

SAN MATEO

**LOCAL AGENCY FORMATION COMMISSION**

455 COUNTY CENTER, 2ND FLOOR • REDWOOD CITY, CA 94063-1663 • PHONE (650) 363-4224 • FAX (650) 363-4849

September 12, 2012

To: Members, Formation Commission

From: Martha Poyatos, Executive Officer

Subject: Agreement with San Mateo County for 2012-13 Fiscal Year

Summary:

The Commission's adopted appropriations budget includes funds for an agreement with San Mateo County for staffing, facilities and legal counsel. The attached agreement sets forth the service provided by the County. Staff recommends that the Commission adopt a resolution authorizing the Chair to execute this agreement with San Mateo County for the 2012-13 fiscal year in the amount of \$303,903.

Background:

Section 56380 of the Cortese Knox Hertzberg Act authorizes the Commission to appoint staff and provides that the Commission can contract for services with another public agency. Section 56384 sets forth that the Commission shall appoint an Executive Officer to conduct and perform the day-to-day business of the Commission. The budget adopted by the Commission includes an appropriation for continuation of this arrangement in the 2012-13 fiscal year. The not to exceed agreement amount (\$303,903) includes funds for the staff services, rent, legal services and supplies. This includes an appropriation for \$25,000 for shared administrative/secretarial services provided by the County Department of Public Works and Parks. The reserve is not included. As a not-to-exceed contract, savings in services result in fund balance at the end of the fiscal year.

Services to be provided are detailed in the attached agreement and include: preparing staff analysis, reports, findings and other agenda materials relating to boundary proposals and any other matters within the Commission's authority; calling, noticing and staffing LAFCo meetings; preparing, mailing, publishing and maintaining records of LAFCo agendas, notices and other required documents; providing information and assistance to interested public agencies and individuals; providing fiscal support and budget preparation; and informing Commission of legislation of interest or affecting LAFCo and correspondence and matters of interest to the Commission.

Recommended Commission Action, by Resolution:

It is respectfully recommended that the Commission, by resolution, authorize the Chair to execute the attached agreement with San Mateo County for Support Services in the amount of \$303,903 for the 2012-13 fiscal year.

Attachment: Resolution
Agreement for Support Services

RESOLUTION NO. 1160

**RESOLUTION OF THE SAN MATEO LOCAL AGENCY FORMATION COMMISSION
AUTHORIZING A CONTRACT WITH THE COUNTY OF SAN MATEO
TO FURNISH NECESSARY STAFFING, QUARTERS, SUPPLIES AND LEGAL SERVICES FOR THE
2012-13 FISCAL YEAR**

RESOLVED, by the Local Agency Formation Commission of the County of San Mateo,
State of California that:

WHEREAS, the Cortese Knox Hertzberg Local Government Reorganization Act of 2000 provides that the LAFCo Commission shall appoint an Executive Officer to perform the day to day business of the Commission; and

WHEREAS, the Cortese Knox Hertzberg Local Government Reorganization Act of 2000 provides that the LAFCo Commission shall appoint legal counsel and its own staff, including Executive Officer; and

WHEREAS, the Commission may contract with another public agency for these services.

NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED that the San Mateo Local Agency Formation Commission hereby authorizes the Chair to execute a contract with the County of San Mateo for necessary staffing, quarters, supplies and legal services in the amount of \$303,903 for Fiscal Year 2012-13.

Regularly passed and adopted this 19th day of September, 2012.

Ayes and in favor of said resolution:

Commissioners: _____

Noes and against said resolution:

Commissioners Absent and/or Abstentions:
Commissioners: _____

Chair
Local Agency Formation Commission
County of San Mateo
State of California

ATTEST:

Executive Officer
Local Agency Formation Commission

Date: _____

I certify that this is a true and correct copy of the resolution above set forth.

Date: _____

Martha Poyatos
Clerk to the Commission
Local Agency Formation Commission

**AGREEMENT BETWEEN THE COUNTY OF SAN MATEO AND THE
SAN MATEO LOCAL AGENCY FORMATION COMMISSION
FOR SUPPORT SERVICES**

This Agreement is made on _____2012, by and between the County of San Mateo (“County”) located at 400 County Center, Redwood City, California, and the San Mateo County Local Agency Formation Commission, (“LAFCo”).

WITNESSETH

WHEREAS, Government Code Section 56380 provides that: The commission shall make its own provision for necessary quarters, equipment, and supplies as well as personnel and the commission may choose to contract with any public agency or private party for personnel and facilities;” and

WHEREAS, Government Code section 56384 (a), of the Cortese-Knox-Hertzberg Reorganization Act of 2000, Government Code section 56000, et seq., (“the Act”) provides: “The commission shall appoint an executive officer who shall conduct and perform the day-to-day business of the commission. If the executive officer is subject to a conflict of interest on a matter before the commission, the commission shall appoint an alternate executive officer;” and

WHEREAS, Government Code section 56384 (a) of the Act further provides: “The commission may recover its costs by charging fees pursuant to Section 56383;” and

WHEREAS, Government Code section 56384(b) of the Act provides: “The commission shall appoint legal counsel to advise it. If the commission’s counsel is subject to a conflict of interest on a matter before the commission, the commission shall appoint alternate legal counsel to advise it;” and

WHEREAS, Government Code section 56384(b) of the Act further provides that “The commission may recover its costs [for legal services] by charging fees pursuant to Section 56383,”

NOW THEREFORE, in order to implement the above-described provisions of the Act, the parties enter the following agreement:

AGREEMENT

1. SERVICES TO BE PROVIDED BY COUNTY:

A. APPOINTMENT OF EXECUTIVE OFFICER.

The County shall appoint and designate a County employee, whose appointment and designation shall be subject to approval by LAFCo, to perform LAFCo day-to-day activities.

For purposes of LAFCo activities, said appointee shall have the title of LAFCo Executive Officer. The appointee shall provide the following services, including but not limited to the following:

- 1) Preparing staff analyses, reports, proposed findings and other agenda materials for the LAFCo Commission relating to boundary proposals, contracts for provision of new and extended services outside city and district jurisdictional boundaries, sphere of influence amendments, periodic review of sphere of influence designations and any other matters that are within the commission's authority under the Act.
- 2) Calling and noticing commission meetings in accordance with the Act and LAFCo policies and procedures.
- 3) Preparing, mailing, filing, publishing and keeping records of agendas, notices and other required official documents on behalf of the LAFCo Commission.
- 4) Responding to inquiries and providing information and technical assistance to interested public agencies and individuals.
- 5) Providing supporting fiscal services such as the development of the annual LAFCo budget, management of LAFCo financial accounts including the processing of LAFCo fees and charges, the processing of payment of commission charges and expenses, and the preparation of required fiscal reports.
- 6) Informing LAFCo commissioners of new legislation, correspondence with the commission, CALAFCo activities, current events and matters of interest related to LAFCo.

B. PROVISION OF RELATED SERVICES. In addition, County shall provide LAFCo with related support services and supplies, including but not limited to facilities, administrative services, payroll, copier, insurance, postage, information technology services, and motor pool.

The level or type of services and the cost of providing those services may fluctuate and change from time to time upon agreement of LAFCo and the County Manager or the Manager's designee.

C. APPOINTMENT OF ALTERNATE EXECUTIVE OFFICER IN CASE OF CONFLICT; PAYMENT OF COSTS BY APPLICANT. If the commission determines that a conflict of interest exists for its Executive Officer in a matter before the commission, the commission shall appoint an Alternate Executive Officer for the purpose of that matter only. In such a conflict situation, the commission may make final approval of a proposal contingent upon payment of any outstanding costs in excess of the deposit on hand with the County Auditor. The commission may require an applicant to bear the costs of an Alternate Executive Officer. The commission shall require an applicant who is to bear the costs of an Alternate Executive Officer to put on deposit with the County Auditor funds deemed by the commission to be sufficient to cover associated costs in advance of the commission's appointment of an Alternate Executive Officer. The County Auditor shall return to the applicant any unexpended portion of funds on deposit at the conclusion of the matter for which Alternate Executive Officer was appointed and upon confirmation from the Executive Officer that all billing matters have been resolved.

D. LAFCO'S PAYMENT TO COUNTY FOR OFFICES, SERVICES, SUPPLIES, AND STAFF. Except as specified in subsection F, below, in consideration of the County's provision of offices, supplies, and staff, LAFCo shall pay to County at a rate equal to the County's actual cost of providing said offices, services, supplies and staff, which may fluctuate and change from time to time upon agreement of LAFCo and the County Manager or the Manager's designee.

E. APPOINTMENT OF LEGAL COUNSEL. In addition to the other County services described herein, LAFCo hereby appoints County Counsel as its legal counsel. The County, through the office of the County Counsel, will provide all legal services required by LAFCo. These services shall include, but are not limited to:

- 1) Day-to-day legal advice to LAFCo and staff;
- 2) Review and advise concerning contracts;
- 3) Attendance at LAFCo Board meetings and other meetings as requested;
- 4) Defending and conducting litigation and administrative actions concerning LAFCo.

F. RATE OF PAYMENT FOR LEGAL SERVICES. In consideration of the County's provision of legal services, LAFCo shall pay to County a single rate of \$190 per hour. County Counsel will submit invoices to LAFCo quarterly for legal services, which invoices shall be payable upon receipt.

G. APPOINTMENT OF ALTERNATE LEGAL COUNSEL IN CASE OF CONFLICT; PAYMENT OF LEGAL FEES BY APPLICANT. If the commission determines that a conflict of interest exists for County Counsel in a matter before the commission, the commission shall appoint alternate legal counsel for purposes of that matter only. The commission may require an applicant to bear the costs of alternate legal counsel. The commission shall require an applicant who is to bear the costs of alternate legal counsel to put on deposit with the County Auditor funds deemed by the commission to be sufficient to cover associated costs in advance of the commission's appointment of alternate legal counsel. In such a conflict situation, the commission may make final approval of a proposal contingent upon payment of any outstanding costs in excess of the deposit on hand with the County Auditor. The County Auditor shall return to the applicant any unexpended portion of funds on deposit at the conclusion of the matter for which alternate legal counsel was appointed and upon confirmation from the Executive Officer that all billing matters have been resolved.

H. LAFCO'S MAXIMUM FISCAL OBLIGATION. In consideration of all services, and supplies described herein, LAFCO shall pay the County an amount not to exceed \$303,903. In the event LAFCo requires or requests additional services and supplies, the parties may negotiate and agree to an amendment to this agreement. The parties agree that the County shall not provide any services or supplies for which it is not compensated.

I. TERM. The term of this agreement shall be from July 1, 2012 to June 30, 2013 unless terminated earlier pursuant to this agreement. Either party may terminate this agreement for any reason upon 30 days notice to the other party.

J. MERGER CLAUSE. This agreement constitutes the sole agreement of the parties hereto and correctly states the rights, duties, and obligations of each party. Any prior agreement, promises, negotiations or representations between the parties not expressly stated in this document are not binding. All subsequent modifications shall be in writing and signed by the parties.

IT WITNESS WHEREOF, the parties hereto, or their duly authorized representative, affix their hands.

San Mateo Local Agency Formation Commission

Dated: _____

Chair of the Commission

County of San Mateo

Dated: _____

President, Board of Supervisors