

SANTA BARBARA COUNTY LOCAL AGENCY FORMATION COMMISSION

April 4, 2019 (Agenda)

To: Honorable Commissioners
Local Agency Formation Commission

From: William M Dillon
LAFCO Legal Counsel



Re: Agreement for Executive Officer Services for Paul Hood

Recommendation

Approve and authorize the Chair to execute an Agreement between LAFCO and Paul Hood for Executive Officer services from April 4, 2019 through June 30, 2022, for an amount of \$13,282.34 per month with annual CPI increases.

Discussion

Mr. Hood serves as LAFCO Executive Officer pursuant to a contract that is scheduled to expire on June 30, 2019. Mr. Hood previously stated he was agreeable to extend this contract for an additional two years. He is not requesting any increase in benefits or salary. Pursuant to his contract, his salary automatically increases by the Consumer Price Index each July 1st.

The Commission previously considered this matter at its regular hearing in March 2019 and directed the contract be a 3-year extension rather than 2 years. Mr. Hood has agreed to this amendment and the proposed contract that implements the Commission's direction is attached. If approved, the new contract replaces the current contract in its entirety.

LAFCO Executive Officer Contract

AGREEMENT FOR EXECUTIVE OFFICER SERVICES

This AGREEMENT FOR PROVIDING EXECUTIVE OFFICER SERVICES (hereafter "Agreement") is entered into by and between the Santa Barbara Local Agency Formation Commission (hereafter "LAFCO" or "Commission") and Paul Hood, (hereafter "Contractor") and collectively referred to as "the parties."

Whereas, the parties entered into an agreement for executive officer services on May 7, 2013, wherein Contractor agreed to provide professional services to the Commission.

Whereas, the parties agreed to jointly contract with the County in order for the Clerk of the Board of Supervisors to provide clerk services, as well as other functions, for the benefit of the Commission.

Whereas, the parties amended the original agreement to transfer the responsibility of paying costs associated with all clerk and certain other administrative services from the Contractor to the Commission.

Whereas, in 2015 the parties renewed and extended the Agreement to cover the term of July 15, 2015 to June 30, 2017.

Whereas, in 2017 the parties renewed and extended the Agreement to cover the term of July 15, 2017 to June 30, 2019.

Whereas, the parties now wish to renew and extend the Agreement, to be effective when fully executed, for a term that runs to and includes June 30, 2022

NOW, THEREFORE, The parties agree as follows:

1. LAFCO Authorization. LAFCO is a public agency that operates pursuant to the Cortese Knox Hertzberg Local Governmental Reorganization Act of 2000, as amended, (§56000 et seq. of the Government Code). Sections 56375 and 56384 provide that the Commission shall appoint an Executive Officer and may contract for professional and consulting services to carry out and affect the functions of the Commission.
2. Retention of Contractor. LAFCO desires to retain Contractor as detailed below.
3. Executive Officer Services. Contractor shall provide professional services as its Executive Officer. Contractor has the necessary expertise to perform such services, is uniquely qualified and is willing to perform these services for LAFCO.

A. Services Provided.

- i. Contractor shall perform all Executive Officer duties as specified in the Cortese Knox Hertzberg Local Government Reorganization Act of 2000, as amended from time to time, any other applicable statutes, and as authorized by the Commission.

Contractor shall provide necessary executive, secretarial and support services. Contractor may at his own expense hire an assistant to provide professional services to Contractor, which shall be overseen and paid for by Contractor. Contractor shall provide general information to members of the public regarding LAFCO statutes, policies and concepts of orderly governmental boundaries, although direct participation by Contractor in significant local governmental initiatives or activities shall be predicated upon authorization from the Commission.

- ii. Contractor shall assess the administrative operation of LAFCO and advise the Commission on any proposals for organizational changes, including budget and staffing levels, and all policies and procedures.
 - iii. Contractor shall coordinate and work with the Clerk of the Board of Supervisors, who shall provide all clerk services to the Commission, and other agreed upon administrative services. Expense related to such services shall be paid by the Commission pursuant to a separate agreement between the Commission and the County.
- B. Payment for Executive Officer Services. LAFCO shall pay Contractor the amount of \$13,282.34 per month for Executive Officer services pursuant to this agreement, payable upon submission of monthly invoices.
- C. CPI. Payment pursuant to this paragraph paid to Contractor shall be adjusted on July 1 of each year of the contract in accordance with the increase, if any, in the cost of living as reflected in the Consumer Price Index ("CPI") for the Los Angeles/Long Beach area for the prior 12 months. The maximum increase in compensation shall not exceed 3 percent. The level of compensation shall not be reduced if there is a negative CPI. Funding for this contract is included in the LAFCO budget as adopted by the Commission.
- D. Expenses. In addition to payment under Paragraphs 3.A and B., above, LAFCO shall reimburse Contractor for costs incurred in performing services as set forth in Exhibit A. Costs not explicitly set forth in Exhibit A shall not be reimbursed without the prior written consent of LAFCO. Expenses will be reimbursed only if incurred during the contract period.
- E. Contractor is responsible for operating within given appropriations. The process for reimbursement of expenses that exceed given appropriations shall involve review and approval by LAFCO.

4. Independent Contractor. The parties agree Contractor is an Independent Contractor and is not entitled to benefits of LAFCO or Santa Barbara County employee, including, but not limited to vacation pay, holiday pay, overtime pay, health insurance, disability or retirement benefits.
5. Standards of Performance. Contractor represents that he has the skills, expertise, and licenses/permits necessary to perform the services required under this Agreement. Accordingly, Contractor shall perform all such services in the manner and according to the standards observed by a competent practitioner of the same profession in which Contractor is engaged. All products of whatsoever nature, which Contractor delivers to LAFCO pursuant to this Agreement, shall be prepared in a first class and professional manner and shall conform to the standards of quality normally observed by a person practicing in Contractor profession.
6. Insurance Coverage. Contractor shall provide the following insurance coverage.

- A. Throughout the term of this Agreement, Contractor shall at its sole cost and non-reimbursable expense, keep in full force and effect, for all operations performed by or on behalf of Contractor under this Agreement, comprehensive general liability insurance including personal injury, property damage liability and automobile liability insurance. Such insurance shall be in the amount of One Million Dollars (\$1,000,000) combined single limit for injury to or death of one or more persons in an occurrence, and for damage to tangible property (including loss of use) in an occurrence.

The policy shall name LAFCO as an additional insured, contain a cross-liability provision and shall not be reduced or canceled without thirty (30) days prior written notice to LAFCO. The policy shall be primary and non-contributory to the full limits stated in the declarations, and if LAFCO has other valid and collectible insurance for a loss covered by this policy, LAFCO's policy shall be excess only. Contractor's policies shall be taken out with insurance companies qualified to issue insurance in the State of California.

- B. Workers' Compensation/Employers Liability – A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with one million dollar (\$1,000,000) limits covering all persons including volunteers providing services on behalf of Contractor and all risks to such persons under this Agreement.

If Contractor has no employees, Contractor may certify or warrant in writing to LAFCO that Contractor does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the requirement for Workers' Compensation coverage will be waived by County Counsel.

- C. Within ten (10) days after execution of this Agreement, Contractor shall provide to County Counsel and also maintain in the LAFCO office copies or certificates

evidencing the existence of the amounts and forms of coverage required by this Agreement.

7. Support by LAFCO. Contractor shall provide his own office as necessary to provide services under this Agreement. LAFCO agrees to allow Contractor reasonable auxiliary use LAFCO office space and telephone service at the County Administration Building, or other facilities acceptable to the Commission, during the term of this Agreement.
8. Conflicts of Interest. During the term of this Agreement, Contractor shall not perform any work under this contract that is considered detrimental to LAFCO's interests. Contractor shall take such measures as are deemed necessary in the performance of this contract to prevent actual conflicts of interest. Contractor shall not work for any special district or city located within Santa Barbara County or the County of Santa Barbara during the term of this agreement.
9. No assignment. Contractor shall not assign any of his rights nor transfer any of his obligations under this Agreement or have the power to delegate his duties without the prior written consent of LAFCO and any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination.
10. Notices. All notices and other communications required or permitted hereunder to be effective shall be in writing and shall be deemed to have been duly given and received when delivered by hand, or if mailed, five (5) business days after deposit in the mail, with postage prepaid for registered or certified mail. Written notice to each party shall be addressed to:

William Dillon
LAFCO Counsel
c/o Clerk of the Board
105 E. Anapamu St., Room 407
Santa Barbara, CA. 93101

Paul Hood
P.O. Box 16
Atascadero, CA. 93423

or at such other address or to such other person that the parties may from time to time designate in writing.

11. Ownership of documents and assets. LAFCO shall be the owner of any and all documents, publications, software, equipment, office supplies, and computers purchased by Contractor with LAFCO funds or prepared or created by Contractor while performing work for LAFCO. LAFCO shall also be the owner of any and all public records held by Contractor. Contractor shall annually report to LAFCO as part of the budget process a list of significant assets owned by LAFCO.

No materials produced in whole or in part under this Agreement shall be subject to copyright in the United States or in any other country except as determined at the sole discretion of LAFCO. LAFCO shall have the unrestricted authority to publish,

disclose, distribute, and otherwise use in whole or in part, any reports, data, documents or other materials prepared under this Agreement.

12. Nondiscrimination. Contractor shall comply with all laws and regulations regarding unlawful discrimination in the performance of this Agreement.
13. Non-exclusive Contract. Nothing in this agreement shall be construed to restrict Contractor's right to enter into other agreements and provide services for others, provided such agreements or services do not interfere with Contractor's timely performance of the services provided, create a conflict of interest or be deleterious to the interests of the Commission.
14. General Provisions. This agreement shall be governed and construed in accordance with the laws of the State of California. It is agreed and understood by LAFCO and Contractor that this Agreement has been arrived at through negotiations, and that within the meaning of Civil Code section 1654 neither party is to be deemed to be the party which prepared this Agreement.
15. Term of Agreement/Termination for Executive Officer Services. Contractor shall provide Executive Officer services subject to annual compensation adjustment, until June 30, 2022, provided the agreement may be terminated without cause by LAFCO or Contractor by giving sixty (60) days written notice to the other party, subject to payment by LAFCO of charges accumulated prior to effective date of such termination.

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16. RECORDS, AUDIT, AND REVIEW. CONTRACTOR shall keep business records pursuant to this Contract as would be kept by a reasonably prudent practitioner of CONTRACTOR's profession, and will maintain those records for at least four (4) years following the termination of this Agreement. All accounting records must be kept in accordance with generally accepted accounting practices. LAFCO will have the right to audit and review all such documents and records at any time during CONTRACTOR's regular business hours or upon reasonable notice. CONTRACTOR shall participate in any audits and reviews by LAFCO, or LAFCO's designated agent, at no charge to LAFCO.

This Agreement is entered into this 4th day of April 2019, in Santa Maria, County of Santa Barbara, California and shall be effective when fully executed by the parties.

SANTA BARBARA COUNTY
LOCAL AGENCY FORMATION
COMMISSION

Steve Lavagnino
Chair

ATTEST:
Clerk of the Commission

By _____
Jacquelyne Alexander,
Deputy Clerk
Date _____

CONTRACTOR
Paul Hood
Paul Hood
Date: 3/20/19

APPROVED AS TO FORM:

LAFCO COUNSEL

RISK MANAGEMENT

By William M. Dillon
William M. Dillon
LAFCO Counsel

By: Ray Aromatoria
Ray Aromatoria, ARM, AIC
RISK MANAGER

EXHIBIT A

REIMBURSABLE EXPENSES

Travel, transportation and meals shall be reimbursed as set forth below. Reimbursable expenses include but are not limited to those listed below.

- Mileage at the standard Santa Barbara County rate, calculated from Contractor's office in Atascadero.
- Long distance telephone and fax charges
- Postage and express mail
- Messenger service
- Publications and software purchased for the Santa Barbara LAFCO
- Equipment and office supplies purchased exclusively for Santa Barbara LAFCO
- Duplicating and printing
- Computer and research services
- Travel expense, including air and other transportation, taxis, rental cars, hotel, meals and other related expenses related to LAFCO business, including CALAFCO meetings. Hotel expenses may include up to 5 stays per fiscal year on the south coast of Santa Barbara when necessary for attending multi-day or early morning meetings on the Santa Barbara south coast.