8 PERSONNEL RECORDS**

#### **A. Overview**

The intent of this policy is to clarify the guidelines for treatment of employee personnel records and information.

#### **B. Policy**

OC LAFCO maintains a personnel file on each employee. An employee's personnel file will contain only material that OC LAFCO determines is necessary and relevant to the administration of OC LAFCO's personnel program. Personnel files are the property of OC LAFCO, and access to the information they contain is restricted, subject to, and in accordance with, this Policy.

Employees have the right to inspect certain documents in their personnel file, as provided by law, in the presence of an OC LAFCO representative at a mutually convenient time. Employees may add written versions of any disputed item to their file. OC LAFCO will not disclose personnel information if it believes doing so would constitute an unwarranted invasion of personal privacy or jeopardize the safety of OC LAFCO personnel.

OC LAFCO will attempt to restrict disclosure of an employee's personnel file to authorized individuals within the organization. Any request for information from the file must be made to the Executive Officer or specific designee. Only the Executive Officer or specific designee is authorized to release information regarding current or former employees. Disclosure of personnel information to outside sources will be limited to the extent allowed by law. However, OC LAFCO will cooperate with requests from authorized law enforcement or local, state or federal agencies conducting official investigations, with validly issued subpoenas and as otherwise required by law or legal proceeding to be released.

### **3.9 TERMINATION**

#### **A. Overview**

The intent of this policy is to explain the types of termination and OC LAFCO's procedures for processing terminations.

## B. Policy

Termination of employment is an inevitable part of personnel activity within any organization, and many of the reasons for termination are routine. Below are examples of some of the most common circumstances under which employment is terminated.

### 1. Voluntary Resignation

An employee who voluntarily resigns his/her employment is asked to prepare a written letter of resignation informing OC LAFCO of the intended resignation date. Although not required, employees who voluntarily resign are asked as a courtesy to give OC LAFCO at least two weeks' notice prior to the resignation date in order to provide time to search for an adequate replacement if necessary and to ensure a smooth transition.

An employee is also considered to have voluntarily terminated employment by failing to report to work for three consecutive scheduled workdays without notice, or without prior approval by the Executive Officer or Assistant Executive Officer.

### 2. Discharge

The violation of the policies and procedures of OC LAFCO or any other illegal acts may result in disciplinary action up to and including termination. Disciplinary actions may include verbal and written warnings, suspension, probationary periods, and termination of employment, depending on the conduct involved. OC LAFCO maintains its at-will status. OC LAFCO reserves the right to utilize any form of disciplinary action, up to and including termination, at any stage it deems appropriate, depending on the circumstances.

## C. Exit Interview

OC LAFCO will generally schedule exit interviews at the time of employment termination. The exit interview will provide an opportunity to discuss such issues as employee benefits, conversion privileges, repayment of outstanding debts to OC LAFCO, or return of property owned by OC LAFCO. Suggestions, complaints, and questions are encouraged. Employees will receive their final pay in accordance with applicable state law.

D. At-Will Employee

Because employment with OC LAFCO is based on mutual consent, both the employee and OC LAFCO have the right to terminate employment at will, with or without cause, at any time. Nothing in this termination policy changes the At-Will Employment policy of OC LAFCO.

E. Benefits

Employee benefits will be affected by employment termination in the following manner. All accrued, vested benefits that are due and payable upon termination will be paid in accordance with applicable state law. Some benefits may be continued at the employee's expense if the employee so chooses. The employee will be notified in writing of the benefits that may be continued, and of the terms, conditions and limitations of such continuance.

## **PART 2 – SALARY AND WAGE ADMINISTRATION**

### **3.10 HIRING AND STAFFING**

A. Overview

The intent of this policy is to provide guidelines on the hiring and staffing practices of OC LAFCO.

B. Policy

To attract and retain qualified staff for OC LAFCO, it is the policy of OC LAFCO to use a criterion-based recruitment process and behavioral-based interview process to ensure the most qualified candidates are hired.

C. Recruiting

Recruiting applicants will be aggressive enough to assure an adequate supply of qualified candidates. The recruitment process may include, but is not limited to, the use of professional recruitment firms, referrals from current or past employees, walk-in applicants, and/or web-based postings.

D. Interviews

The employment interview is a major element in the selection process. It allows the applicant an opportunity to demonstrate his or her capabilities to perform the

job and provides information to the candidate about the position. Interviews may be conducted by telephone or in face-to-face sessions.

All interview questions must be job-related and have direct bearing on the tasks of the position. Interviews and questions are standardized so that all applicants are evaluated equally. Questions that express (directly or indirectly) any preference, limitation, or general reference to any individual on the basis of a protected category are prohibited.

E. Probationary Period

All OC LAFCO new hires will have a twelve-month probationary period beginning on the first day of employment. The OC LAFCO supervisor will provide job training during this time period and the employee will be evaluated every three months during the probationary period. OC LAFCO may terminate an employee during this twelve-month probationary period at any point in time therein. OC LAFCO retains the right to extend the probationary period. Nothing in this provision shall alter the at-will status of any employee.

### **3.11 COMPENSATION PRACTICES**

A. Overview

The intent of this policy is to provide guidelines on the compensation practices of OC LAFCO.

B. Policy

It is OC LAFCO's policy to provide salaried exempt and salaried non-exempt employees with equitable salary compensation for the specific job assignment. The OC LAFCO salary compensation program is a "pay for performance" system and is designed to ensure OC LAFCO maintains an equitable value of its jobs while encouraging excellent employee performance. Consideration is given to relevant external factors such as economic conditions and the OC LAFCO annual budget. The program is implemented through established salary structures and grades, with salary ranges for both exempt and non-exempt employees. These grades provide different rates of pay for positions requiring different degrees of responsibility, experience, skills and knowledge.

Utilization of these criteria permits OC LAFCO to give individual consideration to each employee's pay in relation to his or her responsibilities, degree of contribution to the success of the agency, and job performance.

C. Salary Increases

Individual salary increases are not awarded on the basis of length of service but based on performance and OC LAFCO affordability.

D. Merit Reviews

1. Merit increases may be awarded during the compensation year in recognition of the employee's performance. The employee's performance is measured primarily on the following criteria as documented in the annual performance review: (1) did the employee successfully achieve his/her agreed upon goals and objectives? (2) what is the employee's overall value to the organization?
2. The following factors may be considered in the determination of the amount of increase: the employee's position in the pay range; compensation compared to other employees in comparable jobs; and the annual budget of the organization.
3. Merit increases, if awarded, are typically effective at the beginning of the fiscal year but may also be deferred to any effective date within the compensation year. Employees may also receive a "pass" on any merit increase in base salary if (1) his/her performance in the fiscal year has not been worthy of an increase, and/or (2) the agency's budget does not have sufficient funds for increases.
4. Probationary Merit Increase  
  
If an employee is appointed at Step 1 of the salary range, he/she may be eligible to receive a 2.5% step increase upon completion of six-months of service based on his/her performance.
5. Merit Performance Incentive Pay Program for Employee at Top-Step  
  
Once an employee reaches the top-step of the salary range for his/her classification, each year, in conjunction with the annual performance evaluation, the employee may be eligible to receive Merit Performance Incentive Pay ranging from zero to three percent of his/her annual base salary.



E. Organizational Promotion

1. A promotional increase may be awarded to an employee who experiences a significant change in the level or kind of work performed.
2. A promotional increase may be awarded to an employee who performs at a high level of competence and has demonstrated readiness to assume broader, more complex assignments if these assignments become available.

Proposed promotions from non-exempt to exempt salaried status, or from hourly to salaried status, must meet the exemption tests of the California Department of Industrial Relations, Industrial Welfare Commission Wage Order (California Wage Orders) and the Federal Fair Labor Standards Act.

### 3.12 EMPLOYMENT CATEGORIES

A. Overview

The intent of this policy is to define employment classifications so that employees understand their employment status and benefit eligibility.

B. Policy

These classifications do not guarantee employment for any specified period of time. Accordingly, the right to terminate the employment relationship at will at any time is retained by both the employee and OC LAFCO.

C. Exempt/Nonexempt

Each employee is designated as either NONEXEMPT or EXEMPT from federal and state wage and hour laws. An employee's EXEMPT or NONEXEMPT classification may be changed only upon written notification by the Executive Officer. Generally, EXEMPT employees (as defined by the Fair Labor Standards Act of 1938) are not eligible for overtime pay and are paid on a salary basis. Conversely, NON-EXEMPT employees are generally paid on an hourly basis and are eligible for overtime pay.

D. Employment Categories

In addition to the above categories, each employee will belong to one other employment category:

1. Regular Full Time – Employees who are not in an extra help status and who are regularly scheduled to work OC LAFCO’s full-time schedule. Generally, they are eligible for OC LAFCO’s benefit package, subject to the terms, conditions, and limitations of each benefit program.
2. Part-Time – Employees who are not assigned to an extra help status and who are regularly scheduled to work less than 30 hours per week. While part time employees do receive all legally mandated benefits (such as Social Security and workers’ compensation insurance), they may be ineligible for some of OC LAFCO’s other benefit programs.
3. Extra Help – Employees who are hired as interim replacements, to temporarily supplement the work force, or to assist in the completion of a specific project. Employment assignments in this category are of a limited duration. Employment beyond any initially stated period does not in any way imply a change in employment status. Extra help employees retain that status unless and until notified of a change in writing signed by the Executive Officer. Extra help employees are ineligible for OC LAFCO’s benefit programs unless otherwise required by law.
4. Intern – OC LAFCO sometimes utilizes the services of paid student interns. Interns are used to supplement the OC LAFCO work force and provide opportunities for local students to gain local government work experience. Employment is for a specified period of time. Interns are ineligible for OC LAFCO’s benefit programs.
5. Temporary Assignment Category (outside of regular full-time/part-time employment categories) – Occasionally, employees may be assigned additional temporary duties outside of their current position description when there is a business need, which may be due to new duties to be performed by OC LAFCO which have not yet been permanently assigned, a vacancy during a recruitment or extended leave of another employee. The term of a temporary assignment will be limited and include duties that are required to support internal efficiencies and administration operations. All temporary assignments will be approved by the Executive Officer and will be compensated at a maximum two and a half percent temporary increase to the affected employee’s current bi-weekly salary. At the end of the temporary assignment, the affected employee’s bi-weekly salary will be returned to the previous bi-weekly salary. This additional amount will not be reportable for retirement purposes. Employees that are required to perform additional duties on a short-term basis (for less than two weeks) will not be eligible for additional pay. A temporary assignment is not intended to be applied to multiple employees at one time for sharing additional duties due to vacancies or extended leaves.

This provision does not apply to the position of Executive Officer.

E. Job Descriptions

Job descriptions are adopted by the Commission in the Classification and Compensation Resolution. Please refer to Resolution CP 18-04 for the current job descriptions.

### 3.13 PAY POLICIES

A. Overview

The intent of this policy is to explain and clarify wage administration, work hours and timekeeping.

B. Payment of Wages

All employees are paid biweekly (every two weeks). There are 26 pay periods each year with paydays being every other Friday. In the event that the normal payday falls on an OC LAFCO holiday, the pay date will be the first day immediately prior to the normal pay date.

C. Pay Advances

OC LAFCO does not give advances against wages or un-accrued vacation time.

D. Corrections to Payroll

Errors arising from the payroll processing will be worked out with the payroll contact and the employee. Payment due to a correction will be processed in accordance with state law.

E. Overtime Pay

When OC LAFCO's needs cannot be met during regular working hours, employees may be required to work overtime. All overtime work for nonexempt employees must receive prior authorization of the Executive Officer. Overtime compensation is paid to all nonexempt employees in accordance with federal and state wage and hour laws, based on actual hours worked. OC LAFCO will make an effort to evenly distribute overtime based on business necessity among the employees with the necessary skills, knowledge, and abilities. When possible, advance notification will be provided. Employees who refuse to work overtime shall be subject to corrective action, up to and potentially including termination.

*OC LAFCO policy is that all overtime should be pre-approved by the Executive Officer. OC LAFCO will pay any overtime worked, regardless if pre-approved. However, the working of overtime that has not been approved may be grounds for discipline, up to and including termination of employment.*

All employees who are classified as “non-exempt employees,” as defined under applicable laws or regulations, will be eligible for overtime pay. Exempt employees are not entitled to overtime pay. Overtime is typically defined under federal law as hours worked by non-exempt employees in excess of forty (40) hours in a workweek. In California, overtime is also typically applied to hours worked over eight (8) in a standard work day; though alternate work weeks allow variance. OC LAFCO follows the applicable state and federal laws when calculating overtime. Please note that only actual hours worked in a given workday or work week apply in calculating overtime. In other words, sick leave, vacation, holidays, or other paid time off is not considered hours worked for purposes of calculating overtime. Employees are obligated to accurately report their overtime worked; any error in overtime payment must be reported in writing to management for correction.

Employees of OC LAFCO designated as exempt employees shall not be subject to the provisions of this section.

F. Work Hours

Staffing needs and operational demands may necessitate variations in starting and ending times, as well as variations in the total hours that may be scheduled each day and week, at the discretion of the Executive Officer.

G. Timekeeping

Accurately recording time worked is the responsibility of every nonexempt employee. Federal and state laws require OC LAFCO to keep an accurate record of time worked in order to calculate employee pay and benefits. Time worked is all the time actually spent on the job performing assigned duties.

Nonexempt employees shall accurately record the actual time they begin and end their work electronically. Each employee is responsible for the daily recording of all time worked on this device. Each employee MUST record their start and finish times for the work day and for meal periods daily. Nonexempt employees must also record departure from work for any non-work-related reason. Failure to do so will subject an employee to discipline, up to and including discharge. Submitting time for another employee is grounds for discipline, up to and including termination. Altering, falsifying, or tampering with time records may result in termination.

OC LAFCO’s time keeping policies must be followed at all times. Employees are responsible for reviewing their time entries for accuracy and confirming that their paychecks accurately reflect their actual hours worked. If there are any errors on your paycheck, you should report the error immediately in writing. Any pay correction will be included in the pay period for the time period in which the correction occurred, unless otherwise stated at the time of the correction. Any modifications to a time record must be initialed by the employee, supervisor and the Executive Officer. Exempt employees are expected to also keep track of their hours on a timesheet to be provided by OC LAFCO.

### **3.14 COMPENSATION STRUCTURE**

The compensation structure is performance-based with ten-step salary ranges for each classification (See the Classification and Compensation Resolution CP 18-04 for details).

## **PART 3 – BENEFITS**

### **3.15 INSURANCE AND OTHER BENEFITS**

#### **A. Overview**

The intent of this policy is to provide insurance and other benefits to all regular full-time and part-time employees of OC LAFCO. The Commission will review and may change these benefits on an annual basis at its discretion.

#### **B. Policy**

OC LAFCO employees will receive health insurance, dental insurance and other insurance depending on their particular classifications. These insurance benefits will generally, but are not required to be, the same as provided to County of Orange employees. OC LAFCO employees are also eligible to participate in the Orange County Employees Retirement System (OCERS) and the County of Orange Defined Contribution 457(b) and 401(a) Plans. The Commission will review and establish the benefits annually at its discretion. A Benefits Summary Chart will be prepared annually setting forth these benefits and provided to all OC LAFCO employees.

### **3.16 TUITION REIMBURSEMENT**

#### **A. Overview**

OC LAFCO encourages and supports efforts by its employees to improve their skills

and educate themselves for advancement. OC LAFCO believes that assisting the employee in the pursuit of an educational agenda or to otherwise expand their work-related knowledge base will benefit both the employee and OC LAFCO.

B. Policy

All regular full-time employees of OC LAFCO, who have successfully completed the twelve-month probationary period, are eligible to receive educational assistance.

Upon pre-approval by the Executive Officer, the following reimbursement policies have been outlined to cover tuition and course/seminar or degree related expenses:

1. Maximum company reimbursement for all course or degree related expenses is \$3,000 per calendar year in pursuit of any approved courses, seminars, certifications, associate degree, or bachelor's degree. Reimbursement in pursuit of an approved masters or doctoral degree program is \$5,000 per calendar year.
2. Employees will not be reimbursed for more than two (2) courses in a single semester or quarter.
3. Course must be related to the work of the employee's position or occupation and must be taken at accredited institutions.
4. Pre-approval of classes (or course of study) is required by the Executive Officer. Employees must submit a written request for tuition reimbursement, prior to enrolling in the class, to the Executive Officer for approval.
5. Must be an OC LAFCO employee throughout the duration of the course.
6. The percentage of reimbursement is based on the grade earned for each college seminar, certification, associate, bachelor, master or doctoral degree course:

|             |      |
|-------------|------|
| Grade A     | 100% |
| Grade B     | 100% |
| Grade C*    | 50%  |
| Pass/Credit | 50%  |

\*Master's and doctoral degree courses completed with a letter grade of "C" or below are not eligible for any reimbursement.

7. Reimbursable expenses include tuition, required textbooks, lab fees, library fees, and required registration and parking fees.
8. Upon completion of the course, official grades and receipts must be submitted to the Executive Officer for reimbursement. Taxes are withheld on educational reimbursements when required by law.

### **3.17 STAFF MILEAGE REIMBURSEMENT**

#### **A. Policy**

OC LAFCO staff will be reimbursed at the currently applicable IRS rates for reasonable and necessary mileage expenses when personal vehicles are used for OC LAFCO-related business, including, but not limited to, meetings, project site visits, and conferences. To receive mileage reimbursement, a form indicating the date of the trip, number of miles traveled, purpose of the trip, and reimbursement calculation is required to be submitted for review and approval by the Executive Officer. If approved, the form is submitted to the Bookkeeper for issuance of a reimbursement check.

## **PART 4 – TIME OFF**

### **3.18 SICK LEAVE BENEFITS**

#### **A. Overview**

Employees who are hired to work at least thirty days are eligible for California Paid Sick Leave. The intent of this policy is to provide paid time off for the purpose of illness or other medical requirements.

The Commission will review and may change any of these sick leave benefit provisions on an annual basis at its discretion.

#### **B. Policy**

OC LAFCO provides paid sick leave benefits to all employees as required by California law.

#### **C. Accumulation of Sick Leave**

During the first three (3) years of employment, an employee shall earn .0347 hours of sick leave with pay for each paid hour in a regular scheduled workweek or period (approximately seventy-two (72) hours per year).

After an employee has been paid for six thousand two hundred forty (6240) regular scheduled hours, approximately three (3) years, the employee shall earn .0462 hours of sick leave with pay for each paid hour in a regularly scheduled work period (approximately ninety-six (96) hours per year).

Sick leave earned shall be added to the employee's sick leave accumulation account upon the completion of the pay period, with no credit to be applied during the progress of the pay period or for a portion of the pay period or for a portion of the pay period during which the employee terminates service.

Employees may only accumulate up to a maximum of 1500 hours of sick leave.

Extra Help Employees shall accrue sick leave at a rate of one hour per every 30 hours worked beginning at the commencement of employment.

Extra Help Employees will have a maximum sick leave accrual of 80 hours. Extra Help Employees will not accrue any additional sick leave hours once they hit 80 hours in their sick leave balance. Once they fall below 80 hours of sick leave accrual, they will begin to accrue sick leave again. Extra Help Employees may use up to a maximum of 40 hours sick leave annually.

Should an Extra Help Employee become a regular full time or part time employee, the pro-rated sick leave hours they accrued as an Extra Help will roll over into their sick leave account as a regular full time or part time employee.

#### D. Permitted Uses of Sick Leave

Employees may use Paid Sick Leave for the following purposes:

1. The diagnosis, care, or treatment of an existing health condition of, or preventative care for, an employee or an employee's qualified family member.
2. For an employee who is a victim or whose family member is a victim (an individual against whom a qualifying act of violence is committed), as defined in subdivision (j) of Section 12945.8 of the Government Code, the purposes described in paragraph (3) of subdivision (a), or subdivision (b), of Section 12945.8 of the Government Code.
3. Illness while on paid vacation will be charged to sick leave rather than vacation only under the following conditions:
  - a. The illness or injury of the employee or member of the employee's immediate family was of a nature that would preclude the effective use



of vacation and would prevent the employee from performing his or her normal duties.

- b. The employee must notify the Executive Officer within four (4) calendar days of the beginning of the illness or prior to the end of his or her vacation leave.
  - c. OC LAFCO shall be under no obligation to extend the vacation beyond the original scheduled vacation ending date.
  - d. Upon the employee's return to work, the employee may be requested to furnish OC LAFCO with a certificate signed by a licensed physician or registered nurse stating the nature of the medical condition and the period of disablement.
4. Absence from duty because of personal emergencies is not to exceed twenty (20) working hours during the fiscal year. A personal emergency is something unanticipated that requires the employee to personally attend to the situation and must be attended to during normal working hours.
  5. An absence due to the air pollution alert, which prevents the employee traveling to his or her work location.

A "family member" for these purposes is defined as a child (a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis), a parent (a biological, adoptive or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child), a spouse or registered domestic partner, a grandparent, grandchild and sibling, or a designated person which is a person identified by the employee at the time the employee requests paid sick days.

Sick leave shall not be applied to an absence which occurs on a holiday observed by OC LAFCO.

In any use of sick leave, an employee's account shall be charged to the nearest quarter hour for a non-exempt employee, which exempt employees will be charged only for full-day absences. Exempt employees are defined as those employees who are exempt from overtime rules under the Fair Labor Standards Act.

To the extent possible, employees must provide reasonable advance notice of their need for California Paid Sick Leave under this policy to the Executive Officer

or their immediate supervisor by telephone. If the need is not foreseeable, the employee must provide notice as soon as practicable. It is the responsibility of the employee to keep the supervisor informed as to continued absence beyond the first day.

An employee may be required to furnish a certificate issued by a licensed health care provider or other satisfactory evidence of illness, injury, medical condition or medical or dental office calls when OC LAFCO has notified the employee in advance of such a requirement or when the employee has been under the care of a physician.

Any accrued, unused sick leave will roll over into the next calendar year.

E. No Payout of Sick Leave

There is no payout for unused accumulated sick leave when an employee leaves employment with OC LAFCO.

F. Transfer of Sick Time between OC LAFCO Employees

OC LAFCO employees, with the approval of the Executive Officer, may transfer up to 80 hours of sick leave per year to another OC LAFCO employee if needed to cover time off for medical or dental appointments or personal emergencies. OC LAFCO employees, with the written approval of the Executive Officer, may transfer a portion of their unused sick time balance to another OC LAFCO employee under the following circumstances:

1. An OC LAFCO employee may transfer no more than 80 hours of sick time to any one OC LAFCO employee during any calendar year.
2. The OC LAFCO employee receiving the sick time transfer must be experiencing personal or family medical issues requiring extended periods of time away from the office.
3. The OC LAFCO employee transferring sick time must maintain a minimum balance of at least 40 hours of sick time after an approved transfer.
4. All sick-time transfer requests must be approved by the Executive Officer.

### 3.19 VACATION<sup>1</sup>

#### A. Overview

This policy applies to all regular full-time and part-time employees of OC LAFCO. The intent of this policy is to provide paid time off for employees as a means of rest and rejuvenation. OC LAFCO encourages employees to utilize this benefit every year. OC LAFCO believes personal time off is an important means to enable continuation of strong performance and positive contribution to OC LAFCO, as well as encourage a balanced and enriching life for employees. The Commission will review and may change any of these vacation benefit provisions on an annual basis at its discretion.

#### B. Policy

During the first three years of employment, an employee shall earn approximately .0577 hours of vacation leave with pay for each hour in a regularly scheduled workweek or period (120 hours or 15 days per year).

After an employee has been paid for 6,240 regularly scheduled hours, approximately three years, the employee shall earn approximately .077 hours of vacation leave with pay for each paid hour in a regularly scheduled work period (160 hours or 20 days per year).

After an employee has been paid for 20,800 regularly scheduled hours, approximately ten years, the employee shall earn approximately .0962 hours of vacation leave with pay for each paid hour in a regularly scheduled work period (200 hours or 25 days per year).

Regular part-time employees with continuous service working 20 hours or more per week will accrue vacation in accordance with the above schedule, on a pro-rated basis determined by normal hours worked. Active service for all regular employees commences with their first day of work and continues thereafter unless broken by an absence without pay or leave of absence. Extra help employees do not accrue paid vacation.

Employees cannot accumulate more than 240 hours of vacation.

Accrual ceases until vacation is utilized to bring the amount of accrued vacation below the applicable cap or vacation is cashed out as permitted by this policy.

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<sup>1</sup> Amendment to the vacation policy for vacation accruals was approved by the Commission on October 11, 2023 with an effective date of December 15, 2023.

In order to request vacation time, employees should submit a written request to the Executive Officer or Assistant Executive Officer. Efforts will be made to accommodate all employees' requests for specific vacation leave time. However, the Executive Officer or Assistant Executive Officer will also consider the needs of OC LAFCO when evaluating vacation requests.

In rare cases, the Executive Officer may allow an employee to take an advance on vacation accrual time; however, this advance will not be allowed to exceed the

amount of time the employee is scheduled to accrue during the current service year. Before any advance on vacation is granted, the employee will sign an authorization which authorizes OC LAFCO to deduct from his/her final paycheck the amount of any un-accrued vacation time advanced to the employee which has not subsequently been accrued.

During each fiscal year an employee may request to be paid for accrued vacation in either two (2) separate increments of up to forty-five (45) hours each or one (1) increment of up to ninety (90) hours.

Upon separation from OC LAFCO employment, an employee is eligible to be paid for accrued, unused vacation days up to a maximum of 240 hours at 100% of the employee's hourly salary. In cases where an employee terminates employment with OC LAFCO and has been permitted to take vacation time prior to actual accrual, the final paycheck will reflect a deduction relative to the amount of unaccrued time off taken.

A holiday that falls during an employee's vacation leave will be treated and paid as a holiday and not as a day of vacation leave.

### **3.20 HOLIDAY**

#### **A. Overview**

The intent of this policy is to provide paid time off for eligible employees for holidays throughout the year.

#### **B. Policy**

Holiday time off with pay will be granted to all regular full-time employees and regular part-time employees (prorated) for the days designated by the County of Orange on an annual basis. Each part-time employee scheduled to work, but permitted to take the day off, shall receive pay computed at the employee's basic hourly rate for the number of hours the employee was regularly scheduled to work. A part-time employee shall receive compensatory time at the rate of one (1) hour for each five (5) hours of regularly scheduled work in the workweek up to a maximum of eight (8) hours of compensatory time. Holidays will vary year to year and a schedule will be published each year.

### **3.21 COMPENSATORY TIME**

#### **A. Overview**

OC LAFCO employees earn compensatory time ("comp time") when a County holiday falls on a "flex" day. Limited comp time is also earned during the calendar year to all employee's time off to attend special religious or other designated events.

#### **B. Policy**

For employees who are not scheduled to work on a holiday (whose regular day off is the holiday) or their flex day falls on a holiday, management should work with employees to offer one of the following options:

1. The employee may change his or her schedule and take another day off in the same pay period where operationally feasible and without incurring overtime liability. For employees who are not on an eight-hour day schedule, the employee may go on an eight-hour day schedule for the workweek in which the holiday fills.
2. The employee may bank eight (8) hours of non-cashable compensatory time for use at a later date.

Compensatory time may be used in lieu of vacation time for time off. Compensatory time shall have no cash value and any unused hours will be forfeited upon separation from the County.

### **3.22 PREGNANCY RELATED DISABILITY LEAVE**

#### **A. Eligibility**

In accordance with applicable law and this policy, female employees are eligible for a leave of absence and/or transfer on account of pregnancy, regardless of length of service with OC LAFCO.

#### **B. Pregnancy Disability Leave**

OC LAFCO recognizes that employees may be unable to work for temporary or extended periods of time due to pregnancy, childbirth, or related medical conditions. Accordingly, for any employee who is disabled by pregnancy, childbirth, or related medical conditions, OC LAFCO provides leave for the period of actual disability (“Pregnancy Disability Leave”), up to a maximum of four months. Pregnancy Disability Leave may be taken intermittently, or on a reduced-hours schedule, as medically advisable. An employee may also be entitled to a reasonable accommodation for pregnancy, childbirth, or related medical conditions.

1. A woman is “disabled by pregnancy” if, in the opinion of her healthcare provider, she is unable to work at all or is unable to perform one or more of the essential functions of her job or to perform these without undue risk to herself, to the successful completion of her pregnancy, or to other persons.
2. Pregnancy disability leave is for any period(s) of actual disability caused by pregnancy, childbirth, or related medical conditions. Where medically advisable, pregnancy disability leave may be taken for a reasonable period of time, up to four months per pregnancy (eighty- eight workdays for a full-time employee). Employees who regularly work more or less than a 40-hour workweek are entitled to such leave on a pro rata basis.
3. Time off for necessary prenatal or postnatal care, as well as for any conditions such as severe morning sickness, doctor-ordered bed rest, gestational diabetes, pregnancy-induced hypertension, preeclampsia, post-partum depression, childbirth, loss and end of pregnancy, and recovery from childbirth are all covered by pregnancy disability leave.

C. Leave Due to Childbirth

Even if the employee is not disabled by pregnancy, childbirth, or related medical conditions, a pregnant employee is entitled to up to six weeks of leave for normal childbirth. A pregnant employee is entitled to up to eight weeks of leave for cesarean section. Employees working more or less than a 40-hour work week are entitled to such leave on a pro rata basis.

D. Leave, Transfer and Other Reasonable Accommodation Requests

1. Pregnant employees should notify the Executive Officer as soon as possible regarding their intent/need to take a leave of absence or to transfer due to pregnancy, childbirth, or related medical conditions. Such notice should specify the anticipated timing and duration of the leave or transfer.
2. Where the need for a leave of absence or transfer is foreseeable, employees must provide such notice at least 30 days prior to the date the leave or transfer is to begin. Further, employees must consult with the Executive Officer regarding the scheduling of any planned medical treatment or supervision so as to minimize any disruption to OC LAFCO's operations. (Actual scheduling of the leave/transfer is subject to the approval of the employee's healthcare provider.)
3. Where 30 days advance notice is not possible, notice must be given as soon as possible. If an employee fails to provide the requisite 30 days' advance notice for a foreseeable need for leave, without any reasonable excuse for the delay, OC LAFCO reserves the right to delay the taking of the leave until at least 30 days after the date that the employee does provide such notice. However, OC LAFCO will not deny a pregnancy disability leave or transfer where the need for leave is an emergency or was otherwise unforeseeable.
4. OC LAFCO shall respond to the leave or transfer request as soon as practicable and, in any event, no later than 10 calendar days after receiving the request. OC LAFCO shall attempt to respond to the leave request before the date of leave is due to begin. Once given, the approval shall be deemed retroactive to the date of the first day of the leave.
5. Reasonable accommodation other than leave or transfer will be granted upon request. Such requests must be supported by a written certification from the employee's healthcare provider.

E. Intermittent Leave

Pregnancy Disability Leave need not be taken in one continuous block. It may be taken on an as-needed basis, intermittently or on a reduced work schedule.

1. If it is medically advisable and foreseeable that an employee will be taking intermittent leave or leave on a reduced work schedule, OC LAFCO may require that the employee transfer temporarily to an available alternative position.
2. An “alternative position” is one that provides pay and benefits equivalent to those of the employee’s regular position and better accommodates recurring periods of leave than the employee’s regular job. It does not have to have equivalent duties. However, the employee must be qualified for the position.
3. Transfer to an alternative position may include altering an existing job to better accommodate the employee’s need for intermittent leave or a reduced work schedule.

F. Temporary Transfers

1. An employee may request a temporary transfer to a position with less strenuous or less hazardous duties when the employee’s healthcare provider certifies that such a transfer is medically advisable.
2. Temporary transfers will be granted where appropriate and when OC LAFCO is able to reasonably accommodate the transfer, provided that the transfer would not require OC LAFCO to:
  - a. Create additional employment.
  - b. Discharge another employee.
  - c. Violate collective bargaining agreement.
  - d. Transfer a more senior employee in order to make room for the pregnant employee’s transfer; or
  - e. Promote or transfer the employee or any other employee to a position for which he/she is not qualified.

G. Certifications

1. As a condition of taking a Pregnancy Disability Leave or transfer, the employee must provide medical certification from her healthcare provider that she is disabled due to pregnancy, childbirth or related medical conditions and/or that a transfer to an alternative position is medically advisable.
2. The medical certification should include:



- a. The date on which the employee became disabled due to pregnancy or the date of the medical advisability for the transfer.
- b. The probable duration of the period(s) of disability or the period(s) for the advisability of the transfer; and
- c. A statement that, due to the disability, the employee is unable to work at all or to perform any one or more of the essential functions of her position without undue risk to herself, to the successful completion of her pregnancy, or to other persons or a statement that, due to pregnancy, the transfer is medically advisable.
- d. Upon expiration of the time period for the leave estimated by the health care provider, OC LAFCO may require the employee to provide another medical certification if additional leave time is requested.

#### H. Fitness for Duty

The employee must provide certification from her healthcare provider of her fitness for duty prior to being reinstated.

#### I. Pay During Leave

1. Pregnancy Disability Leave is unpaid leave. However, the employee may elect to use, or OC LAFCO may require that the employee use accrued sick leave to provide pay during the period of Pregnancy Disability Leave.
2. An employee may also elect, at her option, to use accrued vacation or other accrued paid time off, if any, to provide pay during pregnancy disability leave. The use of paid leave runs concurrently with Pregnancy Disability Leave and does not extend the length of the Pregnancy Disability Leave.
3. The employee may also be eligible to receive temporary disability insurance payments during her Pregnancy Disability Leave, and to coordinate the use of any accrued sick leave and/or vacation to supplement temporary disability insurance payments.

#### J. Reinstatement

1. The employee is entitled to be reinstated to the same or comparable position upon release to return to work by her healthcare provider.

- a. Where a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated by the date agreed upon, provided that the employee has provided medical certification of her fitness for duty.
  - b. If the actual reinstatement date differs from the original agreement, the employee will be reinstated within two business days, where feasible, after the employee notifies OC LAFCO of her readiness to return and provides medical certification of her fitness for duty.
  - c. Failure to return to work on the next workday following the expiration of pregnancy disability leave may be grounds for termination of employment.
2. The employee is not, however, entitled to any greater right of reinstatement than she would have had if she had not taken leave. Thus, reinstatement to the “same position” may be denied if for legitimate business reasons unrelated to the employee having taken a Pregnancy Disability Leave or transfer, the employee would not otherwise have been employed in her same position at the time reinstatement is requested.
  3. Also, the employee has no greater right to reinstatement to a “comparable position” or to other benefits and conditions of employment than an employee who has been continuously employed. Thus, reinstatement to a comparable position may be denied if there is no comparable position open on the employee’s scheduled date of reinstatement or within 60 calendar days thereafter.
  4. In the event that the employee takes family and medical leave under the California Family Rights Act (“CFRA”) following her pregnancy disability leave for the birth of her child, the employee’s right to reinstatement shall be governed by the CFRA and OC LAFCO’s Family and Medical Leave Policy rather than these provisions.

#### K. Seniority and Benefits

1. In general, employees taking Pregnancy Disability Leave will be treated the same as other similarly situated employees taking disability leave.
2. The employee returning from a Pregnancy Disability Leave shall return with no less seniority than she had when the leave commenced for purposes of layoff, recall, promotion, job assignment, and seniority related benefits such as vacation.
3. The employee shall retain employee status during the period of leave, and the leave shall not constitute a break in service for purposes of longevity and/or seniority.

#### L. FMLA/CFRA and Pregnancy Disability Leave

In accordance with the Federal Family and Medical Leave Act (FMLA), OC LAFCO shall count each day of pregnancy disability leave against an eligible employee's entitlement to up to 12 weeks of leave under the FMLA. Pursuant to the CFRA, the right to CFRA is separate and distinct from the right to take leave for pregnancy disability, and PDL will not be counted against the CFRA leave entitlement.

#### M. Group Health Insurance

Where an eligible employee is on Pregnancy Disability/FMLA Leave, OC LAFCO will continue the employee's group health insurance coverage under the same terms and conditions as applied prior to the leave of absence.

1. In the event that the employee fails to return from leave, OC LAFCO may recover premiums it paid to maintain group health insurance coverage. (For details, see OC LAFCO's Family and Medical Leave Policy.)
2. If the employee coverage ceases after the exhaustion of Pregnancy Disability Leave/FMLA or other leaves, the employee may continue group health insurance coverage pursuant to federal and state COBRA guidelines.

### **3.23 OTHER TIME OFF**

#### A. Overview

This policy applies to all regular full-time and regular part-time employees of OC LAFCO. The intent of this policy is to outline other types of paid and unpaid time off available to eligible employees.

#### B. Bereavement Leave

Upon request, employees who have been employed for at least 30 days will be entitled to five (5) days of paid leave, which will be pro-rated for part-time employees based on hours worked, for each death in the employee's immediate family. For purposes of this section, immediate family is defined as the employee's spouse, parent, child, sibling; the employee's spouse's parent, child, or sibling; the employee's child's spouse; grandparents or grandchildren; the employee's domestic partner or the child of a domestic partner; person whom the employee has/had a legal guardian relationship. To the extent allowed by law, OC LAFCO may request documentation from an employee availing themselves of this leave.

The days of bereavement leave do not need to be taken consecutively, however, the employee must complete the bereavement leave within three months of their family

member's death, at which time any remaining unused bereavement leave will expire.

Employees may also, with the approval of the Executive Officer, use any available paid leave for additional time off as necessary. If more time off is requested, it will be granted only at the discretion of the Executive Officer. Bereavement pay is calculated based on the base pay rate at the time of absence and prorated for part-time employees.

#### C. Reproductive Loss Event

All employees who have been employed for OC LAFCO for at least 30 days are entitled to an unpaid leave of absence up to five (5) days in total following a reproductive loss event. Such leave must be taken within three (3) months of the reproductive loss event. If an employee experiences more than one reproductive loss event within a 12-month period, OC LAFCO will grant the employee a cumulative total of up to of 20 (twenty) unpaid days of leave; subject to the limitation that each unpaid leave of absence shall not exceed five (5) days.

A reproductive loss event is defined as: failed adoption, failed surrogacy, miscarriage, stillbirth, or unsuccessful assisted reproduction. If the employee would have been recognized as a parent if the aforementioned events were successful, the employee will be covered under this definition. This includes the employee, the employee's current spouse or domestic partner, or another individual if the person would have been a parent of a child as a result of the event.

The leave of absence following a reproductive loss event is unpaid, though an employee may elect to utilize any accrued and available paid sick leave, vacation, personal leave, or compensatory time off that is otherwise available to the employee.

#### D. Jury Duty Leave

OC LAFCO encourages employees to fulfill their civic responsibilities by serving jury duty or appearing in court as a witness when required. OC LAFCO provides 30 days of paid time off at the employee's regular rate of pay for jury duty service provided the employee deposits fees paid for hours of jury duty excluding mileage. For service longer than 30 days, employees may use any accrued vacation leave or receive unpaid leave for jury duty service.

Employees must show the jury duty summons to the Executive Officer as soon as possible so that arrangements may be made to accommodate their absence. Employees are expected to report for work whenever the court schedule permits, including any remaining parts of a normally scheduled workday.

OC LAFCO will continue to provide health insurance benefits for the full term of the jury duty absence. Vacation, sick leave, and holiday benefits will continue to accrue during jury duty leave.

E. Domestic Violence Victim Leave, Sexual Assault or Stalking

OC LAFCO will provide time off to an employee who has been the victim of domestic violence, sexual assault or stalking to seek any relief, including, but not limited to, a temporary restraining order, restraining order, or other injunctive relief, to help ensure the health, safety, or welfare of the victim or his or her child. This includes time off for court proceedings, services from a domestic violence shelter, program or rape crisis center, counseling, medical attention, and participation in safety planning programs. OC LAFCO requires reasonable advance notice of the leave when feasible. If time off is taken due to an emergency, the employee must, within 15 days of the absence, provide OC LAFCO with certification of the need for the leave such as a police report, court order, documentation from a healthcare provider, victims advocate, or counselor.

Employees eligible for paid sick leave benefits under California law may take any such available paid time off, consistent with such law, for the purposes set forth in this policy. For more information, please see the Sick Leave policy. In the event paid sick leave benefits are not available, employees taking leave under this policy may elect to apply accrued and unused vacation to such time.

OC LAFCO prohibits discrimination, discharge, or retaliation against an employee for taking time off or requesting an accommodation under this policy or based on the employee's status as a victim of domestic violence, sexual assault, and/or stalking.

F. Crime Victims' Leave

OC LAFCO will provide time off to an employee to attend judicial proceedings related to a crime, if that employee is a victim of crime, an immediate family member of a victim, a registered domestic partner of a victim, or the child of a registered domestic partner of a victim. OC LAFCO requires that, where feasible, in advance of taking leave, the employee provide it with a copy of the notice of each scheduled proceeding that is provided to the victim by the agency responsible for providing notice. If advance notice is not possible, the employee is required to provide OC LAFCO with a copy of the notice within a reasonable time.

No employee who is absent from work pursuant to this provision will be discharged or otherwise discriminated against in compensation or other terms, conditions or privileges of employment, because of such absence. Such leave is unpaid. Employees taking leave under this policy may elect to apply vacation time to such leave.

## G. Leave for Organ and Bone Marrow Donation

OC LAFCO will grant an employee the following leaves of absence:

1. Bone Marrow Donation:

A paid leave of absence of up to five business days in any one-year period for the purpose of donating the employee's bone marrow to another person.

2. Organ Donation:

a. A paid leave of absence of up to 30 business days in any one-year period for the purpose of the employee donating the employee's organ to another person.

b. An additional unpaid leave of absence, not exceeding 30 business days in a one-year period, for the purpose of the employee donating the employee's organ to another person.

For leaves of absence under this policy that are paid, if an employee has earned and unused sick or vacation time is available, the employee is required to first use up to five days of such paid sick or vacation time for a bone marrow donation and up to two weeks of sick or vacation time for organ donation.

In order to receive a leave of absence pursuant to this policy, the employee must provide written verification to OC LAFCO that the employee is an organ or bone marrow donor and that there is a medical necessity for the donation of the organ or bone marrow.

Any leave taken for the donation of an organ or bone marrow will not constitute a break in service for purposes of the employee's right to salary adjustments, sick leave, vacation, annual leave, or seniority. During any leave taken under this policy, OC LAFCO will maintain and pay for coverage under any group health plan, for the full duration of this leave.

Leave provided under this policy may be taken in one or more periods. Leave taken under this policy will not run concurrently with any leave taken pursuant to the federal Family and Medical Leave Act or the California Family Rights Act.

Upon expiration of a leave of absence authorized by this policy, OC LAFCO will restore the employee to the position held by the employee when the leave began or to a position with equivalent seniority status, employee benefits, pay, and other terms and conditions of employment. OC LAFCO may decline to restore an employee because of reasons unrelated to the employee's exercise of rights under this policy.

## H. Time Off to Vote

Generally, employees are able to find time to vote either before or after their regular work schedule. If, however, full-time employees are unable to vote in an election during their non-working hours, OC LAFCO will grant up to 2 hours of paid time off to vote.

Employees requiring time off to vote should make their requests at least two working days prior to the Election Day. Advance notice is required so that the necessary time off can be scheduled at the beginning or end of the work shift, whichever provides the least disruption to the normal work schedule. Employees must submit a voter's receipt on the first working day following the election to qualify for paid time off.

## I. Military Leave

Military leave of absence will be granted to employees who are absent from work because of service in the U.S. uniformed services in accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA) and Military and Veterans Code Section 394.5. Advance notice of military serve is required, unless military necessity prevents such notice, or it is otherwise impossible or unreasonable. Employees who have been employed for at least one year are eligible for up to 30 days of paid leave for active-duty training.

Employees on military leave will receive rights and benefits comparable to those they would receive under OC LAFCO's policies for other types of leave. Continuation of health insurance benefits is available based on the length of the leave and subject to the terms, conditions and limitations of the applicable plan for which the employee is otherwise eligible. Employees on leave for no more than 30 days will receive continued health insurance benefits but are responsible for paying their portion of the health care coverage continuation rights. Vacation, sick leave and holiday benefits will continue to accrue during any paid portion of a military leave of absence.

CFRA permits employees to take up to 12 workweeks of unpaid protected leave during a 12-month period for a "qualifying exigency" related to the covered active duty or call to covered active duty of an employee's spouse, domestic partner, child or parent in the U.S. armed forces. The Federal Family and Medical Leave Act (FMLA) also entitles eligible employees to take leave for a covered family member's service in the Armed Forces. This policy supplements our Family and Medical Leave policy and provides a general notice of employee rights to this leave. Except as stated below, such rights and obligations for service member leave are governed by our existing Family Leave policy. Service member FMLA/CFRA runs concurrent with other leave entitlements provided under federal, state and local law. Service member FMLA provides eligible employees unpaid leave for anyone, or combination of the following reasons:

1. A “qualifying exigency” arising when the employee’s spouse, son, daughter or parent, who is a member of the Armed Forces (including National Guard and Reserves), is on covered active duty or has been notified of an impending call to order to covered active duty; and/or
2. To care for a covered family member who has incurred an injury or illness while in the Armed Forces provided that such injury or illness renders the family member medically unfit to perform duties of the member’s office, grade, rank or rating and is certified by the service member’s healthcare provider.

When leave is due because of a “qualified exigency” concerning the military duty of a family member, an eligible employee may take up to 12 workweeks of leave during any 12-month period.

When leave is to care for an injured or ill service member, an eligible employee may take up to 26 weeks of leave during a single 12-month period to care for a service member. Leave to care for an injured or ill service member, when combined with other FMLA-qualifying leave, may not exceed 26 workweeks in a single 12-month period.

Where spouses are both employed by OC LAFCO, they may take up to, in aggregate, 26 workweeks of service member FMLA, provided that any portion of the aggregate leave that is not for care of a family service member does not exceed 12 workweeks.

In any case where it is foreseeable that an employee will need service member FMLA, that employee must provide notice of his or her intent to take leave as soon as reasonably possible and provide certification of either the “qualified exigency” or family service member’s need for care as soon as practicable.

#### J. Military Spouse Leave

Qualified California employees will be given up to 10 days leave during that time in which the employee’s spouse or domestic partner is on leave from deployment in a combat zone with the active duty or reserve military or national guard during a period of military conflict. Employees may use accrued vacation time to cover this absence. If the employee has no accrued vacation, the employee must request time off without pay.

Qualifying employees are employees who work an average of 20 hours per week and have a spouse or domestic partner who is serving as (1) a member of the U.S. Armed Forces and who has been deployed during a period of military conflict to an area designated as a combat theater or combat zone by the President of the United States



or (2) a member of the Armed Forces Reserve Components or the National Guard and has been deployed during a period of military conflict.

Qualifying employees who wish to request this leave must provide OC LAFCO with a written request for such leave within two business days of receiving official notice that the military spouse or domestic partner will be on leave from deployment. The employee must also provide written documentation to OC LAFCO certifying that the military member will be on military leave from deployment.

#### K. Workers' Compensation Leave

If an employee sustains a work-related injury, he or she will be eligible for a medical leave of absence for a period of disability in accordance with all applicable laws covering occupational injuries.

Where an employee's work-related injury qualifies as a serious health condition, any Workers' Compensation Leave taken will be considered part of his or her entitlement, if any, to leave under the Family and Medical Rights Act ("FMLA") and the California Family Rights Act ("CFRA"). Employees on Workers' Compensation Leave should keep their supervisors informed as to their work status and will need to provide a doctor's release before returning to work.

For more information on how to apply for or obtain workers' compensation information, an employee may contact the County of Orange, Risk Management Department at (714) 285-5511. Additional information may also be found at the following worker's compensation resources:

1. State of CA Department of Industrial Relations Website: <https://www.dir.ca.gov/dwc/fileclaim.htm>.
2. Facts for Injured Workers: <https://www.dir.ca.gov/dwc/InjuredWorker.htm>.

#### L. Volunteer Emergency Leave and Training

If employees volunteer as a firefighter, reserve peace officer, or emergency rescue personnel, they may be entitled to unpaid leave to perform emergency duty. In addition, they may take unpaid leave of up to 14 days per calendar year for the purpose of engaging in fire or law enforcement training. If an employee qualifies for these types of leave, he or she may use accrued vacation during the leave. Time spent on this leave counts for purposes of determining "length of service." However, vacation will not be accrued, and holiday pay will not be received during this leave.

#### M. Time Off for Parents to Attend School Activity

Employees, who are parents of one or more children in kindergarten, or in grades 1 through 12, may take time off of up to forty (40) hours per school year to attend authorized school activities which involve one or more of the employee's school age children. To be eligible for parental time off, the employee must obtain from the school, written verification that he or she attended or participated in the school activity. Parental time off may not exceed eight hours in any calendar month.

Employees may use any accrued vacation while they attend their child's school activities. If not, the employee's parental time off will be unpaid. For scheduling purposes, employees must notify the Executive Officer at least one (1) week before the date of the school activity, so that their work duties may be covered.

#### N. Literacy Education Leave

OC LAFCO will reasonably accommodate employees who are seeking to enroll in an adult literacy education program provided the accommodation requested would not result in undue hardship to OC LAFCO. OC LAFCO does not provide paid time off for participation in an adult literacy education program.

#### O. Kin Care Leave

Under California state law, employees who accrue sick leave are eligible for Kin Care Leave (KCL). An employee may use KCL for the following reasons:

1. Diagnosis, care, or treatment of an existing health condition of the employee, or preventive care for, an employee or an employee's covered family member.
2. For obtaining relief if the employee is a victim of domestic violence, sexual assault, or stalking.
3. If the employee is a victim of domestic violence, sexual assault, or stalking, the employee may take time off to: obtain medical treatment, counseling or other victims' services, obtain or attempt to obtain any relief to help ensure the health, safety, or welfare of the employee or the employee's child, such as a temporary restraining order, restraining order, or other injunctive relief.

The number of days the employee can take off is calculated as an amount not less than the sick leave that would be accrued during 6 months of the employee's then-current rate of entitlement. Employees are able to use up to half of their sick leave for KCL. But, no more than one-half of the employee's annual accrued sick leave benefits can be counted as KCL. For a full-time career employee, for example, this would mean no more than 48 hours of sick leave can be counted as KCL.

To the extent possible, employees must provide reasonable advance notice of their need for leave under this policy. If the need for leave is not foreseeable, an employee must provide notice as soon as practicable.

For purposes of this policy, a family member means as a child (a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis), a parent (a biological, adoptive or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child), a spouse or registered domestic partner, a grandparent, grandchild and sibling.

Please note, leave under this statute runs concurrently with paid sick leave and CFRA/FMLA leave.

P. Alcohol and Drug Rehabilitation Leave

Under California state law, employees who seek time off to voluntarily complete a rehabilitation program are eligible for this leave under this policy.

Employees may take reasonable unpaid leave as long as the leave does not cause OC LAFCO an undue hardship. This leave is unpaid but employees may choose to use available sick leave concurrently with rehabilitation leave.

### **3.24 FAMILY AND MEDICAL LEAVE**

A. Overview

The intent of this policy is to outline and explain some of the rules and requirements applying to the Family and Medical Leave Act (FMLA) and California Family Rights Act (CFRA).

Note: Employers with at least 50 employees are required to comply with FMLA, whereas all public employers are required to comply with the CFRA. OC LAFCO does not meet the threshold for FMLA, but by policy provides leave pursuant to the FMLA.

B. Eligibility

Regular full-time and regular part-time employees are eligible to request unpaid Family and Medical Leave under CFRA/FMLA if at the time leave commences, all of the following apply:

1. Must have worked for OC LAFCO for at least twelve (12) months at any time (need not be continuous).

2. Must have worked at least 1,250 hours during the twelve (12) months immediately preceding the start of the leave.

Part-time employees who meet the requirements will calculate Family and Medical Leave on a prorated basis according to the number of hours they are normally scheduled to work.

#### C. Reasons for Leave

Leave may be requested for any of the following reasons:

1. The birth or adoption of a child, or the placement of a child in foster care.
2. To care for the employee's child (including adult children over 18 years of age, stepchildren and children of a domestic partners), spouse, sibling, registered domestic partner, parent (including parent-in-law), grandchild, grandparent or designated person with a serious health condition. "Designated person" means any individual related by blood or whose association with the employee is the equivalent of a family relationship. The designated person may be identified by the employee at the time the employee requests the leave. OC LAFCO may limit an employee to one designated person per 12-month period for family care and medical leave.
3. A serious health condition that prevents the employee from performing an essential function of his/her job, except for leave taken for disability on account of pregnancy, childbirth or related medical conditions; or
4. Military spousal, and military caregiver and exigency leave.

Family and Medical Leave is not available for non-serious conditions (including minor illnesses or for voluntary or cosmetic treatments) unless inpatient care is required or for routine preventive physical examinations.

#### D. Length of Leave

The length of Family and Medical Leave is up to twelve workweeks within a twelve-month period (exception for Pregnancy Disability and Military Caregiver – see policies). The twelve-month period begins the date the leave is taken. There is no carryover of unused leave from one twelve-month period to the next twelve-month period. Holidays that fall during the leave are counted against leave entitlement.

If at the end of twelve weeks the employee is unable to return to work, they may request a personal leave without pay. Such leave is granted at the discretion of OC LAFCO, and

there is no requirement to hold the job available during the personal leave. OC LAFCO will, however, be governed by the Americans with Disabilities Act, the California Fair Employment and Housing Act, and Workers' Compensation regulations, if applicable.

#### E. Intermittent or Reduced Scheduled Leave

Family leave taken for the purpose of birth or placement of a child will generally be granted in minimum amounts of two weeks. However, an employee may request smaller increments of leave time which will be granted on any two occasions and will be subject to OC LAFCO approval for any additional requests based upon business needs.

Family and Medical Leave for the employee's own serious health condition, family care leave for the serious health condition of the employee's child (including adult child over 18 years of age), spouse, sibling, registered domestic partner, child of a registered domestic partner, parent, grandchild, grandparent or designated person and military caregiver leave may be taken intermittently or on a reduced schedule when medically necessary. Where the intermittent or reduced schedule leave is for planned medical treatment, the employee must make an attempt to schedule the treatment so as not to unduly disrupt OC LAFCO's operations. Military exigencies' leave also may be taken intermittently or on a reduced schedule.

If leave is taken intermittently or as a reduced work schedule, the amount of time used under Family and Medical Leave is only the time actually taken. For example, one day of leave per week for an employee who works five days per week is the equivalent of 1/5 of a week of Family/Medical Leave used.

#### F. Temporary Alternative Positions

An employee may be placed in a temporary alternative position if they request intermittent or reduced schedule leave, or the existing position description may be altered, to better accommodate the employee's need for recurring periods of leave. The alternative position may not have equivalent duties but will receive equivalent pay and benefits. The employee must be qualified for the position. They may also be transferred to a part-time job with the same hourly rate of pay and benefits.

#### G. Impact on Benefits

Health insurance premiums that are normally paid by OC LAFCO will continue to be paid during Family and Medical Leave for a maximum of twelve workweeks in a twelve-month period. The employee is still responsible for his or her share of the health insurance premiums during the period of leave. If the employee substitutes paid leave for unpaid leave, such payments will be deducted from the employee's pay through payroll deductions. Otherwise, the employee must make arrangements with OC LAFCO to pay

for such premiums.

OC LAFCO may recover any health insurance premiums it paid during the leave if the employee fails to pay his or her share of the premiums during the leave or the employee fails to return to work from leave for a reason other than recurrence, continuation, or onset of a serious health condition for which leave under this policy is allowed or other circumstance beyond the employee's control.

Service time, as well as vacation and incidental absence time, will continue to accrue during, but not exceeding, the twelve-week period. Employees will not be paid for holidays if they are in an unpaid status. For Family and Medical Leave of 30 days or less, reviews relating to salary and performance will continue as usual. A salary action which would have ordinarily taken place during the time of the leave will become effective upon the employees return to work. For Family and Medical Leave of over thirty days, Salary and Performance Reviews will be extended equal to the length of the leave.

#### H. Pregnancy Disability

In addition to the pregnancy disability leave described in this handbook, an eligible pregnant California employee is entitled to up to 12 additional workweeks of CFRA Leave. The maximum time to be taken off is: four months pregnancy disability/FMLA (with a healthcare provider's certification) plus 12 workweeks CFRA.

#### I. Requesting a Leave

An employee will be asked to provide certification from a health care provider that the leave is medically necessary when requesting a leave for their own health condition. If the health condition is that of a parent, spouse, or child, the healthcare provider must certify that the employee's care is required.

All requests must be provided in writing and include information and a schedule relative to the leave. Employees are requested to give as much advance notice as possible. Thirty (30) days is considered a minimum. In cases of emergency, give as much notice as possible under the circumstances. If the leave schedule is flexible, employees are required to try to schedule the leave so as not to unduly disrupt OC LAFCO's operations.

#### J. Integration with Paid Leave

Leave provided under FMLA/CFRA is unpaid. However, at the option of OC LAFCO or the employee, accrued vacation (or, Sick Leave where the leave is required due to the employee's serious health condition, or the serious health condition of a family member and Sick Leave would otherwise be permitted under OC LAFCO's policy) may be substituted for any unpaid Family Medical Leave. This designation of Family and Medical

Leave will be made by OC LAFCO at the time the employee requests the leave or when OC LAFCO determines that the leave qualifies as Family and Medical Leave based on the information provided. In either case, the total of paid and unpaid leave provided is limited to twelve workweeks.

K. Upon Return from Leave

Employees timely returning from a leave covered under this policy are entitled to reinstatement to the same or equivalent position consistent with applicable law. An employee has no greater right to reinstatement than if he or she had been continuously employed rather than on leave. OC LAFCO will comply with all applicable laws pertaining to reinstatement of employees including, where required, the reasonable accommodation of employees who have been on an approved leave. OC LAFCO will be governed by the Americans with Disabilities Act, the Fair Employment and Housing Act, CFRA/FMLA, and/or Workers' Compensation regulations where applicable. Family and Medical Leave will not result in the loss of any employment benefit that was earned or entitled to before use of Family and Medical Leave.

Employees using Family and Medical Leave for their own serious medical condition must bring a healthcare provider's release to work upon returning from leave.

## **PART 5 – CONDUCT AND PROBLEMS**

### **3.25 SAFETY**

A. Overview

The intent of this policy is to outline safety expectations.

B. Policy

OC LAFCO is committed to providing a safe and healthy workplace. The safety of every employee is a fundamental consideration for OC LAFCO, and all reasonable precautions will be taken to protect employees from injury. In order to promote safety in the workplace, OC LAFCO expects employees to conduct business and perform their duties in a safety-conscious manner at all times. All work areas must be kept clean, and free of clutter and debris. OC LAFCO also expects all employees to refrain from horseplay and careless behavior in the workplace. Any hazards or potentially dangerous conditions must be corrected promptly and/or reported to a supervisor.

Every employee of the OC LAFCO shall be required to observe all OC LAFCO and departmental health and safety procedures. At the close of each business day, employees must ensure that all equipment is put away. All stationery and miscellaneous supplies

should be removed from tables, benches and furniture tops. Paperwork should not be left out overnight. Employees must not litter or discard items on the premises.

If an employee identifies a potentially unsafe condition or risk, the employee should immediately report the matter to their supervisor.

Under California law, in the event of an emergency condition, OC LAFCO will not take or threaten adverse action against any employee for refusing to report to, or leaving, a workplace because the employee has a “reasonable belief that the workplace is unsafe.” The law requires employees to, “when feasible,” notify employers in advance of the emergency condition that requires they either leave the workplace or refuse to report to work. If it’s not feasible, then the employee must notify the employer as soon as possible. “Emergency Condition” for purposes of this policy, is defined as conditions of disaster or extreme peril to the safety of persons or property at the workplace or worksite caused by natural forces or a criminal act. And, an order to evacuate a workplace, worksite, worker’s home, or the school of a worker’s child due to natural disaster or a criminal act.

“A reasonable belief” for purposes of this policy, is defined as the workplace or worksite is unsafe” means that a reasonable person, under the circumstances known to the employee at the time, would conclude there is a real danger of death or serious injury if that person enters or remains on the premises. The existence of any health and safety regulations specific to the emergency condition and an employer’s compliance or noncompliance with those regulations shall be a relevant factor if this information is known to the employee at the time of the emergency condition or the employee received training on the health and safety regulations mandated by law specific to the emergency condition.

If an employee is injured or becomes ill on the job as a result of performing job-related duties, the following steps will be taken.

- Notify their supervisor, manager or Chair immediately after an injury or symptoms of illness occur.
- Consult a physician within 24 hours after an industrial injury or illness, even if the injury or illness is considered minor. Delay or refusal to seek medical treatment can result in physical as well as compensatory complications. Whenever possible, treatment should be received from an authorized treatment facility as directed to OC LAFCO.
- If the injury requires minor first aid care, there are first aid kits located in the office of Executive Officer and break room. All rules of reporting apply, even though injury is minor and requires only first aid treatment.
- In the event of a life-threatening injury, employees will be taken to the nearest local hospital. The employee or referring agent of OC LAFCO must inform the hospital staff that they are seeking treatment for an industrial injury.
- In the event of a temporary or permanent industrial disability, the employee is



entitled to Workers' Compensation Insurance coverage and/or personal long-term disability benefits in accordance with state and federal laws.

**Off-Duty Social and Recreational Activities.** OC LAFCO may sponsor social or recreational activities for its citizens and employees, both on OC LAFCO property and off-site. Employee attendance at such social activities, however, is completely voluntary and is not work-related. Neither OC LAFCO nor its insurer will be liable for the payment of workers' compensation benefits for any injury that arises out of an employee's voluntary participation in any off-duty recreational, social or athletic activity that is not part of the employee's work-related duties.

### **3.26 WORKPLACE VIOLENCE POLICY**

OC LAFCO recognizes that workplace violence is a concern among employers and employees across the country. OC LAFCO is committed to providing a safe work environment that is free of violence and the threat of violence. OC LAFCO will not tolerate any violent or dangerous behavior of any kind, whether through physical abuse, threats of any kind, intimidation, coercion, stalking or otherwise, defacing OC LAFCO's property or causing physical damage to the facilities, bring weapons or firearms of any kind onto OC LAFCO's premises, parking lots, or while conducting business, or any other behavior that suggests a propensity towards violence. OC LAFCO strictly prohibits employees, consultants, customers, visitors, or anyone else on OC LAFCO premises or engaging in an OC LAFCO-related activity from behaving in a violent or threatening manner. Moreover, OC LAFCO seeks to prevent workplace violence before it begins and reserves the right to address certain behaviors, even in the absence of violent behavior.

Employees may report all incidents of direct or indirect violence or dangerous behavior to the Executive Officer or Assistant Executive Officer as soon as possible. Reporting incidents and concerns early can help prevent a situation from escalating and becoming even more dangerous. Employees should never attempt to handle a potentially dangerous situation by themselves. Any OC LAFCO employee that violates this policy will be subject to discipline, up to and including termination, as well as potential legal action.

OC LAFCO believes that prevention of workplace violence begins with recognition and awareness of potential early warning signs. Any such instances should be immediately reported to the Executive Officer or General Counsel.

Workplace violence is any act or threat of physical violence, harassment, intimidation, or other threatening disruptive behavior that occurs at the worksite, ranging from threats and verbal abuse to physical assaults and even homicide, that can affect and involve employees, clients, customers and visitors. If any employee observes or becomes aware of any workplace violence related actions or behavior by an employee, customer, consultant, visitor, or anyone else, he or she should notify the Executive Officer or Assistant Executive Officer or General Counsel immediately. Further, employees should

notify the Executive Officer or Assistant Executive Officer or General Counsel if any restraining order is in effect, or if a potentially violent non-work-related situation exists that could result in violence in the workplace. General examples of prohibited conduct include, but are not limited to the following:

1. The actual or implied threat of harm to an individual, group of individuals, or relatives of those individuals, or the property of any of them, made in person, over the telephone, through the mail, by electronic communication, or by other means.
2. Fighting or challenging another individual to a fight.
3. Intimidation through direct or veiled verbal threats, or through physical threats, such as obscene gestures, grabbing, and pushing.
4. Making harassing or threatening telephone calls; sending harassing or threatening letters, emails, or other correspondence.
5. Intimidating or attempting to coerce an employee to do wrongful acts that would affect the business interests of OC LAFCO.
6. Harassing surveillance or stalking, which is engaging in a pattern of conduct with the intent to follow, alarm, or harass another individual, which presents a credible threat to the individual and causes the individual to fear for their safety, or the safety of their immediate family, as defined in Civil Code section 1708.7.
7. Making a suggestion or otherwise intimating that an act to injure persons or property is appropriate behavior.
8. The possession, on OC LAFCO leased or owned property or facilities, of weapons of any kind (including toy or look-alike), unless specifically authorized by the Police Department or appointing authority, or the brandishing of any object in a threatening manner towards another.
9. Loud, disruptive or angry behavior or language which is clearly not part of the typical work environment.
10. Blatant or intentional disregard for the safety or well-being of others.
11. Willful destruction of OC LAFCO's or others personal property.
12. Commission of a violent felony or misdemeanor on OC LAFCO's property.

13. Any other act that a reasonable person would perceive as constituting an act or threat of violence.

All reports of workplace violence will be taken seriously and will be investigated promptly and thoroughly. In appropriate circumstances, OC LAFCO will inform the reporting individual of the results of the investigation. To the extent possible, OC LAFCO will maintain the confidentiality of the reporting employee and of the investigation. OC LAFCO may, however, need to disclose results in appropriate circumstances, for example, in order to protect individual safety. OC LAFCO will not tolerate retaliation against any employee who reports workplace violence.

If OC LAFCO determines that workplace violence in violation of this policy has occurred, OC LAFCO will take appropriate corrective action and will impose discipline on offending employees. The appropriate discipline will depend on the particular facts but may include written or oral warnings, probation, reassignment of responsibilities, suspension, or termination. If the violent behavior is that of a non-employee, OC LAFCO will take appropriate corrective action in an attempt to ensure that such behavior is not repeated.

Under certain circumstances, OC LAFCO may forego disciplinary action on the condition that the employee takes a medical leave of absence. In addition, OC LAFCO may request that the employee participate in counseling, either voluntarily or as a condition of continued employment.

**Immediate Danger:** Any employee, who is subjected to, witnesses, or has knowledge of actions that pose an immediate danger to himself/herself or others must report these acts to appropriate authorities immediately. When the incident constitutes an emergency, the employee should place themselves in a safe location, notify their supervisor and/or obtain police assistance by calling 911. Information provided to the emergency dispatcher should include details regarding the exact location and the nature of the incident and the persons and/or weapons involved.

After the incident has been reported to the police the employee should notify their supervisor. The supervisor shall be responsible for contacting the Executive Officer.

The primary objective in dealing with an incident in progress is to stabilize the situation, deescalate the potential for violence, and ensure that there is no harm to any person or property. Once the emergency has passed the supervisor shall be responsible for conducting a thorough investigation of the incident and reporting the findings to the Executive Officer. All employees are required to cooperate fully in any administrative or criminal investigation.

**Potential or Suspected Future Incidents:** When an employee becomes aware of a potential violation of this policy that does not pose an immediate threat of violence, the employee is responsible for notifying their supervisor. Even without an actual threat, employees should

also report any behavior that they may regard as threatening or violent when the behavior is job-related or might be carried out within the OC LAFCO workplace. It will then become the responsibility of the supervisor to prepare a report for the Executive Officer. This report will be evaluated to determine whether there was a violation of the policy and what the appropriate management response should be.

Employees who have reason to believe they or any OC LAFCO employee may be the subject of a future violent act in the workplace or as a result of their OC LAFCO employment, should immediately notify their supervisor.

No employee who, acting in good faith, initiates a complaint or reports an incident under this policy will be subject to retaliation or harassment.

### **3.27 DRUG AND ALCOHOL POLICY**

#### **A. Overview**

The intent of this policy is to provide a drug and alcohol-free work environment for all OC LAFCO employees.

#### **B. Policy**

It is OC LAFCO's desire to provide a drug-free, healthful, and safe workplace. To promote this goal, employees are required to report to work in appropriate mental and physical condition to perform their jobs in a satisfactory manner.

While on OC LAFCO's premises or while conducting business-related activities off OC LAFCO's premises, no employee may use, possess, distribute, sell, or be under the influence of alcohol or illegal drugs. The legal use of prescribed drugs is permitted on the job only if it does not impair an employee's ability to perform the essential functions of the job effectively and in a safe manner that does not endanger other individuals in the workplace.

Violations of this policy may lead to disciplinary action, up to and including immediate termination of employment, and/or required participation in a substance abuse rehabilitation of treatment program. Such violations may also have legal consequences.

Employees with questions or concerns about substance dependency or abuse are encouraged to use the resources of the Employee Assistance Program. They may also wish to discuss these matters with the Executive Officer or Assistant Executive Officer to receive assistance or referrals to appropriate resources in the community.

Employees with drug or alcohol problems that have not resulted in, and are not the immediate subject of, disciplinary action may request approval to take unpaid time off to

participate in a rehabilitation or treatment program through OC LAFCO's health insurance benefit coverage. Leave may be granted if the employee agrees to abstain from use of the problem substance; abides by all OC LAFCO's policies, rules and prohibitions relating to conduct in the workplace; and if granting the leave will not cause OC LAFCO any undue hardship. Please see OC LAFCO's Alcohol and Drug Rehab Leave Policy for more detail.

Under the Drug-Free Workplace Act, an employee who performs work for a government contract or grant must notify OC LAFCO of a criminal conviction for drug-related activity occurring in the workplace. The report must be made within five days of the conviction.

### **3.28 DESK INSPECTION POLICY**

#### **A. Overview**

The intent of this policy is to assist in the understanding of the usage of E-mail, the Internet, computer files and software.

#### **B. Policy**

Although desks, cabinets and shelves are made available for the convenience of employees while at work, employees should remember that all desks, cabinets and shelves remain the sole property of OC LAFCO. Moreover, OC LAFCO reserves the right to open and inspect desks, cabinets, and shelves, as well as any contents, effects, or articles in desks, cabinets, and shelves. Such an inspection can occur at any time, with or without advance notice or consent. An inspection may be conducted before, during, or after working hours by the Executive Officer or Assistant Executive Officer or designee. Employees have no expectation of privacy in any of these items.

Prohibited materials, including weapons, explosives, alcohol and non-prescribed drugs or medications, may not be placed in a desk, cabinet or shelf. Employees who, if requested, fail to cooperate in any inspection will be subject to disciplinary action, up to and including termination. OC LAFCO is not responsible for any articles that are placed or left in a desk, cabinet, or shelf that are lost, damaged, stolen or destroyed.

### **3.29 THEFT OR LOSS OF OFFICE EQUIPMENT**

#### **A. Overview**

The intent of this policy is to outline procedures in the event OC LAFCO office equipment is lost or stolen.

#### **B. Policy**

The use of any OC LAFCO-related equipment (computers, cell phones, iPads, projectors, or other office-related equipment) outside of the OC LAFCO offices must be approved by the Executive Officer. OC LAFCO employees are fully responsible for the care and safekeeping of all office equipment offsite. Should an item be stolen or lost offsite while under the care of an OC LAFCO employee, the OC LAFCO employee is responsible to reimburse OC LAFCO for the replacement cost of all lost or stolen items.

The care and safekeeping of an iPad provided to a Commissioner for OC LAFCO- related business is the sole responsibility of the Commissioner. Any loss or theft of the iPad must be reported immediately to the Executive Officer, and the Commissioner is responsible to reimburse OC LAFCO for the replacement cost of the device.

### **3.30 PROBLEM RESOLUTION PROCEDURE**

#### **A. Overview**

The intent of this policy is to outline OC LAFCO's problem resolution procedure.

#### **B. Policy**

OC LAFCO is committed to encouraging an open and frank atmosphere in which any problem, complaint, suggestion, or question receives a timely response. OC LAFCO strives to ensure fair and honest treatment of all employees. All employees are expected to treat each other with mutual respect. All employees are encouraged to offer positive and constructive criticism.

If there is a disagreement concerning established rules of conduct, policies, or practices, employees may express their concerns through the problem-resolution procedure. No one will be penalized, formally or informally, for voicing a complaint with OC LAFCO in a reasonable, business-like manner, or for using the problem-resolution procedure.

If a situation occurs where an employee believes that a condition of employment or a decision affecting them is unjust or inequitable, they are encouraged to make use of the following steps:

1. Employee presents problem to the Assistant Executive Officer after incident occurs. If the Assistant Executive Officer is unavailable or an employee believes it would be inappropriate to contact the person, employee may present problem to the Executive Officer.
2. The Assistant Executive Officer responds to the problem during discussion or after consulting with the Executive Officer, when necessary, and documents discussion.

3. Employee presents problem to the Executive Officer in writing if problem is unresolved.

The Executive Officer reviews and considers the problem. The Executive Officer informs the employee of decision and forwards a copy of the written response to the employee's file. The Executive Officer has full authority to make any adjustment deemed appropriate to resolve the problem.

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SECTION 4:

# ADMINISTRATIVE POLICIES AND PROCEDURES





## **Guidelines for the Appointment of OC LAFCO's Regular and Alternate Public Members and Commissioners' Terms of Office**

### **I. PURPOSE**

To establish policy and procedural guidelines for the appointment of OC LAFCO's regular and alternate public members and for the expiration of Commissioners' terms of office.

### **II. POLICY STATEMENT**

Whenever a vacancy exists or may exist in the positions of regular public member and/or alternate public member, it shall be the OC LAFCO policy to advertise that a vacancy exists or may exist in either or both of these positions and solicit all interested persons to apply for consideration as appointee(s) to such vacant position(s). Final appointment to the vacant position(s) shall not be made for at least 40 days after an announcement of the vacancy(ies) occur(s).

### **III. PROCEDURAL GUIDELINES**

1. Whenever a vacancy exists or may exist in either or both positions of regular public member or alternate public member, the Executive Officer will inform the Commission at the first available regular meeting. The Chair shall direct the Executive Officer to prepare and post a special vacancy notice advertising that such vacancy(ies) exist(s) or may exist and solicit interested persons to submit their resumes for consideration to the Executive Officer within 30 days after the announcement of the vacancy occurs. The special vacancy notice shall be posted at the following locations:
  - OC LAFCO staff office.
  - County of Orange digital kiosk located at 601 North Ross Street, Santa Ana, CA 92701.
  - Other places, as directed by the Commission.
2. Per Government Code Section 56325(d), the Executive Officer shall distribute a copy of the special vacancy notice to: city clerks, independent special districts' board secretaries, and the Clerk of the Board of Supervisors.

3. The Executive Officer shall have an announcement prepared and released to the press to the effect that a vacancy exists or may exist in either or both position(s) of regular public member or the alternate public member, and all interested persons are encouraged to apply by submitting their resumes to the Commission's Executive Officer within 30 days after the announcement occurs.

Thirty (30) days after the announcement occur(s) no further applications for the vacant position(s) shall be accepted by the Executive Officer, who then shall forward all applications to the Executive Committee.

4. The Executive Committee will complete the application screening of applications received and nominate the best qualified candidates for full Commission consideration. The Executive Committee shall recommend to the Commission the names of at least two applicants for nominations to the vacant position(s). However, any eligible Commissioner may nominate a candidate from applications submitted.
5. Upon Commission consideration of the applicants for the vacant position(s), the Chair shall declare the nominations closed and shall direct the clerk to call a vote of members eligible first for one candidate, then the other. The nominee(s) receiving a majority vote and an affirmative vote of at least one county, city, and special district member, shall be appointed to the vacant position(s) for the unexpired term of the regular public member or alternate public member, except when the vacancy is the result of an expiration of term of office, then the appointment shall be for four years and until the appointment and qualification of his/her successor. The expiration date of the term of office of each member shall be the 30th of June in the year in which his/her term is to expire.
6. In the event no candidate from the applicants submitted receives a majority vote and an affirmative vote of at least one county, city, and special district member, the Commission shall conduct a run-off vote of two candidates receiving the most votes. In the event that neither candidate receives a majority vote and an affirmative vote of at least one county, city, and special district member, the Chair shall direct the Executive Officer to re-advertise that a vacancy(ies) exists(s) in the manner set forth in these procedures.
7. Final appointment to fill any vacancy in either the position of regular public member or alternate public member shall not be made by the Commission for at least 40 days after the announcement occurs.
8. As stipulated in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, if the office of a regular public member becomes vacant, the alternate member may serve and vote in place of the former regular public member until the appointment and qualification of a regular public member to fill the vacancy.

9. No applicant for a public member or alternate public member shall be an officer or employee of the county or any city or special district with territory in the county.

#### **IV. COMMISSIONERS' TERMS OF OFFICE**

In accordance with Government Code 56332, the term of office of each member of the Commission shall be four years until the appointment and qualification of his or her successor. Effective 2002, the expiration date of the term of office of each member of the Commission shall be June 30th in the year in which the term of the member expires.

***Appointment Guidelines***  
**Originally Adopted: 9/14/1977**  
**Last Reviewed: 3/8/2023**  
**Last Revised: 10/14/2015**

***Terms of Office***  
**Originally Adopted: 4/10/2002**  
**Last Reviewed: 3/8/2023**  
**Last Revised: 8/13/2014**

## Policy for Disposal of Surplus Property

### I. PURPOSE

To establish guidelines for disposal of surplus OC LAFCO property. Surplus property is tangible property that is no longer of use to OC LAFCO because it is obsolete, uneconomical to repair, or valued only for its base contents. Surplus property may include, but is not limited to, furniture, computers, other office equipment and office supplies.

### II. POLICY

It is the policy of OC LAFCO to dispose of surplus property through: (1) donation to a non-profit organization, or (2) disposal of surplus property through a negotiated contract with an auction company. This equipment will be disposed of without any support or warranty and will not have any software installed. The purchase and installation of software and any type of support is the responsibility of the receiving institution.

The non-profit organization receiving surplus property shall sign a release (Exhibit A) when receiving the equipment, which stipulates that the receiving agency:

- A. Frees OC LAFCO of any guarantees and liability.
- B. Stipulates that the equipment is for the non-profit organization's use and will not be sold for one (1) year from the date of receipt.
- C. Commits to disposing of the equipment in a manner compliant with Environmental Protection Agency standards.

### III. AGENCY ELIGIBILITY

Eligibility to receive donation of used equipment requires that the receiving agency be a non-profit institution. Proof of this status is required prior to receiving donation.

### IV. DONATION INVENTORY

An inventory log of donations will be kept on file. In addition to listing the organization receiving the equipment, the inventory log shall include the donated equipment's manufacturer, model number, and identification or serial number.

Originally Adopted: 2/9/2005  
Last Reviewed: 3/8/2023  
Last Revised: 4/9/2014

**EXHIBIT A**

**ORANGE COUNTY LAFCO  
Used Equipment Donation Agreement**

Each computer donated will include an appropriate operating system. No application software is included or available. No manuals or instructions are included for the computer or for the operating system. No guarantee of computer compatibility will be provided. No data recovery from hard disk failures will be provided. No data transfers will be provided.

Computers and other donated equipment are provided to the receiving organization in “as is” condition. OC LAFCO makes no claims as to the computer or equipment’s condition and cannot be held liable for malfunction. No support or training is provided.

The donated computer and/or equipment will be used to benefit the non-profit organization receiving the donation and will not be resold for a period of one (1) year from the date below. The disposal of this computer and/or equipment will be in a manner compliant with the Environmental Protection Agency and the State of California.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
Phone #

\_\_\_\_\_  
Title

\_\_\_\_\_  
Agency

## Legislative Policy and Guidelines

### I. POLICY

Orange County LAFCO (OC LAFCO) has long recognized the importance of participating in the legislative process and making recommendations on legislation of interest to the Commission and LAFCOs statewide. It is the policy of OC LAFCO to actively participate in the legislative process under the guidelines further expressed in this policy. The Commission will provide feedback and guidance on legislation of LAFCO interest and through the procedures outlined below utilize the OC LAFCO Chair to provide interim review and direction on legislation requiring immediate response.

### II. GUIDELINES

The following guidelines are intended to provide guidance for the Commission and staff as they participate in the legislative process through discussions with legislators and affected stakeholders and consider proposed legislation of LAFCO interest. This section of the policy provides guidelines for the review and consideration of legislation involving the four key policy areas: (A) LAFCO Purpose and Authority; (B) LAFCO Governance; (C) Orderly Formation of Boundaries; and (D) Service Delivery and Local Agency Effectiveness. This section also provides guidelines for the engagement of key stakeholders involving these policy areas.

#### A. LAFCO Purpose and Authority

- A1. Support legislation that enhances LAFCO's authority and powers to perform the duties mandated by the California Legislature and codified in the Cortese-Knox-Hertzberg Act Local Reorganization Act of 2000 (Government Code §56000 et seq.).
- A2. Support legislation that recognizes the authority for each LAFCO to establish local policies to apply Government Code §56000 et seq. based on local needs and conditions and oppose any limitations to that authority.
- A3. Oppose legislation that dilutes LAFCO's authority and the ability to meet legislative mandates and primary mission.
- A4. Oppose legislation that restricts the independent judgment of

Commissioners

in voting on matters being considered by their respective LAFCO.

- A5. Oppose legislation that grants special status to any individual agency or proposal to circumvent the LAFCO process.

**B. LAFCO Governance**

- B1. Support legislation that confirms the independence of LAFCOs from local agencies.
- B2. Support legislation that recognizes the importance of balanced representation on LAFCO provided by cities, the county, special districts, and the public in advancing the public interest.
- B3. Support legislation that encourages communication and collaborative decision-making among neighboring LAFCOs when growth pressures and multi-county special districts extend beyond a LAFCO's jurisdiction.

**C. Orderly Formation of Boundaries**

- C1. Support legislation that encourages the recognition and use of spheres of influence as long-range planning tools for LAFCOs and local agencies that guide future Commission decisions on individual jurisdictional boundary changes involving cities or special districts, the incorporation of a new city, the formation of a new special district, and other complex reorganizations that include consolidations, mergers, or the formation of a subsidiary district.
- C2. Support legislation that encourages the recognition of LAFCOs' spheres of influence by other agencies by requiring that those agencies refer to LAFCO- determined spheres of influence in the development of local and regional planning documents by the county, cities, and special districts and facilitate the logical and economical extensions of all their facilities and services.
- C3. Support legislation that encourages orderly boundaries of local agencies and the transition of unincorporated areas to adjacent local agencies based upon their designated spheres of influence.
- C4. Support legislation that encourages collaboration among cities, special districts, the County of Orange, and the public to address municipal service deficiencies within unincorporated areas and facilitate annexation.

- C5. Support legislation that encourages cooperation between cities, the County of Orange, and other affected agencies and stakeholders on decisions involving new development within the cities designated spheres of influence.

**D. Service Delivery and Local Agency Effectiveness**

- D1. Support legislation that encourages the use of LAFCO resources to review Regional Transportation Plans, with a focus on sustainable community strategies and other growth plans to ensure reliable services, orderly growth, and conformity with LAFCO legislative mandates. Support efforts that enhance meaningful collaboration between LAFCOs and regional planning agencies.
- D2. Support legislation that promotes LAFCO's authority and tools that provide communities with local governance and efficient service delivery options, including the authority to impose conditions that assure a proposal's conformity with LAFCO's legislative mandates.
- D3. Support legislation that encourages the creation or reorganization of local governments in a deliberative, open process which will fairly evaluate the proposed new or successor agency's long-term financial viability, governance structure and ability to efficiently deliver proposed services.
- D4. Support legislation that enhances LAFCO's ability to mitigate the fiscal impacts of change of organization proposals through tax sharing conditions or other terms and conditions.
- D5. Support legislation that encourages the availability of tools for LAFCOs to insure equitable distribution of revenues to local government agencies consistent with their service delivery responsibilities.
- D6. Support legislation that supports collaborative efforts among agencies and LAFCOs and encourage opportunities for sharing of services, staff and facilities to provide more efficient and cost-effective services.
- D7. Support legislation which clarifies LAFCO's ability to review shared service agreements and provides LAFCO with additional opportunities to encourage shared services.
- D8. Support legislation providing tax reform to mitigate negative fiscal impacts to local governments from past and present tax revenue shifts away from those local governments.



- D9. Oppose legislation that shifts tax revenue away from local governments without the adequate provision of a constitutionally guaranteed “backfill” to offset the lost revenues of those governments.

#### **E. Stakeholder Engagement**

OC LAFCO’s key legislative authority and powers involve making decisions and preparing studies involving the jurisdictional boundaries of cities, special districts, and the County. To facilitate communication and inform Orange County’s cities, special districts, the County, and their respective statewide organizations and associations on proposed legislation relative to OC LAFCO’s key policy areas (as described in Section II (A, B, C, and D)), the general guidelines outlined in this section will be applied.

- E1. OC LAFCO staff and the Legislative Ad Hoc Committee will engage the following stakeholders on proposed legislation of LAFCO interest: (1) Orange County Legislators; (2) Association of California Cities - Orange County (ACC-OC); (3) Orange County Council of Governments (OCCOG); (4) California Special Districts Association (CSDA); (5) California State Association of Counties (CSAC); (6) League of California Cities (LOCC); (7) League of California Cities – Orange County (LOCC-OC) as follows:
1. Distribution of OC LAFCO legislative reports and position letters, as appropriate to Orange County Legislators, ACC-OC, OCCOG, CSDA, CSAC, LOCC, and LOCC-OC.
  2. Conduct of annual general session for Orange County Legislators and representatives on ACC-OC, OCCOG, CSDA, CSAC, LOCC, and LOCC-OC to discuss anticipated or proposed legislation of LAFCO interest.
- E2. In an advisory role to the Commission, the Legislative Ad Hoc Committee may assist staff as follows:
1. Proactive engagement of Orange County Legislators, ACC-OC, OCCOG, CSDA, CSAC, LOCC, and LOCC-OC board members and directors on legislation sponsored or co-sponsored by OC LAFCO.
  2. Participation in discussions with Orange County Legislators and board members and directors of ACC-OC, OCCOG, CSDA, CSAC, LOCC, and LOCC-OC on key legislation of LAFCO interest.

### **III. PROCEDURES**

The following procedures will provide guidance to the Commission for the active

monitoring of legislation and activities of LAFCO interest.

- A. Newly introduced or identified legislation of LAFCO interest is to be reviewed by OC LAFCO’s staff and presented to the Commission for review and potential action in a quarterly or interim legislative report. The legislative reports shall be presented to the Commission in line with the legislative deadlines and to allow for the greatest potential for the Commission’s comments to be received by the legislators and affected stakeholders. In the event that there is a need to respond immediately, the OC LAFCO Chair may direct the Executive Officer to respond accordingly.
- B. To increase the efficiency of staff resources and the preparation of legislative reports, staff will monitor the legislative activities of LAFCO interest through participation on the California Association of LAFCOs (CALAFCO) Legislative and Advisory Committees and discussions with the CALAFCO Southern Region LAFCOs.
- C. The Commission may consider adopting legislative positions when deemed appropriate. The general position categories include:

| <b>Position</b>              | <b>Description</b>   |
|------------------------------|--|
| <b>Support</b>               | A position given to a bill that the Commission believes is consistent with or would further OC LAFCO policy position, LAFCOs authority in general, implementation of the Cortese-Knox-Hertzberg Act, or reflects good governance principles as public policy.  |
| <b>Neutral</b>               | A position given to a bill that has no direct impact upon OC LAFCO, the LAFCO Community, or has been sufficiently amended to remove OC LAFCO’s support or opposition.  |
| <b>Watch</b>                 | A position given to a bill that is of LAFCO interest but does not directly affect OC LAFCO or LAFCOs statewide at that time, including a spot bill or two-year bill where the author has indicated that the bill will be amended, or the subject area may change to not impact LAFCOs or OC LAFCO, the Commission’s mandated activities or the Cortese-Knox-Hertzberg Act. |
| <b>Oppose</b>                | A position given to a bill that the Commission believes would be detrimental to LAFCOs authority in general, the policy positions of OC LAFCO, or to good governance principles relative to public policy.   |
| <b>Oppose Unless Amended</b> | A position given to a bill for which a support position could be taken if amendments were made to address identified concerns of the Commission. This may include changing a previously stated position of the Commission. This position can be changed by the Commission (or the OC LAFCO Chair under certain circumstances) if   |

|                |  |
|----------------|--|
|                | identified amendments are presented and accepted by the legislator. This position warrants the suggestion of draft amendments by the Commission. |
| <b>Sponsor</b> | A position given to a bill for which OC LAFCO is the sponsor or co-sponsor. Inherent in this position is OC LAFCO's support of the bill.         |

- 1) Staff recommendations of legislative positions shall be accompanied by a draft position letter for distribution to the bill author, committee chair, or governor depending on the status of the bill and the legislative cycle. Neutral or watch positions may not warrant distribution of a position letter. An oppose unless amended position warrants the Commission to provide suggested amendments for transmittal to the bill author.
- 2) The OC LACO Chair provides assistance to staff and the Commission in reviewing and responding to legislation of LAFCO interest that requires immediate attention.
- 3) The OC LAFCO Legislative Ad Hoc Committee is appointed by the OC LAFCO Chair and will serve in an advisory role to the full Commission on legislative affairs, including assisting staff with the engagement of key local, regional and statewide stakeholders and reviewing legislation of LAFCO interest, as directed by the Chair or Commission or requested by staff. Any activity of the Committee will be provided to the Commission within legislative reports subsequent to the activity.

To ensure diverse perspectives and expertise involving the Commission's legislative activities, the Committee shall be comprised of three members of the Commission from different appointing authorities (i.e., city, county, special district and public).

- 4) To allow for the timely transmittal of a position letter that may affect one or more of the Commission's legislative policy and guidelines, the Commission's Executive Officer is authorized to submit a letter, provided the Commission has previously adopted a position on the bill.
- 5) To allow for the timely transmittal of a legislative position on a bill or bills that may affect one or more of the Commission's legislative policy and guidelines, the OC LAFCO Chair may direct the Commission's Executive Officer to submit a letter on the Commission's behalf if the Commission has not yet previously adopted a position on the bill.

## **Orange County Local Agency Formation Commission California Public Records Act Policy**

### **I. POLICY**

This policy sets forth the procedures of the Orange County Local Agency Formation Commission (OC LAFCO) for handling California Public Records Act (“CPRA”) requests pursuant to Government Code Section 7920.000 et seq., and all existing laws and regulations pertaining to disclosure of public records. If any provision of this policy conflicts with current state or federal law, the law shall take precedence.

It shall be the policy of OC LAFCO to allow members of the public to inspect and/or receive copies of any records maintained in the Commission’s office or OC LAFCO-related records housed in the Orange County Records Center, unless such records are restricted by federal or state law, or other regulations.

### **II. LEGAL AUTHORITY**

This policy is authorized under Government Code Section 7922.630 which provides: “Every agency may adopt regulations stating the procedures to be followed when making its records available in accordance with this section.” The California Public Records Act (Government Code Section 7920.000, et seq.) and the California Constitution (Cal. Const. Art. I, Code Section 3, subd. (b).) gives every member of the public the right to inspect and/or receive copies of public records, for the direct cost of duplication or a statutory fee, except where access is otherwise made exempt by law.

### **III. DEFINITIONS**

For purposes of this policy and procedure, “public records” shall include any writing containing information related to the conduct of the public’s business that is prepared, owned, used, or retained by the Commission, regardless of physical form or characteristics. (Government Code Section 7922.530 subd. (a).)

“Writing” means handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and any record thereby created, regardless of the manner in which the record has been stored. (Government Code Section 7922.540 subd. (a).)

#### IV. PROCEDURES

- A. OC LAFCO encourages members of the public to submit CPRA requests to the Commission's office during normal business hours when the Commission offices are open. Receiving requests during normal business hours helps Commission staff avoid any delays in responding to requests for inspection and/or copies of OC LAFCO records. This procedure is intended to further the CPRA provision that public records must be "open to inspection at all times during the office hours of the state or local agency..." and the provision that allows OC LAFCO to "adopt requirements for itself that allow for faster, more efficient, or greater access to records that prescribed by the minimum standards set forth in [the Public Records Act]." (Government Code Section 7922.525 through Section 7922.540(b).) Notwithstanding the foregoing, OC LAFCO accepts CPRA requests that are sent to the Commission's office after normal business hours, during weekends, and holidays. However, OC LAFCO will deem such requests as received on the next business day that the Commission's office is open for business.
- B. OC LAFCO encourages members of the public to submit all CPRA requests in writing to the Commission's office, preferably using the Public Record Request form attached as Exhibit "A" to this policy. Written requests reduce any misunderstandings between the requester and OC LAFCO staff, which allows OC LAFCO staff to respond to CPRA requests in a timely manner and with greater efficiency. However, OC LAFCO will not deny a request for records solely because it is not submitted in writing or was not submitted on OC LAFCO's Public Record Request form.
- C. The requester should, in writing, reasonably describe an identifiable record or records being sought. The request must be focused, specific, and reasonably clear, to enable OC LAFCO to identify the particular record or records. If the request appears unclear or is overly broad, staff will make a reasonable effort to obtain additional clarifying information from the requester that will help identify the record or records. Pursuant to Government Code Section 7922.600 and Section 7922.605, staff shall do all of the following, to the extent reasonable under the circumstances:
  1. Assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated.
  2. Describe the information technology and physical location in which the records exist.
  3. Provide suggestions for overcoming any practical basis for denying access to the records or information sought.
- D. Whenever possible, staff will promptly make available disclosable public records. If any document responding to a CPRA request is posted on any OC LAFCO-related websites, staff will provide the requestor with a link or other direction to the online location of the document, pursuant Government Code Section 7922.545, subdivision (a).

- E. For requests for records in electronic format, OC LAFCO will make electronic records available in their existing format, pursuant to the requirements and conditions of Government Code Section 7922.570 through Section 7922.580.
- F. Within ten (10) days of OC LAFCO's date of receipt of the original CPRA request (pursuant to Section IV(A) of this Policy), the Executive Officer will provide a written determination as follows:
  - 1. If the requested records are made promptly available after the request is received, the Executive Officer's written response will document staff's determination that the records are disclosable and are provided to the requester.
  - 2. If the request presents "unusual circumstances" as described in Government Code Section 7922.535 subdivision (b), the Commission may take an extension of fourteen (14) days to provide a determination on the request. Pursuant to Government Code Section 7922.535, subdivision (c), "unusual circumstances" means the following, but only to the extent reasonably necessary to properly process the request:
    - a. The need to search for and collect the requested records from field facilities or other establishments that are separated from the office processing the request.
    - b. The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.
    - c. The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request, or among two or more components of the Commission having substantial subject matter interest therein.
    - d. The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.

The Executive Officer's written response will explain the "unusual circumstances" that apply to the request and will provide the estimated date when the determination on the request will be provided.

- 3. If the requested records are exempt from disclosure under the Public Records Act, other state law, or federal law, the response shall provide the specific exemptions and provide the name and title or position of the person(s) responsible for withholding the exempt records.
- 4. If the requested records are disclosable but cannot be made "promptly available" because additional time is required to complete the request, the response shall notify the requester of the estimated date when the materials will be made

available.

- G. For requests to inspect records, staff members will assist requestors to schedule a date and time for inspection during regular business hours when the Commission offices are open. Original records may NOT be taken from OC LAFCO offices or another repository. Some historical OC LAFCO records are stored in the Orange County Records Center through an agreement between OC LAFCO and the Orange County Records Center. All OC LAFCO records within the Orange County Records Center remain under the ownership of OC LAFCO. As custodian for these documents, OC LAFCO shall work with Orange County Records Center, when necessary, to retrieve any documents that respond to CPRA requests.
- H. OC LAFCO shall produce requested copies upon payment of the copy fee specified in the OC LAFCO fee schedule or upon payment of a statutory fee if applicable.

**Originally Adopted:** 9/1979 (formerly “Policy for the Public Review of LAFCO Records”)

**Last Reviewed:** 03/13/2024

**Last Revised:** 03/13/2024

**EXHIBIT A**  
[PLACE ON LETTERHEAD]

**PUBLIC RECORDS ACT (PRA) REQUEST FORM**

**A. REQUESTOR INFORMATION:** *\*Required field (You will need to provide at least one form of contact information for us to respond to your request.)*

Name: \_\_\_\_\_ Date: \_\_\_\_\_

\*Email: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

\*Telephone: \_\_\_\_\_ \*Fax: \_\_\_\_\_ \*Cell: \_\_\_\_\_

**B. RECORDS REQUESTED:** *Please be specific and state clearly the type of information you are requesting. To expedite your request, please indicate the type of record, file name, application number, applicant name, date or date range of record(s), incident location or other helpful information. (You may attach another sheet if you need additional space.)*

I am requesting to (check one)  inspect  receive copies of the following records:

(1) \_\_\_\_\_

(2) \_\_\_\_\_

(3) \_\_\_\_\_

*We assure you that your request for information is important to us. However, immediate access records cannot always be accommodated immediately. In accordance with California Government Code Section 7920.000, et seq. OCLAFCO staff has up to ten (10) days in which to determine whether the documents requested constitute in whole or in part disclosable public records, and such time period may be extended if necessary. Requests for large volume documents, historical/archived files, or for active application files requested near an OC LAFCO meeting date may not be processed immediately. Extensive research or substantial photocopying may take a reasonable amount of time to process. If you would like to schedule an appointment to arrange appropriate accommodations for large requests, please contact [INSERT CONTACT PERSON, TITLE AND PHONE NUMBER AND/OR EMAIL ADDRESS.]*

***Please be advised that OCLAFCO copying fees or statutory copying fees may apply for copy requests and that you may be required to pay all such fees before requested copies are delivered.***



## **Orange County Local Agency Formation Commission Records Retention and Destruction Policy**

### **I. PURPOSE**

The purpose of this policy is to provide guidelines to staff regarding the retention of records of the Local Agency Formation Commission of Orange County (OC LAFCO); provide for the identification, maintenance, and safeguarding of OC LAFCO records and the destruction of obsolete records in the normal course of business; ensure prompt and accurate retrieval of records; and, ensure compliance with legal and regulatory requirements.

### **II. POLICY**

It is the policy of this Commission that records must be kept indefinitely in original, photographic, or electronic form pursuant to Government Code section 56382. Documents that are not herein defined as “records” are not “records” pursuant to Government Code section 56382 and will be retained and disposed of according to the Records Retention Schedule in Exhibit B. The schedule follows the minimum retention periods mandated by the California Government Code, the California Code of Civil Procedure, the Code of Federal Regulations, the Secretary of State Local Government Records Management Guidelines, and other legal authorities cited.

For purposes of compliance with Government Code §56382 and implementation of the Commission’s Records Retention Schedule as set forth in Exhibit B, “records” include the following:

1. LAFCO Meeting Minutes
2. LAFCO Resolutions and Ordinances
3. Documents related to LAFCO proposals such as the:
  - a. Application, petition or other initiating documents
  - b. Assessor’s Statement of Property Valuation
  - c. Agreement to Pay / Indemnification
  - d. Certificate of Completion
  - e. Certificate of Filing
  - f. Environmental Review/CEQA documents such as Initial Study, Exemptions, Notices of Completion and Determination, Comments and Response to Comments, Negative Declaration, mitigation monitoring, Statements of Overriding Consideration
  - g. Map and Legal Description
  - h. Notices
  - i. Order for Change of Organization

- j. Staff Reports
- k. Statement of Boundary Change
- l. Statement of Tax Rate Area

### **III. PROCEDURE**

- A. The Commission Clerk completes and signs a “Destruction of Obsolete Records” form, listing the date and description of each document to be destroyed. A sample form is attached to this policy as Attachment “A.”

The Commission Clerk confirms that each document is: (1) not required to be permanently retained, or (2) has been retained for the legally required period of time. The Commission Clerk also confirms that any applicable reproduction requirements (i.e., imaging, etc.) for each document are complete. The Commission Clerk also verifies that the documents are not relevant to a lawsuit, a claim, a subpoena, an investigation, a litigation hold, a Public Records Act (Government Code §7920 - 7931 *et seq.*) request, an audit or similar proceeding, which is in progress or which can reasonably be anticipated.

- B. The Commission Clerk oversees the destruction of the obsolete documents, indicates the method of destruction on the form, signs the form, and retains the original signed form.
- C. The Commission Clerk will retain all original signed forms requesting destruction of obsolete records for a minimum period of two (2) years.
- D. The Commission Clerk will permanently retain a master log of all destroyed obsolete documents which includes the titles or brief descriptions of the obsolete documents that were destroyed, the method of destruction and the date of destruction.

### **IV. GENERAL GUIDELINES**

- A. The Commission Clerk shall be responsible for the administration of this policy and shall assist all OC LAFCO personnel to comply with the provisions of this policy and with the Records Retention Schedule, set forth in Attachment “B.”
- B. The following general guidelines apply to all OC LAFCO records.
  - 1. The Commission may authorize the destruction of any duplicate records at any time. (Government Code §56382)
  - 2. Unless otherwise required by State or Federal law, the Commission may authorize the destruction of any original document which is more than two (2)

years old if a photographic or electronic copy of the original record is made and preserved in compliance with Government Code section 56382, which shall be considered permanently retained pursuant to the Records Retention Schedule. (Government Code §56382)

3. In addition to the retention periods required under this policy, the Commission shall retain original administrative, legal, fiscal and/or historical records with continued value (i.e., records for long-term transactions and/or special projects) until all matters pertaining to such records are completely resolved or the time for appeals has expired. (Government Code §34090 and §60201, subd. (d)(10).)
4. Pursuant to Government Code §60201, the Commission shall not destroy any of the following records:
  - a. Records relating to the formation, change of organization or reorganization of the Commission.
  - b. Records relating to any pending claim, litigation, any settlement or other disposition of litigation within the past two (2) years.
  - c. Records that are the subject of any pending request for records under the California Public Records Act (Government Code §7920-7931 *et seq.*), whether or not the record is exempt from disclosure, until the request has been granted or two (2) years after the request has been denied by the Commission.
  - d. Records relating to any pending construction that the Commission has not accepted or for which a stop notice claim may be legally presented.
  - e. Records relating to any non-discharged debt of the Commission.
  - f. Records relating to the title to real property in which the Commission has an interest.
  - g. Records relating to any non-discharged contract to which the Commission is a party.
  - h. Records that have not fulfilled the administrative, fiscal, or legal purpose for which they were created or received.
  - i. Unaccepted bids or proposals, which are less than two (2) years old, for the construction or installation of any building, structure or other public work.

- j. Records less than seven (7) years old that specify the amount of compensation or expense reimbursement paid to Commission employees, officers, or independent contractors.

### C. Exceptions to Scheduled Destruction

Destruction of any record shall be postponed if that record is responsive to a subpoena, litigation hold or other request for preservation, a Public Records Act (Government Code §7920-7931 *et seq.*) request, an audit, or a claim filed against OC LAFCO. In addition, records that relate to any active litigation or potential litigation involving OC LAFCO shall be preserved until the litigation is resolved. OC LAFCO personnel who become aware of a subpoena, claim, Public Records Act request, etc., that affects records under their control shall use their best efforts, by any reasonable means available to them, to preserve those records. In such situations, OC LAFCO personnel shall contact the Commission Clerk regarding the affected records.

## V. SPECIFIC GUIDELINES

### A. Accounting Records

1. Accounting records include, but are not limited to, the following:

- a. Source Documents

- Invoices.
- Warrants.
- Vouchers.
- Requisitions/Purchase Orders (attached to invoices).
- Cash Receipts.
- Claims (attached to warrants in place of invoices).
- Bank Statements.
- Bank Deposits.
- Checks.
- Bills.
- Various accounting authorizations taken from Commission minutes, resolutions or contracts.

- b. Journals

- Cash Receipts.
- Accounts Receivable or Payable Register.
- Check or Warrant Register.
- General Journal.
- Payroll Journal.

- c. Ledgers
  - Expenditure.
  - Revenue.
  - Accounts Payable or Receivable Ledger.
  - Assets/Depreciation.
  - Warrants payable.
  - Construction.
  - General ledger.
  
- d. Trial Balance
  
- e. Adjusting Entries
  
- f. Statements (Interim or Certified – Individual or All Fund)
  - Balance Sheet.
  - Analysis of Changes in Available Fund Balance.
  - Cash Receipts and Disbursements.
  - Inventory of Fixed Assets (Purchasing).
  
- g. Journal Entries
  
- h. Reversing Entries
  
- i. Payroll and personnel records include but are not limited to the following:
  - Accident reports, injury claims and settlements.
  - Applications, changes or terminations of employees.
  - Earnings records and summaries.
  - Fidelity bonds.
  - Garnishments.
  - Insurance records of employees.
  - Job descriptions.
  - Medical histories.
  - Retirements.
  - Timecards.
  
- j. Other
  - Inventory Records (Purchasing).
  - Capital Asset Records (Purchasing).
  - Depreciation Schedule.
  - Cost Accounting Records.

2. General ledgers should be retained a minimum of four (4) years after completion of any annual audit (Code of Civ. Pro. §337). Published articles show retention periods of **four (4) to seven (7) years** as typical. However, the Secretary of State recommends that general ledgers be permanently retained. (Sec. of State Local Gov't Records Mgmt. Guidelines; Gov. Code §34090.)
3. In general, the Commission should retain original source documents that are detailed in a register, journal, ledger or statement **until audited plus four (4) years**. (Sec. of State Local Gov't Records Mgmt.) Certain source documents may be retained for a shorter period of time. Refer to the records retention schedule for specific accounting documents.
4. At any time, the Commission may destroy rough drafts, notes, working papers (except for audits) that are not retained by the Commission in the ordinary course of business, including temporary or transitory documents used only for controlling the flow of work (e.g., "Post-It®" notes).
5. In addition to any required legal retention period, the Commission shall not authorize the destruction of any record subject to audit until it has been determined that the audit has been performed. (Government Code §14755, subd. (b); Government Code §subd. (d)(10))

#### B. Long-Term Debt Records

1. The Commission may destroy paid bonds, warrant certificates and interest coupons after **ten (10) years**. (Code of Civil Proc. §337.5.)
2. The Commission may not destroy any documents relating to any non-discharged debt. (Government Code §60201, subd. (d)(7).)

#### C. Commission Records

1. The Commission shall retain original records of the minutes of meetings of the Commission **indefinitely**. (Government Code §56382)
2. The Commission shall retain original ordinances and resolutions **indefinitely**. (Government Code §56382.) However, ordinances or resolutions that have been repealed or are otherwise invalid or unenforceable may be destroyed after five (5) years. (Government Code §60201, subd. (2)(2).)

#### D. Statements of Economic Interest (SEI) [Form 700] and Other Reports Filed Pursuant to the Political Reform Act (Government Code §81000 *et seq.*)

1. Filing officers shall retain original statements and reports for **seven (7) years**.

(Government Code §81009 (c), (e).) After an original report or statement has been on file for at least two (2) years, the filing officer may retain an electronically imaged copy available for public inspection instead of the original report or statement. (Government Code §81009, subd. (g).)

2. Filing officers shall retain copies of statements or reports for **four (4) years**. The officer does not have to keep more than one copy of a statement or report. (Government Code §81009 (f).) After a copy of a report or statement has been on file for at least two (2) years, the filing officer may retain an electronically imaged copy available for public inspection instead of the paper copy. (Government Code §81009, subd. (g).)

#### E. Contracts

1. The Commission shall retain original contracts for **four (4) years** after completion of the contracts. (Code of Civ. Proc. §337.)
2. The Commission shall retain contracts with any person or entity that develops real property or furnishes the design, specifications, surveying, planning, supervision, testing, or observation of construction or improvement to real property for **ten (10) years** after the completion of the construction or improvement. (Code of Civ. Proc. §337.15.)

#### F. Property Records

The Commission shall retain original property records, such as title documents, **indefinitely**, or until the property is transferred or otherwise no longer owned by the Commission. (Government Code §34090 and §60201.)

#### G. Payroll and Personnel Records

1. Payroll and personnel records include, but are not limited to, the following:
  - a. Accident reports, injury claims and settlements.
  - b. Medical histories.
  - c. Injury frequency charts.
  - d. Applications, changes and terminations of employees.
  - e. Timecards.
  - f. Job descriptions.
  - g. Performance or rating documents.
  - h. Earning records and summaries.

Records specifying amounts of compensation or expense reimbursement paid to Commission employees, officers, or independent contractors must be

retained for seven (7) years after date of payment. (Government Code §60201)

2. The Commission shall retain personnel files for **three (3) years** after an individual's employment terminates. (Labor Code §1198.5; 29 CFR 1627.3.)
3. The Commission shall retain medical records of employees who have been exposed to toxic substances or harmful physical agents for **thirty (30) years beyond the length of employment**. Such medical records shall include records made or maintained by a physician, nurse, or other healthcare personnel or technician pertaining to employees exposed to toxic substances or harmful physical agents. Such medical records do NOT include first aid records for one-time treatment made on-site by a non-physician or observation of minor scratches, cuts, burns, splinters, etc., which do not involve medical treatments, loss of consciousness, restriction of work or motion, or transfer to another job. (29 CFR 1910.1020; 8 Cal. Code Regs. §3204 (d)(1)(A)(B).)

For employees who are employed by the Commission for **less than one year**, the Commission does not need to retain the employee's medical records regarding exposure to hazardous substances if the Commission provides the employee with such records upon termination of employment. (Ibid.)

Routine medical records including first aid records for one-time treatment, observation of minor injuries, records relating to medical leave taken by employees with information including hours taken, notices, and policies, burns, splinters, etc., should be kept for the **length of employment plus three (3) years**. (29 CFR 825.500.)

4. The Commission may destroy personnel fidelity bonds **two (2) years** after separation. (Government Code §34090.) Wage garnishments must be retained while active until garnishment is satisfied, then retained until audited plus **four (4) years** after separation. (Ibid.)
5. The Commission shall retain payroll records containing the name, address, date of birth, gender, job classification, hours worked, and regular and overtime wages for each employee for **three (3) years** beyond the length of employment and **seven (7) years from date of payment** (29 CFR Part 516.5; Labor Code §1174 and §1197.5; Government Code §60201.) Payroll registers listing labor costs by employee and program should be retained for a minimum of **seven (7) years from date of payment**. Permanent retention of payroll registers is recommended in the Secretary of State Local Government Records Management Guidelines.
6. The Commission shall retain basic timecards or timesheets which are entered



daily with the starting and stopping times of individual employees for a minimum of **three (3) years**. The Secretary of State Local Government Records Management Guidelines recommends retaining such documents for **six (6) years**. (29 CFR Part 516.6; Labor Code §1174; Sec. of State Local Gov't Records Mgmt. Guidelines.)

7. The Commission shall retain employment applications and employment referral records and files for **two (2) years** after such records or files are created. (Government Code §12946; 29 CFR 1627.3.)
8. The Commission shall retain records regarding the race, gender, and national origin of each applicant and for the job for which such applicant applied for **two (2) years** from the date of the creation of the record or the date of the personnel action involved, whichever occurs later. The Commission may either retain the original documents used to identify applicants or keep statistical summaries of the collected information. (2 CCR §7287.0, subds. (b)(2), (c).)

#### H. Construction and Engineering Records

1. The Commission shall retain certain original construction records, such as bids, correspondence, and change orders, for **four (4) years** after project completion, unless the records pertain to a project which includes a guarantee or grant in which event they shall be retained for the **life of the guarantee or grant plus four (4) years**. The Commission shall retain as-built plans for any public facility or works as long as the facility exists.
2. The Commission may destroy unaccepted bids or proposals for public works after **two (2) years**. (Government Code §26202.1 and §60201.)
3. The Commission shall retain supporting documents on capital improvement projects, including bidder's lists, specifications, reports, plans, work orders, schedules, etc., for **ten (10) years after project completion**. (Code of Civ. Proc. §337.15.)

#### I. Exposure/Safety Records and Material Safety Data Sheets (MSDS).

1. The Commission shall retain employee exposure records and exposure assessment records for at least **thirty (30) years**. Such records should reveal the identity of the toxic substance or harmful physical agent and where and when such substance or agent was used. (8 Cal. Code Regs. §3204; 29 C.F.R. 1910.1020.)
2. The Commission may destroy the material safety data sheet (MSDS) for a hazardous substance after the Commission stops using the hazardous

substance provided it keeps a record of the substance (chemical name if known) and when and where it was used for **thirty (30) years**. (8 Cal. Code Regs. §3204(d)(1)(B)(2); 29 C.F.R. 1910.1020 (d) (ii) (B).)

J. Video Monitoring, Telephone and Radio Communications; Other Video and Audio Recordings

1. The Commission shall retain recordings of **routine video monitoring** (e.g., building security recording systems) for at least **one (1) year**. After the one-year retention period, the Commission may destroy the video recording upon approval by the Commission. (Government Code §34090.6 and §53160.)
2. Upon authorization of the Commission, recordings of telephone and radio communications maintained by the Commission may be destroyed after **100 days**. (Government Code §34090.6.)
3. Video or audio recordings of Commission meetings made at the direction of the Commission, for whatever purposes, must be retained at **least 30 days after the meeting**. (Government Code §54953.5.)
4. If the Commission keeps another record, such as written minutes, of an event (other than Commission meetings) that is recorded on video or digitally recorded, the Commission must keep the video recording of the event for **at least 90 days** after the occurrence of the event. **After 90 days**, the video recording may be destroyed or erased, upon approval by the Commission. (Government Code §34090.7 and §53161; 85 Ops. Cal. Atty. Gen. 256 (2002).)

K. Records Retention Schedule

The “Records Retention Schedule” is attached to this policy as Attachment “B” and is incorporated herein by reference. This policy and the Records Retention Schedule comply with the records retention guidelines provided by the California Secretary of State and may be updated from time to time.

**Originally Adopted: 2/8/2006**

**Last Reviewed: 2/19/2025**

**Last Revised: 2/19/2025**

**ATTACHMENT "A"**

**REQUEST FOR DESTRUCTION OF OBSOLETE RECORDS**

**LOCAL AGENCY FORMATION COMMISSION OF ORANGE COUNTY**

To: Records File  
From: Commission Clerk  
Subject: Destruction of Obsolete Records

The following obsolete records listed below were destroyed in accordance with OC LAFCO Records Retention and Destruction Policy.

| DATE OF RECORD | DESCRIPTION OF RECORD |
|----------------|-----------------------|
|                |                       |
|                |                       |
|                |                       |
|                |                       |
|                |                       |

The obsolete records described above were destroyed under my supervision using the following method:

- Shredding                       Other (specify method)

I certify that such destruction meets the requirements of the Records Retention and Destruction Policy of OC LAFCO and all applicable requirements of State and Federal law.

\_\_\_\_\_  
Commission Clerk

\_\_\_\_\_  
Date of Records Destruction

## **ATTACHMENT "B"**

### **RECORDS RETENTION SCHEDULE**

| TYPE OF RECORD   | DESCRIPTION OR<br>EXAMPLE OF RECORD  | LEGAL<br>AUTHORITY   | MINIMUM LEGAL<br>RETENTION<br>PERIOD   |
|--|--|--|--|
| <b>Accident/Illness Reports<br/>(OSHA Reports)</b>               | Not a public disclosable record: For Employee Medical Records & Employee Exposure Records regarding exposure to toxic substances or harmful physical agents: <ul style="list-style-type: none"> <li>• Includes Material Safety Data Sheets (MSDS).</li> <li>• Does not include records of health insurance claims maintained separate from employer's records; first aid records of one-time treatments for minor injuries; records of employees who worked less than one (1) year if records are given to employee upon termination.</li> </ul> | GC 6254(c) 8CCR<br>32304(d)(1)(A)(B)   | Duration of employment plus 30 years.  |
| <b>Accidents/Damage to OC<br/>LAFCO Property</b>                 | Risk Management Administration.  | GC 340901<br>CCP 337.15  | 10 years   |
| <b>Accounting Records –<br/>General Ledger</b>                   | General Ledger.  | GC 34090<br>CCP 337<br>Sec. of State Local Gov't Records Mgmt. Guidelines    | Until audited +4 years.<br><br>Published articles show 4 - 7 years retention as typical.<br><br>Sec. of State Guidelines recommends permanent retention. |
| <b>Accounting Records –<br/>Permanent Books of<br/>accidents</b> | Records showing items of gross income, receipts and disbursement (including inventories per IRS regulations).  | 26 CFR 1.60001-1(c)<br>& (e)   | Permanent  |
| <b>Accounts Payable</b>  | Journals, statements, asset inventories, account postings with supporting documents, vouchers, investments, invoices and   | CCP 337<br>26 CFR<br>31.6001-1(e) (2).<br>Sec. of State Local Gov't. Records | Until audited +4 years.<br><br>7 years after date of payment.  |

| TYPE OF RECORD   | DESCRIPTION OR<br>EXAMPLE OF RECORD   | LEGAL<br>AUTHORITY   | MINIMUM LEGAL<br>RETENTION<br>PERIOD  |
|--|---|--|---|
|  | <p>back-up documents, purchase orders, petty cash, postage, OCERS reports, check requests, etc.</p> <p>Expense reimbursement to employees &amp; officers; travel expense reimbursements or travel compensation.</p>   | Mgmt. Guidelines recommendation  |   |
| <b>Accounts Receivable</b>   | Receipts for deposited checks, coins, currency; reports, investments, receipt books, receipts, cash register tapes, payments for fees, permits, etc.  | 26 CFR 31.6001 – 1(e)(2); Sec. of State Local Gov't. Records Mgmt. Guidelines recommendation | Until audited +4 years.   |
| <b>Affidavits of Publication/Posting</b>                                   | <p>Affidavits for Legal notices for public hearings, publication of ordinances, etc.</p> <p>(Actual hearing notices must be retained permanently)</p>   | GC 34090   | 2 years.  |
| <b>Agency Report of Consultants (FPPC Form 805)</b>                        | Identifies consultants hired by OC LAFCO who must file Form 700.  | 2 CCR 18734. GC 81009(e)   | 7 years.  |
| <b>Agency Report – Events and Ticket/Pass Distribution (FPPC Form 802)</b> | Report of tickets/passes; identifies persons who received ticket/passes and describes the public purpose for the distribution.  | GC 81009(e)  | Originals – 7 years.  |
| <b>Agency Report of Public Official Appointments (FPPC Form 806)</b>       | Report of additional compensation received by OC LAFCO officials when appointing themselves to committees, boards or commission of other public agencies, special districts, joint powers agencies or joint power authorities. Current report must be posted on OC LAFCO's website. | 2 CCR 18705.5; GC 34090.5  | Recommended retention; keep a copy of report for 2 years after removal from OC LAFCO's website. |

|  |  |  |   |
|--|--|--|---|
| <b>Agenda/Agenda Packets</b>           | Original agendas, agenda packets, staff reports, and related attachments, supplemental items and documentation submitted by staff/public in relation to agenda items<br><br>Paper copies of agenda packets should be maintained for 1 year as complete packets. Originals will later be imaged for permanent records retention; the imaged record may serve as the permanent record. | GC 34090<br>GC 34090.5   | Current +2 years.<br><br>Staff Reports related to LAFCO proposals must be retained permanently<br><br>Agency practice is to retain paper copies indefinitely for historical purposes. |
| <b>Agreements (see also Contracts)</b> | Original contracts and agreements and back-up materials, including leases, service/maintenance agreements, etc.  | CCP 337<br>CCP 337.2<br>CCP 343  | 4 years after termination/ completion.  |
| <b>Annexations/ Reorganizations</b>    | Notices, Resolutions, Certificates of Completion; documents may be imaged, but the originals can never be destroyed.   | GC 34090<br>GC 60201 (d)(1)  | Permanent.  |
| <b>Annual Financial Report</b>         | May include independent auditor analysis.  | GC 26201, 34090<br>Sec. of State Local Gov't. Records Mgmt. Guidelines<br>GC 34090<br>GC 60201 | Permanent.  |
| <b>Articles of Incorporation</b>       |  | Guidelines GC 34090 (a)  | Permanent.  |
| <b>Audit Reports</b>                   | Financial services; internal and/or external reports.  | GC 34090; CCP 337; CCP 343<br>Sec. of State Local Gov't. Records Retention Guidelines          | Minimum retention – Current +4 years.<br><br>Sec. of State Guidelines recommends permanent retention [May be revised at a later time by Sec. of State or County officials].           |
| <b>Audit Hearing or Review</b>         | Documentation created and/or received in connection with an audit hearing or review.   | GC 26202, 34090  | 2 years.  |
| <b>Ballots – Special</b>               | Copies of ballots from   | GC 26202, 34090,   | 2 years.  |



| TYPE OF RECORD                                 | DESCRIPTION OR<br>EXAMPLE OF RECORD  | LEGAL<br>AUTHORITY  | MINIMUM LEGAL<br>RETENTION<br>PERIOD  |
|--|--|---|---|
| <b>District elections</b>                      | elections of Special Districts (OC LAFCO members).   | 60201   |   |
| <b>Bank Account Reconciliations</b>            | Bank statements, receipts, certificates of deposit, etc.   | 26 CFR 31,6001-1(e)(2)  | Until audited + 4 years.<br><br>Sec. of State recommends until audited + 5 years. |
| <b>Behested Payment Report (FPPC Form 803)</b> | FPPC form used by elected officials to disclose payments made at their behest (\$5,000 or more from same source) for legislative, governmental, or charitable purposes.  | GC 81009, 82015(b)(3)(B)  | 7 years.  |
| <b>Brochures/ Publications</b>                 | Retain selected documents only for historic value.   | GC 26202, 34090   | 2 years.  |
| <b>Budget, Annual</b>                          | Annual operating budget approved by OC LAFCO.  | GC 26202, 34090; Sec. of State Local Gov't. Records Mgmt. Guidelines  | Until audited + 2 years.<br><br>Sec. of State recommends permanent retention.     |
| <b>Cal-OSHA</b>                                | Personnel logs, supplementary records; annual summary (Federal and State-Cal-OSHA)   | LC 6410; 8 CCR 14307  | 5 years.  |
| <b>Checks (issued by OC LAFCO)</b>             | OC LAFCO checks paid – expense reimbursements, payments to independent contractors, etc. Includes check copies; canceled and voided checks; electronic versions of checks.<br><br>OC LAFCO check paid to vendors; other OC LAFCO payments – includes check copies; canceled or voided checks; electronic versions of checks. | GC 60201(d)(12) CCP 337<br><br>Sec. of State Local Gov't. Records Mgmt. Guidelines; CCP 337; 26 CFR 31.6001-1(e)(2) | 7 years.<br><br>Until audited +4 years.   |
| <b>Citizen Feedback</b>                        | General correspondence.  | GC 26202, 34090   | 2 years.  |
| <b>Claims Against OC LAFCO</b>                 | Paid/Denied.   | GC 60201(d)(4); GC 25105.5  | Until settled +5 years.   |
| <b>Complaints/Requests</b>                     | Various files, not related to specific lawsuits involving  | GC 26202, 34090   | 2 years.  |

| TYPE OF RECORD  | DESCRIPTION OR<br>EXAMPLE OF RECORD   | LEGAL<br>AUTHORITY   | MINIMUM LEGAL<br>RETENTION<br>PERIOD                          |
|---|---|--|---|
|   | the agency and not otherwise specifically covered by the retention schedule.  |  |   |
| <b>Contracts</b>  | Original contracts and agreements and back-up materials, including leases, service/maintenance contracts, etc.  | CCP 337, 337.2, 343  | 4 years after termination/ completion.                        |
| <b>Correspondence</b>   | General correspondence, including letters and e-mail; various files, not otherwise specifically covered by the retention schedule.  | GC 26202 34090   | 2 years.  |
| <b>Deferred Compensation Reports</b>                          | Finance – pension/retirement funds.   | 29 CFR 516.5<br>29 CFR 1627.3  | 3 years.  |
| <b>Demographic/Statistical Data</b>                           |   | GC 26202, 34090  | Current +2 years.   |
| <b>Deposits, Receipts</b>                                     | Receipts for deposited checks, coins, currency.   | CCP 337; 26 CFR 31.6001-1(e)(2); Sec. of State Local Gov't. Records Mgmt. Guidelines | Until audited +4 years.                                       |
| <b>DMV Driver's Records, Reports (DMV Pull Notice System)</b> | Part of personnel records – not a public record.  | GC 34090<br>GC 6254(c) Sec. of State Local Gov't. Records Mgmt. Guidelines           | Until superseded (should receive new report every 12 months). |
| <b>Employee Files</b>   | Personnel – information may include release authorizations, certifications reassignments, outside employment, commendations, disciplinary actions, terminations, oaths of office, evaluations, pre-employee medicals, fingerprints, identification cards. | GC 12946<br>29 CFR 1627.3  | While current +3 years.                                       |
| <b>Employee Information Applicant Identification Records</b>  | Personnel – data recording race, sex, national origin of applicants.  | 2 CCR 7287(b) (c)(2)   | 2 years.  |
| <b>Employee Information,</b>                                  | Name, address, date of  | GC 12946   | 3 years.  |

| TYPE OF RECORD   | DESCRIPTION OR<br>EXAMPLE OF RECORD   | LEGAL<br>AUTHORITY   | MINIMUM LEGAL<br>RETENTION<br>PERIOD   |
|--|---|--|--|
| <b>General</b>   | birth, occupation.  | 29 CFR 1627.3<br>LC 1174   |  |
| <b>Employee Information, Payment</b>                                     | Rate of pay and weekly compensation earned.   | GC 60201   | 7 years.   |
| <b>Employee Programs</b>   | Includes EAP and Recognition.   | GC 26202, 34090<br>GC 12946  | Current +2 years.  |
| <b>Employee Recruitment</b>  | Alternate lists/logs, examination materials, examination answer sheets, job bulletins.  | GC 12946<br>GC 26202, 34090<br>29 CFR 1602 et. Seq.<br>29 CFR 1627.3 | Current +2 years.  |
| <b>Employee Reports</b>  | Employee statistics, benefit activity, liability loss.  | GC 26202, 34090  | Current +2 years.  |
| <b>Employee Rights – General</b>   |   | GC 12946<br>29 CFR 1602.31   | Length of employment + 2 years.  |
| <b>Employment Applications – Not Hired</b>                               | Applications submitted for existing or anticipated job openings, including any records pertaining to failure or refusal to hire applicant.  | GC 26202, 34090<br>GC 12946<br>29 CFR 1627.3                         | 2 years.   |
| <b>Employment Eligibility Verification (I-9 Forms)</b>                   | Federal Immigration and Nationality Act; Immigration Reform/Control Act 1986.   | 8 USC 1324a (b)(3)<br>Pub. Law 99-603                                | 3 years after date of hire, or 1 year after date of termination, whichever is later. |
| <b>Employment – Surveys and Studies</b>                                  | Includes classification, wage rates.  | GC 12946<br>GC 26202, 34090<br>29 CFR 516.6                          | 2 years.   |
| <b>Employment – Training Records, Non-Safety</b>                         | Volunteer program training – class training materials, internships.   | GC 34090<br>GC 12946   | Length of employment + 2 years.  |
| <b>Employment – Vehicle Mileage reimbursement Rates</b>                  | Annual Mileage reimbursements rates.  | GC 26202, 34090  | Until superseded + 2 years.  |
| <b>Environmental Quality California Environmental Quality Act (CEQA)</b> | Exemptions, Environmental Impact Reports, mitigation monitoring, Negative Declarations, Notices of Completion and Determination, comments, Statements of Overriding Considerations. | GC 34090, 60201<br>CEQA Guidelines                                   | Permanent.   |
| <b>Environmental Quality Environmental Review</b>                        | Correspondence, consultants, issues,  | GC 26202, 34090  | Completion + 2 years.  |

| TYPE OF RECORD   | DESCRIPTION OR EXAMPLE OF RECORD   | LEGAL AUTHORITY   | MINIMUM LEGAL RETENTION PERIOD   |
|--|--|---|--|
|  | conservation.  |   |  |
| <b>ERISA Records</b>                                       | Employee Retirement Income Security Act of 1974 – plan reports, certified information filed, records of benefits due.                  | 29 USC 1027, 2059<br><i>La Barbera v. A. Morrison Trucking, Inc.</i><br>2011 US Dist.<br>LEXIS 16343<br>(E.D.N.Y. Feb 17, 2011) | 6 years.   |
| <b>Family and Medical Leave Act (FMLA) (Federal)</b>       | Records of leave taken, OC LAFCO policies relating to leave, notices communications relating to taking leave.                          | 29 CFR 825.500 GC 12946   | While employed + 3 years (Federal) or 2 years (State).   |
| <b>Fixed Assets Inventory</b>                              | Reflects purchase date, cost, account number.  | GC 26202, 34090   | Until audited + 2 years.   |
| <b>Fixed Assets Surplus Property</b>                       | Auction, disposal, listing of property.  | GC 26202, 34090<br>CCP 337  | Until audited + 4 years.   |
| <b>Forms</b>   | Administrative – blank.  |   | Until superseded.  |
| <b>Funds Transfers</b>                                     | Internal; bank transfers & wires.  | GC 26202, 34090   | Until audited + 2 years.   |
| <b>General Ledgers</b>                                     | All annual financial summaries.  | GC 34090<br>CCP 337<br>Sec. of State Local Gov't. Records Retention Guidelines  | Until audited + 4 years.<br><br>Sec. of State Guidelines recommends permanent retention [May be revised at a later time by Sec. of State or County officials]. |
| <b>Gift to Agency Report (FPPC Form 801)</b>               | FPPC form showing payment or donation made to OC LAFCO or to an OC LAFCO official and which can be accepted as being made to OC LAFCO. | FPPC Reg. 18944(c)(3)(F)(G); FPPC Fact Sheet: "Gifts to an Agency – Part 2"<br>GC 81009(e)                                      | Must be posted on agency website for 4 years (per FPPC Fact Sheet). Originals must be retained 7 years.  |
| <b>Gifts/Bequests</b>                                      | Receipts or other documentation.   | GC 34090  | Until completed + 2 years.   |
| <b>Grants – Successful Federal, State, or other grants</b> | Grant documents and all supporting documents: applications, reports, contracts, project files, proposals, statements, sub-             | GC 34090<br>24 CFR 570.502<br>24 CFR 85.42  | Until completed + 4 years.<br><br>Must see each individual grant for   |

| TYPE OF RECORD                                 | DESCRIPTION OR EXAMPLE OF RECORD   | LEGAL AUTHORITY   | MINIMUM LEGAL RETENTION PERIOD   |
|--|--|---|--|
|  | recipient dockets, environmental review, grant documents, inventory, consolidated plan, etc.   |   | retention requirements.  |
| <b>Grants – Unsuccessful</b>                   | Applications not entitled.   | GC 26202, 34090   | 2 years.   |
| <b>Insurance</b>                               | Personnel related.   | GC 26202, 34090   | Current + 2 years.   |
| <b>Insurance, Joint Powers Agreement</b>       | Accreditation, MOU, agreements and agenda.   | GC 26202, 34090   | Current + 2 years.   |
| <b>Insurance Certificates</b>                  | Liability, performance bonds, employee bonds, property; insurance certificates filed separately from contracts, includes insurance filed by licensees. | GC 26202, 34090   | Current + 2 years.   |
| <b>Insurance, Liability/Property</b>           | May include liability, property, Certificates of Participation, deferred, use of facilities.   | GC 26202, 34090   | Current + 2 years.   |
| <b>Insurance Risk Management Reports</b>       | Federal and State OSHA forms; loss analysis report; safety reports; actuarial studies.   | 29 CFR 1904.44<br>GC 26202, 34090   | 5 years (Federal).<br>2 years (State).   |
| <b>Investment Reports Transactions</b>         | Summary of transactions, inventory and earnings report.  | GC 34090, 60201<br>CCP 337<br>Sec. of State Local Gov't. Records Retention Guidelines | Until audited + 4 years.<br><br>Sec. of State Guidelines recommends permanent retention. |
| <b>Invoices</b>                                | Copies sent for fees owed, billing, related documents.   | GC 26202, 34090   | Until audited + 2 years.   |
| <b>Legal Notices/</b>                          | Notices of public hearings for LAFCO proposals,  | GC 56382  | Permanent  |
| <b>Legal Opinions</b>                          | Confidential – not for public disclosure (attorney-client privilege).  | GC 26202, 34090   | Until superseded + 2 years.  |
| <b>Litigation</b>                              | Case files.  | GC 26202, 34090   | Until settled + 2 years.   |
| <b>Lobbying or Lobbyist Forms (FFPC forms)</b> | FFPC Form 602 – Lobbying Firm Activity Authorization; FFPC Form 635 – Report of Lobbyist Employer & Report of Lobbying Coalition – forms               | FFPC Reg. 18615(f)  | 5 years.   |

| TYPE OF RECORD                              | DESCRIPTION OR EXAMPLE OF RECORD  | LEGAL AUTHORITY  | MINIMUM LEGAL RETENTION PERIOD               |
|---|---|--|--|
|   | used when employing or contracting with a lobbying firm.  |  |  |
| <b>Maintenance Manuals</b>                  | Equipment service/maintenance.  | GC 26202, 34090  | Current + 2 years.                           |
| <b>Maintenance/Repair Records</b>           | Equipment.  | GC 26202, 34090  | 2 years.                                     |
| <b>Marketing, Promotional</b>               | Brochures, announcements, etc.  | GC 26202, 34090  | 2 years.                                     |
| <b>Minutes</b>                              | Meeting minutes: paper records are to be maintained permanently by the agency.  | GC 34090, 60201(d)(3)                                      | Permanent.<br>Originals cannot be destroyed. |
| <b>Newsletters</b>                          | May wish to retain permanently for historic reference.  | GC 26202, 34090  | 2 years.                                     |
| <b>Notices – Public Meetings</b>            | Special meetings.   | GC 26202, 34090  | 2 years.                                     |
| <b>Oaths of Office</b>                      | Elected and public officials – commissioners.   | GC 26202, 34090<br>29 USC 1113<br>Sec. of State Guidelines | Current + 6 years.                           |
| <b>OCERS – Employee Benefits</b>            | Retirement Plan.  | 29 USC 1027  | 6 years.                                     |
| <b>OSHA</b>                                 | OSHA Log 200, Supplementary Record, Annual Summary (Federal & State-Cal-OSHA); OSHA 300 Log, privacy case list, annual summary, OSHA 301 incident report forms. | LC 6410; 8 CCR 14307<br>29 CFR 1904.2 – 1904.6M, 1904.33   | 5 years.                                     |
| <b>Payroll – Federal/State Reports</b>      | Annual W-2's, W-4's, Form 1099s, etc.; quarterly and year-end reports.  | GC 60201   | 7 years.                                     |
| <b>Payroll Deduction/ Authorizations</b>    | Finance.  | 29 CFR 516.6(c)<br>GC 60201                                | While current +7 years.                      |
| <b>Payroll, registers</b>                   | Finance – payroll, registers, payroll reports.  | 9 CFR 516.5(a) LC 1174(d)<br>GC 60201                      | 7 years from date of entry.                  |
| <b>Payroll records terminated employees</b> | Finance files.  | 29 CRF 516.5<br>GC 60201                                   | 7 years from date of last entry.             |
| <b>Payroll, timecards/sheets</b>            | Employee.   | 29 CFR 516.6<br>LC 1174                                    | 2 years.                                     |

| TYPE OF RECORD   | DESCRIPTION OR<br>EXAMPLE OF RECORD   | LEGAL<br>AUTHORITY                                  | MINIMUM LEGAL<br>RETENTION<br>PERIOD                  |
|--|---|---|---|
|  |   | Sec. of State Local Gov't. Records Mgmt. Guidelines | Sec. of State recommendation: Until audited +6 years. |
| <b>Payroll – Wage Rates/ Job Classifications</b>               | Employee records.   | GC 60201  | While current +7 years.                               |
| <b>Personnel Records</b>                                       | Other records (not payroll) containing name, address, date of birth, occupation, etc., including records relating to promotion, demotion, transfer, lay-off, termination. | 29 CFR 1627.3                                       | 3 years after separation.                             |
| <b>Personnel Rules and Regulations</b>                         | Including employee handbook, employee manuals, and other policies/procedures.   | CFR 516.6, 1627.3(a)                                | Current + 3 years.                                    |
| <b>Petitions</b>   | Submitted to legislative bodies. (Does not include Initiative Petitions)  | GC 26202, 34090                                     | Current + 2 years.                                    |
| <b>Policies &amp; Procedures</b>                               | All policies and procedures adopted by the Commission; directives rendered by the agency did not assign a resolution number, Commission Bylaws.                           | GC 26202, 34090                                     | Current + 2 years.                                    |
| <b>Political Support/ Opposition, Requests &amp; Responses</b> | Related to legislation.   | GC 26202, 34090                                     | 2 years.  |
| <b>Press Releases</b>  | Related to OC LAFCO actions/activities.   | GC 26202, 34090                                     | 2 years.  |
| <b>Procedure Manuals</b>                                       | Administrative.   | GC 26202, 34090                                     | Current + 2 years.                                    |
| <b>Public Records Request</b>                                  | Request from the public to inspect or copy public documents.  | GC 26202, 34090, 60201(d)(5)                        | 2 years.  |
| <b>Purchasing FRQs, RFPs</b>                                   | Requests for Qualifications; Requests for Proposals – regarding goods and services.   | GC 26020, 34090                                     | Current + 2 years.                                    |
| <b>Purchasing, Requisitions, Purchase Orders</b>               | Original documents.   | GC 24090<br>CCP 337                                 | Until audited +4 years.                               |
| <b>Records – audio (e.g., for preparation of</b>               | Audio recordings of Commission “made for  | GC 54953.5  | Minimum 30 days.                                      |

| TYPE OF RECORD  | DESCRIPTION OR<br>EXAMPLE OF RECORD  | LEGAL<br>AUTHORITY                      | MINIMUM LEGAL<br>RETENTION<br>PERIOD  |
|---|--|---|---|
| <b>meeting minutes)</b>   | whatever purpose by or at the direction of the local agency.”  |   |   |
| <b>Recordings, video – meetings of legislative bodies</b>                                 | Video recordings of public meetings made by or at the direction of the Commission.   | GC 54953.5                              | Minimum 30 days.  |
| <b>Recordings, video, other events</b>  | Other than video recordings of public meetings; considered duplicate records if another record of the same event is kept (i.e., written minutes or audio recording). | GC 53161                                | Minimum 90 days after event is recorded; if no other record of the event exists the recording must be kept 2 years. |
| <b>Recordings of routine video monitoring (e.g., building security recording systems)</b> | General recordings of building and facility security systems   | GC 34090.6, 53160                       | 1 Year  |
| <b>Records Management Disposition/Destruction Certification</b>                           | Documentation of final disposition/destruction of records.   | GC 34090, 60201                         | Permanent.  |
| <b>Records Retention Schedules</b>  |  | GC 26202, 34090                         | Current + 2 years.  |
| <b>Recruitments and Selection</b>   | Records relating to hiring, promotion, selection for training.   | 29 CFR 1627.3                           | 3 years.  |
| <b>Requests for Qualifications (RFQs); Request for Proposals (RFPs)</b>                   | Request for Qualifications, Request for Proposals, and related responses.  | GC 26202 – 2 Years<br>CCP 337 – 4 Years | Current + 4 years.  |
| <b>Resolutions</b>  | Vital records – may be imaged, but originals can never be destroyed.   | GC 34090, 60201                         | Permanent.  |
| <b>Return Checks</b>  | Finance – Adjustments – NSF, etc. (not OC LAFCO checks).   | GC 26202, 34090<br>CCP 337              | Until audited + 4 years.  |
| <b>Salary/Compensation Studies, Surveys</b>   | Studies or surveys of other agencies regarding wages, salaries and other compensation benefits.  | GC 26202, 34090                         | While current + 2 years.  |
| <b>Social Media</b>   | Posts, comments, subscriber/follower lists, etc.   | GC 26202, 34090                         | While current + 2 years.  |



| TYPE OF RECORD   | DESCRIPTION OR<br>EXAMPLE OF RECORD   | LEGAL<br>AUTHORITY   | MINIMUM LEGAL<br>RETENTION<br>PERIOD  |
|--|---|--|---|
| <b>Statement of Economic Interest (SEI) (FPPC Form 700) (originals –designated employees</b> | Original SEIs of officers and employees designated in OC LAFCO’s Conflict of Interest Code.                           | GC 81009(e), (g)   | 7 years (can image after 2 years).  |
| <b>Unemployment Insurance Records</b>  | Records relating to unemployment insurance – claims, payments, correspondence, etc.                                   | USC 3301 – 3311; Calif. Unemployment Insurance Code; CCP 343 | 4 years.  |
| <b>Vouchers – Payments</b>   | Account postings with supporting documents.   | GC 26202, 34090<br>CCP 337                                   | Until audited + 4 years.  |
| <b>Wage Garnishment</b>  | Wage or salary garnishment.   | OCP 337  | Active until garnishment is satisfied; then retain until audited + 4 years. |
| <b>Warrant Register/Check Register</b>   | Record of checks issued; approved by the Commission (copy is normally retained as part of agenda packet information). | GC 26202, 34090  | Until audited + 2 years.  |
| <b>Workers Compensation Files</b>  | Work-injury claims (including denied claims); claim files, reports, etc.  | 8 CCR 10102<br>C CCR 15400.2                                 | Until settled + 5 years.  |

|  |   |                  |                                    |
|--|---|------------------|------------------------------------|
| <b>Social Media</b>  | Posts, comments, subscriber/follower lists, etc.  | GC 26202, 34090  | While current + 2 years.           |
| <b>State Controller</b>  | Annual Reports.   | GC 12465         | 3 years.                           |
| <b>Statement of Economic Interest (SEI) (FPPC Form 700) (originals –</b> | Original SEIs of officers and employees designated in OC LAFCO’s Conflict of Interest Code. | GC 81009(e), (g) | 7 years (can image after 2 years). |

| <b>TYPE OF RECORD</b>                  | <b>DESCRIPTION OR EXAMPLE OF RECORD</b>   | <b>LEGAL AUTHORITY</b>                                       | <b>MINIMUM LEGAL RETENTION PERIOD</b>                                       |
|--|---|--|---|
| <b>designated employees</b>            |   |  |   |
| <b>Stop payments</b>                   | Finance – bank statements.  | GC 26202, 34090  | 2 years.  |
| <b>Unemployment Insurance Records</b>  | Records relating to unemployment insurance – claims, payments, correspondence, etc.                                   | USC 3301 – 3311; Calif. Unemployment Insurance Code; CCP 343 | 4 years.  |
| <b>Vouchers – Payments</b>             | Account postings with supporting documents.   | GC 26202, 34090<br>CCP 337                                   | Until audited + 4 years.  |
| <b>Wage Garnishment</b>                | Wage or salary garnishment.   | OCP 337  | Active until garnishment is satisfied; then retain until audited + 4 years. |
| <b>Warrant Register/Check Register</b> | Record of checks issued; approved by the Commission (copy is normally retained as part of agenda packet information). | GC 26202, 34090  | Until audited + 2 years.  |
| <b>Workers Compensation Files</b>      | Work-injury claims (including denied claims); claim files, reports, etc.  | 8 CCR 10102<br>C CCR 15400.2                                 | Until settled + 5 years.  |

## **Policy and Procedural Guidelines for OC LAFCO Sponsorship of Conferences and Meetings**

### **I. PURPOSE**

To establish policy and procedural guidelines for Commission sponsorship of conferences and meetings.

### **II. POLICY STATEMENT**

The Commission shall only consider financial sponsorship of conferences or meetings if: (1) OC LAFCO is a member of the organization hosting the event, and (2) there are sufficient funds budgeted in the current OC LAFCO budget to fully cover all sponsorship costs.

### **III. PROCEDURAL GUIDELINES**

- A. Requests for OC LAFCO sponsorship of conferences and meetings shall be submitted in writing to the Executive Officer.
- B. The Executive Officer shall have the express authority of the Commission to deny any sponsorship requests from organizations in which OC LAFCO is not a member and/or there are insufficient funds in the OC LAFCO budget to cover the projected sponsorship costs.
- C. If an organization of which OC LAFCO is a member submits a request for meeting or conference sponsorship, and there are sufficient funds in the OC LAFCO budget available to cover the project costs, the Executive Officer will schedule the request at the next available OC LAFCO hearing for full Commission consideration and discussion.
- D. The Commission's determination on each sponsorship request will be transmitted in writing by the Executive Officer to the requesting organization within ten days of the Commission's action.

**Originally Adopted: 2/9/2011**

**Last Reviewed: 3/8/2023**

**Last Revised: Not applicable**

## Social Media Use Policy

### I. PURPOSE

The purpose of this policy is to provide clear and concise direction regarding the appropriate use of LAFCO's computers, telecommunication equipment, social media tools and software.

### II. POLICY STATEMENT

The Orange County Local Agency Formation Commission (OC LAFCO) provides computer and telecommunication equipment to both staff and Commissioners for the efficient performance of their duties. OC LAFCO also uses social media sites and tools to maintain effective communication with OC agencies and the public.

This policy applies to all employees, Commissioners, consultants, interns, volunteers and other non-employees who use OC LAFCO's computers or telecommunication equipment. Each person covered by this policy has a responsibility to use OC LAFCO's computers, telecommunication equipment, social media tools and software in a manner that enhances OC LAFCO's public image and increases productivity. Failure to follow this policy may lead to disciplinary measures up to and including termination of employment.

### III. COMPUTER TELECOMMUNICATIONS EQUIPMENT

OC LAFCO's computer and telecommunications equipment consists of all electronic devices, software, and means of electronic communication including, but not limited to, the following equipment: personal computers and workstations, iPads; notebooks, laptops, and other mobile computers; mini and mainframe computers; computer hardware such as flash drives, disk drives and tape drives; peripheral equipment such as printers, modems, fax machines, video recorders, digital cameras, projectors and copiers; computer software applications and associated files and data, including software that enables access to external services, such as the Internet/Intranet; electronic mail (e-mail); telephones; cellular phones; pagers; and voicemail systems (equipment).

- **Access to computer and telecommunications equipment, messages, and electronic data**

Access to OC LAFCO's computer and telecommunications equipment is within the sole and exclusive discretion of OC LAFCO. The Executive Officer can authorize access to OC LAFCO's computers and telecommunications equipment subject to the user's written agreement to comply with this policy. All messages sent and received, including personal messages, and all data and information stored on OC LAFCO's electronic-mail system, voicemail system, or computer systems are OC LAFCO property regardless of the content, including occasional personal voicemail and e-mail. OC LAFCO reserves the right to

access all of its computers and telecommunications equipment at any time, at its sole and exclusive discretion, without prior notice to the user.

OC LAFCO personnel have no right to privacy with respect to any messages or information created or maintained on OC LAFCO's computer and telecommunications equipment. OC LAFCO may, at its discretion, inspect all files or messages on its computers and telecommunications equipment at any time for any reason. OC LAFCO, at its sole and exclusive discretion also may monitor its computer and telecommunications equipment at any time, without prior notice to the user, in order to determine compliance with OC LAFCO policies, for purposes of legal proceedings, to investigate misconduct, to locate information, or for any other business purposes.

OC LAFCO personnel should understand that any information kept or sent on OC LAFCO's computers and telecommunications equipment may be electronically recalled or recreated regardless of whether it may have been deleted or erased by a user. OC LAFCO assumes no liability for loss, damage, destruction, alteration, disclosure, or misuse of any personal data or communications transmitted over or stored in OC LAFCO's computer and telecommunications equipment. OC LAFCO accepts no responsibility or liability for the loss or non-delivery of any personal e-mail or voicemail communications or any personal data stored on any OC LAFCO property. OC LAFCO strongly discourages storage of any important or sensitive personal data on any of OC LAFCO's computers and telecommunications equipment.

- **Proper use of OC LAFCO's computers and telecommunications equipment**

OC LAFCO's computers and telecommunications equipment are to be used by OC LAFCO personnel only for the purpose of conducting OC LAFCO business and OC LAFCO-approved activities, including communication with citizens, member agencies, contractors and OC LAFCO service providers; legal and factual research; and other similar activities, except as otherwise provided.

OC LAFCO personnel may use OC LAFCO's computers and telecommunications equipment for the following incidental personal uses as long as it does not interfere with the user's duties, does not conflict with the OC LAFCO's business, is at no cost to OC LAFCO and does not violate either this or any other OC LAFCO policy:

1. To send and receive occasional personal e-mail and other communications.
2. To prepare and store incidental personal data (such as personal calendars, personal address lists, and similar incidental personal data) in a reasonable manner.
3. To use the telephone system for brief and necessary personal calls, at the caller's expense for toll calls.
4. To access the Internet for brief personal searches and inquiries outside of established work hours, provided that the user complies with all other OC LAFCO policies.

- **Improper use of OC LAFCO’s computers and telecommunications equipment**

1. Prohibition Against Harassing, Discriminatory and Defamatory Use

Under no circumstances may OC LAFCO personnel use OC LAFCO’s computer and telecommunications equipment to transmit, receive, or store any information that is discriminatory, harassing, or defamatory in any way (e.g., sexually explicit or racist messages, jokes, or cartoons). Any use of OC LAFCO computers or telecommunication equipment for any transmission or storage of pornography shall be immediately reported to appropriate legal authorities.

2. Prohibition Against Violating Copyright Law

OC LAFCO personnel must not use OC LAFCO’s computer and telecommunications equipment to copy, retrieve, forward or send copyrighted materials unless the user has OC LAFCO’s and the author’s permission or is accessing a single copy only for the user’s reference for OC LAFCO-related work.

3. Other Prohibited Uses

Under no circumstances may OC LAFCO personnel use OC LAFCO’s computer and telecommunications equipment for any illegal purpose, to disclose confidential or proprietary information of OC LAFCO or third parties, to conduct non-OC LAFCO business, to solicit or proselytize others for commercial ventures, religious or political causes, or for other purposes not related to the user’s duties or responsibilities to OC LAFCO, except for incidental personal use, as provided in the previous section.

- **Cellular Phones**

The issuance of OC LAFCO-owned cellular phones is subject to approval by the Executive Officer. When possible and practical, desk phones should be utilized prior to the use of cellular phones.

- **The Internet and On-Line Services**

OC LAFCO provides access to the Internet and online service providers. OC LAFCO expects that all users will use these services in a responsible manner and for OC LAFCO-related business purposes only, except as otherwise provided in previous sections. These OC LAFCO-related purposes include legal and factual research, electronic communication and transmission of information.

OC LAFCO personnel shall not use OC LAFCO’s computers and telecommunications equipment to access, download posts or contribute to sites displaying:

1. Gross, indecent, obscene, harassing, pornographic or sexually explicit materials.
2. Gambling.

3. Illicit drugs.

4. Illegal activity.

OC LAFCO personnel shall not sign guest books at websites or post messages to Internet newsgroups, website discussion groups, or social networking websites except for OC LAFCO-related business.

#### **IV. SOCIAL NETWORKING**

The Executive Officer shall maintain a list of social media tools, as approved by the Commission, which is approved for use by OC LAFCO staff. The Executive Officer or designee will also maintain a list of OC LAFCO's login and password information. The Executive Officer or designee will inform the Commission of any new social media sites or administrative changes to existing sites. OC LAFCO must be able to immediately edit or remove content from social media sites.

OC LAFCO's website (<http://www.oclafco.org>) will remain OC LAFCO's primary and predominant internet presence. The most appropriate uses of social media tools increase OC LAFCO's ability to reach the widest possible audience. Wherever possible, content posted to OC LAFCO's social media sites will also be made available on the OC LAFCO website. The Executive Officer or designee will be responsible for the content and upkeep (including maintenance and monitoring) of all OC LAFCO social media sites.

The following social media tools have been approved by the Commission and standards have been developed for their use:

1. Twitter
2. Facebook
3. Video Posts (e.g., You Tube)
4. Wikipedia

The use of other sites must be approved by the Commission.

OC LAFCO's social media sites shall comply with all appropriate OC LAFCO policies and procedures and are subject to the California Public Records Act and Proposition 59, amending Article 1, Section 3 of the California Constitution. Any content maintained in a social media format that is related to OC LAFCO business, including a list of subscribers and posted communication (with certain exceptions), is a public record. Content related to OC LAFCO business shall be maintained in any accessible format and so that it can be produced in response to a public records request. The Executive Officer is responsible for responding completely and accurately to any public records request for public records on social media.

Users and visitors to OC LAFCO's social media sites shall be notified that the intended purpose of the site is to serve as a means of communication for OC LAFCO. OC LAFCO's social media site articles, posts and comments shall conform to all of LAFCO's content policies. Users shall be informed by posting to the OC LAFCO's social media sites that OC LAFCO disclaims any and all

responsibility and liability for any materials that OC LAFCO deems inappropriate for posting, which cannot be removed in an expeditious and otherwise timely manner.

These guidelines must be displayed to users or made available by hyperlink. Any content removed based on these guidelines must be retained, including the time, date and identity of the poster when available (see OC LAFCO's Facebook and Video Posting standards), in accordance with OC LAFCO's policy on the retention of such information. OC LAFCO reserves the right to remove any content that is deemed in violation of this policy or any applicable law.

- **Twitter Standard**

Twitter is a micro-blogging tool that allows holders to tweet up to 140 characters of information to followers. By procuring and maintaining Twitter accounts, OC LAFCO will communicate information directly to their Twitter followers, alerting them to news and directing them to OC LAFCO's website for more information.

- Purpose

Twitter accounts shall serve three primary purposes:

1. Disseminate immediate, interesting and important information.
2. Promote OC LAFCO-sponsored meetings, events and programs.
3. Refer followers to a news item or content hosted on OC LAFCO's website.

- Content

The Executive Officer or designee shall hold and maintain OC LAFCO's Twitter account. OC LAFCO will have only one Twitter account. Account information, including usernames and passwords, shall be kept by the Executive Officer.

OC LAFCO's biography and/or background information will include a link to OC LAFCO's website where the following disclaimer information will be posted: "This is an official Orange County LAFCO Twitter account. For more information about OC LAFCO, please visit [www.oclafo.org](http://www.oclafo.org). This site is intended to serve as a mechanism for communication between the public and OC LAFCO on OC LAFCO-related topics and has a forum to further the mission of OC LAFCO. Any direct tweets to this page and its list of followers may be considered a public record which is subject to disclosure pursuant to the California Public Records Act. Public information requests must be directed to the Executive Officer."

OC LAFCO's Twitter username shall begin with "OC LAFCO." The main image shall be OC LAFCO's logo. Information posted on Twitter shall conform to the existing policies of OC LAFCO. Tweets shall be relevant, timely and informative. Twitter content, as much as possible, shall mirror information presented on the OC LAFCO website. The Executive Officer or designee shall ensure that information is posted correctly the first time. OC LAFCO will use proper grammar and standard AP style and will avoid the use of jargon and



abbreviations. Twitter is more casual than most other communication tools, but communications must still reflect the professionalism of OC LAFCO at all times.

- **Facebook Standards**

Facebook is a social networking site that continues to grow in popularity and functionality. Businesses and government agencies have joined individuals in using Facebook to promote activities, programs, projects and events. These standards are designed for OC LAFCO to drive traffic to its website and to inform more people about OC LAFCO activities. As Facebook changes, these standards may be updated as needed.

- **Establishing Page**

Applications will not be added to the OC LAFCO’s Facebook site without the express written approval of the Executive Officer. The Executive Officer or designee will register the page with an OC LAFCO email address. Personal Facebook profiles shall not be used to administrate OC LAFCO pages.

- **Types of “Pages”**

OC LAFCO will create “pages” on Facebook (not “groups”). Facebook “pages” offer distinct advantages including greater visibility, customization and measurability.

- **Format**

For “type” description, choose “government.” The main image shall be LAFCO’s logo or an appropriate photo. OC LAFCO will include the agency’s mission statement in the introduction box on the Wall Page. Using the FBML static page application, a boilerplate section should contain a description of OC LAFCO and the following:

“This is an official Facebook page of LAFCO of Orange County. For more information about OC LAFCO please visit [www.oclafco.org](http://www.oclafco.org). This site is intended to serve as a mechanism for communication between the public and OC LAFCO on the listed topics and as a forum to further the mission of OC LAFCO. Any comment submitted to this page and its list of fans may be considered a public record which is subject to disclosure pursuant to the California Public Records Act. Public information requests must be directed to the Executive Officer.”

If comments are turned on, the FBML page shall also include a Comment Policy Box with the following disclaimer:

“Comments posted to this page will be monitored and inappropriate content will be removed as soon as possible. Under OC LAFCO Social Media Use Policy, Standards and Procedures, OC LAFCO reserves the right to remove inappropriate content, including, but not limited to, those items that have obscene language or sexual content, threaten or defame any person or organization, violate the legal ownership interest of another party, promote illegal activity and promote commercial services or products. OC LAFCO disclaims any and all responsibility and liability for any materials that OC LAFCO deems inappropriate

for posting, which cannot be removed in an expeditious and otherwise timely manner.”

- Page Administrators

The Executive Officer will designate one or more staff members as page administrators who will be responsible for monitoring OC LAFCO’s Facebook page. Only designated OC LAFCO staff members will make posts. The Executive Officer or designee will be responsible for ensuring content is not stale.

- Comments and Discussion Boards

Comments to the Wall Page will be monitored once a week. If OC LAFCO is unable to monitor content weekly, comments to the Wall shall be turned off. Discussion Boards shall be turned off unless specifically approved by the Commission.

- Photos and Video

Page administrators may add photos and videos to OC LAFCO’s Facebook page. If there are postings of photos and/or videos of the public, staff must secure waivers by individuals depicted in the photo and/or video. Photos and/or videos of OC LAFCO’s employees taken during regular office hours may be posted without obtaining waivers. Videos must follow the Video Posting Standard. The ability for fans to post photos, videos and links shall be turned off.

- Applications

Common Facebook applications can allow users to stream videos and music, post photos, and view and subscribe to RSS feeds. An application must not be used unless it serves an appropriate and valid business purpose, adds to the user experience, comes from a trusted source, and is approved by the Executive Officer. An application may be removed at any time if OC LAFCO determines that it is causing a security breach or spreading viruses.

- Archive

The Executive Officer or designee will maintain an electronic record or printout of any information necessary to retain for the purposes of public records retention in accordance with the applicable OC LAFCO policy regarding the retention of such information.

- Indemnity

OC LAFCO shall take all necessary steps to bind the agency to all required terms of service prior to establishing a Facebook account.

- **Video Posting Standards**

OC LAFCO will enable access to online video content to enhance the public’s ability to access OC LAFCO-related information online. Key objectives for video content shall meet one or more

of the following goals:

- To further OC LAFCO's mission.
- To provide information about OC LAFCO services.
- To showcase OC LAFCO, community events and explore OC LAFCO issues.

OC LAFCO encourages the use of video content to further the goals of the OC LAFCO where appropriate. These standards should be used in conjunction with the OC LAFCO's Social Media Use Policy, Standards and Procedures.

- **Video Posting Guidelines**

The Executive Officer or designee will be responsible for approving the video content. Video quality must be comparable to DVD resolution quality. Low-quality video will be considered as long as the audio portion is clear, and the content is compelling and informative. All videos must be posted on OC LAFCO's website and the department's Facebook page. OC LAFCO must secure a disclaimer from the author or owner or the right to use all or part of a video if the video was not produced by OC LAFCO.

Videos streamed from other sources may not be posted to OC LAFCO's website without written permission of the Executive Officer. Links to external videos are permitted, but must only be used when content is relevant and written approval of the Executive Officer is received.

- **Submitting Videos to Hosting Sites**

Videos may be submitted to hosting sites such as YouTube and Vimeo as well as Facebook on a case-by-case basis under the direction of the Executive Officer or designee. Most of these sites limit the video to the lesser of 10 minutes in length or less than 1 GB of data storage. Comments posted to these sites must be monitored or the ability to post a comment shall be turned off. Comments must adhere to the guidelines stated in this policy.

- **Archive**

Any video posted to a third party's video site must also be posted on OC LAFCO's website for purposes of records retention.

## **Wikipedia Posting Standards**

Wikipedia is a free, collaborative Internet encyclopedia. Its 20 million articles have been written collaboratively by volunteers around the world. Wikipedia has become the largest and most used general reference work on the Internet. Key objectives of Wikipedia content shall meet one or more of the following goals:

1. To accurately inform the public about OC LAFCO's purpose.
2. To explain OC LAFCO's powers and role in local government.
3. To provide access to additional resources about OC LAFCO.

## **V. SOFTWARE USE ON OC LAFCO'S COMPUTERS AND TELECOMMUNICATIONS EQUIPMENT**

No software is to be installed, downloaded or used on OC LAFCO's computer and telecommunications equipment that has not been paid for and appropriately licensed. No user may load any software on OC LAFCO's computers, by any means, unless authorized in writing in advance by the Executive Officer or designee. Authorization to load software onto OC LAFCO's computers will not be given until the software to be loaded has been scanned thoroughly for viruses.

- **OC LAFCO Software for Home Use**

Use of software purchased by OC LAFCO on home computers is generally prohibited but may be allowed in certain situations based on the licensing provisions of the software. Before installing, transferring, or copying any software from media or directly from OC LAFCO's computer and telecommunications equipment to another computer, OC LAFCO personnel must request permission and receive written authorization from the Executive Officer or designee.

- **Use of iPads by Commissioners**

To save staff time and agency costs, OC LAFCO agenda packages are available to Commissioners for downloading on iPads. An iPad is available to each Commissioner for this purpose. Commissioners may use their agency-issued iPads for public agency-related business.

## **VI. CONFIDENTIAL INFORMATION AND SECURITY ISSUES**

OC LAFCO must be sensitive to the protection of privileged communications, trade secrets and other confidential and proprietary information of both OC LAFCO and third parties (Confidential Information). Therefore, OC LAFCO personnel are expected to use reasonable judgment and adhere to the highest ethical standards when using or transmitting Confidential Information on OC LAFCO's computers and telecommunications equipment. Confidential Information shall not be accessed through OC LAFCO's computers and telecommunications equipment in the presence of, or transmitted to, unauthorized individuals. Similarly, Confidential Information should not be left visible on a computer screen, nor should a computer screen showing Confidential Information be left unattended.

OC LAFCO's computers and telecommunications equipment can be accessed only by entering a password. Passwords are intended to prevent unauthorized access to information. OC LAFCO personnel are expected to maintain the confidentiality of their passwords. OC LAFCO personnel should use care in the creation of passwords and should not use passwords that might be readily

deduced by unauthorized users.

**Originally Adopted: 1/12/2011**  
**Last Reviewed: 3/8/2023**  
**Last Revised: 10/14/2015**

## Guidelines for Selecting OC LAFCO Voting Delegates

### I. PURPOSE

To establish policy for the selection of OC LAFCO voting delegates to cast votes in the election of CALAFCO Executive Board members and participants in other voting matters during CALAFCO conferences and meetings.

### II. POLICY STATEMENT

The current Chair and Vice Chair of OC LAFCO shall be designated as the Voting Delegate and Alternate Voting Delegate, respectively, for all CALAFCO sponsored conferences and meetings.

### III. PROCEDURES

No Commission action is required to formally designate the Chair and Vice Chair as Voting Delegates.

- A. In the event the Chair is unable to attend a CALAFCO conference or meeting in which a designated Voting Delegate is required, the Vice Chair shall serve as the Commission's Voting Delegate, and the Immediate Past Chair shall serve as the Alternate Voting Delegate at the CALAFCO conference or meeting.
- B. In the event that both the Chair and the Vice Chair are unable to attend a CALAFCO conference or meeting in which a designated Voting Delegate is required, the Immediate Past Chair shall serve as the Commission's Voting Delegate and the Commission shall appoint one Commissioner to serve as an Alternate Voting Delegate prior to the scheduled date of the CALAFCO conference or meeting.

**Originally Adopted: 2/8/2012**

**Last Reviewed: 3/8/2023**

**Last Revised: Not applicable**

## Policy for Distribution of LAFCO Reports

### I. PURPOSE

To establish guidelines for the timely distribution of LAFCO Special Study Reports to the Commission and the public.

### II. BACKGROUND

The Orange County Local Agency Formation Commission (OC LAFCO) staff and its consultants may, from time to time, be directed to prepare Special Study Reports. To promote efficient governmental operations, to foster robust discussion with accurate information, and to protect the deliberative process, it is necessary to develop a policy to ensure that OC LAFCO staff and the Commission have sufficient time to review and revise, if necessary, Special Study Reports that are provided in draft form prior to the release of said reports to the public.

### III. DEFINITIONS

A. **Special Study Reports** – specialized reports or analyses prepared by OC LAFCO staff and/or its consultants at the direction of the Executive Officer or at the request of the Commission, which include, but are not limited to, the following:

- Fiscal analyses of annexations, incorporations, and reorganizations
- Municipal Service Reviews
- Governmental structure alternatives for cities and special districts
- Infrastructure capacity analyses
- Sphere of Influence studies
- Unincorporated islands governance options
- Other special studies, as directed by the Commission

Special Study Reports do not include routine staff reports.

B. **Administrative Draft** – an initial draft of a Special Study Report prepared for internal OC LAFCO staff and Commission review only.

C. **Public Draft** – a public draft of a Special Study Report that includes any revisions resulting from a review of the Administrative Draft, which can be distributed to the public and all interested and affected agencies.

D. **Final Report** – a final Special Study Report that has been subjected to formal public review at a public meeting of the Commission and that includes any revisions or comments resulting from a review of the Public Draft, which can be distributed to the public and all interested and affected agencies.

#### IV. GUIDELINES

- A. An **Administrative Draft** shall be released to LAFCO staff and the Commission for review and comment at least 30 days prior to being considered at a Commission meeting.
- B. A **Public Draft** shall be released to the public and interested and affected agencies one week prior to the Public Draft being considered by the Commission at a Commission meeting.
- C. A **Final Report** shall be released to the public and affected and interested agencies following consideration of the Public Draft by the Commission and incorporation of all relevant public comments.

Originally Adopted: 12/14/2011  
Last Reviewed: 3/8/2023  
Revised: 10/14/2015



## 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. Licensors 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 Licensors or any other public agency without the prior written consent of Licensors. 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.

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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.



# Geographic Information System (GIS) Policy

## I. PURPOSE

To establish policy and procedure guidelines for the public distribution of the Orange County Local Agency Formation Commission (“OC LAFCO) digital Geographic Information Systems (GIS) data and protect the Commission from any potential legal liability associated with the public release of such data.

## II. POLICY STATEMENT

OC LAFCO maintains digital copies of the incorporated boundaries and spheres of influence for each of the cities and special districts in Orange County, called GIS data. OC LAFCO created this GIS data, which is considered public information. OC LAFCO maintains and uses the GIS data as part of its analysis for OC LAFCO-related projects.

## III. DEFINITIONS

For the purpose of clarity in this policy, the following terms are defined:

### A. Geographic Information Systems Data

GIS data is generally digital data or information that identifies the geographic location of features and boundaries on earth. In this policy, the GIS data identifies the boundaries and spheres of influence of the cities and special districts within Orange County that are subject to OC LAFCO per the Cortese-Knox- Hertzberg Reorganization Act of 2000. GIS data may also include specific data (e.g., dates and projects titles) related to changes of organization or reorganization and sphere of influence updates.

### B. Metadata

Information that describes GIS data. Metadata can include but is not limited to the following: contact information, database information, data accuracy, spatial projection, date of last update, and format of the data.

### C. Shapefile Format

The shapefile is a popular GIS data format. OC LAFCO uses Environmental Systems Research Institute, INC. (“ESRI”) software to

display and manipulate shapefiles representing the boundaries and the spheres of influence for the cities and special districts within Orange County.

#### **D. Spatial Projection**

Spatial projection refers to any method of “flattening” the curvature of the earth and related geographic features to a two-dimensional plane. The standard spatial project used by OC LAFCO is State Plane VI North American Datum of 1983 (NAD83) in feet.

### **IV. DATA DISTRIBUTION PROCEDURES**

#### **A. Distribution Methods**

OC LAFCO will use the following methods to make its GIS data publicly available. The following are subject to the restrictions described under the “Website Disclaimer” section:

1. Copies of the GIS data in shapefile format used by OC LAFCO may be provided as downloadable files upon request; and
2. Special requests for information, analysis, or data products associated with OC LAFCO’s GIS database, are subject to approval from the Executive Officer and the availability and capability of staff.

#### **B. Website Disclaimer**

The following disclaimer will appear on the OC LAFCO website ([www.oclafco.org](http://www.oclafco.org)) and is intended to protect OC LAFCO from any legal liability resulting from the misuse or misrepresentation of the geospatial data made publicly available by OC LAFCO through this policy:

*This policy and disclaimer applies to all forms of GIS data and information held by OC LAFCO, including, but not limited to, digital and hard copy maps, data and geographic information.*

*The data and information contained herein is reproduced from geospatial information prepared by OC LAFCO. OC LAFCO GIS data is developed and maintained solely for OC LAFCO business functions, and every effort has been made to ensure the accuracy of the data provided. However, the GIS information and data contained herein is not guaranteed to be accurate, complete or timely.*

*THE GIS DATA CONTAINED HEREIN IS MADE AVAILABLE ON AN "AS IS" BASIS. OC LAFCO MAKES NO WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR ANY OTHER MATTER. OC LAFCO, ITS OFFICIALS, OFFICERS, EMPLOYEES, CONTRACTORS, OR AGENTS SHALL NEITHER ACCEPT NOR ASSUME ANY LIABILITY FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR ANY DAMAGES WHATSOEVER REGARDLESS OF THE CAUSATION FOR: (i) ANY ERRORS, OMISSIONS, OR INACCURACIES IN ANY GIS DATA AND INFORMATION PROVIDED HERE; AND/OR (ii) ANY ACTION OR INACTION OCCURRING DUE TO ANY PERSON'S MISUSE, MISINTERPRETATION, OR RELIANCE UPON THE GIS DATA AND INFORMATION PROVIDED HEREIN, EVEN IF OC LAFCO HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES.*

*OC LAFCO'S GIS DATA IS PREPARED FOR REFERENCE PURPOSES ONLY AND SHOULD NOT BE USED AND IS NOT INTENDED FOR SURVEYING, MAPPING, OR ENGINEERING PURPOSES. NO REPRESENTATION IS MADE CONCERNING THE LEGAL STATUS OF ANY APPARENT ROUTE OR ACCESS IDENTIFIED IN DIGITAL OR HARDCOPY MAPPING OF OC LAFCO'S GEOSPATIAL INFORMATION OR DATA. THESE MAPS AND DATA DO NOT SUPERSEDE OR REPLACE RECORDED DOCUMENTS, DEEDS AND/OR PLATS OF RECORD. USERS ARE SOLELY RESPONSIBLE FOR CONFIRMING DATA ACCURACY.*

*UPDATES & METADATA: OC LAFCO IS NOT OBLIGATED TO PROVIDE UPDATES TO DATA IN THE EVENT THAT NEWER VERSIONS BECOME AVAILABLE AND SHALL ONLY SUPPLY SUCH DATA UPON REQUEST AFTER SUCH DATA BECOMES AVAILABLE. OC LAFCO PROVIDES METADATA WHEN AVAILABLE THROUGH ESTABLISHED DISTRIBUTION MECHANISMS.*

**C. Redistribution**

OCLAFCO will only distribute GIS data that is the property of OC LAFCO and will not redistribute any third-party data.

**Originally Adopted: 10/12/2011**  
**Last Reviewed: 3/8/2023**  
**Last Revised: Not Applicable**

## Guidelines Relating to Conflict-of-Interest Advice

### I. GUIDELINES

These guidelines are intended to outline the consistent processes for Commissioners to seek conflict-of-interest advice from OC LAFCO's general counsel and provide consistency on how matters are handled involving potential conflicts of interest involving Orange County Local Agency Formation Commission ("OC LAFCO") decisions made by a Commissioner. Commissioners are charged individually with responsibility for compliance with conflict-of-interest laws but may consult with OC LAFCO's general counsel to assist Commissioners to make decisions free from bias caused by personal financial interests.

### II. LEGAL AUTHORITY

The California Political Reform Act (Government Code Section 81000 et seq.; the "Act" and the regulations of the Fair Political Practices Commission ("FPPC") implementing the Act (2 Cal. Code of Regs. Section 18110 et seq.) prohibit Commissioners' participation in decisions in which they have a financial interest. Government Code Section 10901 prohibits OC LAFCO's entering into contracts in which Commissioners have financial interests.

### III. BACKGROUND

The Act makes Commissioners individually responsible for understanding and following the duties and responsibilities of their office. These duties include determining whether they have disqualifying conflicts of interest in OC LAFCO decisions. AB 1234 (Government Code Section 53235) requires that all Commissioners receive regular training on recognizing, reporting, and avoiding conflicts of interest. In addition to this training, Commissioners may research and learn conflict of interest laws on their own, consult publications by the FPPC, seek informal or informal advice from the FPPC, or seek assistance from OC LAFCO general counsel. Only good faith reliance on formal advice from the FPPC can serve as a complete defense in an enforcement proceeding. Because OC LAFCO general counsel represents OC LAFCO as an agency governed by the Commission as a corporate body, individual consultations with general counsel are not separately protected by the attorney-client privilege.

### IV. PROCESS

A. OC LAFCO Commissioners (or their authorized representatives) subject to the Act and Government Code Section 1090 may seek conflict of interest advice from OC LAFCO general counsel regarding their participation or disqualification in OC

LAFCO decisions. Examples of authorized representatives include Commissioners, their staff, agency counsel, and personal attorneys.

- B. General counsel is not available to provide advice about the actions of someone other than the Commissioner seeking advice about his or her own conduct. (For example, counsel cannot provide advice to Commissioner A about the implications of Commission B's financial interests.) However, at the request of the Commission, general counsel may provide the Commission advice about the validity of its decisions under Government Code Section 1090.
- C. General counsel is not available to provide advice relating to past conduct, to investigate conflicts of interest, or to enforce conflict of interest laws.
- D. Commissioners seeking assistance in determining whether they have a disqualifying interest under either the Act or a prohibited interest in a contract under Section 1090 may contact general counsel to: (i) obtain advice from general counsel, or (ii) seek general counsel's assistance in obtaining an advice letter from the FPPC. General counsel is authorized to engage experts, such as appraisers or business consultants in an amount not to exceed \$5,000, if counsel deems such experts are necessary to provide this assistance.
- E. General counsel will respond directly to the individual Commissioner seeking advice and shall not share the advice with the entire Commission, unless the advice provided to the individual Commissioner is that the Commissioner has a disqualifying interest, and it appears that the Commissioner intends to participate in an OC LAFCO decision notwithstanding that advice.
- F. When a member of the public or a Commissioner submits an inquiry about whether a Commissioner has a disqualifying interest under either the Act or a financial interest in a contract under Section 1090, that inquiry will be forwarded to the entire Commission, with a copy to general counsel. It shall be the responsibility of the individual Commissioner who is the subject of the inquiry to determine whether he or she will seek advice from general counsel, the FPPC, or his or her own counsel in addressing these inquiries.

**Originally Adopted: 5/11/2016**

**Last Reviewed: 3/8/2023**

**Last Revised: 3/8/2023**

## Policy for the Use of Computer and Electronic Communications

### I. PURPOSE

The intent of this policy is to assist in the understanding of the use of email, the internet, computer files, software and any other form of technology provided by OC LAFCO. This policy is also intended to assist in the understanding of the use of OC LAFCO employees' and Commissioners' personal accounts and devices for OC LAFCO business.

### II. DEFINITIONS

As used in this Policy, the following terms are defined as follows:

1. "Public Record" includes any writing containing information relating to the conduct of the public's business prepared, owned, used or retained by OC LAFCO regardless of physical form of characteristics.
2. "Writing" means handwriting, typewriting, printing, photo stating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, regardless of the manner in which the record has been stored.
3. "Electronic Communication" includes any and all electronic transmission, and every other means of recording upon any tangible thing in any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored. Without limiting the nature of the foregoing, "electronic communications" include emails, texts, voicemails, and also include communications on or within commercial applications (apps) such as Facebook Messenger, Twitter, etc.

### III. POLICY

#### A. Employee Use of OC LAFCO Equipment and Accounts

1. Computers, computer files, the email system, and software furnished to

employees are OC LAFCO property intended for business use. Employees can have no expectation of privacy in any documents or materials in these systems. OC LAFCO reserves the right to access all systems and to monitor the use of these systems at any time, with or without notice.

2. Every OC LAFCO employee shall be assigned an OC LAFCO email account. However, employees should not use a password, access a file, or retrieve any stored communication without authorization.
  3. OC LAFCO strives to maintain a workplace free of harassment and sensitive to the diversity of its employees. Therefore, OC LAFCO prohibits the use of computers, the email system or any other form of technology in ways that are disruptive, offensive to others, or harmful to morale. For example, the display or transmission of sexually explicit images, messages, and cartoons is not allowed. Other such misuse includes but is not limited to, ethnic slurs, racial comments, off-color jokes, or anything that may be construed as harassment or showing disrespect for others.
  4. Email may not be used to solicit others from commercial ventures, religious or political causes, outside organizations, or other non-business matters. Internet access is for business and related professional use.
  5. OC LAFCO purchases and licenses the use of various computer software for business purposes and does not own the copyright to this software or its related documentation. Unless authorized by the software developer, OC LAFCO does not have the right to reproduce such software for use on more than one computer.
  6. Employees may only use software on local area networks or on multiple machines according to the software license agreement. OC LAFCO prohibits the illegal duplication of software and its related documentation.
  7. OC LAFCO-owned computers, with the exception of laptops designated for remote use, shall not be removed from the premises.
- B. Public Records Act and Electronic Communications on OC LAFCO and Personal Accounts
1. According to the definition of “public records” the “writing” email messages and any attachments on OC LAFCO’s server, regardless of format may, in fact, be public records and may be subject to the provisions of the Public Records Act as well as legal requirements for retention of public records. Additionally, pursuant to the *San Jose v. Superior Court case* ((2017) 2 Cal. 5<sup>th</sup> 608), the definition of “public records” and “writing” may also include any messages sent through a personal electronic device or personal account (such as a Gmail account or a message sent through a commercial application, such as Facebook Messenger) to or from any OC LAFCO employee that pertain to OC

LAFCO business. Electronic messages sent through an OC LAFCO or personal account, or device shall hereinafter collectively be called “electronic communications.”

2. Employees shall only use OC LAFCO accounts to conduct OC LAFCO business. OCLAFCO employees shall not use personal accounts for the creation, transmission, or storage of electronic communications regarding OC LAFCO business. If an OC LAFCO employee receives an electronic communication regarding OC LAFCO business on his/her non-LAFCO account, or circumstances require such person to conduct OC LAFCO business on a non-OC LAFCO account, the OC LAFCO employee shall either: (a) copy (“cc”) any communication from an OC LAFCO employee’s personal account to his/her OC LAFCO account; or (b) forward the associated electronic communication to his/her OC LAFCO account no later than 10 days after the original creation or transmission of the electronic communication. OC LAFCO employees shall endeavor to ask persons sending electronic communications regarding OC LAFCO business to a personal account to instead utilize the OC LAFCO employee’s account, and likewise shall endeavor to ask a person sending an electronic communication regarding non-OC LAFCO business to use the OC LAFCO employee’s personal or non-OC LAFCO account.
3. OC LAFCO Commissioners may conduct OC LAFCO business on non-OC LAFCO accounts and devices but should be aware that if OC LAFCO receives an applicable PRA request, OC LAFCO may request that Commissioners or their respective public agencies (if any) search their non-OC LAFCO accounts for electronic communications that respond to the PRA request.
4. In the event a Public Records Act request is received by OC LAFCO seeking electronic communications of OC LAFCO employees or Commissioners, the Commission Clerk shall promptly transmit the request to the applicable OC LAFCO employee(s) and/or Commissioners whose electronic communications are sought. The Commission Clerk shall communicate the scope of the information requested to the applicable OC LAFCO employee(s) or Commissioner(s) and an estimate of the time within which the Commission Clerk intends to provide any responsive electronic communications to the requesting party. It shall be the duty of each OC LAFCO employee and/or Commissioner receiving such a request from the Commission Clerk to promptly conduct a good faith and diligent search of his/her OC LAFCO and/or personal electronic accounts and devices for responsive electronic communications.
5. Generally, an electronic communication (and attachment) may be considered an OC LAFCO record if it (a) is created or received in connection with official OC LAFCO business; (b) documents the formulation and implementation of LAFCO policies and procedures; or (c) initiates, authorizes or completes a transaction of official OC LAFCO business. Resolution of the question of whether electronic communication is an OC LAFCO record will involve an



examination of several factors, including (i) the content itself; (ii) the context in, or purpose for which, it was written; (iii) the audience to whom it was directed; (iv) the purpose of the communication; and (v) whether the writing was prepared by an OC LAFCO employee or Commissioner acting or purporting to act within the scope of his or her employment or appointment.

6. Preliminary drafts, notes or interagency or intra-agency memoranda which are not retained by OC LAFCO in the ordinary course of business are generally not considered to be OC LAFCO records subject to disclosure. OC LAFCO employees are encouraged to delete from OC LAFCO accounts and devices documents that are not otherwise required to be kept by law or whose preservation is not necessary or convenient to the discharge of the employee's duties or the conduct of OC LAFCO business. Examples of email messages that are generally not considered OC LAFCO records may include (a) personal messages and announcements not related to official OC LAFCO business; (b) messages with attached copies or extracts of documents distributed for convenience or reference (with the original documents being preserved according to the Records Retention and Destruction Policy); and (c) messages that are essentially cover notes or distribution slips. OC LAFCO's legal counsel can assist an OC LAFCO employee or Commissioner in determining whether an electronic communication message is required to be retained and/or necessary or convenient to the discharge of the employee or Commissioner's duties or the conduct of OC LAFCO business.
7. The following provisions shall not apply to electronic communication generated or retained by Commissioners on another public agency's email account.

OC LAFCO employees and Commissioners should, within 60 days following the adoption of this Policy:

- a. Establish a separate private account for receipt and two-year retention of communications relating to OC LAFCO business, except communications to or from an oclafco.org account; or
- b. Search all private non-OC LAFCO private accounts and delete any electronic communication regarding OC LAFCO business that:
  - 1) Is to or from an oclafco.org account (and thus likely to be duplicated and retained on that OC LAFCO account), or
  - 2) Is more than two years old; and
  - 3) Forward to the Commission Clerk for retention any electronic communication on private accounts regarding OC LAFCO business that is less than two years old; and

- 4) Delete communications that have been forwarded to the Clerk.
- c. On an ongoing basis, OC LAFCO employees and Commissioners who receive electronic communications regarding LAFCO business on a non-OC LAFCO private account should:
  - 1) Retain such correspondence in a separate dedicated private OC LAFCO account; or
  - 2) Forward the communication to the Commission Clerk for retention unless it was to or from an oclafco.org account (and thus likely to be duplicated and retained). After forwarding the communication, OC LAFCO employees and Commissioners may delete the original record from their private non-OC LAFCO account.
8. If an OC LAFCO employee or Commissioner identifies or locates records that are responsive to a Public Records Act request, subpoena, or other court order, the employee and/or Commissioner shall promptly transmit any responsive electronic communications to the Commission Clerk. Such transmission shall be provided in sufficient time to enable the Commission Clerk to adequately review and provide the disclosable electronic communications to the requesting party. In the event an OC LAFCO employee and/or Commissioner does not possess, or cannot with reasonable diligence recover, responsive electronic communications from the OC LAFCO employee's or Commissioner's electronic account, the OC LAFCO employee and/or Commissioner shall so notify the Commission Clerk, by way of a written statement.
9. It shall be the duty of the Commission Clerk, in consultation with OC LAFCO's legal counsel, to determine whether a particular electronic communication, or any portion of that electronic communication, is exempt from disclosure. To that end, the responding OC LAFCO employee and/or Commissioner shall provide the Commission Clerk with all responsive electronic communications, and, if in doubt, shall err on the side of caution and should "overproduce." If an electronic communication involves both public business and personal communication, the responding OC LAFCO employee and/or Commissioner may redact the personal communication portion of the electronic communication prior to transmitting the electronic communication to the Commission Clerk. In the event, a question arises as to whether or not a particular communication, or any portion of it, is a public record or purely a personal communication, the OC LAFCO employee and/or Commissioner should consult with the Commission Clerk or OC LAFCO's legal counsel.

#### C. Retention of Electronic Communications

1. OC LAFCO's email system is intended to be used as a medium of communication only. Therefore, the email system should not be used to store

or maintain documents, including, but not limited to, OC LAFCO records. Any electronic communication, including any attachments, regardless of format, which can be considered an OC LAFCO record, must be preserved in accordance with the retention periods specified in the Records Retention and Destruction Policy.

2. It is the responsibility of individual employees to determine if electronic communication is an OC LAFCO record that must be retained in accordance with the Records Retention and Destruction Policy. Generally, the OC LAFCO employee who sends an electronic communication that qualifies as an OC LAFCO record should be the person responsible for preserving the electronic communication, but persons responsible for a particular program or project file shall be responsible for preserving all electronic communication they send or receive related to that program or project.
3. OC LAFCO employees may print and file hard copies of electronic communication that must be preserved. Employees may also save electronic communication electronically, in electronic folders separate from their regular email inboxes. However, electronic communication must not be stored in an employee's regular inbox, since OC LAFCO's automatic maintenance system may periodically delete emails from all inboxes. Many types of electronic communication can be stored electronically as a Word document.
4. OC LAFCO's employees can receive assistance with setting up electronic folders or other methods of electronically archiving electronic communication. However, all electronic communications that are retained electronically must be easy to retrieve, view and print out, if necessary.
5. For projects that involve two or more employees, any electronic communications pertaining to a specific project should be retained in that project's central file(s). Employees should work with the Commission Clerk or the Executive Officer on the best method for central storage of electronic communications on the project to make sure the electronic communications remain easily accessible to everyone.
6. An electronic communication that relates to a claim or a potential claim against OC LAFCO must be preserved. In the event a records request or court-issued demand is made for email, the employees having control over such electronic communication, once they become aware of the request or demand, shall use their best efforts, by any responsible means available, to temporarily preserve any electronic communication that is in existence until it is determined whether such electronic communication is subject or preservation, public inspection or disclosure. Likewise, any electronic communication that may relate to a lawsuit filed against OC LAFCO, even if a subpoena or court order for such electronic communication has not yet been issued, must be preserved. Under newly enacted federal rules regarding electronic discovery, any information stored electronically, including electronic

communication, must be produced for a requesting party. A court can impose severe penalties if electronic communication relevant to a lawsuit is deliberately destroyed when it is known, or should have reasonably been anticipated, that a claim or lawsuit could be filed against OC LAFCO. There are no penalties if electronic information is “lost” through “the routine operation of an electronic information system” (i.e., automatic deletion after a period of time; automatic overwriting of backup tapes, etc.). (Rule 37(f) of the Federal Rules of Civil Procedure). However, OC LAFCO has a duty to preserve any relevant data when there is even a hint of possible litigation. Therefore, when OC LAFCO employees become aware of a potential claim, an actual claim, or a lawsuit against OC LAFCO, they must preserve any electronic communication and attachments that have any information relevant to that matter. OC LAFCO’s legal counsel can provide you with guidance on these issues.

#### D. Enforcement of Policy

1. Employees and Commissioners should notify the Executive Officer upon learning of violations of this policy. Failure of an OC LAFCO employee or Commissioner to abide by this policy, following its adoption, may result in one or more of the following:
  - Disciplinary action, up to and including termination (for employees).
  - Removal from office (for Commissioners).
  - Censure (for Commissioners).
  - Revocation of election device privileges (including revocation of stipend or reimbursement).
  - Judicial enforcement against an OC LAFCO employee or Commissioner directly, by the requesting party.
2. This policy does not waive any exemption to disclosures that may apply under the California Public Records Act.

**Originally Adopted: 2/14/2018**

**Last Reviewed: 3/8/2023**

**Last Revised: N/A**

## Limited English Proficiency (LEP) Services Policy

### I. PURPOSE

The Orange County Local Agency Formation Commission (OC LAFCO) acknowledges the diversity of Orange County's population and demographics and is committed to effectively communicating and providing access to OC LAFCO's key services, projects, and resources to all persons. Therefore, it is the intent of this policy to establish procedural guidelines for providing OC LAFCO materials and resources to persons with Limited English Proficiency (LEP).

### II. DEFINITIONS

The following definitions apply to this policy:

- A. **Limited English Proficiency.**<sup>3</sup> An individual's fluency and limited capacity to read, write, speak and comprehend the English language. Often involves individuals whereby English is not his/her primary language.
- B. **Translation.** The replacement of written text from English language into an equivalent written text.
- C. **Interpretation.** The process of oral or spoken transfer of a message from the English language into another equivalent language.
- D. **Equivalent Language.** Commonly spoken language other than English.

### III. POLICY AND PROCEDURAL GUIDELINES

OC LAFCO oversees the jurisdictional boundaries of Orange County's 34 cities, and 33 independent and dependent special districts that provide key municipal services to approximately 3.1 million residents. To assist in providing access to OC LAFCO's services and resources by LEP individuals, the Commission will use the following guidelines:

#### A. Use of Agency Website ([OC.LAFCO.org](http://OC.LAFCO.org))

Persons with limited English proficiency may access information on varying OC LAFCO services through the translation tool available on the agency website. The tool currently provides translation for the following languages: Chinese, English, and Spanish.

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<sup>3</sup> [Title VI Legal Manual, Civil Rights Division U.S. Department of Justice](#)

**B. Complex Proposals, Municipal Service Reviews (MSRs), and Special Studies**

For proposals or Commission-initiated actions involving the following changes of organization or reorganization, MSRs, or other special studies, OC LAFCO will provide translation services to individuals with limited English proficiency:

- Incorporations
- District Formations or Consolidations
- Five-year Cycle MSRs
- Focused MSR or Special Studies
- Unincorporated Island Annexations and Community Workshops

Translation services would include the provision of written information (e.g., staff report, study, workshop materials) related to the respective proposal in the requested equivalent language.

- C. For unincorporated island annexations, OC LAFCO staff will work collaboratively with the County and affected city to identify communities requiring translation services involving OC LAFCO services and materials.
- D. OC LAFCO will use the agency's Geographical Information System and other demographic resources to assist with identifying communities to provide translation services involving OC LAFCO proposals and other activities mentioned within this policy.

**Originally Adopted: 08/09/2023**

SECTION 5:

# PROJECT PROCESSING POLICIES AND PROCEDURES



## Guidelines for Processing Applications and Evaluating Proposals

### I. PURPOSE

To establish guidelines and standards to assist in the objective and timely processing of applications and evaluation of proposals filed with the Commission in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code §56000 et seq.; the “Act”).

### II. GUIDELINES

The Act requires the Commission to process and make determinations on all changes of organization and reorganization and establishes factors the Commission must consider when reviewing proposals. Government Code §56375(g) of the Act further requires that the Commission adopt written procedures for the evaluation of proposals and grants the Commission broad authority to set standards for the Commission’s review and consideration of proposals. Government Code §56652 authorizes the Commission to require that applications contain information the Commission deems pertinent to its evaluation of them.

The following guidelines are intended to provide guidance to applicants regarding the Commission’s processing and evaluation of proposals under the Act, especially with regard to circumstances and considerations unique to Orange County. Orange County is now largely urbanized, with existing cities and special districts providing the vast majority of municipal services to County residents. The Commission was established to encourage agencies to provide these services efficiently and economically.

These guidelines are not intended to supplant any provisions of the Act or other applicable laws or to preclude any Commission action which may conflict with these guidelines if a specific proposal warrants such action. These guidelines and standards incorporate by reference the factors identified in Government Code §56658 of the Act, which are required for evaluating proposals for changes of organization.

### III. DEFINITIONS

Except as otherwise provided specifically below, the terms and phrases used herein shall have the meanings they have in the Act.

A. **Application** is defined by Government Code §56017.2 to mean any of the following:



1. A resolution of application or petition initiating a change of organization or reorganization with supporting documentation as required by the Commission or Executive Officer. Once a resolution of application is deemed complete, a Certificate of Filing is issued, and the application is deemed a "proposal."
  2. A request for a sphere of influence amendment or update pursuant to Government Code §56425.
  3. A request by a city or district for Commission approval of an extension of services outside the agency's jurisdictional boundaries pursuant to Government Code §56133.
  4. A request by a public agency for Commission approval of an extension of services outside the agency's jurisdictional boundaries pursuant to Government Code §56134.
- B. **Certificate of Filing** is defined by Government Code §56020.6 to mean the document issued by the Executive Officer that confirms an application for a change of organization or reorganization has met submission requirements and is accepted for filing.
- C. **Change of Organization or Reorganization** is defined by Government Code §56021 to mean any of the following:
1. A city incorporation or disincorporation
  2. A district formation
  3. An annexation to a city or special district
  4. A detachment from a city or special district
  5. A district dissolution
  6. A consolidation of cities or special districts
  7. A merger of a city and a district
  8. Establishment of a subsidiary district
  9. The exercise of new or different functions or classes of services, or divestiture of the power to provide particular functions or classes of services, within all or part of the jurisdictional boundaries of a special district.

- D. **Conflicting Proposals** are two or more proposals pending before the Commission that conflict or in any way are inconsistent with each other, as determined by the Commission.
- E. **Proposal** is defined by Government Code §56069 to mean a desired change of organization or reorganization initiated by a petition or by resolution of application of a legislative body or school district for which a certificate of filing has been issued.
- F. **Subject Proposal** is the first of two or more related applications for a change of organization or reorganization for which a Certificate of Filing has been issued (i.e., the first application to be deemed a “proposal”).

#### **IV. PROCESSING AN APPLICATION FOR A CHANGE OF ORGANIZATION OR REORGANIZATION**

Part 3 of the Act provides for the Commission proceedings for a change of organization or reorganization (e.g., annexation, incorporation, disincorporation, consolidation.) Additionally, Part 3 authorizes the Commission to establish additional standards regarding the processing of these jurisdictional changes.

This section of the guidelines is intended to establish additional standards for the processing of applications by the Commission that support the efficient review, analysis, and consideration by the Commission.

##### **A. Certificate of Filing**

Applicants for a change of organization or reorganization must meet submission requirements established in the Act as well as Commission policies and procedures. Once these requirements are met, a Certificate of Filing will be issued by the Executive Officer deeming the application complete. Any application not deemed complete will be found incomplete and the applicant notified of the missing requirements. If the application remains incomplete for a period of six (6) months without substantial progress being made towards its completion, the Executive Officer will notify the applicant and affected agencies that the application is deemed inactive and will return any unused fees. If the applicant chooses to refile at a later date, new fees will be required.

##### **B. Complete Proposals**

Once a Certificate of Filing has been issued, the application officially becomes a proposal (Government Code §56069) and is scheduled for consideration by the Commission. When a proposal has been scheduled for hearing, no additional modification or amendment may be made to the proposal unless requested by Commission staff or the Commission’s board by majority vote. However, an applicant may withdraw its application prior to the closing of the scheduled hearing. Withdrawal of an application must be submitted in writing to the

Executive Officer. If an application is withdrawn and resubmitted, the applicant must file a completely new application and associated fee.

### C. Conflicting Proposals

In accordance with Government Code §56655, the Commission may determine the relative priority for conducting proceedings of two or more proposals pending before the Commission that conflict or in any way are inconsistent with each other as determined by the Commission. That determination shall be included in the terms and conditions adopted by the Commission.

In accordance with Government Code §56657, the Commission shall not approve a proposal for incorporation, consolidation of districts, dissolution, merger, or establishment of a subsidiary district, or reorganization that includes any of these changes of organization until it has considered any conflicting proposal that was issued a Certificate of Filing within 60 days after the issuance of the Certificate of Filing for the subject proposal.

Additional procedures involving conflicting proposals are established in the OC LAFCO Policy and Procedures for Processing Conflicting Proposals.

### D. Public Records

Applications filed with the Commission are considered public records. Requests for copies of an application filed with the Commission must be submitted to the Executive Officer in writing (or orally, with transcription by Commission staff) and will be made available for review in accordance with state laws and the Commission's Policy for the Public Review of OC LAFCO Records.

Preliminary staff reports, analyses, and recommendations prepared by Commission staff are not retained in the ordinary course of business and so are considered working-draft documents until published in final format in the monthly regular meeting agenda (See Government Code §6254, subdivision. (a)). Prior to final publishing, these documents are not available for public review.

## V. CRITERIA FOR EVALUATING PROPOSALS

As it evaluates proposals, the Commission must take into account the required factors in the Act. The Commission shall also take into account the criteria and requirements below.

In addition to completing the submission requirements and prior to the Commission's scheduling an item for consideration by the Commission, the applicant must satisfy the requirements of both sections A and B below.

A. The applicant must demonstrate that the proposed change of organization

involving a city incorporation, district formation or dissolution, consolidation of cities or districts, merger of city and district, the establishment of a subsidiary district, or the establishment of new or different functions or class of services (“activation of latent powers”), or a reorganization including more than one of any of these changes of organization, provides for more efficient or enhanced municipal service systems. The applicant must demonstrate this by providing the Commission with each of the following, with sequencing of these submittals as deemed appropriate by Commission staff:

1. A Municipal Service Review (Government Code §56430) conducted by the Commission during the most recent five-year MSR cycle or an MSR or special study conducted by the Commission that (a) analyzes the specific proposal contained in the application and (b) identifies existing deficiencies or alternatives to enhance efficiency within the municipal service systems;
  2. A detailed plan of services which clearly demonstrates that the agency has the capability to provide the service (or services) in a more cost effective and efficient manner than other alternative governance options; **and**
  3. Evidence that demonstrates that the agency has adequate funding to provide the service or services. The application must identify a permanent, dedicated source of funding for all proposed services. After an application is submitted, Commission staff shall prepare a detailed fiscal analysis of its own of all revenues and expenses. If it reveals an unaddressed shortfall, the Commission shall notify the applicant, and the applicant shall timely satisfy the requirements of this subsection.
- B. The applicant must demonstrate community or agency support of the proposed change of organization involving a city incorporation, district formation or dissolution, consolidation of cities of districts, merger of city and district, the establishment of a subsidiary district, or the establishment of new or different functions or class of services (“activation of latent powers”), or a reorganization including more than one of any of any of these changes of organization through such means as:
1. A petition signed by a substantial number of registered voters within the affected territory; *or*
  2. Substantially similar resolutions of applications adopted by two or more special districts proposing consolidation or reorganization of all or any part of the affected special districts into a single local agency. If this subsection (2) is met, in accordance with Government Code §56853(a), the Commission shall approve, or conditionally approve, the proposal; *or*
  3. A community workshop or charrette to inform the affected communities of the proposed change of organization or reorganization and to receive public input; *or*

4. Results of a sound public survey; *or*
  5. Other evidence of community or agency support that the Commission may deem reliable and appropriate.
- C. In order of priority, the following shall be the Commission’s preference when considering the extension or enhancement of municipal services to unincorporated territory:
1. Annexation to an existing city or district.
  2. Activation of an existing special district’s latent powers.
  3. Formation of a new agency.

The guidelines in this document do not apply to proposals filed by a city to annex an unincorporated island. The policy and guidelines for unincorporated island annexations can be found in the Commission’s “Policy and Procedural Guidelines for Addressing Unincorporated Small Islands.”

**Originally Adopted: 2/10/2010**  
**Last Reviewed: 3/8/2023**  
**Last Revised: 2/08/2017**

SECTION 5:

# CONDUCTING PROTEST HEARINGS



## Policy & Procedural Guidelines for Conducting Protest Hearings

### I. GUIDELINES

Prior to January 1, 2000, upon approval of a change of organization or reorganization, LAFCO designated an affected agency as the conducting authority and directed the conducting authority to conduct protest proceedings pursuant to Government Code §57000 et seq. With the passage of AB 2838 (Hertzberg – Chapter 761, Statutes of 2000), the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code §56000 et seq.) establishes LAFCO as the “conducting authority” for protest proceedings.

### II. PURPOSE

To carry out its functions and responsibilities of conducting authority pursuant to Government Code Section §57000, Local Agency Formation Commission of Orange County (OC LAFCO) establishes the following procedural guidelines. Protest proceedings for changes of organization and reorganization shall be conducted by the Commission in accordance with these guidelines.

### III. POLICY & PROCEDURAL GUIDELINES

In addition to these guidelines, please refer to Exhibit A for further discussion on the protest proceedings, including background information, flowcharts, and protest thresholds.

- A. In its resolution making determinations and approving a change of organization or reorganization for which protest proceedings are not waived pursuant to Government Code Section §56663, the Commission, pursuant to Government Code Section §57002(a), shall include in its terms and conditions a term and condition specifying a timeframe (between 21 and 60 days) for the collection and filing of written protests.
- B. Within 35 days of the adoption of the Commission’s

resolution making determinations and approving a change of organization or reorganization, the Executive Officer shall notice the protest hearing and, in the notice, set the hearing date as prescribed by the Commission in its terms and conditions.



- C. Notice of the hearing shall be provided pursuant to Government Code Section §56150 et seq. as follows:
  - 1. Notice must be published, posted, and mailed to affected agencies, proponents, and any persons requesting special notice.
  - 2. Mailed notice must be provided to all affected landowners if the proposal:
    - a. Involves the formation of, annexation to, or detachment from an improvement district.
    - b. Involves the annexation of 150 acres or less to a city.
    - c. Would result in the extension of a previously authorized special tax or benefit assessment.
  - 3. The time, date, and location of the hearing shall be specified in the notice as determined by the Executive Officer.
  - 4. The protest hearing must be held in the affected territory if the hearing is a proposal initiated by the Commission pursuant to Government Code Section §56375(a)(2) for a district consolidation, dissolution, or merger, or the establishment of a subsidiary district.
- D. At the protest hearing, the Executive Officer, or designee, shall:
  - 1. Summarize the Commission's resolution.
  - 2. Hear and receive any oral or written protests, objections, or evidence. Written protests may be filed by any affected landowner or registered voter.
- E. The Executive Officer, or designee, may continue the protest hearing from time to time, but not more than 60 days from the date specified in the notice.
- F. At the conclusion of the protest hearing:
  - 1. If no written protests have been filed, the Executive Officer or designee shall adopt a form of resolution ordering the change of organization or reorganization without an election.
  - 2. If written protests have been filed, the Executive Officer or designee,

shall within 30 days after the conclusion of the hearing, make determinations on the value of written protests filed and not withdrawn.

3. To determine the value of written protests filed and not withdrawn, the Executive Officer, or designee, shall cause the names of the signers on the protests to be compared with:
  - a. The voters' register in the office of the Registrar of Voters pursuant to §56707; and/or
  - b. The names of the owners of land on the most recent assessment roll pursuant to §56708 and §56710.
  
- G. Upon determination of the value of written protests filed and not withdrawn, the Executive Officer, or designee, shall take one of the following actions, depending on the nature of the change of organization or reorganization:
  1. Issue a Certification of Termination, terminating proceedings.
  2. Adopt a form of resolution making determinations and ordering the change of organization or reorganization without an election.
  3. Adopt a form of resolution making determinations and ordering the change of organization or reorganization subject to confirmation by the voters.
  
- H. If an election is required, the Executive Officer, or designee, pursuant to §57000(d), shall inform the legislative body of the affected agency of OC LAFCO's determination and request the legislative body to direct the elections official to conduct the election.

REQUIREMENT

Pursuant to §57000(c), the Commission has the option of delegating any or all of the functions and responsibilities of conducting authority to the Executive Officer. Any references made to the “Commission” or “LAFCO” in the following discussion also pertains to the Executive Officer for any functions he or he will perform on behalf of the Commission. It should also be noted that, pursuant to §57008, the Commissioner or Executive Officer is required to hold the protest hearing in the affected territory if the proposal was initiated by the Commission pursuant to §56375(a) (district consolidation, dissolution, merger, establishment of a subsidiary district, or a reorganization that includes any of the previous).

Following summarization of the Commission’s resolution at the protest hearing, the Commission hears and receives any oral or written protests, objections, or evidence. Anyone who has filed a written protest can withdraw that protest prior to the conclusion of the hearing. Within 30 days after the hearing, OC LAFCO makes a finding on the value of written protests filed and not withdrawn. The percentage thresholds for OC LAFCO to terminate or order the change of (re)organization with or without an election is consistent with existing law. (Please see flowcharts on the following pages.) LAFCO, however, does not have statutory authority to conduct an election if one is required.

Therefore, if OC LAFCO’s determination on a proposal is subject to confirmation by the voters and an election must be conducted, OC LAFCO, pursuant to §57000(d), is required to inform the board of supervisors or city council of the affected city of the Commission’s determination and request the board or council to direct the elections official to conduct the election.

**Exhibit "A"**

**LAFCO PROTEST PROCEEDINGS - §57075 and 57091(a)**

***(For annexations, detachments, or county service area formations in registered- voter districts or cities)***



**LAFCO PROTEST THRESHOLDS - §57075 and 57091(b)**  
*(For annexations, detachments, or county service area formations in landowner – voter districts)*

Percentage protest thresholds...

For annexations or detachments...

in landowner-voter districts if  
protest is submitted by...

50% or more of the  
voting power of the  
landowner voters...

Less than 25% of the  
landowners owning  
less than 25% of the  
assessed value...

At least 25% of the  
landowners owning  
at least 25% of the  
assessed value...

25% or more of the  
voting power of the  
landowner voters...

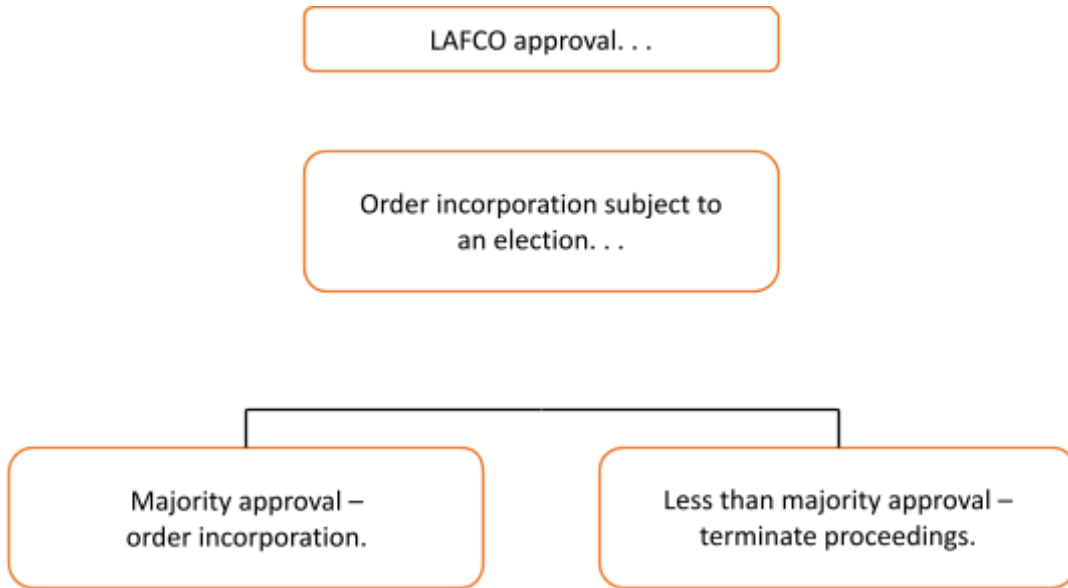
Terminate  
proceedings.

Order the proposal  
without election.

Order the proposal  
subject to voter  
election.

Order the proposal  
subject to a voter  
election.

**LAFCO PROTEST THRESHOLDS §57077**  
*(For incorporations and disincorporations)*



## LAFCO PROTEST THRESHOLDS - §57092, 57093, 57094

### *(For dissolutions, consolidations, mergers, and subsidiary district establishments)*

The percentage protest thresholds for a dissolution, consolidation, merger, or the establishment of a subsidiary district differ from the previous changes of organization discussed in the previous sections. Pursuant to §57077.1, 57077.2, 57077.5, OC LAFCO is required to order a dissolution, consolidation, merger, or the establishment of a subsidiary district without an election unless certain protest requirements are met. Those requirements are enumerated in the outline below. However, pursuant to 57077.5 (c), the Commission is prohibited from ordering a merger or the establishment of a subsidiary district without a resolution of non-objection from the affected city.

The Commission is required to order a dissolution, consolidation, merger, or the establishment of a subsidiary district **subject to confirmation of the voters**, only if there are written protests as follows:

1. Where the proposal was not initiated by the Commission, and where an affected city or district has not objected by resolution to the proposal:
  - a. In the case of inhabited territory, a petition signed by:
    - 1) At least 25% of the registered voters residing, or owning land, within the affected territory; or
    - 2) At least 25% of the number of landowners who own at least 25% of the assessed value of land within the affected territory.
  - b. In the case of a landowner-voter district, and the territory is uninhabited, a petition signed by:
    - 1) At least 25% of the number of landowners owning at least 25% of the assessed value of the land within the affected territory.
2. Where the proposal was initiated by the Commission, and regardless of whether an affected city or district has objected to the proposal by resolution:
  - a. In the case of inhabited territory where there are 300 or more landowners or registered voters within the affected territory, a petition signed by:
    - 1) At least 10% of the number of landowners who own at least 10% of the assessed value of land within the affected territory; or
    - 2) At least 10% of the registered voters residing, or owning land, within the

**NOTE:** However, pursuant to §57102(b), in the case of a proposal for the dissolution of one or more districts and the annexation of all or substantially all of their territory to another district, the voter requirements outlined above do not apply if each affected district has consented to the proposal by a resolution adopted by a majority of its board of directors.



affected territory.

- b. In the case of inhabited territory where there are less than 300 landowners or registered voters within the affected territory, a petition signed by:
  - 1) At least 25% of the number of landowners who own at least 25% of the assessed value of land within the affected territory; or
  - 2) At least 25% of the registered voters residing, or owning land, within the affected territory.
- c. In the case of a landowner-voter district where the territory is uninhabited and there are 300 or more landowner voters entitled to vote, a petition signed by:
  - 1) At least 10% of the number of landowners who own at least 10% of the assessed value of land within the affected territory.
- d. In the case of a landowner-voter district where the territory is uninhabited and there are less than 300 or more landowners entitled to vote, a petition signed by:
  - 1) At least 25% of the landowners are entitled to vote.

## **ADDITIONAL REQUIREMENTS**

### **Contents of Commission Resolution Ordering a Change of (Re)organization (§57100 – §57102)**

The Commission's resolution ordering a change of (re)organization must contain a number of statements (see #'s 1-8 below and §57100), and in some cases findings (see #'s 9 and 10 below and §57101 and §57102). The required statements and findings are as follows. (Please see the following section for additional requirements for resolutions ordering a change of (re)organization subject to confirmation by the voters.)

1. A statement that the action is being taken pursuant to §57000.
2. A statement of the type of change of (re)organization.
3. A description of the boundaries of the affected territory.
4. The name(s) of any new or consolidated city or district.
5. All of the terms and conditions approved by the Commission (often incorporated by reference to the Commission's resolution).
6. The reasons for the change of (re)organization.
7. A statement as to whether the regular county assessment roll or another assessment roll will be utilized.
8. A statement that the affected territory will or will not be taxed for existing general bonded indebtedness of any agency whose boundaries are changed.
9. For city annexations of territories subject to a Williamson Act contract, a finding as to whether the city intends to not succeed to the contract.
10. For dissolutions, findings upon one or more of the following:
  - a. That the corporate powers have not been used for three years, as specified in §56871, by the district and that there is a reasonable probability that those powers will not be used in the future.
  - b. That the district is a registered-voter district and is uninhabited.
  - c. That the board of directors of the district has, by unanimous resolution, consented to the dissolution.

**Contents of Commission Resolution Ordering a Change of (Re)organization Subject to Confirmation by the Voters (§57115 – §57120)**

If the Commission orders a change of (re)organization subject to an election, the Commission is required to inform the board of supervisors or city council of the affected city of the Commission's determination and request the board or council to direct the elections official to conduct the election. Accordingly, the Commission forwards to the board or council its resolution ordering the change of (re)organization subject to confirmation by the voters. The resolution must do, in addition to the requirements listed in the above section, all of the following:

1. Determine that a resolution for a change of organization or reorganization for confirmation by voters shall include the following I (§57115)
  - a. Designated the affected territory within which the special election or elections are to be held. Provide the question(s) to be submitted to the voters.
  - b. Specify any terms and conditions the proposal is subject to.
  - c. State the vote required for confirmation of the proposal.
2. Determine that an election will be held: (§57118)
  - a. Within the territory of each city or district order to be incorporated, formed, disincorporated, dissolved, or consolidated.
  - b. Within the entire territory of each district ordered to be merged with or established as a subsidiary district of a city, or both within the district and within the entire territory of the city outside the boundaries of the district.
  - c. If a sufficient protest petition has been submitted pursuant to §57108, within the territory of the district ordered to be merged with or established as a subsidiary district of a city.
  - d. Within the territory ordered to be annexed or detached.
  - e. If ordered by the Commission for annexation to, or detachment from, a district pursuant to §56876, both within the territory ordered to be annexed or detached and within all or the part of the district which is outside of that territory.
  - f. If, pursuant to §56759, the proposal includes annexation of inhabited territory to a city where the assessed value of land within the annexation territory equals one-half or more of that within the city, or the number of registered voters of the annexation

territory equals one-half or more of that within the city, both within the annexation territory and affected city.

- g. If a sufficient protest petition has been submitted pursuant to 57077.4 for a proposal for the dissolution of one or more districts and annexation of all, or substantially all, of their territory to another district, separately within the territory of each affected district that has filed a petition.
3. For a special reorganization, determine that an election will be held in both the territory to be detached from the city and the entire territory of the affected city (§57119).
4. For an incorporation: (§57116)
  - a. Provide for the election of the officers of the proposed city unless:
    - 1) The applicant has requested, and the Commission's resolution specifies, that the first election of city officers is to be held after voter approval of the incorporation, pursuant to §56724; and/or
    - 2) The incorporation petition included provisions for appointment of a city manager and appointment of elective city officials, except city council members, pursuant to §56723.
  - b. Provide for the election on the question of whether city council members in future elections are to be elected by district or at large.
  - c. If requested in the petition, state that the voters may express a preference as to whether or not the city shall operate under the city manager form of government.
  - d. If requested in the petition, state that the voters may express a preference between names for the new city.
5. For a city consolidation: (§57117)
  - a. Provide for the election of the officers of the successor city.
  - b. State that the voters may express a preference as to the name of the successor city.
6. For an incorporation or formation, provide for the establishment of the appropriations, or "Gann," limit as determined pursuant to §56811 (§57120).

**Originally Adopted: 8/8/2001**  
**Last Reviewed: 3/8/2023**  
**Last Revised: 9/13/2023**

## Policy & Procedural Guidelines for Conducting Protest Hearings

### I. GUIDELINES

Prior to January 1, 2000, upon approval of a change of organization or reorganization, LAFCO designated an affected agency as the conducting authority and directed the conducting authority to conduct protest proceedings pursuant to Government Code §57000 et seq. With the passage of AB 2838 (Hertzberg – Chapter 761, Statutes of 2000), the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code §56000 et seq.) establishes LAFCO as the “conducting authority” for protest proceedings.

### II. PURPOSE

To carry out its functions and responsibilities of conducting authority pursuant to Government Code Section §57000, Local Agency Formation Commission of Orange County (OC LAFCO) establishes the following procedural guidelines. Protest proceedings for changes of organization and reorganization shall be conducted by the Commission in accordance with these guidelines.

### III. POLICY & PROCEDURAL GUIDELINES

In addition to these guidelines, please refer to Exhibit A for further discussion on the protest proceedings, including background information, flowcharts, and protest thresholds.

- A. In its resolution making determinations and approving a change of organization or reorganization for which protest proceedings are not waived pursuant to Government Code Section §56663, the Commission, pursuant to Government Code Section §57002(a), shall include in its terms and conditions a term and condition specifying a timeframe (between 21 and 60 days) for the collection and filing of written protests.
- B. Within 35 days of the adoption of the Commission’s resolution making determinations and approving a change of organization or reorganization, the Executive Officer shall notice the protest hearing and, in the notice, set the hearing date as prescribed by the Commission in its terms and conditions.

- C. Notice of the hearing shall be provided pursuant to Government Code Section §56150 et seq. as follows:
1. Notice must be published, posted, and mailed to affected agencies, proponents, and any persons requesting special notice.
  2. Mailed notice must be provided to all affected landowners if the proposal:
    - a. Involves the formation of, annexation to, or detachment from an improvement district.
    - b. Involves the annexation of 150 acres or less to a city.
    - c. Would result in the extension of a previously authorized special tax or benefit assessment.
  3. The time, date, and location of the hearing shall be specified in the notice as determined by the Executive Officer.
  4. The protest hearing must be held in the affected territory if the hearing is a proposal initiated by the Commission pursuant to Government Code Section §56375(a)(2) for a district consolidation, dissolution, or merger, or the establishment of a subsidiary district.
- D. At the protest hearing, the Executive Officer, or designee, shall:
1. Summarize the Commission's resolution.
  2. Hear and receive any oral or written protests, objections, or evidence. Written protests may be filed by any affected landowner or registered voter.
- E. The Executive Officer, or designee, may continue the protest hearing from time to time, but not more than 60 days from the date specified in the notice.
- F. At the conclusion of the protest hearing:
1. If no written protests have been filed, the Executive Officer or designee shall adopt a form of resolution ordering the change of organization or reorganization without an election.
  2. If written protests have been filed, the Executive Officer or designee,

shall within 30 days after the conclusion of the hearing, make determinations on the value of written protests filed and not withdrawn.

3. To determine the value of written protests filed and not withdrawn, the Executive Officer, or designee, shall cause the names of the signers on the protests to be compared with:
  - a. The voters' register in the office of the Registrar of Voters pursuant to §56707; and/or
  - b. The names of the owners of land on the most recent assessment roll pursuant to §56708 and §56710.
  
- G. Upon determination of the value of written protests filed and not withdrawn, the Executive Officer, or designee, shall take one of the following actions, depending on the nature of the change of organization or reorganization:
  1. Issue a Certification of Termination, terminating proceedings.
  2. Adopt a form of resolution making determinations and ordering the change of organization or reorganization without an election.
  3. Adopt a form of resolution making determinations and ordering the change of organization or reorganization subject to confirmation by the voters.
  
- H. If an election is required, the Executive Officer, or designee, pursuant to §57000(d), shall inform the legislative body of the affected agency of OC LAFCO's determination and request the legislative body to direct the elections official to conduct the election.

OC LAFCO AS CONDUCTING AUTHORITY (***Government Code §56029, §57000 et seq.***)

REQUIREMENT

Pursuant to §57000(c), the Commission has the option of delegating any or all of the functions and responsibilities of conducting authority to the Executive Officer. Any references made to the "Commission" or "LAFCO" in the following discussion also pertains to the Executive Officer for any functions he or he will perform on behalf of the Commission. It should also be noted that, pursuant to §57008, the Commissioner or Executive Officer is required to hold the protest hearing in the affected territory if the proposal was initiated by the Commission pursuant to §56375(a) (district consolidation, dissolution, merger, establishment of a subsidiary district, or a reorganization that includes any of the previous).

Following summarization of the Commission's resolution at the protest hearing, the Commission hears and receives any oral or written protests, objections, or evidence. Anyone who has filed a written protest can withdraw that protest prior to the conclusion of the hearing. Within 30 days after the hearing, OC LAFCO makes a finding on the value of written

protests filed and not withdrawn. The percentage thresholds for OC LAFCO to terminate or order the change of (re)organization with or without an election is consistent with existing law. (Please see flowcharts on the following pages.) LAFCO, however, does not have statutory authority to conduct an election if one is required.

Therefore, if OC LAFCO's determination on a proposal is subject to confirmation by the voters and an election must be conducted, OC LAFCO, pursuant to §57000(d), is required to inform the board of supervisors or city council of the affected city of the Commission's determination and request the board or council to direct the elections official to conduct the election.



**Exhibit "A"**

**LAFCO PROTEST PROCEEDINGS - §57075 and 57091(a)**

***(For annexations, detachments, or county service area formations in registered- voter districts or cities)***



**LAFCO PROTEST THRESHOLDS - §57075 and 57091(b)**  
*(For annexations, detachments, or county service area formations in landowner – voter districts)*

Percentage protest thresholds...

For annexations or detachments...

in landowner-voter districts if  
protest is submitted by...

50% or more of the  
voting power of the  
landowner voters...

Less than 25% of the  
landowners owning  
less than 25% of the  
assessed value...

At least 25% of the  
landowners owning  
at least 25% of the  
assessed value...

25% or more of the  
voting power of the  
landowner voters...

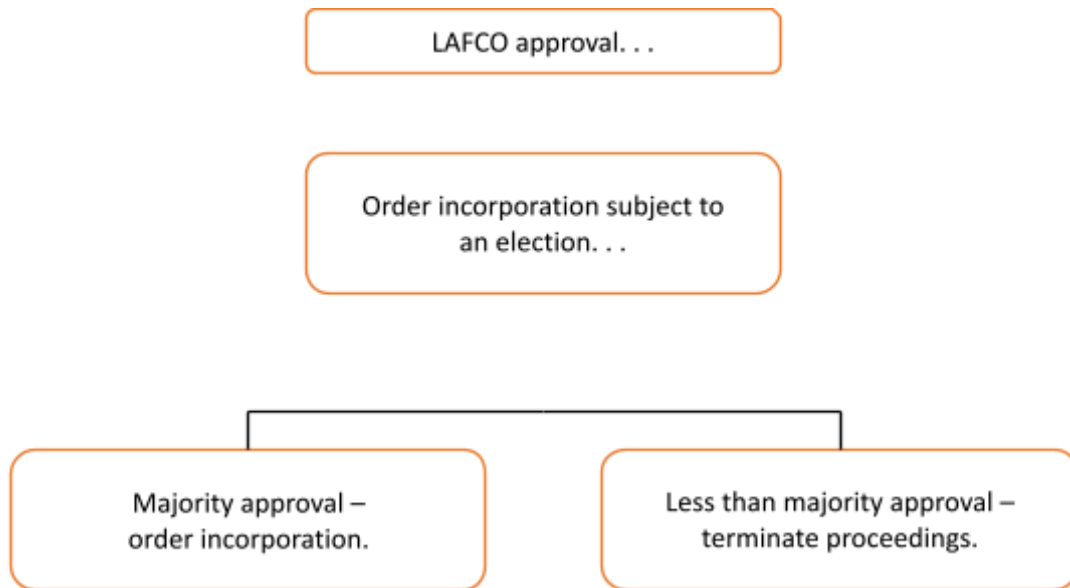
Terminate  
proceedings.

Order the proposal  
without election.

Order the proposal  
subject to voter  
election.

Order the proposal  
subject to a voter  
election.

**LAFCO PROTEST THRESHOLDS §57077**  
*(For incorporations and disincorporations)*



**LAFCO PROTEST THRESHOLDS - §57092, 57093, 57094**  
***(For dissolutions, consolidations, mergers, and subsidiary district establishments)***

The percentage protest thresholds for a dissolution, consolidation, merger, or the establishment of a subsidiary district differ from the previous changes of organization discussed in the previous sections. Pursuant to §57077.1, 57077.2, 57077.5, OC LAFCO is required to order a dissolution, consolidation, merger, or the establishment of a subsidiary district without an election unless certain protest requirements are met. Those requirements are enumerated in the outline below. However, pursuant to 57077.5 (c), the Commission is prohibited from ordering a merger or the establishment of a subsidiary district without a resolution of non-objection from the affected city.

The Commission is required to order a dissolution, consolidation, merger, or the establishment of a subsidiary district **subject to confirmation of the voters**, only if there are written protests as follows:

1. Where the proposal was not initiated by the Commission, and where an affected city or district has not objected by resolution to the proposal:
  - a. In the case of inhabited territory, a petition signed by:
    - 1) At least 25% of the registered voters residing, or owning land, within the affected territory; or
    - 2) At least 25% of the number of landowners who own at least 25% of the assessed value of land within the affected territory.
  - b. In the case of a landowner-voter district, and the territory is uninhabited, a petition signed by:
    - 1) At least 25% of the number of landowners owning at least 25% of the assessed value of the land within the affected territory.

NOTE: However, pursuant to §57102(b), in the case of a proposal for the dissolution of one or more districts and the annexation of all or substantially all of their territory to another district, the voter requirements outlined above do not apply if each affected district has consented to the proposal by a resolution adopted by a majority of its board of directors.

2. Where the proposal was initiated by the Commission, and regardless of whether an affected city or district has objected to the proposal by resolution:
  - a. In the case of inhabited territory where there are 300 or more landowners or registered voters within the affected territory, a petition signed by:

- 1) At least 10% of the number of landowners who own at least 10% of the assessed value of land within the affected territory; or'
  - 2) At least 10% of the registered voters residing, or owning land, within the affected territory.
- b. In the case of inhabited territory where there are less than 300 landowners or registered voters within the affected territory, a petition signed by:
- 1) At least 25% of the number of landowners who own at least 25% of the assessed value of land within the affected territory; or
  - 2) At least 25% of the registered voters residing, or owning land, within the affected territory.
- c. In the case of a landowner-voter district where the territory is uninhabited and there are 300 or more landowner voters entitled to vote, a petition signed by:
- 1) At least 10% of the number of landowners who own at least 10% of the assessed value of land within the affected territory.
- d. In the case of a landowner-voter district where the territory is uninhabited and there are less than 300 or more landowners entitled to vote, a petition signed by:
- 1) At least 25% of the landowners are entitled to vote.

## **ADDITIONAL REQUIREMENTS**

### **Contents of Commission Resolution Ordering a Change of (Re)organization (§57100 – §57102)**

The Commission's resolution ordering a change of (re)organization must contain a number of statements (see #'s 1-8 below and §57100), and in some cases findings (see #'s 9 and 10 below and §57101 and §57102). The required statements and findings are as follows. (Please see the following section for additional requirements for resolutions ordering a change of (re)organization subject to confirmation by the voters.)

1. A statement that the action is being taken pursuant to §57000.
2. A statement of the type of change of (re)organization.
3. A description of the boundaries of the affected territory.
4. The name(s) of any new or consolidated city or district.
5. All of the terms and conditions approved by the Commission (often incorporated by reference to the Commission's resolution).
6. The reasons for the change of (re)organization.
7. A statement as to whether the regular county assessment roll or another assessment roll will be utilized.
8. A statement that the affected territory will or will not be taxed for existing general bonded indebtedness of any agency whose boundaries are changed.
9. For city annexations of territories subject to a Williamson Act contract, a finding as to whether the city intends to not succeed to the contract.
10. For dissolutions, findings upon one or more of the following:
  - a. That the corporate powers have not been used for three years, as specified in §56871, by the district and that there is a reasonable probability that those powers will not be used in the future.

- b. That the district is a registered-voter district and is uninhabited.
- c. That the board of directors of the district has, by unanimous resolution, consented to the dissolution.

**Contents of Commission Resolution Ordering a Change of (Re)organization Subject to Confirmation by the Voters (§57115 – §57120)**

If the Commission orders a change of (re)organization subject to an election, the Commission is required to inform the board of supervisors or city council of the affected city of the Commission’s determination and request the board or council to direct the elections official to conduct the election. Accordingly, the Commission forwards to the board or council its resolution ordering the change of (re)organization subject to confirmation by the voters. The resolution must do, in addition to the requirements listed in the above section, all of the following:

1. Determine that a resolution for a change of organization or reorganization for confirmation by voters shall include the following I (§57115)
  - a. Designated the affected territory within which the special election or elections are to be held. Provide the question(s) to be submitted to the voters.
  - b. Specify any terms and conditions the proposal is subject to.
  - c. State the vote required for confirmation of the proposal.
2. Determine that an election will be held: (§57118)
  - a. Within the territory of each city or district order to be incorporated, formed, disincorporated, dissolved, or consolidated.
  - b. Within the entire territory of each district ordered to be merged with or established as a subsidiary district of a city, or both within the district and within the entire territory of the city outside the boundaries of the district.
  - c. If a sufficient protest petition has been submitted pursuant to §57108, within the territory of the district ordered to be merged with or established as a subsidiary district of a city.
  - d. Within the territory ordered to be annexed or detached.



- e. If ordered by the Commission for annexation to, or detachment from, a district pursuant to §56876, both within the territory ordered to be annexed or detached and within all or the part of the district which is outside of that territory.
  - f. If, pursuant to §56759, the proposal includes annexation of inhabited territory to a city where the assessed value of land within the annexation territory equals one-half or more of that within the city, or the number of registered voters of the annexation territory equals one-half or more of that within the city, both within the annexation territory and affected city.
  - g. If a sufficient protest petition has been submitted pursuant to 57077.4 for a proposal for the dissolution of one or more districts and annexation of all, or substantially all, of their territory to another district, separately within the territory of each affected district that has filed a petition.
3. For a special reorganization, determine that an election will be held in both the territory to be detached from the city and the entire territory of the affected city (§57119).
4. For an incorporation: (§57116)
- a. Provide for the election of the officers of the proposed city unless:
    - 1) The applicant has requested, and the Commission's resolution specifies, that the first election of city officers is to be held after voter approval of the incorporation, pursuant to §56724; and/or
    - 2) The incorporation petition included provisions for appointment of a city manager and appointment of elective city officials, except city council members, pursuant to §56723.
  - b. Provide for the election on the question of whether city council members in future elections are to be elected by district or at large.
  - c. If requested in the petition, state that the voters may express a preference as to whether or not the city shall operate under the city manager form of government.
  - d. If requested in the petition, state that the voters may express a preference between names for the new city.
5. For a city consolidation: (§57117)
- a. Provide for the election of the officers of the successor city.

- b. State that the voters may express a preference as to the name of the successor city.
6. For an incorporation or formation, provide for the establishment of the appropriations, or “Gann,” limit as determined pursuant to §56811 (§57120).

**Originally Adopted: 8/8/2001**

**Last Reviewed: 3/8/2023**

**Last Revised: 9/13/2023**

## Policy and Procedures for the Initiation of Proposals by the Orange County Local Agency Formation Commission

### I. LEGAL REQUIREMENTS FOR PROPOSALS INITIATED BY THE COMMISSION

Government Code Sections 56375, 56375.1, and 56879 authorize or requires the Commission to initiate the following specific types of proposals:

- **Consolidation** of special districts as defined in Government Code Section 56036.
- **Dissolution** of a special district, pursuant to Government Code Section 56375 or 56375.1 where another agency can assume service responsibility; when a study, prepared pursuant to Government Code Section 56430, concludes that a special district has chronic service provision deficiencies; or within 90 days after a special district has been deemed inactive by the State under Government Code Section 56879.
- **Merger** of a special district with a city if the entire territory of the district is included within the boundaries of the city.
- **Establishment of a subsidiary district** of a city where, pursuant to Government Code Section 57105, the portion or portions of the territory of the district are included within the boundaries of a city and represent at least 70% of the district's territory as well as at least 70% of the registered voters who reside within the district as shown on the voters' register maintained by the OC Registrar of Voters.
- **Formation** of a new district or districts.
- **Reorganization** which includes two or more of the above changes of organization.

Proposals initiated by the Commission must be consistent with the recommendation of a sphere of influence study conducted pursuant to Government Code Section 56425 or other governmental study performed pursuant to Government Code Section 56378 and Section 56430. Each of the above types of proposals has specific legal requirements which must also be met. In approving a proposal it has initiated, the Commission's resolution making determinations must make both of the following determinations, as required by Government Code Section 56881:

1. Public service costs of a proposal that the Commission is authorizing are likely to be less than or substantially similar to the costs of alternative means of providing the service.
2. A change of organization or reorganization that is authorized by the Commission promotes public access and accountability for community needs and financial resources.

## **II. POLICY ON INITIATING PROPOSALS**

- A. Proposals initiated by the Commission shall be selected on the basis of a municipal service review, sphere of influence update, or other governmental study recommendations prepared pursuant to Government Code Section 56378.
- B. Commission prefers proposals submitted by petition of voters or landowners or by resolution of application by an affected local agency. However, the Commission will consider initiating proposals that it believes furthers the interests of increased efficiency and government accountability. Factors to be considered in determining whether to initiate a proposal will include but will not be limited to the following:
1. A municipal service review (Section 56430), sphere of influence update (Section 56425) or other governmental study has shown that a proposal may result in one or more of the following: a) lower overall public service costs; b) assuming of service responsibility by a logical potential successor agency or agencies; c) overall enhancement to public service levels and efficiencies through alternative and logical service options; d) greater fiscal and operational accountability and transparency; and, e) increased public access.
  2. There exists a level of public concern about a district's services or governance which, in the Commission's view, warrants initiation of a proposal.
  3. Boundaries of existing agencies artificially divide a community of interest or overlap different communities of interest.
  4. There are identifiable benefits to future and existing citizens from increased coordination and regional planning affecting facility planning, infrastructure financing, public resources protection, or service reliability.
  5. The Commission can complete the necessary review, analysis, and processing with its own staff resources, or funds are available from the successor agency or other sources to pay for the additional assistance needed to complete the review and processing of the proposal.
  6. A special district has been deemed inactive pursuant to Government Code Section 56879, and the Commission has prepared a study pursuant to Government Code Sections 56378, 56425, and 56430 and made determinations pursuant to Government Code Section 56881.

## **III. PROCEDURE**

- A. When considering the initiation of a proposal, the Commission will take into account studies prepared in accordance with Government Code Sections 56378, 56425 and 56430 and other factors identified in Section II of this policy and discuss them at a regular public meeting. During the meeting, the Commission will consider a staff report and recommendation, including an estimate, when applicable and possible, to assess factors warranting further study or that were not included or identified in previous study. After consideration at a regular public meeting, if the Commission decides to initiate a proposal, it will adopt a resolution of application pursuant to Government Code Section 56375 and, if

applicable, Government Code Section 56375.1.

- B. If the Commission initiates the proposal, staff review will commence. Staff review will provide for agency participation and comment, environmental review, a property tax exchange (if applicable), and an Executive Officer's report and recommendation, as required for all proposals. The Executive Officer's report shall address the factors as required for all proposals in Government Code Section 56668, and the report shall provide the information as required in the Commission's application questionnaire for similar changes of organization. The Commission shall consider any legislative act or constitutional amendment passed by the voters that would have any substantive effect on the proposal under consideration.
- C. The Commission may refer the proposal to a reorganization committee as provided in Government Code Sections 56836 and 56848.
- D. Following completion of staff review, and upon compliance with CEQA, the Commission will consider the Executive Officer's report, the report of any reorganization committee, if applicable, and comments of affected agencies and the public at a hearing noticed for that purpose in the manner provided by State law. The hearing may be continued from time to time not to exceed 70 days and in accordance with State law.
- E. Within 35 days after the conclusion of the hearing, the Commission will adopt a resolution making determinations and either approving the proposal, subject to any terms and conditions which the Commission deems appropriate or disapproving the proposal.
- F. If the proposal is disapproved, the Commission will not initiate a substantially similar proposal for a period of three years. The Commission may waive this limitation if changes in conditions or circumstances warrant earlier reconsideration.
- G. If the proposal is approved, the Commission's resolution making determinations shall include the determinations required by Government Code Section 56881 that (a) public service costs are likely to be less than or substantially similar to the costs of alternative means of providing the services and (b) the proposal promotes public access and accountability for community needs and financial resources.
- H. If the proposal is approved, the Commission will conduct protest proceedings in accordance with Part 4, Government Code Section 57000 et. seq of the Government Code. Special hearing, protest, and election requirements as provided in Government Code Sections 57008 and 57092 will apply, including a public hearing within the territory of the affected district(s).
- I. Upon completion of the conducting authority proceedings by the Commission with or without an election as may be required, the Executive Officer will comply with the filing and reporting requirements of Part 4, Chapter 8 of the Government Code.

**Originally Adopted: 1997**  
**Last Reviewed: 10/11/2023**  
**Last Revised: 10/11/2023**

## Policy and Procedural Guidelines for Processing Conflicting Proposals

### I. PURPOSE

To establish policy and procedural guidelines for reviewing, processing, and determining conflicting reorganizational changes that fairly and adequately consider alternatives without undue delay or obfuscation of the public benefit to be gained through timely processing of proposals.

### II. POLICY

In accordance with Government Code Section 56655, if two or more proposals pending before the Commission conflict or in any way are inconsistent with each other, as determined by the Commission, the Commission may determine the relative priority for conducting any further proceedings on those proposals. In addition to notifying affected applicants of its determination (see Section IV(A)), the Commission shall note its determination with terms and conditions in its final resolution on any one of the proposals it approves.

In accordance with Government Code Section 56657, the Commission shall not approve a proposal for incorporation, consolidation of districts, dissolution, merger, or establishment of a subsidiary district, or a reorganization that includes any of these changes of organization until it has considered any other conflicting proposal for a change of organization submitted to the Commission within 60 days of the first proposal's issued Certificate of Filing.

### III. DEFINITIONS

Except as otherwise provided specifically below, the terms and phrases used herein shall have the meanings they have in the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Section 56000 et seq).

A. **Application** is defined by Government Code Section 56017.2 to mean any of the following:

1. A resolution of application or petition initiating a change of organization or reorganization with supporting documentation as required by the commission or executive officer." Once a resolution of application is deemed complete, a Certificate of Filing is issued, and the application is deemed a "proposal.
2. A request for a sphere of influence amendment or update pursuant to Government Code Section 56425.
3. A request by a city or district for commission approval of an extension of services outside the agency's jurisdictional boundaries pursuant to Government Code Section 56133.

4. A request by a public agency for commission approval of an extension of services outside the agency's jurisdictional boundaries pursuant to Government Code §56134.
- B. **Certificate of Filing** is defined by Government Code Section 56020.6 to mean the document issued by the executive officer that confirms an application for a change of organization or reorganization has met submission requirements and is accepted for filing.
- C. **Change of Organization or Reorganization** is defined by Government Code Section 56021 to mean any of the following:
  1. A city incorporation or disincorporation
  2. A district formation
  3. An annexation to a city or special district
  4. A detachment from a city or special district
  5. A district dissolution
  6. A consolidation of cities or special districts
  7. A merger of a city and a district
  8. Establishment of a subsidiary district
  9. The exercise of new or different function or classes of services, or divestiture of the power to provide particular functions or classes of services.
- D. **Conflicting Proposal** is a proposal pending before the Commission that conflicts with or that is in any way inconsistent with a previously submitted proposal that has met submission requirements and is accepted for filing, as determined by the Commission.
- E. **Proposal** is defined by Government Code Section 56069 to mean "a desired change of organization or reorganization initiated by a petition or by resolution of application of a legislative body or school district for which a certificate of filing has been issued."
- F. **Subject Proposal** is the first of two or more related applications for a change of organization or reorganization for which a certificate of filing has been issued (i.e., the first application to be deemed a "proposal").

#### IV. PROCEDURAL GUIDELINES

- A. *Notice of Conflicting Applications.* When an application is filed that in any way conflicts with another pending application, the Executive Officer shall notify each applicant of the status of the conflicting applications and of any outstanding information, documentation, studies, fees, or service plans required to make each application complete.
- B. *Certification of Complete Applications; Subject and Conflicting Proposals.* The Executive Officer shall issue a Certificate of Filing (COF) in accordance with State law for any application that is deemed complete. The first competing application deemed complete (i.e., the first to be deemed a “proposal”) shall be designated the “subject proposal.” Each subsequent application that is deemed complete and that conflicts or is in any way inconsistent with the subject proposal is designated the “conflicting proposal.”
- C. *No Conflicting Proposal Certified Within 60 Days.* If no “conflicting proposal” is certified within 60 days of the issuance of a COF for the “subject proposal,” then the Executive Officer shall set a public hearing on the “subject proposal” within 90 days of issuance of the COF for the “subject proposal.”
- D. *Conflicting Proposal Certified Within 60 Days.* In accordance with Government Code Section 56657, the Commission shall not approve a proposal for incorporation, consolidation of districts, dissolution, merger, or establishment of a subsidiary district, or a reorganization that includes any of these changes of organization until it has considered any “conflicting proposal” issued a COF within 60 days after the issuance of the COF for the “subject proposal.”
  1. If a “conflicting proposal” is issued a COF within 60 days of the issuance of a COF for a “subject proposal,” the Executive Officer shall, at the next meeting, inform the Commission that a “conflicting proposal” is also pending before the Commission and must be considered before the Commission may approve the “subject proposal.” In accordance with Government Code Section 56655, the Commission shall, at that meeting or as soon as it deems reasonably possible, determine the relative priority for conducting any further proceedings based on any of those proposals, by deciding the order in which it will consider the subject and conflicting proposals.
  2. Within 30 days after the meeting at which the Commission determines the order for considering subject and conflicting proposals, the Executive Officer shall set a meeting with the applicants who submitted the subject and conflicting proposals, as well as any other affected agencies, to inform them of the decision.

Once the Commission has set the priority for consideration of the proposals, the Commission may hold an information workshop on all the proposals 30 to 90 days prior to the first public hearing on any one of the proposals for purposes of comparing the proposals, their service plans, their financial data, and any other technical reports prepared to date by the applicants or the Commission.



- E. *Conflicting Proposal Certified After 60 Days.* If the Commission determines that a conflicting proposal is filed more than 60 days after the COF has been issued on a competing subject proposal, the Commission may either (1) continue consideration of the conflicting proposal in accordance with Government Code Section 56666(a) or (2) reject the conflicting proposal without prejudice or further analysis pending the Commission’s final decision on the subject proposal.
  
- F. *Proposal Rendered Moot by Prior Approval.* If the Commission’s consideration of a proposal is made moot by its prior decision on another competing proposal and the merits of the remaining proposal were considered as part of the prior proceeding, the Commission may reject the remaining proposal without further analysis, subject to applicable requirements for notice and hearing on the remaining proposal.
  
- G. *Continuances.* In accordance with Government Code Section 56666(a), the Commission may continue the hearing of a proposal from time to time but the hearing may not be continued beyond 70 days from the date specified in the original public notice of hearing on a proposal.

**Originally Adopted: 9/3/1997**  
**Last Reviewed: 3/8/2023**  
**Last Revised: 1/11/2017**

## **Policy and Procedures for Processing Incorporation Applications and Implementing Revenue Neutrality Provisions**

### **I. PRE-FILING MEETING**

Prior to initiating an incorporation proposal, the incorporation proponents shall participate in a pre-filing meeting with OC LAFCO staff to receive an overview of the incorporation process, associated costs and relative laws. The pre-filing meeting will be at no cost to the proponents.

### **II. FILING MATERIALS**

Prior to initiation and filing of any documents, a meeting with the incorporation applicants and OC LAFCO staff to discuss the incorporation process, required documents and schedule of payment of all fees and other costs associated with the proposed incorporation is highly advised.

Required filing materials include:

- A. Resolution of Application, Landowner Petition, or Registered Voter Petition
- B. Completed Justification of Proposal Questionnaire
- C. Boundary Map
- D. Filing Fee
- E. Preliminary Feasibility Analysis

After receipt of above filing materials, OC LAFCO staff will review for completeness and initiate the development of a Comprehensive Fiscal Analysis (CFA) and related CEQA documents.

### **III. CONTENTS OF THE COMPREHENSIVE FISCAL ANALYSIS**

At a minimum, the Comprehensive Fiscal Analysis must contain the following information:

- A. The costs to the proposed city of providing public services and facilities during the ten (10) fiscal years following incorporation.
- B. The revenues of the proposed city during the ten (10) fiscal years following incorporation.
- C. The effects on costs and revenues of any affected local agency during the ten (10) fiscal years following incorporation.
- D. An analysis, consistent with Government Code Section 56815, ensuring that the revenues currently received by the local agency transferring the affected territory, that but for the operation of this section, would accrue to the local agency receiving the affected territory are substantially equal to the expenditures, including direct and indirect expenditures, currently made by the local agency transferring the affected territory for those services that will be assumed by the local agency receiving the affected territory unless the Commission finds either that the county and all of the subject agencies agree to the proposed transfer or that the negative fiscal effect has been adequately mitigated by tax sharing agreements, lump-sum payments, payments over a fixed period of time, or any other terms and conditions pursuant to Government Code Section 56886.
- E. Any other information and analysis needed to make the following findings:
  - Proposal is consistent with the intent of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.
  - Proposal is consistent with the spheres of influence of all affected local agencies.
  - The proposed city is expected to receive revenues sufficient to provide public services and facilities and a reasonable reserve during the ten (10) fiscal years following incorporation. The definition of reasonable reserve will be subject to the specific conditions associated with the proposed incorporation proposal.

### **IV. REVIEW OF FILING MATERIALS**

#### **A. Petition**

If the proposal is filed by registered voter petition, OC LAFCO will submit the petitions to the Registrar of Voters for verification. This process can take from a few weeks to months depending on the workload at the Registrar's Office and the number of signatures to verify. The Registrar will charge OC LAFCO a verification fee for each signature that is submitted to them. OC LAFCO will recover this charge from the incorporation applicant. If the Registrar determines that there are an insufficient number of valid signatures, the incorporation applicants have an additional 15 days to acquire the sufficient number of valid signatures.

In addition, the petition will be verified by OC LAFCO staff to ensure consistency with Section 56700 of the California Government Code.

#### B. Resolution

If the proposal is filed by resolution, OC LAFCO staff will review the resolution to ensure it is in accordance with the relevant sections of the California Government Code.

#### C. Justification of Proposal Questionnaire

OC LAFCO staff will review the questionnaire for accuracy and completeness. All affected local agencies and interested parties will also review the questionnaire for potential impacts. The results of this review will be included within the OC LAFCO staff report to the Commission.

#### D. Boundary Map

OC LAFCO staff, affected local agencies, and interested parties will review the boundary map to determine consistency with existing local agencies and to ensure that the boundaries are logical and reasonable.

A more detailed map and legal description meeting the requirements of the Orange County Surveyor's Office and the State Board of Equalization will need to be completed prior to the incorporation proposal being set for election.

#### E. Comprehensive Fiscal Analysis

Upon receipt of the Comprehensive Fiscal Analysis (CFA), OC LAFCO staff will publish a legal notice setting a thirty (30) day review period for the CFA. This legal notice will be published at least fifteen (15) days prior to the commencement of the thirty-day review period in accordance with Section 56153 of the California Government Code and mailed to all affected local agencies and any persons requesting special notice who has filed a written request for special notice with the Executive Officer.

Prior to the conclusion of the thirty-day review period, OC LAFCO staff will issue a preliminary analysis of the CFA, specifying portions of the CFA which OC LAFCO staff believes are inaccurate, without sufficient documentation, or otherwise lacking reliability. During the thirty-day review period, any person can request that the State Controller's Office review the CFA in accordance with Section 56801 of the California Government Code. The request must be accompanied by a deposit, in the amount to be determined by the Executive Officer, to cover the costs of the Controller's review. The request for the Controller's review should specify the portion or portions of the CFA to be reviewed and a brief explanation of why the review is being requested. This information will assist the Controller in completing a timely review of the CFA and help to reduce the costs of the review to the requesting party. No requests for Controller's review will be accepted after 5:00 p.m. on the final day of the thirty-day review period.

#### F. California Environmental Quality Act (CEQA)

OC LAFCO staff will review the incorporation proposal in regard to the requirements of CEQA. Depending on the specific circumstances of each incorporation proposal, either a Negative Declaration or an Environmental Impact Report (EIR) will be prepared.

The applicants will be responsible for all costs of preparing the required environmental review documents under CEQA in accordance with OC LAFCO's Schedule of Filing and Processing Fees.

## **V. REVENUE NEUTRALITY**

The provisions of Government Code Section 56815 declare the intent of the Legislature that the incorporation of new cities results in a similar exchange of both revenue and responsibility for service delivery among the county, the proposed city and other subject agencies and as a result minimize the long term negative fiscal effects incorporations have on counties.

Uncertainties likely to arise in the interpretation of Government Code Section 56845 may act to impede incorporation of viable cities and/or invite inter-jurisdictional disputes following incorporation. The purpose of this policy is to establish incorporation guidelines that provide a framework for the development of terms and conditions related to the balancing of revenues and service responsibilities, otherwise known as "revenue neutrality," and to:

- Institute a process for analysis and mitigation of the fiscal impacts of incorporation on the county that results in stable, predictable financial outcomes for both the county and the new city.
- Define the terms and budget items to be negotiated under revenue neutrality requirements of Government Code Section 56815.
- Mitigate potential fiscal losses to the county without making incorporation impossible for local communities ready for self-governance or precluding an adequate fiscal base for new cities.
- Specify how participants in the incorporation process can develop proposed terms and conditions of incorporation that will meet revenue neutrality criteria and the standards of this commission in making the findings required by Government Code Sections 56815 and 56375 for approval of incorporations.

It is the policy of this Commission that implementation of revenue neutrality provisions of Government Code Section 56815 shall ensure adequate protection of the financial stability of the county and other affected agencies while at the same time permitting the incorporation of communities demonstrating the necessary resources and capacities for self-governance. The legislative mandates for achieving revenue neutrality shall be implemented through a rational and predictable process for gathering information, determining the appropriate content of revenue neutrality agreements and providing for the revision of those agreements.

Figure 1 illustrates the portions of the incorporation process involving the development of revenue neutrality actions that must be taken by the Commission. Incorporation proponents are required to submit a preliminary fiscal analysis (PFA) for evaluation by OC LAFCO staff. The PFA is augmented by OC LAFCO staff as necessary with county revenue and departmental cost data, the calculation of the property tax allocation and analysis of fiscal and service level assumptions. The PFA is used as a starting point for the comprehensive fiscal analysis prepared by the Executive

Officer or her designee. OC LAFCO staff convenes a revenue neutrality negotiating committee composed of representatives of the county, other affected agencies and the chief petitioners for the incorporation when the first draft of the comprehensive fiscal analysis is available. OC LAFCO staff will attend meetings of this committee in order to facilitate discussions and compliance with this policy.

The revenue neutrality committee will have an initial period of 45 days to negotiate an agreement to meet the requirements of Government Code Section 56815. At the conclusion of negotiations or the end of the 45-day negotiating period, OC LAFCO Executive Officer will certify that an agreement has been reached or has not been reached. If any agreement is reached, ratification by resolution of the County Board of Supervisors and by letter of the incorporation committee is returned to OC LAFCO staff for inclusion in the comprehensive fiscal analysis, staff report and recommendations.

If the negotiating parties do not reach an agreement, the status of the negotiations will be referred to the Commission for workshop discussion of outstanding issues at the first available meeting as determined by the Executive Officer. If revenue neutrality issues are not resolved during the course of the workshop, the Commission will direct the negotiating committee to resume negotiations for an additional 45-day period.

If no agreement is reached by the revenue neutrality committee and ratified by the County Board of Supervisors and the incorporation committee after two negotiating periods, OC LAFCO staff will draft proposed terms and conditions for use in the comprehensive fiscal analysis and for recommendation to the Commission at its public hearing.

Revenue neutrality agreements should adhere to the standards for content described in this policy. Such agreements should include a description of methodologies and assumptions leading up to the terms of the agreement. Revenue neutrality agreements should also provide for a process of adjustment after incorporation in order to account for unforeseen economic or legislative events significantly affecting the flow of local revenue.

#### A. Content and Analytical Standards:

The provisions of revenue neutrality agreements negotiated pursuant to this policy shall adhere to the following standards:

1. Revenue neutrality agreements shall be based on county costs and revenues for the most recent prior year for which data are available. Only identifiable and recurring revenues and expenditures should be evaluated for purposes of determining revenue neutrality. Anticipated or projected revenue growth should not be included.
2. Expenditures for services transferred to a new city should be evaluated on a "net cost" basis. Services funded on a full cost recovery basis (such as building inspection) are by definition revenue neutral and should not be included in the analysis.
3. Costs of capital improvements are not recurring costs and should not be included.
4. Countywide costs for regional services and administrative functions, which are required to

support county governance of both incorporated and unincorporated areas, should not be included in defining services transferred to the new city.

5. Inflationary factors should not be included in the analysis of revenue neutrality provisions unless the resulting agreement provides for annual adjustment for mitigation payments based on actual data.
6. Restricted and unrestricted revenues should be evaluated separately. An agency may pay a portion of its annual revenue neutrality payment with restricted funds if both agencies agree, and a legal exchange mechanism can be created.

#### B. Permissible Types of Terms and Conditions

Terms and conditions for implementation of revenue neutrality may include provisions for tax sharing agreements, lump-sum payments, payments over a fixed period of time, modification of incorporation boundaries or any other terms and conditions permitted under Government Code Section 56815.

#### C. Duration of Fiscal Impact Mitigation

The term of mitigation payments may be either ongoing or limited to a specific number of years. Ongoing revenue neutrality agreements may provide for the permanent sharing of revenues between the new city and affected agencies. Agreements that limit revenue neutrality payments should establish the term of payments in the following steps:

1. Determine the annual net revenue loss to the County and other affected agencies resulting from the proposed incorporation.
2. Determine a lump sum sufficient to yield in interest funds equal to the annual net revenue loss to the County and other affected agencies.
3. The duration of mitigation payments will be calculated using the annual mitigation payment amount and inflation and discount rates established by negotiation.

#### D. Method of Annual Payment

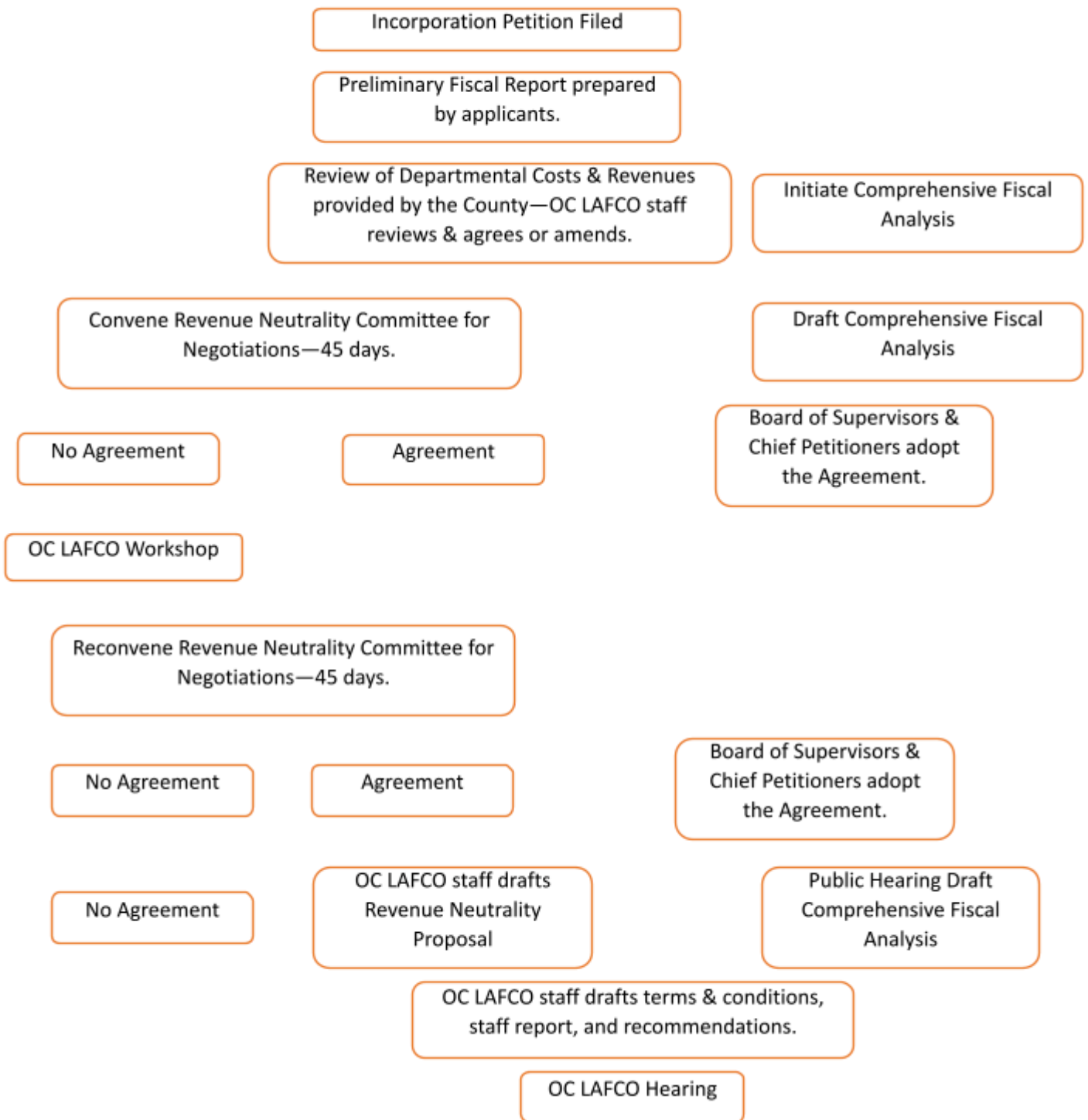
In instances in which revenue neutrality requires tax sharing or mitigation payments to the county, payment should be affected as directly from the revenue source as permitted by State law.

#### E. Effective Date of Incorporation

The effective date of incorporation should be considered in revenue neutrality agreements. The effective date should be set to establish adequate initial account balances for the new city as it assumes service responsibilities but should not otherwise conflict with the intent of fiscal neutrality.

**REVENUE NEUTRALITY NEGOTIATIONS &  
FISCAL ANALYSIS PROCESS**

(Figure 1)





## VI. PUBLIC HEARING PROCESS

The incorporation proposal will be considered by OC LAFCO at a minimum of one but most likely several public hearings. These hearings will address the various factors required to be considered in Government Code Section 56720, the Comprehensive Fiscal Analysis, the OC LAFCO staff report, the Controller's review (if appropriate), and any other relevant information.

If the incorporation proposal is approved, the Commission shall order the incorporation subject to the confirmation of the voters within the affected territory. A protest proceeding shall not be conducted. If the incorporation proposal is disapproved, no new proposal which is the same or substantially the same may be filed for one year. Although, the Commission may waive this waiting period.

## VII. REQUEST FOR RECONSIDERATION

Within thirty (30) days following the adoption of the OC LAFCO resolution either approving or disapproving the proposal, any interested party can file a written request with the Commission to reconsider its action. Such a request requires the payment of a fee as determined by the OC LAFCO Schedule of Filing and Processing Fees in effect at that time. Upon receipt of a timely request, OC LAFCO will hold a legally noticed (at least 21 days prior to the hearing) public hearing on the reconsideration request. At the reconsideration hearing, OC LAFCO may approve, deny, or continue the reconsideration request.

**Originally Adopted:** 1990 (*Incorporation Processing*)  
1998 (*Revenue Neutrality*)  
**Last Reviewed:** 3/13/2024  
**Last Revised:** 3/13/2024

## Policy and Procedures for the Review and/or Processing of Out-Of-Area Service Agreements by the Executive Officer

### I. PURPOSE

To establish the Commission's policy and procedural guidelines for 1) consulting with public agencies to determine whether their out-of-area service agreements are subject to OC LAFCO review, and 2) reviewing, processing, and approving out-of-area service agreements in accordance with the provisions of Government Code §56133.

### II. POLICY STATEMENT

It is the policy of this Commission to delegate to the Executive Officer the authority to:

1) consult with public agencies to determine whether their out-of-area service agreements are subject to OC LAFCO review and 2) review, process, and approve out-of-area service agreements not exempt under the provisions of Government Code §56133 to ensure that such agreements do not create growth opportunities without appropriate oversight. It is also the policy of this Commission to require that any such agreements not previously considered by this Commission be considered in connection with future applications for related changes of organization and not to unilaterally seek out and review out-of-area service agreements for compliance with G.C. §56133.

### III. PROCEDURAL GUIDELINES

**A.** The Executive Officer, within 30 days of receipt of a request for an OC LAFCO determination as to whether a city or district agreement to provide new or extended services outside its jurisdictional boundary is exempt from OC LAFCO review, shall:

1. Determine whether the agreement is exempt from OC LAFCO approval. The following agreements shall be exempt from OC LAFCO approval:

a. Agreements solely involving two or more public agencies where the public service to be provided by "Agency A" is an alternative to, or substitute for, a public service already being provided by an existing public service provider ("Agency B") and where the level of service to be provided by "Agency A" is consistent with the level of service contemplated by the existing service provider ("Agency B"). For purposes of this subsection, "already being provided" means the services are within the agency's ("Agency B") service area. "Contemplated" means: 1) the service level is anticipated in a master plan or some other long-range planning document of "Agency B", and 2) sufficient infrastructure and capacity exists by "Agency A" to provide the service.

b. Agreements for the transfer of non-potable or non-treated water.

c. Agreements solely involving the provision of surplus water to agricultural lands for

projects that serve conservation purposes or that directly support agricultural industries, provided however, that agreements for the extension of surplus water service to a project that will support or induce development shall not be exempt from the provisions of this policy.

- d. Agreements for an extended service that a city or district was providing on January 1, 1994.
  - e. Agreements involving local publicly owned electric utilities as defined by Public Utilities Code §9604, which do not involve the acquisition, construction, or installation of electric distribution facilities by a local publicly owned electric utility outside of its jurisdictional boundaries.
- B. For agreements determined not to be exempt from this policy, the Executive Officer, within 30 days of a request for OC LAFCO approval, shall determine whether the request is complete and acceptable for filing or whether the request is incomplete. If the request is deemed incomplete, the Executive Officer shall immediately notify the applicant of that determination, specifying those parts of the request that are incomplete and an explanation of the manner in which the deficiencies may be made complete.
- C. Not more than 90 days from determining pursuant to a complete request that an out-of-area service agreement is subject to OC LAFCO review, the Executive Officer shall approve, disapprove, or approve with conditions the agreement for new or extended services, provided, however, that the Executive Officer shall approve or approve with conditions any such agreement only under the following conditions:
1. The new or extended service to be provided under the agreement by the applicant city or district outside of its jurisdictional boundaries and within its sphere of influence is in anticipation of a later change of organization.
  2. The new or extended service to be provided under the agreement by the applicant city or district outside of its jurisdictional boundaries and outside its sphere of influence is in response to an existing or impending threat to the public health or safety of the residents of the affected territory and both of the following requirements are met:
    - a. The applicant city or district has provided the Executive Officer with documentation of a threat to the health and safety of the public or the affected residents.
    - b. The Executive Officer has notified any alternate service provider, including any water corporation as defined in Public Utilities Code §241 or sewer system corporation as defined in Public Utilities Code §230.6 that has filed a map and a statement of its service capabilities with the Commission.
- D. If the Executive Officer disapproves the agreement or approves the agreement with conditions, the applicant may, within 30 days of the decision, request a reconsideration. This request must state the reasons for the reconsideration.

**Originally Adopted:** 9/12/2001  
**Last Reviewed:** 3/8/2023  
**Last Revised:** Not Applicable

## Policy and Procedural Guidelines for Addressing Unincorporated Small Islands

### I. BACKGROUND

Addressing service-related issues in unincorporated islands through annexation has been an ongoing commitment of OC LAFCO. In 2000, the Commission established an Unincorporated Islands Program with the County of Orange and the League of Cities. The Program's goal was to annex 50 small, unincorporated islands within a three-year period.

In 2010, the Commission formed an Islands Task Force (ITF) consisting of city, County and OC LAFCO representatives to re-evaluate the Unincorporated Islands Program. While the Islands Program was successful in annexing 37 small islands, annexation of the remaining islands was slow due to politics, finances, resident opposition, and/or infrastructure issues. The goal of the ITF was to develop ways to address municipal service deficiencies within unincorporated islands and to facilitate annexation.

The key conclusions of the ITF included:

- All Orange County residents, whether residing in cities or unincorporated areas, should enjoy a similar level of municipal services.
- Over time, equity in municipal services can be achieved through a coordinated effort of OC LAFCO, cities and the County to align capital improvements and municipal services.
- Annexation remains an important tool to achieve equity in municipal services between cities and unincorporated areas, but other tools can also be used such as municipal service agreements.

### II. PURPOSE

To establish Commission guidelines for transitioning unincorporated islands to “whole and healthy” communities from a municipal services perspective.

### III. DEFINITIONS

**Community:** a city and the unincorporated area within that city's sphere of influence.

**Whole and Healthy Community:** a community in which all residents, both incorporated and unincorporated, have similar levels of municipal services.

#### **IV. UNINCORPORATED SMALL ISLANDS POLICY**

Recognizing that there are disparities in municipal services and their associated costs between cities and unincorporated islands, OC LAFCO is committed to helping make unincorporated islands whole and healthy from a municipal services perspective. To achieve this, OC LAFCO supports an alignment of municipal services and capital improvements among the County, cities and the unincorporated islands within the cities' spheres of influence.

#### **V. UNINCORPORATED SMALL ISLANDS GUIDING PRINCIPLES, BEST PRACTICES, AND MUNICIPAL SERVICES ALIGNMENT PROCESS**

##### **Guiding Principles:**

- A. All communities, both incorporated and unincorporated, need to be whole and healthy in terms of municipal services.
- B. It is the role of government to provide municipal services that make communities whole and healthy.
- C. In most cases, there are differences in the quality, cost and level of municipal services received by city residents and residents of unincorporated islands.
- D. The goal for OC LAFCO, the County and Orange County cities is to align municipal services, capital improvements, and their associated costs between cities and the unincorporated islands.

##### **Best Practices:**

- A. An inventory of County Costs associated with unincorporated islands should be completed to provide standardized, objective data that all affected parties can rely on for decision-making.
- B. Specific Plans, Municipal Service Agreements, Affordable Housing Alignment Agreements (including development of mutually agreed upon parking and traffic standards), and Pre-Annexation Agreements, if feasible, should be developed to address land use, service and fiscal issues.
- C. Pilot projects should be used to provide a "safe" environment for participants and an opportunity to test and refine the alignment process.

- D. Annexation remains an important tool for the Commission to realign municipal services between cities and unincorporated islands.
- The Commission may approve small island annexations and order the annexation of territory without protest or an election, if it determines that the proposal meets the requirements of Government Code §56375.3.
  - The proposed island annexation must be surrounded, or substantially surrounded, by the annexing city.
  - “Substantially surrounded” means that: 1) more than 50 percent of the island’s boundary is contiguous to the annexing city, or 2) more than 50 percent of the island’s boundary is contiguous to the annexing city and the Pacific Ocean.
  - The Commission has the authority to continue consideration of an annexation, including small islands, for 30 days.
  - The Commission may offer financial incentives (e.g., reduced fees) for cities annexing small islands.

**Alignment Practices:**

- A. The County Supervisor should affirm that he/she wants their island communities (in his/her respective districts) to be aligned from a municipal service and cost perspective and provide OC LAFCO with a list of prioritized islands.
- B. OC LAFCO notifies affected cities, explains the process, and addresses any city concerns. If agreeable, the City Manager recommends to the City Council that informal alignment discussions begin.
- C. If the City Council is agreeable, the City Manager, County CEO and OC LAFCO design a plan to align municipal services and costs. Plans are designed on a case- by-case basis and may include any, all, or a combination of alignment practices.
- D. The County Supervisor initiates the following:
- CEO’s Office prepares cost inventory for priority islands.
  - Specific Plans, Municipal Service Agreements, Affordable Housing Alignment Agreements, and Pre-Annexation Agreements are initiated, if feasible, for priority islands.
- E. OC LAFCO convenes meeting with County and City to review/discuss cost inventory to serve island and island infrastructure inventory.
- F. The City Council and County agree on plan to align municipal services and costs.
- G. Alignment plan is implemented and completed.

**Original Adoption Date: 11/19/2001**

**Date of Last Review: 3/8/2023**

**Date of Last Revision: 10/10/2012**

## Guidelines for Evaluating a Plan for Providing Services

### I. POLICY PURPOSE

To establish guidelines to assist in the objective review of a Plan for Services in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code §56000 et seq.; the “Act”).

### II. BACKGROUND

Government Code §56653 of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 states, “If a proposal for a change of organization or reorganization is submitted pursuant to this part, the applicant shall submit a plan for providing services within the affected territory.”

In addition to complying with the Act, this policy is intended to consider existing circumstances unique to Orange County and is primarily directed to improving efficiency and affordability of infrastructure and the delivery of municipal services. These guidelines are designed to provide criteria for evaluating a plan for services. As such, these guidelines are not intended to preclude any Commission action which may conflict with these standards if special circumstances surrounding a specific proposal warrant such action.

### III. DEFINITIONS

- A. **“Plan for Providing Services”** is a detailed description that identifies the municipal services that will be provided by agencies within the affected territory. (Government Code §56653)
- B. **“Change of Organization or Reorganization”** is defined by Government Code §56021 to mean any of the following:
- a) A city incorporation.
  - b) A district formation.
  - c) An annexation to a city.
  - d) An annexation to a district.
  - e) A detachment from a city.
  - f) A detachment from a district.
  - g) A disincorporation of a city.
  - h) A district dissolution.
  - i) A consolidation of cities.
  - j) A consolidation of special districts.
  - k) A merger of a city and a district.
  - l) Establishment of a subsidiary district.
  - m) The exercise of new or different function or classes of services, or divestiture of



the power to provide particular functions or classes of services, within all or part of the jurisdictional boundaries of a special district as provided in Article 1.5 (commencing with Section 56824.10).

#### **IV. PLAN FOR PROVIDING SERVICES**

For proposals for changes of organization or reorganization, applicants shall prepare and submit a plan for providing services within the affected territory. The following guidelines have been adopted by OC LAFCO to assist in the evaluation of a plan for services and to facilitate consistency with OC LAFCO's stated purposes and objectives. Except as otherwise may be required by law, OC LAFCO may determine, on a case-by-case basis, which guidelines shall apply to a proposed plan for services.

- A. In accordance with Government Code §56653 (b), the plan for providing services shall include all of the following information and any additional information required by the Commission or the Executive Officer:
  - 1. An enumeration and description of the services currently provided or to be extended to the affected territory.
  - 2. The level and range of those services.
  - 3. An indication of when those services can feasibly be extended to the affected territory if new services are proposed.
  - 4. An indication of any improvement or upgrading of structures, roads, sewer or water facilities, or other conditions the local agency would impose or require within the affected territory if the change of organization or reorganization is completed.
  - 5. Information with respect to how those services will be financed.
- B. The plan for providing services must be signed and dated by an official representative the applicant. In the case of a plan for providing services submitted by petition, the applicant is encouraged to prepare the document in consultation with the subject agency.
- C. In the case of a proposed annexation, the plan for providing services should demonstrate that the range and level of services currently available within the study area will be maintained or exceeded by the annexing agency.
- D. In the case of a proposed annexation, the plan for providing services should demonstrate that the cost of services to existing residents will not increase as a result of the annexation, unless a corresponding increase in the level of service also occurs.
- E. The plan for providing services should demonstrate that proposed services will not result in any unnecessary duplication of services.

- F. In accordance with Government Code §56121, the plan for providing services shall include adequate protection for the rights of existing bondholders and other creditors.
- G. The plan for providing services should demonstrate that each service provider represents the most efficient and cost-effective source of service delivery.
- H. In the case of a proposed reorganization consisting of annexations to multiple agencies, the plan for providing services shall address each of the items specified for each annexing agency.

The guidelines in this document do not apply to proposals filed by a city to annex a small unincorporated island. The policy and guidelines for small unincorporated island annexations can be found in the Commission's *"Policy and Procedural Guidelines for Addressing Unincorporated Small Islands."*

**Originally Adopted: 1989**  
**Last Reviewed: 3/8/2023**  
**Last Revised: 11/14/2018**

# Guidelines for Preparing Municipal Service Reviews

## I. PURPOSE

To establish guidelines to assist in the preparation of Municipal Service Reviews in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Section 56000 et seq.).

## II. BACKGROUND

Government Code Section 56430 of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Act) states that to prepare and update spheres of influence (SOIs), the Commission shall conduct a service review of the municipal services provided in the county or other appropriate area designated by the Commission. Service reviews are conducted before, or in conjunction with, but no later than the time OC LAFCO establishes or updates SOIs. The Commission shall include in the area designated for service review the county, the region, the subregion, or any other geographic area as is appropriate for an analysis of the service or services to be reviewed and shall prepare a written statement of its determinations.

In addition to complying with the Act, this policy is intended to consider existing circumstances unique to Orange County and is primarily directed to improving efficiency and affordability of infrastructure and the delivery of municipal services. These guidelines are designed to provide a criterion for preparing Municipal Service Reviews (MSRs). As such, these guidelines are not intended to preclude any Commission action that may conflict with these guidelines if special circumstances warrant such action.

## III. DEFINITIONS

**A. “Municipal Service Review”** is a review of the municipal services provided in the county or other appropriate area designated by the commission. (Government Code §56430).

**B. “Stakeholder”** is a public or other agency providing municipal services within Orange County or community member residing in Orange County receiving municipal services, which may be affected by the OC LAFCO programs, projects, or actions.

## IV. MUNICIPAL SERVICE REVIEWS

OC LAFCO’s Municipal Service Reviews Program is a unique and innovative strategy and programmatic approach to preparing MSRs. Therefore, MSRs should be prepared in accordance with the following MSR guiding principles adopted by the Commission. MSRs shall be:

- Studies that review and address issues and opportunities involving future growth, municipal service delivery, and infrastructure needs and opportunities within Orange County over the next 10 to 20 years.

- Educational and valuable to stakeholders and the public, as the ultimate end-users of the studies by raising awareness about future opportunities to provide municipal services efficiently, equitably, and reliably.
  - Assistance to the Commission is in determining the future boundaries and service areas for cities and special districts.
  - The product of an open and inclusive process.
- A.** OC LAFCO shall comprehensively review the municipal services provided in the county (or other appropriate area designated by OC LAFCO) by the agencies and/or private entities that provide the identified service or services within the designated area. (Government Code §56430)
- B.** OC LAFCO may streamline service review processes by:
- 1)** Minimizing the number of required service reviews by clustering services or agencies as feasible and appropriate.
  - 2)** Integrating SOI proposal processing and related CEQA processes with service reviews where appropriate.
  - 3)** Placing high priority on reviews of services affected by pending or anticipated proposals where feasible and fair.
  - 4)** Using existing information resources and technical support from the county, cities and special districts when available and adequate.
  - 5)** Using other innovative strategies to reduce service review processing costs and timelines.

Further, the Commission may reaffirm previously approved Municipal Service Reviews and Spheres of Influence when deemed appropriate.

- C.** OC LAFCO shall encourage collaboration, cooperation and information sharing among service review stakeholders that may include participation in designing the service review, negotiating funding strategies, developing information needs assessment and collection strategies, identifying applicable industry standards, selecting consultants if appropriate, and reviewing draft MSR reports. OC LAFCO may also encourage private entities that provide services to participate in service review processes. (Government Code §56430)
- D.** OC LAFCO shall independently review and verify service review information compiled by other agencies. OC LAFCO shall endeavor to reach out to agencies to validate the information about their agency. Appropriate local, state, federal and industry standards, identified during the scoping process, will be used to support analysis of technical data and conditions. OC LAFCO shall endeavor, primarily through direct communication with

stakeholder agencies, to ensure that financial comparisons between agencies are accurate, fair, equitable, and based on similar data.

- E. In conducting a service review, OC LAFCO may assess various alternatives for improving efficiency and affordability of infrastructure and service delivery within the contiguous sphere of influence, including, but not limited to, the consolidation of agencies. (Government Code §56430(b))

In accordance with Government Code §56430, for each service review, OC LAFCO shall adopt a written statement of its determinations with respect to each of the following:

- 1) Growth and population projections for the affected area.
  - 2) The location and characteristics of any disadvantaged unincorporated communities within or contiguous to the sphere of influence.
  - 3) Present and planned capacity of public facilities, adequacy of public services and infrastructure needs or deficiencies including needs or deficiencies related to sewers, municipal and industrial water, and structural fire protection in any disadvantaged, unincorporated communities within or contiguous to the sphere of influence.
  - 4) Financial ability of agencies to provide services.
  - 5) Status of, and opportunities for, shared facilities.
  - 6) Accountability for community service needs, including governmental structure and operational efficiencies.
  - 7) Any other matter related to effective or efficient service delivery, as required by commission policy.
- F. OC LAFCO may consider SOI actions that are based on a completed MSR concurrently with the adoption of written MSR determinations and recommendations or doing a subsequent action by the Commission.

**Originally Adopted: 1989**  
**Last Reviewed: 3/8/2023**  
**Last Revised: 11/14/2018**

## Policy to Implement Disclosure of Political Expenditures

### I. POLICY

It shall be the policy of this Local Agency Formation Commission to require all expenditures for political purposes related to a proposal for a change of organization or reorganization and contributions in support of or in opposition to any proposal at the Local Agency Formation Commission of Orange County (OC LAFCO) be reported in compliance with Government Code Sections 56100.1, 56700.1 and 57009.

This policy is intended to implement Government Code Sections 56100.1, 56700.1 and 57009 and shall be of no further force and effect upon the effective date of legislation repealing or amending those sections or otherwise terminating the responsibility of this Commission to adopt and implement this policy.

These disclosure and reporting requirements herein are in addition to any other requirements that may be otherwise applicable under provisions of the Political Reform Act or by local ordinance.

### II. LEGAL AUTHORITY

This policy and its implementing procedures are adopted pursuant to Government Code §56100.1, which permits OC LAFCO to require, through the adoption of written policies and procedures, the disclosure of contributions, expenditures, and independent expenditures to OC LAFCO's Executive Officer.

### III. DEFINITIONS

As used in this policy and procedure, the following terms are defined as follows:

- a. "Committee" as used herein shall have the same definition as provided in Government Code §82015.
- b. "Contribution" as used herein shall have the same definition as provided in Government Code §82015, as amended.
- c. "Expenditure" as used herein shall have the same definition as provided in Government Code §82025, as amended.
- d. "Independent expenditure" as used herein shall have the same definition as provided in Government Code §82031, as amended, except that the term

“measure” as used in Government Code §82031 shall be replaced with the term “proposal for organization or reorganization.”

- e. “Political Purposes” as used herein shall mean for the purpose of influencing or attempting to influence the actions of voters or the OC LAFCO Commission for or against the qualification, adoption, or passage of an OC LAFCO proposal.

#### **IV. DISCLOSURE REQUIREMENTS AND PROCEDURES**

##### **1. Proposals for Organization or Reorganization**

- a. Any person or combination of person who directly or indirectly makes an expenditure or independent expenditure for political purposes of \$1,000 or more in support of, or in opposition to, a change of organization or reorganization submitted to the Commission to which Government Code §56700.1 applies, shall comply with the reporting and disclosure requirements of the Political Reform Act (Government Code §81000 et seq.), to the same extent and subject to the same requirements as for local initiative measures.
- b. For purposes of determining the deadlines by which such reports and disclosures must be filed, the term “election” as used in the Political Reform Act for determining such deadlines shall mean the date of the originally scheduled hearing on a proposal for organization or reorganization. If no hearing date has been scheduled, the Executive Officer shall establish a date to serve as the “election” date for this purpose.

##### **2. Conducting Authority Proceedings**

- a. Any person or combination of persons who directly or indirectly makes an expenditure for political purposes of \$1,000 or more related to conducting authority proceedings for a change of organization or reorganization or in support of or in opposition to those conducting authority proceedings, shall comply with the reporting and disclosure requirements of the Political Reform Act (Government Code §81000 et seq.), to the same extent and subject to the same requirements as for local initiative measures.
- b. For purposes of determining the deadlines by which such reports and disclosures must be filed, the term “election” as used in the Political Reform Act for determining such deadlines shall mean the date of the originally scheduled conducting authority hearing on the proposal for organization or reorganization. If no hearing date has been scheduled, the Executive Officer shall establish a date to serve as the “election” date for this purpose.

### 3. Committees

A committee primarily formed to support or oppose an OC LAFCO proposal shall file monthly campaign statements from the time circulation of a petition begins until a measure is placed on the ballot or, if a measure is not placed on the ballot, until the committee is terminated pursuant to Government Code §84214. The Committee shall file an original and one copy of each statement on the 15<sup>th</sup> day of each calendar month, covering the prior calendar month, with the clerk of the county in which the measure is voted on. If the petition results in a measure that is placed on the ballot, the committee thereafter shall file campaign statements required by the Political Reform Act.

### 4. Where to File

In addition to the foregoing requirement, all reports and disclosures required hereunder shall be filed with the OC LAFCO Executive Officer.

**Originally Adopted: 4/9/2008**

**Last Reviewed: 3/8/2023**

**Last Revised: 3/11/2009**



## Guidelines for Establishing and Updating Spheres of Influence

### I. POLICY

To identify the guidelines for establishing and updating local agency spheres of influence in accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code Section 56000 et seq.; the “Act”).

Nothing in these guidelines shall be interpreted to affect vested entitlements or to impair contracts. These guidelines reflect a recognition that each sphere of influence is unique and requires site-specific planning and flexibility.

### II. BACKGROUND

In 1972, the State Legislature directed LAFCOs to adopt spheres of influence (SOIs) to identify the probable physical boundaries and service areas for each local government agency. Specifically, the Government Code §56425(a) states:

*In order to carry out its purposes and responsibilities for planning and shaping the logical and orderly development and coordination of local governmental agencies subject to the jurisdiction of the commission to advantageously provide for the present and future needs of the county and its communities, the commission shall develop and determine the sphere of influence of each city and special district, as defined by Government Code Section 56036, within the county and enact policies designed to promote the logical and order development of areas within the sphere.*

State law further requires the spheres of influence to be reviewed every five years and updated as conditions warrant. (Government Code §56425(g))

Pursuant to this statutory mandate, OC LAFCO has established a sphere of influence for each Orange County, city, and special district to encourage the efficient, effective, and equitable delivery of local and regional services to existing and future residents. Further, OC LAFCO’s process for establishing spheres of influence includes a collaborative approach involving affected stakeholders.

### III. DEFINITIONS

Except as otherwise provided specifically below, the terms and phrases used herein shall have the meanings they have in the Act.

- A. **“Sphere of Influence”** means a plan for the probable physical boundaries and service area of a local agency as determined by the Commission (Government Code §56076).
- B. **“New Communities”** means areas designated by OC LAFCO as potential new cities as demonstrated through a municipal service review or other special study.
- C. **“Special Study Areas”** identify territory that includes undeveloped areas or areas with limited development not requiring a high level of municipal services.
- D. **“Change of Organization or Reorganization”** is defined by Government Code Section 56021 to mean any of the following:
  - a. A city incorporation.
  - b. A district formation.
  - c. An annexation to a city.
  - d. An annexation to a district.
  - e. A detachment from a city.
  - f. A detachment from a district.
  - g. A disincorporation of a city.
  - h. A district dissolution.
  - i. A consolidation of cities.
  - j. A consolidation of special districts.
  - k. A merger of a city and a district.
  - l. Establishment of a subsidiary district.
  - m. The exercise of new or different function or classes of services, or divestiture of the power to provide particular functions or classes of services, within all or part of the jurisdictional boundaries of a special district.

### IV. PURPOSE OF SPHERES

#### A. Planning Tool for LAFCO and Local Agencies

A sphere of influence is a long-range planning tool that guides future OC LAFCO decisions on changes of organization or reorganization. Spheres of influence shall be used to assist each public agency in planning the logical extension of its facilities and services through the designation of potential areas of annexation. Generally, OC LAFCO requires territory to be included within a sphere of influence if that area will need urban services within the next 10 to 15 years.

## B. Coordinate Logical Extension of Public Services and Agency Boundaries

Adoption and update of spheres of influence should promote cooperative planning efforts among the county, cities, and districts and facilitate the logical and economical extensions of all their facilities and services. As such, spheres of influence should be conducted in conjunction with or after a municipal service review.

## C. Assist Property Owners and Agencies in Planning Comprehensively

Spheres of influence provide information to the property owner as to the area's ultimate service provider. By identifying the future service areas of cities and special districts, OC LAFCO can help facilitate good planning decisions by these agencies for undeveloped, uninhabited, agricultural and permanent open space lands.

## V. TYPES OF SPHERES

There are several types of spheres of influence that the Commission can adopt:

- A sphere of influence may be **coterminous**, or identical, with the city or district boundary.
- A sphere of influence may be **larger or smaller** than the agency's current boundaries.
- A sphere of influence may be **transitional** if OC LAFCO has determined that the service provider should pursue options for restructuring or reorganization or should examine innovative service provision alternatives with adjacent service providers. The transitional sphere designation will be based on a Municipal Service Review (MRS), other studies and/or an OC LAFCO staff analysis.
  - OC LAFCO encourages agencies with a transitional sphere of influence designation to discuss alternatives to existing service provision or reorganization options and return to OC LAFCO with the results of their discussions and/or studies.
  - If, based on those discussions and/or studies, any change of organization or reorganization is determined to be warranted, the subject agency, and affected agency, or OC LAFCO, if appropriate, should consider initiation of such proceedings.

Proposed annexations to an agency with a transitional sphere are discouraged by the Commission.

A transitional sphere designated should be reconsidered if the Commission determines that the agency has adequately addressed the deficiencies or issues that led to the designation. Removal of the transitional sphere designation may occur:

- a. During the MSR review of the agency's sphere; or
- b. At the request of the agency's legislative body; or
- c. At any time, the Commission deems it to be warranted.

## **VI. SPHERE STATEMENT OF DETERMINATIONS**

As part of a SOI review, and as outlined in state law, OC LAFCO is required to consider and prepare a written statement of its determination with respect to each of the following (Government Code §56425(e)):

- A. The present and planned land uses in the area, including agricultural and open space lands.
- B. The present and probable need for public facilities and services in the area.
- C. The present capacity of public facilities and adequacy of public services that the agency provides or is authorized to provide, including the funding of capital debt service, and operations.
- D. The existence of any social or economic communities of interest in the area if the Commission determines that they are relevant to the agency.
- E. For an update of a SOI of a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, the present and probable need for those public facilities and services of any disadvantaged unincorporated communities within the existing sphere of influence.

None of the factors by themselves shall be deemed to be a determining factor in the establishment or revision of a SOI for a city or district but shall be reviewed as part of the total project.

## **VII. POLICY GUIDELINES**

### **A. Municipal Service Reviews**

In accordance with state law, spheres of influence shall be reviewed and/or updated every five years (Government Code §56425). Additionally, state law mandates that spheres be prepared or updated in conjunction with or after completion of a related Municipal Service Review (Government Code §56430).

OC LAFCO will combine MSRs and sphere reviews wherever practical and efficient to encourage agency input and an open and inclusive process. The Commission may re-affirm previously adopted spheres and related MSRs if there are no significant changes in existing or anticipated circumstances. (Refer to *Guidelines for Preparing Municipal Service Reviews* for additional details on MSRs.)

B. Encourage Logical Annexations

OC LAFCO recognizes that phased urban development contributes to the orderly growth of urban areas. The following guidelines are designed to encourage logical annexations:

- Territory placed within an agency's sphere indicates that the agency is the most logical provider of municipal services.
- Annexation of developing territory that is currently within a city's sphere to that city is given priority over annexation to one or more single purpose special districts. LAFCO discourages the formation of special districts while recognizing that responsibility shall be given to the agency or agencies that can best accommodate and provide necessary services in the most efficient manner feasible. (Government Code §56001).
- The formation of special districts within a city's sphere is discouraged.
- Annexation to an agency with a transitional sphere is discouraged.

C. Overlapping Spheres

To promote efficient and coordinated planning among the County's various agencies, city's spheres shall not overlap, and districts that provide the same type of service shall not have overlapping spheres.

D. Sphere Designations and Annexation

Before territory can be annexed to a city or district, it must be within the agency's sphere (Government Code §56375.5). However, a sphere is only one of several factors OC LAFCO considers when evaluating changes of organization.

E. Consistency with General Plans and Pre-Zoning

OC LAFCO must review the existing and future land uses of territory prior to including it within a city's sphere (Government Code §56425) in order to determine the logical extension of municipal services and the probable future boundary of a city or district. OC LAFCO strongly encourages each city to include all territory within its sphere of influence within the city's General Plan and each special district to address all territory within its sphere of influence in its infrastructure, facilities and operational planning documents.

Further, as a condition of annexation, a city is required to pre-zone the territory to be annexed. However, the Commission shall not specify how, or in what manner, the territory shall be pre-zoned. (Government Code §56375 (a)(7))

F. Encourage Annexation of Unincorporated Islands

The Commission acknowledges that unincorporated islands are generally costly for County government to serve and often have service impacts on the surrounding city or district. Cities and special districts (where applicable) shall be encouraged to annex unincorporated islands within their sphere of influence. Further, OC LAFCO discourages the formation of special districts within unincorporated islands for services that are readily available from the surrounding city or an existing special district. (Refer to *Policy and Procedural Guidelines for the Annexation of Small Islands* and *Community Identity Policy* for additional information on annexing unincorporated islands.)

G. Encourage Annexation of Developed Unincorporated Communities

OC LAFCO shall encourage fully developed unincorporated communities, when feasible, to pursue government structure options which will ultimately result in annexation to a city.

H. Designation of Special Study Areas

Undeveloped territory identified by the Commission as a “special study area” will not be included within a city sphere of influence. Should urban level development occur (e.g., issuance of development permits such a tentative tract maps), the area shall be removed from a “special study area” designation and placed within an appropriate sphere upon completion of an MSR or other special study. However, fully developed unincorporated communities that are currently within a City’s sphere of influence may be designated withing “special study areas” for purposes of analyzing short and long -term governance alternatives.

I. Designation of New Communities

The Commission may designate developed unincorporated communities with the potential for “self-governance” (as demonstrated by an MSR or other special study) as “new communities.” New communities should have the fiscal potential to be self-sustaining and capable of providing a level of service equal to or above those provided by the County. To demonstrate fiscal feasibility, a detailed fiscal analysis is required.

Developed communities already located within a city sphere of influence shall not be designated as “new communities.”

To foster long-range planning of local service provision in developing areas, the Commission may designate a sphere of influence for a “new community.” A new community sphere of influence should be used to designate those unincorporated areas which can be more efficiently and economically served in the future by a designated new community.

**Originally Adopted: 2/10/1999**

**Last Reviewed: 3/8/2023**

**Last Revised: 11/14/2018**

## Policy for Holding Public Meetings within Affected Communities

### I. POLICY

To establish guidelines by which the Commission may consider holding a public workshop or public hearing in an affected community for a proposal.

### II. BACKGROUND

The Commission reviews and considers applications that generate substantial public interest from time to time. These applications usually meet the criteria of the Commission's conflicting proposal policy and/or have significant regional implications and have periodically prompted the Commission to hold meetings in the affected community. Meetings in the community foster public input and make the OC LAFCO process readily available to citizens. There are, however, administrative constraints involved, including the cost of holding "extra" meetings, the difficulty in arranging facilities, and the difficulty in coordinating the schedules of eleven Commission members.

### III. POLICY STATEMENT

To encourage public participation in the OC LAFCO process while taking into consideration the administrative constraints of meeting in an affected community, it is the policy of this Commission that:

- A. The Commission shall normally hold public hearings at its regular hearing room in Santa Ana.
- B. If a proposal meets the criteria of the conflicting proposal policy, the Commission may consider holding a public workshop prior to the public hearing in the affected community. A request to hold a public workshop in the affected community shall be submitted by the applicant or an affected agency to the Executive Officer for approval prior to being forwarded to the Commission.
- C. The Commission, at the request of the Executive Officer, may consider: 1) holding a public workshop prior to the public hearing or 2) a public hearing in an affected community for any proposal that is determined to have issues that affect a significant number of Orange County citizens, are regional in nature or have significant financial, social-political, or land use considerations to one or more cities or defined communities.



- D. Any member of the Commission at any time may request the Commission to hold a public workshop prior to the public hearing or a public hearing in an affected community for any proposal.

**Originally Adopted: 2/10/1999**  
**Last Reviewed: 3/8/2023**  
**Last Revised: N/A**

## **Policy for the Indemnification of OC LAFCO by Applicants**

### **I. PURPOSE**

To establish a policy requiring that all applicants to OC LAFCO, as real parties in interest, defend, indemnify, and hold harmless the Commission, its agents, officers, attorneys, and employees from any claim, action or proceeding against the Commission brought to attack, set aside, void, or annul the discretionary approvals of proposals by the Commission.

### **II. BACKGROUND**

Applicants to the Commission for discretionary approvals of proposals for changes of organization are typically the real parties in interest and therefore have financial interest in the Commission's decisions on their applications. Applicants to OC LAFCO who are not the real parties in interest also have interest in the outcome of their applications. Therefore, OC LAFCO believes that it is fair and equitable for applicants and real parties in interest to defend, indemnify, and hold harmless the Commission, its agents, officers, attorneys, and employees from any claim, action or proceeding against the Commission brought to attack, set aside, void, or annul the discretionary approvals of their applications by the Commission. OC LAFCO also believes that the indemnification of OC LAFCO furthers good government practices and public policy by providing applicants and real parties in interest incentive to assist the Commission in complying with all laws, including those intended to ensure public rights.

### **III. POLICY STATEMENT**

To further the good government practices and policies of the Commission and protect the integrity of the Commission's ability to make good government decisions, it is the policy of this Commission that:

- A. As a condition for processing a change or organization or reorganization, a sphere amendment or a sphere update, or any other action or determination requested from the Commission, any application submitted to the Commission, the applicant shall be required to submit a signed agreement to defend, indemnify, and hold harmless the Commission, its agents, officers, attorneys, and employees from any claim, action, or proceeding against the Commission brought to attack, set aside, void, annul the discretionary approval of their application by the Commission in the form prescribed in "Exhibit A."
- B. In the event that a suit is brought to challenge the discretionary approval of a

proposal by the Commission, the Commission shall promptly notify the applicant and real party(ies) in interest of the existence of the legal challenge.

- C. The Executive Officer shall not issue a Certificate of Filing for an application if an indemnification agreement in the form prescribed in "Exhibit A" has not been executed and submitted to the Executive Officer by the applicant.

**Originally Adopted: 2/10/1999**

**Last Reviewed: 2/19/2025**

**Last Revised: 2/19/2025**

# “EXHIBIT A”

## INDEMNIFICATION AGREEMENT

As part of this application, applicant and real party in interest, if different, agree to defend, indemnify, and hold harmless the Orange County Local Agency Formation Commission (OC LAFCO), its agents, officers, and employees from any claim, action, or proceeding brought against any of them, the purpose of which to attack, set aside, void, or annul the approval of this application or adoption of the environmental document which accompanies it. This indemnification obligation shall include, but not be limited to, damages, costs, expenses, attorney fees, or expert witness fees that may be asserted by any person or entity, including the applicant, arising out of or in connection with the approval of this application, whether or not there is concurrent passive or active negligence on the part of the Orange County Local Agency Formation Commission (OC LAFCO), its agents, officers, or employees.

An applicant who is a party to this agreement is not responsible to defend, indemnify, or hold harmless if OC LAFCO fails to notify the applicant or cooperate fully in the defense, and is not required to pay or perform any settlement relating to the agreement, unless the applicant approves the settlement.

Nothing in this agreement are to be construed to prohibit OC LAFCO from participating in the defense of any claim, action, or proceeding to attack, set aside, void, or annul an approval by the Commission if OC LAFCO bears its own attorney’s fees and costs of the claim, action, or proceeding and the commission defends the claim, action, or proceeding in good faith.

Executed at \_\_\_\_\_, California on the day of \_\_\_\_\_, \_\_\_\_\_.

### APPLICANT

By: \_\_\_\_\_

Title: \_\_\_\_\_

Mailing Address:

\_\_\_\_\_  
\_\_\_\_\_

### REAL PARTY IN INTEREST

(If different from Applicant)

By: \_\_\_\_\_

Title: \_\_\_\_\_

Mailing Address:

\_\_\_\_\_  
\_\_\_\_\_

## Policy and Procedures for Incomplete Applications

### I. PURPOSE

The purpose of this policy is to enable OC LAFCO to deem applications that have remained incomplete for extended periods of time as abandoned and to remove them from the OC LAFCO proposal summary.

### II. POLICY STATEMENT

Any application for a jurisdictional change filed with OC LAFCO which is deemed incomplete by the Executive Officer pursuant to Government Code §56828 and remains incomplete for a period of six (6) months with no progress being made towards its completion shall be considered inactive by the Executive Officer.

Applicants of a proposal deemed inactive shall be notified by certified mail that the application is considered inactive. The notice shall also provide the status of the application and list the items necessary to make the application complete. If within the six months following the notice that the proposal is inactive and no further progress is made towards completion of the application, the Executive Officer may deem the application abandoned and all proceedings will be terminated.

Unused fees shall be returned to the applicant. If the applicant chooses to reapply at a later date, new fees will be required. The applicant and all affected agencies shall be notified by the Executive Officer that proceedings have been terminated.

Nothing in this policy shall be deemed to limit or supersede the provisions contained in the Cortese-Knox-Hertzberg Reorganization Act of 2000 (Government Code §56000, et seq.) regarding the processing of applications before OC LAFCO.

**Originally Adopted: 1996**

**Last Reviewed: 3/8/2023**

**Last Revised: 2/9/2011**

## Fee Waiver and Refund Policy

### I. PURPOSE

The purpose of this policy is to provide criteria for the Commission to evaluate applicant requests for waivers or refunds of OC LAFCO processing fees.

### II. DEFINITIONS

**OC LAFCO Fee Schedule:** A schedule of fees adopted by OC LAFCO for processing OC LAFCO applications. (For detailed information, see OC LAFCO Schedule of Filing and Processing Fees at [www.oclafco.org](http://www.oclafco.org).)

**Fee Waiver:** A release from the payment of application fees normally charged for processing OC LAFCO applications. With an approved fee waiver, the applicant would not have to provide the deposits for OC LAFCO processing fees as prescribed in the Fee Schedule. However, the applicant will be responsible for any fees charged by other agencies.

**Fee Refund:** A refund of all or a portion of the OC LAFCO project application fees; fee refunds may only occur after project proceedings are complete. Project completion fees paid to other agencies are not subject to refunds.

### III. POLICY

#### A. Fee Waivers

Any request for a fee waiver requires an action by the Commission and is not within the purview of OC LAFCO staff.

An application for the annexation of an entire small island (150 acres or less in size) to an adjacent city shall automatically be granted a fee waiver.

#### B. Fee Refunds

Any request for a fee refund requires an action by the Commission and is not within the purview of OC LAFCO staff.

A full fee refund shall automatically be awarded to a Special District that has successfully completed the annexation of two or more service islands that

constitute all of the remaining islands within the respective district's sphere of influence.

#### **IV. PROCESS**

A written request for a waiver of the fees or of a deposit, specifying the reason for the request, shall be submitted to OC LAFCO prior to submission of an application or prior to the submission of additional deposits. A written request is also required for a refund of fees. Any waiver or refund request will be considered at the next regular meeting of the Commission.

**Originally Adopted: 11/10/2010**

**Last Reviewed: 3/8/2023**

**Last Revised: 1/11/2017**

## Community Identity Policy

### I. PURPOSE

To establish policy and procedural guidelines to assist unincorporated communities to preserve their community identity.

### II. DEFINITIONS

A. **Community Identity** – the historic, cultural, economic, physical, and/or social context that defines a community.

### III. POLICY STATEMENT

The Commission recognizes the importance of preserving community and neighborhood identity as unincorporated areas are annexed or reorganized. Community identity, often developed over the years and sometimes decades, can enrich neighborhoods and serve as a source of pride for residents. The Commission also acknowledges that the proposed annexation of unincorporated communities sometimes results in concerns by residents that their neighborhoods will lose their unique character or sense of place. The Commission fully supports the preservation of community identity, whenever feasible.

### IV. TOOLS FOR PRESERVING COMMUNITY IDENTITY

The following tools have been identified by OC LAFCO as opportunities to assist communities and annexing agencies in preserving their community's identity as part of a change of organization or reorganization. The Commission encourages the use of these tools and can assist communities in their implementation, where feasible:

- A. Formation of a stakeholder/community "transition team" to serve as a liaison between the community and the annexing city and to collaboratively address any service-related issues.
- B. City adoption of existing specific plans or land use plans to preserve existing land uses.
- C. Use of signage to identify unique neighborhoods or communities.



- D. Seeking input from homeowner associations and/or community associations to ensure ongoing community dialogue.
- E. Preservation of current city street names and addresses, if feasible, and if emergency response coordination is not compromised.

**Originally Adopted: 3/14/2012**

**Last Reviewed: 3/8/2023**

**Last Revised: 11/14/2018**

## Policy and Procedural Guidelines for Disincorporations

### I. PURPOSE

To provide a process and guiding principles for the analysis of a municipal disincorporation.

### II. BACKGROUND

The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Act) provides for OC LAFCO review of a proposed municipal disincorporation. The Act also gives OC LAFCO the authority to adopt written procedures and policies. With the dissolution of redevelopment agencies and the continuing economic struggles of local agencies, OC LAFCO has adopted the following guiding principles to help provide certainty for public agencies involved in a proposed disincorporation.

### III. PROCESS

- A. OC LAFCO staff will establish in writing a timeline and process upon receipt of a proposal for a disincorporation as established in the Act.
- B. The Commission will appoint members of a stakeholder working group. The stakeholder working group will consist of applicants, OC LAFCO staff, County staff, residents and others with the specialized knowledge needed to ensure that the process is thorough, transparent and detailed.
- C. All meetings of the stakeholder working group shall follow open meeting laws.
- D. The stakeholder working group may appoint sub-committees to research issues and sub-committee meetings shall be private, unless State law mandates otherwise. However, all work completed by sub-committees shall be presented to the full stakeholder working group and to the Commission in a public meeting.

### IV. GUIDING PRINCIPLES

- A. If possible, the disincorporation will provide for a whole and healthy community in terms of municipal services after disincorporation, consistent with the goals and policies of the Act.

- B. If possible, successor agencies shall be made fiscally whole as a result of disincorporation.
- C. As a general principle, assets and liabilities of the disincorporating agency shall remain with the residents of that area.

**Originally Adopted: 2/8/2012**  
**Last Reviewed: 3/8/2023**  
**Last Revised: N/A**

## Policy and Guidelines for Disadvantaged Unincorporated Communities (DUCS)

### I. BACKGROUND

Effective January 1, 2012, Senate Bill 244 required LAFCOs, special districts, cities, and counties to follow several new guidelines related to Disadvantaged Unincorporated Communities (DUCs). The central focus of SB 244 was to amend the Cortese-Knox-Hertzberg Reorganization Act of 2000 (“The Act”) to ensure that DUCs are not excluded from a change of organization or reorganization, and DUCs are addressed during the processes for sphere of influence reviews, updates and amendments and municipal service reviews.

### II. PURPOSE

To establish policy and procedural guidelines for identifying and addressing DUCs during the Commission’s processing of a change of organization or reorganization, sphere of influence update and amendment, municipal service reviews, and mapping of DUCs in Orange County.

In accordance with Government Code §56375(a), an annexation to a city of any territory greater than 10 acres (or some other limit set by commission policy) that excludes a DUC contiguous to the area proposed for annexation will require filing an application to annex the DUC. The application to annex the DUC will not be required if either of the following apply:

1. A prior application for annexation of the same disadvantaged unincorporated community has been made in the preceding five years.
2. The Commission finds, based upon written evidence, that a majority of the registered voters within the disadvantaged unincorporated community oppose annexation.

### III. DEFINITIONS (in accordance with Government Code Sections referenced below)

- A. **Community** means an inhabited area within a city or county that is comprised of no less than 10 dwellings adjacent or in close proximity to one another. (Government Code §65302.10)
- B. **Contiguous** means adjacent to or within an agency’s sphere of influence or shares a boundary line with a city or special district. (Government Code §56031)

- C. **Disadvantaged Unincorporated Community** means inhabited territory, as defined by Government Code §56046, or as determined by commission policy, that constitutes all or portion of a disadvantaged community in which the median household income is 80 percent or less than the statewide median household income. (Government Code Sections 65302.10, 79505.5, and 56033.5)
- D. **Inhabited Territory** means territory within which there reside 12 or more registered voters. The number of registered voters as determined by the elections officer, shall be established as of the date a certificate of filing is issued by the executive officer. (Government Code §65302.10 and §56046)
- E. **Median Household Income** means income that is 80 percent or less than the statewide annual median household income. (Government Code §65302.10)
- F. **Written Evidence** means a petition signed by the majority of registered voters within the affected territory. (Government Code §65302.10)

#### IV. PROCEDURAL GUIDELINES

- A. The Commission shall identify, map, and inform the County and affected cities and special districts of the DUCs adjacent to or within their respective spheres of influence. (Government Code 56425 and 56430)
- B. Demographical data and maps of the DUCs will be updated, as necessary, every five years in conjunction with sphere updates and reviews and municipal service reviews. Cities and special districts will be provided maps and other demographic data for DUCs located within their respective spheres. The County and CALAFCO will also be provided with maps of DUCs located in Orange County.
- C. DUCs will be identified through use of the following sources: the U.S. Census information, including census tracts, block groups, population estimates, economic composition, and demographic information from the United States Census, American Community Center, and American Fact Finder.
- D. When an application is filed for annexation of unincorporated territory of more than 10 acres and the proposed annexation area is contiguous to a DUC, the Commission shall not consider the application unless the DUC is included in the proposed change of organization or reorganization, except as allowed under Section II above (Government Code 56375(a)).
- E. For any sphere of influence review amendment or update conducted by OC LAFCO for a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, the Commission shall consider and prepare a written statement of determinations regarding the present and probable needs for those public facilities and services for DUCs located within the existing and respective spheres of influence (Government Code 56425).

- F. Any municipal service review conducted by OC LAFCO for a city or special district that provides public facilities or services related to sewers, municipal and industrial water, or structural fire protection, the Commission shall include an analysis and written statement of determinations regarding the present and probable needs for those services and deficiencies for DUCs (Government Code 56430).
- G. DUCs that meet the criteria for unincorporated island annexations pursuant to Government Code 56375.3, shall be processed under the provisions of Government Code 56375.3.

**Originally Adopted: 11/8/2017**  
**Last Reviewed: 3/8/2023**  
**Last Revised: N/A**