

**City of Garden Grove**  
**INTER-DEPARTMENT MEMORANDUM**

To: Matthew J. Fertal  
Dept.: City Manager  
Subject: AGREEMENT WITH THE ORANGE COUNTY COUNCIL OF GOVERNMENTS ("OCCOG") TO PROVIDE CLERK OF THE BOARD SERVICES

From: John D.R. Clark  
Dept.: Office of the City Clerk  
Date: June 25, 2013

OBJECTIVE

Consideration of an agreement with the Orange County Council of Governments (OCCOG) for Garden Grove to provide them with a Clerk of the Board.

BACKGROUND

OCCOG is a voluntary agency composed of all the cities in Orange County, the County of Orange, and the special districts operating within Orange County. It serves as a sub-regional organization of the Southern California Association of Governments (SCAG). Councils of government (COGs) perform both mandated and non-mandated regional planning activities, particularly those related to transportation. COGs also provide a vehicle for member agencies to engage cooperatively and to conduct studies and projects designed to improve and coordinate services on an area-wide and regional basis.

OCCOG has been receiving its Clerk of the Board service (similar to City Clerk) on an in-kind basis from the Orange County Transportation Authority (OCTA). OCTA is no longer able to provide such service, and OCCOG approached Garden Grove to determine if we would be able to takeover the Clerk of the Board service. OCCOG meets once a month and the City's involvement in OCCOG activities would be strictly limited to the Clerk of the Board function. It is our assessment that this service, if appropriately limited in scope, could be provided without jeopardizing any of Garden Grove's needs.

DISCUSSION

The following aspects should be borne in mind:

- This agreement, if approved, would provide the Clerk of the Board service to OCCOG on an in-kind (i.e., unpaid) basis. The City would be supplying the necessary staff and related expenses (e.g., copying, paper, mailing, etc.) free to OCCOG.

- Work will be scheduled in a manner designed to, in Mrs. Bailor's judgment, avoid any negative impact on the City of Garden Grove.
- This agreement shall be for a term of one year. If, in the City Clerk's opinion, this service can continue to be provided at no cost to OCCOG without negatively impacting the needs of Garden Grove, it may be extended.

FINANCIAL IMPACT


The initial assumption on the part of the City is that performing this activity for OCCOG can be accommodated within current staff time of the City Clerk's Office. Should it be subsequently determined that OCCOG work is causing an impact on the City (e.g., more overtime hours, etc.), staff will re-evaluate the agreement and, if necessary, return to the City Council for amendment or cancellation.

RECOMMENDATION

It is recommended that the City Council:

- Approve the attached Agreement with OCCOG to provide Clerk of the Board services;
- Authorize and direct the City Clerk to designate one or more City staff members to act as Clerk of the OCCOG Board; and
- Authorize the Mayor to execute the Agreement on behalf of the City.

  
JOHN D.R. CLARK  
Director for the Office of the City Clerk

  
KATHLEEN BAILOR, CMC  
City Clerk

Attachment: Proposed Agreement with OCCOG

**Recommended for Approval**

  
Matthew Fertal  
City Manager

**STAFF RESOURCE AGREEMENT BY AND BETWEEN  
THE CITY OF GARDEN GROVE AND THE ORANGE  
COUNTY COUNCIL OF GOVERNMENT**

This STAFF RESOURCE AGREEMENT (“Agreement”) is entered into as of this 26th day of June, 2013 (“Effective Date”), is made by and between the CITY OF GARDEN GROVE, a California municipal corporation (“City”), and the ORANGE COUNTY COUNCIL OF GOVERNMENTS, a California Joint Powers Authority (“OCCOG”). For and in consideration of the mutual covenants and promises set forth herein, the Parties agree as follows:

1. Intent of the Parties.

The Orange County Council of Government (“OCCOG”) is a public agency established pursuant to the California Joint Exercise of Powers Act, Chapter 5 of Division 7 of Title 1 of the California Government Code. OCCOG was established pursuant and subject to both a “Joint Powers Agreement Establishing the Orange County Council of Governments, as amended (“JPA Agreement”) and a companion set of bylaws, as amended (“Bylaws”). In its effort to minimize costs to its member agencies, the OCCOG has previously coordinated with individual member entities for the provision of staff to assist in carrying out its duties and responsibilities, as set forth in the JPA Agreement and Bylaws. Most recently, the Orange County Transportation Authority (“OCTA”) was providing services to the OCCOG to address this effort. OCCOG has requested the City of Garden Grove (“City”) to provide staff to fill the role of Clerk to the Board which was previously provided by OCTA. The City is willing to contribute such services pursuant to the terms of this Agreement. The City will provide its staff to OCCOG in the interests of carrying out the proper governance of the region so long as no economic exposure will be created for the residents and taxpayers of the City and so long as the City staff will be permitted to act in a reasonable and efficient manner. The City recognizes and acknowledges that the consideration for the provision of its services under this Agreement is that OCCOG will be better able to effectively represent the interests of OCCOG’s member agencies, including the City.

2. Regulatory Documents; Contracts.

City shall provide services to OCCOG consistent with and subject to the JPA Agreement, the Bylaws and all other formally adopted policies, contracts and applicable regulation. The City has reviewed the JPA Agreement and the Bylaws and agrees to act in strict conformance to the same. OCCOG shall, upon request, immediately make available to City all records in the possession of OCCOG, its consultants or OCTA as may regard any matter within the jurisdiction of OCCOG and as may be required for City to perform its duties under this Agreement.

3. Term of Agreement.

This Agreement shall commence upon the date that both the City Council of the City and the OCCOG Board approve this Agreement. This Agreement shall terminate on June 30, 2014 unless terminated earlier by any party. The term may be extended, by mutual consent; for a period of time agreed upon in writing between the parties. The City or OCCOG may terminate this Agreement, without cause, by delivering written notice of termination to the other parties not

less than thirty (30) calendar days before the date of termination. Upon the date of termination, each party shall, at no cost to any other party, make available all equipment, materials, documents or records in their possession belonging to the other party upon request for same. Any equipment materials, documents, or records not claimed within thirty (30) calendar days shall be deemed to be the property of party in possession who shall treat the same in accordance with the law.

4. Service Delivery by City.

All parties acknowledge and agree that the staff and consultants of City who will provide services to OCCOG will, at all times, continue to be employees of or employed by City. The employees' and consultants' obligations to City are understood to take priority over the services to be rendered to OCCOG and no breach, failure or charge of misfeasance or malfeasance shall be asserted as a result of the duties and obligations of City being given priority over duties and obligations due OCCOG. Notwithstanding the foregoing, every employee of City shall perform at a competent professional level and in accordance with the JPA Agreement, Bylaws and applicable law. The specific duties to be provided by the City through its staff and consultants to OCCOG shall include the following as well as tasks related to the performance of the following duties:

- a. Preparation/posting/ distribution of final monthly Board of Directors agendas and special meeting agendas;
- b. Preparation of the monthly Board of Directors agenda minutes, including any additional special meetings;
- c. Attendance at and set up for Board of Directors meetings; and
- d. Maintenance of FPPC documents and files, including, but not limited to, FPPC Form 700 for each Board member, staff and consultants subject to the OCCOG's adopted Conflict of Interest Rules, as may be amended.

5. Indemnity and Contribution.

The JPA Agreement, at Section 7, Indemnity, describes the duties and obligations related to OCCOG's, and its member agencies, indemnification and holding harmless of the personnel, including employees and consultants that City contributes. The City considers the terms, duties and obligations set forth in Section 7 to be a primary and material element of the consideration accruing to City pursuant to this Agreement.

Further, Subsection 9.5 of the Bylaws identifies the application of the privileges and immunities arising under California Government Code Section 6513 to City's employees and consultants during the tenure of their provision of services to OCCOG. This representation is a further material element of the consideration accruing to City under this Agreement. The OCCOG hereby represents and warrants that the JPA Agreement and Bylaws, and particularly the Subsections referenced herein above, are in full force, unaltered and are relied upon by City in all respects.

6. Legal Responsibilities.

The City shall keep itself informed of all local, State and Federal ordinances, laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The City shall at all times observe and comply with all such laws and regulations.

7. Notices.

Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, that provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by Notice. Notice shall be effective upon delivery to the addresses specified below or on the third business day following deposit with the document delivery service or United States Mail as provided above.

To City: City of Garden Grove  
11222 Acacia Parkway  
Garden Grove, California 92840  
Attention: City Clerk

To OCCOG: Orange County Council of Governments  
600 South Main Street  
Orange, California 92868  
Attention: Executive Director

8. Assignment.

The City shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of OCCOG.

9. Licenses.

At all times during the term of this Agreement, City shall have in full force and effect, all licenses required of it by law for the performance of the services described in this Agreement.

10. Governing Law.

The City and OCCOG understand and agree that the laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court with geographic jurisdiction over the City. In the event such litigation is filed by one party against the other to enforce its rights under this Agreement, the prevailing party, as determined by the Court's judgment, shall be entitled to reasonable attorney fees and litigation expenses for the relief granted.

11. Entire Agreement.

This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

12. Authority to Execute this Agreement.

The person or persons executing this Agreement warrant and represent that he or she has the authority to execute this Agreement on behalf of their principal and has the authority to bind such party to the performance of its obligations hereunder.

13. No Third Party Beneficiary Rights.

This Agreement is entered into for the sole benefit of the parties and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed the day and year first above written.

City of Garden Grove

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BRUCE A. BROADWATER, Mayor

*Approved as to Form:*

*Attest:*

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THOMAS F. NIXON, City Attorney

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KATHLEEN BAILOR, CMC, City Clerk

Orange County Council of Governments

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BRETT MURDOCK, Chairman,  
Board of Directors