

EL DORADO LAFCO

LOCAL AGENCY FORMATION COMMISSION

AGENDA OF DECEMBER 6, 2023

REGULAR MEETING

TO: Brian Veerkamp, Chair, and
Members of the El Dorado County Local Agency Formation
Commission

PREPARED BY: Mala Subramanian, LAFCO Counsel

AGENDA ITEM #3: Consider Second Amendment to Executive Officer Employment
Agreement

RECOMMENDATION

Authorize that the Chair to execute the Second Amendment to the Executive Officer Employment Agreement.

BACKGROUND

LAFCO approved an employment agreement with Shiva Frentzen for the position of Executive Officer on October 3, 2022 (Employment Agreement) and a first amendment on June 28, 2023 to increase compensation and benefits (First Amendment). The Commission desires to further amend the Employment Agreement to extend the term by one year to October 2, 2025.

Attachments:

Attachment A: Employment Agreement
Attachment B: First Amendment
Attachment C: Second Amendment

EXECUTIVE OFFICER EMPLOYMENT AGREEMENT

This Executive Officer Employment Agreement (“Agreement”) is between El Dorado Local Agency Formation Commission (“LAFCO”) and Shiva Frentzen (“Employee”). It is effective as of October 3, 2022.

This Agreement is entered into on the basis of the following facts, among others:

- A. LAFCO has a vacancy in the position of Executive Officer;
- B. LAFCO, through its Commission (“Commission”), desires to appoint Employee as the Executive Officer of LAFCO, and Employee desires to accept this appointment; and
- C. LAFCO and Employee desire to establish specific terms and conditions relating to compensation and benefits, performance evaluations, and related matters.

BASED UPON THE FOREGOING, LAFCO AND EMPLOYEE AGREE AS FOLLOWS:

1. Employee Appointed. LAFCO appoints and employs Employee as Executive Officer, and Employee accepts the appointment and employment effective October 3, 2022.

2. Duties of Employee. Employee shall perform the duties established for the Executive Officer by applicable State and local law, the Executive Officer job description as it may be periodically amended, a current copy of which is attached hereto as Exhibit A, the directions of the Commission, or as otherwise provided by law, ordinance, or regulation.

(a) Full Energy and Skill. Employee shall faithfully, diligently, and to the best of Employee's abilities, perform all duties that may be required under this Agreement. Employee agrees that Employee has a duty of loyalty and a general fiduciary duty to LAFCO. Employee shall devote the whole of Employee's working time, skill, experience, knowledge, ability, labor, energy, attention, and best effort exclusively to LAFCO's business and affairs.

(b) No Conflict. Employee shall not engage in any employment, activity, consulting service, or other enterprise, for compensation or otherwise, which is actually or potentially in conflict with, inimical to, or which interferes with the performance of Employee's duties.

(c) Outside Activities. Employee shall not spend more than 8 hours per month in teaching, consulting, expert witness testimony, speaking, or other non-LAFCO connected business for which compensation is paid without express prior consent of the Commission. Employee will take personal leave (i.e. vacation time) for all outside activities of this nature.

3. Hours of Work. Employee is an exempt employee but is expected to engage in those hours of work that are necessary to fulfill the obligations of the Executive Officer position. Employee does not have set hours of work, as the Executive Officer is expected

to be available at all times during LAFCO's customary office hours. It is recognized that the Executive Officer must devote a great deal of time to the business of LAFCO outside of LAFCO's customary office hours, and to that end the Executive Officer's schedule of work each day and week shall vary in accordance with the work required to be performed and in accordance with any specific direction provided by the Commission. The expectation is that Employee will devote at least 32 hours each week to in-person LAFCO activities and can work up to eight (8) hours remotely.

4. Term. The term of this at-will Agreement shall be for two years from the Effective Date through October 2, 2024, unless terminated earlier by either party in accordance with the provisions set forth in paragraph 9.

5. Performance Evaluation. The Commission will conduct regular periodic performance reviews. On or about the end of the first six months of Employee's employment, the Commission shall conduct an evaluation of Employee's performance and provide guidance and direction regarding the Commission's goals and objectives which Employee shall be tasked with implementing. Thereafter, each year on or about the anniversary of the Effective Date, the Commission shall conduct an evaluation of Employee's performance and provide guidance and direction regarding LAFCO's goals and objectives which Employee shall be tasked with implementing. The Commission, at more frequent intervals and at times selected by the Commission, can also conduct both informal and formal performance reviews and/or provide other input to Employee regarding Employee's job performance in a format chosen by the Commission.

6. Compensation.

(a) Salary. Employee shall receive the base annual salary of One Hundred Thirty-Seven Thousand Five Hundred Dollars (\$137,500) payable on a pro-rata basis in the same manner as all full time LAFCO employees, and subject to all applicable payroll taxes and withholdings.

(b) Salary Adjustments. In connection with Employee's annual performance evaluations, the Commission can decide, in its sole discretion, whether to award Employee any increase in compensation. In addition, the Commission has discretion to award Employee increases in compensation at other times deemed appropriate by the Commission. Employee is not guaranteed any compensation increase, even with a positive evaluation or even if other LAFCO employees are provided an increase.

7. Benefits. Employee will be eligible for all regular health and welfare benefits provided by LAFCO in accordance with the Memorandum of Understanding (MOU) between LAFCO and El Dorado County and as further described in LAFCO's Personnel Policies and Procedures ("Personnel Policies"). Employee will participate in CalPERS, with employee and employer contributions in compliance with applicable law, LAFCO's contract with CalPERS, and LAFCO's Personnel Policies.

8. Leave and Other Benefits. In addition to the benefits specified in paragraph 7, Employee shall receive the following benefits.

(a) Vacation; Sick Leave; Holidays. Employee shall accrue vacation and sick leave in accordance with LAFCO's employment policies on those leave benefits. Employee is also eligible for paid holidays in accordance with LAFCO's Personnel Policies.

(b) Management Leave. Employee will be provided with sixty (60) hours of management leave each calendar year. Hours do not accumulate from year to year. At the beginning of each calendar year, Employee's management leave bank will be replenished to a total of sixty (60) hours. At the commencement of her employment, Employee will be provided with a pro rata amount of management leave to use during the remainder of 2022. Any management leave remaining upon separation of employment will not be cashed out.

9. Termination of Employment - At-Will Employment / No Property Interest. Employee understands and agrees that Employee has no constitutionally-protected property or other interest in Employee's employment as Executive Officer. Employee understands and agrees that Employee works at the will and pleasure of the Commission, and that Employee may be terminated, or asked to resign, at any time, with or without cause, by a majority vote of its members. Notice of termination shall be provided to Employee in writing. Upon Employee's resignation, Employee shall be paid only for wages earned through the date of separation and any accrued and unused vacation or management leave.

10. Payment of Expenses of Employment. LAFCO shall pay the following usual and customary employment expenses.

(a) The cost of any fidelity or other bonds required by law for LAFCO.

(b) The cost to defend and indemnify Employee in accordance with the California Government Claims Act (Government Code §810 *et seq.*).

(c) Subject to budget approval, reasonable dues for Employee's membership in professional organizations associated with the office of Executive Officer. LAFCO will allow Employee reasonable time away from LAFCO to participate in the annual conferences of these organizations.

(d) Subject to budget approval, the cost of attending conferences or other events (i.e. out-of-town meetings, professional seminars, etc.) necessary for the proper discharge of Employee's duties. LAFCO will not reimburse Employee for any expenses related to membership in service clubs.

11. Miscellaneous.

(a) Notices. Notices given under this Agreement shall be in writing and shall be:

(i) served personally; or

(ii) delivered by first-class United States mail, certified, with postage prepaid and a return receipt requested; or

- (iii) Sent by Federal Express, or some equivalent private overnight delivery service.

Notices shall be deemed received at the earlier of actual receipt or three (3) days following deposit in the United States mail, postage prepaid. Notices shall be directed to the addresses shown below, provided that a party may change such party's address for notice by giving written notice to the other party in accordance with this subsection.

LAFCO:

El Dorado Local Agency Formation Commission
 Attn: Chair
 550 Main Street, Suite E
 Placerville, CA 95667
 Phone: (530) 295-2707

EMPLOYEE:

Shiva Frentzen
 Address last on file

(b) Compliance with Government Code §§53243, 53243.1, & 53243.2.
 If Employee is convicted of a crime involving an abuse of her office or position, all of the following shall apply:

(i) if Employee is provided with administrative leave pay pending an investigation, Employee shall be required to fully reimburse LAFCO for such amounts paid;

(ii) if LAFCO pays for the criminal legal defense of Employee (which would be in its sole discretion, as it is not generally required to pay for a criminal defense), Employee shall be required to fully reimburse LAFCO such amounts paid; and

(iii) if this Agreement is terminated, any cash settlement related to the termination that Employee may receive from LAFCO shall be fully reimbursed to LAFCO or void if not yet paid to Employee.

For this subsection, "abuse of office or position" means either (1) an abuse of public authority, including waste, fraud, and violation of the law under color of authority, or (2) a crime against public justice, including but not limited to a crime described in Title 7 (commencing with Section 92) of Part 1 of the Penal Code.

(c) Entire Agreement/Amendment. This Agreement constitutes the entire understanding and agreement between the parties as to those matters contained in it, and supersedes any and all prior or contemporaneous agreements, representations and understandings of the parties. This Agreement may be amended at any time by mutual agreement of the parties, but any such amendment must be in writing, dated, and signed by the parties and attached hereto.

(d) Attorney's Fees. If any legal action or proceeding is brought to enforce or interpret this Agreement, the prevailing party, as determined by the court, shall be entitled to recover from the other party all reasonable costs and attorney's fees, including such fees and costs as may be incurred in enforcing any judgment or order entered in any such action.

Nothing in this subsection shall be read to prevent the parties from agreeing to some alternative method of dispute resolution. If such a method is agreed to, any final determination shall include an award of attorney's fees and costs by the presiding officer.

(e) Severability. In the event any portion of this Agreement is declared void, such portion shall be severed from this Agreement and the remaining provisions shall remain in effect, unless the result of such severance would be to substantially alter this Agreement or the obligations of the parties, in which case this Agreement shall be immediately terminated.

(f) Waiver. Any failure of a party to insist upon strict compliance with any term, undertaking, or condition of this Agreement shall not be deemed to be a waiver of such term, undertaking, or condition. To be effective, a waiver must be in writing, signed and dated by the parties.

(g) Representation by Counsel. The parties acknowledge and agree that they were, or had the opportunity to be, represented individually by legal counsel with respect to the matters that are the subject of this Agreement and that they are fully advised with respect to their respective rights and obligations resulting from signing this Agreement.

(h) Governing Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Employee and LAFCO agree that venue for any dispute shall be in El Dorado County, California.

(i) Section Headings. The headings on each of the sections and subsections of this Agreement are for the convenience of the parties only and do not limit or expand the contents of any such section or subsection.

(j) No Assignment. Employee may not assign this Agreement in whole or in part.

[SIGNATURES ON THE FOLLOWING PAGE]

APPROVED

SIGNATURE PAGE TO EXECUTIVE OFFICER EMPLOYMENT AGREEMENT

Dated: 09/28/2022

El Dorado Local Agency Formation Commission



John Hidahl, Chair

Dated: 09/28/2022

EMPLOYEE



Shiva Frentzen

Approved as to Form:

Mala Subramanian, LAFCO General Counsel

APPROVED

SIGNATURE PAGE TO EXECUTIVE OFFICER EMPLOYMENT AGREEMENT

Dated: 09/28/2022

El Dorado Local Agency Formation Commission



John Aidahl, Chair

Dated: 09/28/2022

EMPLOYEE



Shiva Frentzen

Approved as to Form:



Mala Subramanian, LAFCO General Counsel

Exhibit “A”Job Description

Under general policy direction from the Local Agency Formation Commission, the Executive Officer administers Commission business, provides administrative, research services and advisory services to the Local Agency Formation Commission, and manages specialized administrative staff for the Commission.

The Executive Officer is the designated Environmental Coordinator (Policy 3.2.4), Budget Administrator (Policy 2.1.5), and Purchasing and Financial Officer of LAFCO (Policy 2.7.1).

The Executive Officer has responsibility for overall policy development, program planning, fiscal management, administration and operation of the Local Agency Formation Commission. The Executive Office is responsible for developing and accomplishing administrative goals and objectives, in addition to implementing the applicable provisions of the Government Code, the California Environmental Quality Act, Brown Act, other related statutes and the policy goals of the Local Agency Formation Commission.

DUTIESMeetings and Proceedings

- Schedules and prepares for regular and special meetings of the Commission, including the public noticing, preparation and timely transmittal of the meeting agenda and related reports and recommendations, and presentation of the reports at the meetings
- Prepares special reports and studies to the Commission as mandated by statute, such as municipal services reviews and spheres of influence
- Monitors new and proposed State and local legislation that pertains to LAFCO and prepares reports to the Commission that includes a recommendation of support or opposition to proposed legislation.
- Processes applications for city and district formation, annexation, reorganization, consolidation, detachments, and extension of services by contract
- Prepares the necessary California Environmental Quality Act documents (e.g. Notices of Exemption, Initial Studies, Negative Declarations, and Mitigation Monitoring Plans) for those actions in which El Dorado LAFCO is the lead agency
- Reviews and prepares comments on CEQA documents prepared by other agencies which affect the responsibilities of the Commission
- Coordinates with LAFCO Counsel on legal issues and other matters that may require an oral or written interpretation or opinion from legal counsel

Administrative Duties

- Develops, oversees and reviews the budget and its accompanying work plan
- Administers the adopted LAFCO budget by maintaining budget controls, records, files, and making timely payments of claims, deposits of revenues, and preparation of a bi-weekly payroll
- Provides leadership, strategic direction, and management to LAFCO
- Selects, trains, evaluates, supervises and manages clerical staff, employees and consultants
- Assigns work activities, projects and programs
- Monitors workflow and the day-to-day business of LAFCO
- Prepares and manages contracts, subject to the review of the Commission

Fiscal and Budget Duties

- Oversight of all financial accounts and transactions
- Prepares and implements the LAFCO budget, including the forecasting of revenue and expenses, and identifies and recommends alternatives for the implementation of the budget, subject to the review of the Commission

Advisory and Research Duties

- Serves as principal staff advisor to the Commission
- Attends all Commission meetings
- Interprets and applies relevant government codes
- Prepares background data, studies, reports and recommendations for LAFCO decisions
- Monitors and evaluates agencies, their service capabilities and proposals for changes of organization
- Executes all required legal documents related to the determinations of the Commission

Outreach and Liaison Duties

- Represents the Commission before public and private policy-making agencies and community groups
- Coordinates LAFCO processes with the discretionary actions of other agencies
- Participates in related organizations, such as the California Association of LAFCOs and professional associations.

APPROVED

Knowledge of:

- Theories, principles, and practices of public administration, management, and finance.
- Urban planning theory and techniques, public finance, public infrastructure planning, environmental laws and local government.
- Administrative principles and practices, including goal setting, program development, implementation, and evaluation, budget development and administration, and supervision of staff, either directly or through subordinate levels of supervision.
- The Cortese-Knox Local Government Reorganization Act of 2000, California Environmental Quality Act (CEQA), an understanding of tax laws, budget preparation techniques for local government agencies, public and private infrastructure systems, and financing techniques.
- Organization and management practices as applied to the analysis and evaluation of programs, policies, and operations.
- Functions, authority, and responsibilities of an elected Commission; functions, services, and funding sources of public agency government.
- Applicable Federal and State laws, codes, ordinances, and regulations; current social, political, and economic trends affecting LAFCO and its service provision.
- Modern office practices, methods, and computer equipment and applications related to the work.

Skills and Abilities:

- Strong analytical thinking and capability to solve complex, multi-layered issues.
- Effectively represent LAFCO in contacts with governmental agencies, community groups, and various business, regulatory, and legislative organizations.
- Provide excellent project management, conflict resolution and mediation.
- Direct the preparation of and prepare clear and concise reports, correspondence, policies, procedures, and other written materials.
- Analyze problems, identify alternative solutions, project consequences of proposed actions, and implement recommendations in support of goals.
- Organize own work, coordinate projects, set priorities, and meet critical timelines.
- Utilize computer and work with spreadsheets, word processing, database, and project management software.
- Use English effectively to communicate in person, over the telephone, and in writing.

APPROVED

- Establish, maintain, and foster positive and effective working relationships with those contacted in the course of work.
- Mentor and evaluate subordinate staff.

APPROVED

FIRST AMENDMENT TO
EXECUTIVE OFFICER'S EMPLOYMENT AGREEMENT

This First Amendment to Executive Officer's Employment Agreement ("First Amendment") is by and between El Dorado Local Agency Formation Commission ("LAFCO") and Shiva Frentzen ("Employee"). It is effective as of July 1, 2023.

RECITALS

WHEREAS, the parties entered into the Executive Officer's Employment Agreement effective October 3, 2022 (the "Agreement"), employing the services of Shiva Frentzen as Executive Officer of LAFCO; and

WHEREAS, the parties desire to make further amendments to the Agreement regarding compensation and benefits as set forth below;

NOW, THEREFORE, it is hereby agreed as follows:

TERMS

1. Section 3 of the Agreement is hereby amended in entirety to read as follows:

"3. Hours of Work. Employee is an exempt employee but is expected to engage in those hours of work that are necessary to fulfill the obligations of the Executive Officer position. Employee does not have set hours of work as the Executive Officer is expected to be available at all times during LAFCO's customary office hours. It is recognized that the Executive Officer must devote a great deal of time to the business of LAFCO outside of LAFCO's customary office hours, and to that end the Executive Officer's schedule of work each day and week shall vary in accordance with the work required to be performed and in accordance with any specific direction provided by the Commission. Any remote work arrangement shall be consistent with the Personnel Policy and Procedure Guidelines."

2. Section 6(a) of the Agreement is hereby amended in its entirety to read as follows:

"6. Compensation.

(a) Salary. Employee shall receive the base annual salary of One Hundred Fifty Thousand Dollars (\$150,000) payable on a pro-rata basis in the same manner as all full time LAFCO employees, and subject to all applicable payroll taxes and withholdings."

3. Section 8(b) of the Agreement is hereby amended in its entirety to read as follows:

"(b) Management Leave. Employee will be provided with eighty (80) hours of management leave each calendar year. Hours do not accumulate from year to year. At the beginning of each calendar year, Employee's management

APPROVED

leave bank will be replenished to a total of eighty (80) hours. Any management leave remaining upon separation of employment will not be cashed out.”

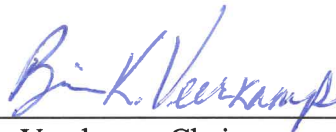
4. To implement the above-referenced change to Section 8(b) regarding Management Leave, as of the effective date of this First Amendment, LAFCO will provide Employee with a pro rata share of the increased amount of accrual (twenty hours per full year) to add to her Management Leave bank for use during the remainder of 2023 (i.e., as this First Amendment is effective July 1, 2023, Employee will receive an additional ten (10) hours of Management Leave for the remainder of 2023).

5. Except as otherwise specifically set forth in this First Amendment, the remaining provisions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, this First Amendment was executed by the parties hereto on the date first written above.

Dated: 6/28/23

El Dorado Local Agency Formation Commission



Brian Veerkamp, Chair

Dated: 6/28/23

EMPLOYEE



Shiva Frentzen

Approved as to Form:

Mala Subramanian, LAFCO General Counsel

APPROVED

leave bank will be replenished to a total of eighty (80) hours. Any management leave remaining upon separation of employment will not be cashed out.”

4. To implement the above-referenced change to Section 8(b) regarding Management Leave, as of the effective date of this First Amendment, LAFCO will provide Employee with a pro rata share of the increased amount of accrual (twenty hours per full year) to add to her Management Leave bank for use during the remainder of 2023 (i.e., as this First Amendment is effective July 1, 2023, Employee will receive an additional ten (10) hours of Management Leave for the remainder of 2023).

5. Except as otherwise specifically set forth in this First Amendment, the remaining provisions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, this First Amendment was executed by the parties hereto on the date first written above.

Dated: _____

El Dorado Local Agency Formation Commission

Brian Veerkamp, Chair

Dated: _____

EMPLOYEE

Shiva Frentzen

Approved as to Form:



Mala Subramanian, LAFCO General Counsel

**SECOND AMENDMENT TO
EXECUTIVE OFFICER’S EMPLOYMENT AGREEMENT**

This Second Amendment to Executive Officer’s Employment Agreement (“Second Amendment”) is by and between El Dorado Local Agency Formation Commission (“LAFCO”) and Shiva Frentzen (“Employee”). It is effective as of December 6, 2023.

RECITALS

WHEREAS, the parties entered into the Executive Officer’s Employment Agreement effective October 3, 2022 (the “Agreement”), employing the services of Shiva Frentzen as Executive Officer of LAFCO;

WHEREAS, the parties entered into the First Amendment to the Agreement effective July 1, 2023, to amend the Agreement regarding compensation and benefits (“First Amendment”);

WHEREAS, the parties desire to further amend the Agreement regarding the term as set forth below.

NOW, THEREFORE, it is hereby agreed as follows:

TERMS

1. Section 4 of the Agreement is hereby amended in entirety to read as follows:

“4. Term. The term of this at-will Agreement shall be for three years from the Effective Date through October 2, 2025, unless terminated earlier by either party in accordance with the provisions set forth in paragraph 9.”

2. Except as otherwise specifically set forth in this Second Amendment, the remaining provisions of the First Amendment, and Agreement shall remain in full force and effect.

Dated: _____

El Dorado Local Agency Formation Commission

Brian Veerkamp, Chair

Dated: _____

EMPLOYEE

Shiva Frentzen

Approved as to Form:

Mala Subramanian, LAFCO General Counsel