



**Local Agency Formation Commission of Napa County**  
Subdivision of the State of California

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*We Manage Local Government Boundaries, Evaluate Municipal Services, and Protect Agriculture*

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**February 3, 2014**  
**Agenda Item No. 7b (Action)**

January 29, 2014

**TO:** Local Agency Formation Commission

**FROM:** Jacqueline M. Gong, Commission Counsel

**SUBJECT: Approval of Amendment No. 1 to Agreement for Interim Executive Officer Services**

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At its meeting of September 23, 2013, the Commission approved the Agreement with Peter Banning to perform interim executive officer duties for a four month period pending the recruitment of a new Executive Officer. The recruitment process is still ongoing, and so the Commission has need of extending Mr. Banning's interim services for a short period of time. To ensure a smooth, effective transition of executive duties, staff also recommends he be available for consultation with the new Executive Officer for a limited number of hours. This Amendment No. 1 to the Agreement would extend the term of Mr. Banning's services through March 31, 2014. He will continue to perform interim executive officer duties until the appointment of the new Executive Officer at which time his executive officer duties will terminate. Following this and for the remainder of the extended term, he will be available for consultation as needed for a maximum of 30 hours. The contract maximum is amended to \$57,600 (from \$45,000).

**A. Alternatives for Action**

The following alternative actions are available to the Commission.

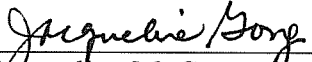
**Alternative Action One:**

Approve Amendment No. 1 to the Agreement between the Commission and Peter Banning to extend the term of his services to March 31, 2014 in an amount not to exceed a total compensation of \$57,600.

**Alternative Action Two:**

Continue the item to the next regular meeting and give direction to staff with respect to providing additional information or alternatives to providing interim services.

Respectfully submitted,

  
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Jacqueline M. Gong, Commission Counsel

Attachment: Amendment No. 1 to Management Services Agreement

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Joan Bennett, Vice Chair  
Councilmember, City of American Canyon

Brad Wagenknecht, Commissioner  
County of Napa Supervisor, 1st District

Brian J. Kelly, Chair  
Representative of the General Public

Greg Pitts, Commissioner  
Councilmember, City of St. Helena

Bill Dodd, Commissioner  
County of Napa Supervisor, 4th District

Gregory Rodeno, Alternate Commissioner  
Representative of the General Public

Juliana Inman, Alternate Commissioner  
Councilmember, City of Napa

Mark Luce, Alternate Commissioner  
County of Napa Supervisor, 2nd District

Peter Banning  
*Acting Executive Officer*

**AMENDMENT NO. 1**  
to  
**Local Agency Formation Commission of Napa County**  
**AGREEMENT NO. 2013-01**

**MANAGEMENT SERVICES AGREEMENT**  
**(Acting LAFCO Executive Officer)**

This Amendment Number 1 to the above entitled AGREEMENT is made and entered into as of January 31, 2014, by and between the Local Agency Formation Commission of Napa County, a public agency that operates pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (Government Code section 56000 et seq.), hereinafter referred to as "LAFCO" or "Commission", and Peter Banning whose mailing address is 219 Rhonda Way, Mill Valley, California, 94941, hereinafter referred to as "Contractor."

**RECITALS**

**WHEREAS**, Government Code Sections 56375 and 56384 provide 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; and

**WHEREAS**, the Commission is conducting a recruitment for a new Executive Officer and the Commission has a critical need to engage the services of Contractor on an interim basis until such time as the recruitment is completed; and

**WHEREAS**, Contractor is willing to serve on an interim basis as the LAFCO Executive Officer under the terms and conditions set forth below; and

**WHEREAS**, the recruitment for a new Executive Officer is still ongoing and the Commission has need to extend Contractor's services until such time as the recruitment is completed; and

**WHEREAS**, upon hire of a new Executive Officer, the Commission further wishes to have Contractor available for consultation as needed to assist with the transition of executive officer duties and work.

**TERMS**

**NOW THEREFORE**, the parties agree to amend the Agreement as follows:

1. Section 1, "Scope of Services", of the Agreement is amended to read in full as follows:

**"1. Scope of Services.** Until the effective date that a new Executive Officer is hired and commences his or her services, Contractor hereby agrees to perform the functions and duties of the LAFCO Executive Officer 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 also agrees to oversee the day-to-day operations of LAFCO and be responsible for the executive implementation of the actions of the Commission.

Contractor will complete the following projects:

- Complete and present phase 1 of the Central County Regional Municipal Service Review (City of Napa); develop timeline and direct actions for completion of phase 2.
- Conduct and present to the Commission a study evaluating Commission policies and processes for outside service agreement review and approvals, together with recommended changes and alternative approaches.
- Evaluate and prepare a report to the Commission on ways to enhance municipal service reviews, including recommendations on alternative policies and procedures.

1.1 Retention to Provide Services. Contractor agrees to devote such time as may be needed to carry out his services and represents he has the necessary expertise to perform such services and is uniquely qualified. Contractor estimates an average of 24 hours per week to provide the services set forth in Paragraph 1 above for which he is engaged.

1.2 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 the timely performance of the services to be provided under this Agreement, create a conflict of interest, or be detrimental to the interests of the Commission; provided, however, Contractor shall not work for any special district or city located within Napa County or Napa County during the term of this Agreement.

1.3 Consultation Services. Upon the new Executive Officer's commencement of services, Contractor's appointment as the Executive Officer shall terminate. For the remainder of the term of the Agreement, Contractor agrees to be available for consultation with the new Executive Officer to assist with the transition of duties and work. The total number of hours of consultation shall not exceed thirty hours."

2. Paragraph 2.1 of the Agreement, "Term", is amended to read in full as follows:

"2.1 Term. Contractor's term of engagement shall be for the period of September 24, 2013 through March 31, 2014, unless terminated earlier in accordance with Paragraphs 6 (Termination) or 9 (Covenant of No Undisclosed Conflict); except that the obligations of the parties under Paragraphs 5 (Insurance), 7 (Indemnification) and 3.6 (Taxes) shall continue in full force and effect after said expiration date or early termination in relation to acts or omissions occurring during the term of the Agreement."

3. Paragraph 3.1 of the Agreement, "Payment", is amended to read in full as follows:

“3.1 Payment. In fulfillment of the promised work, LAFCO agrees to pay Contractor at the hourly rate of One Hundred dollars (\$100) per hour for services rendered, in an amount not to exceed a total of fifty-seven thousand and six hundred dollars (\$57,600.00) during the term of this Agreement.”

4. Except as provided under this Amendment No. 1 to the Agreement, all other terms and conditions of the Agreement shall remain in full force and effect.

**IN WITNESS WHEREOF**, the Chair, as duly authorized by the Commission and on behalf of Commission, and Contractor have executed and entered into this Amendment No. 1 of LAFCO Agreement No. \_\_\_\_\_ as of the date first written above.

By   
“CONTRACTOR”

Local Agency Formation Commission of Napa  
County

By \_\_\_\_\_  
Brian Kelly, Commission Chair



“LAFCO”

Attest: LAFCO Secretary

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Approved as to Form: LAFCO Counsel

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