



## LGS BOARD AGENDA

*Agenda Materials may be viewed on the Agency's web site or by contacting the Executive Director prior to the meeting. For a teleconference meeting, the public may participate in the meeting at any of the teleconference locations listed.*

### REGULAR MEETING

November 15, 2018

10:30 a.m. or immediately following preceeding meeting,  
whichever is earlier

**Yountville Town Hall  
Town Hall Council Chambers**

6550 Yount Street  
Yountville, CA 94599

#### 1. CALL TO ORDER / ROLL CALL

#### 2. PUBLIC COMMENT

A. Each speaker is limited to two minutes. If you are addressing the Board on a non-agenda item, the Board may briefly respond to statements made or questions posed as allowed by the Brown Act (Government Code Section 54954.2). However, the Board's general policy is to refer items to staff for attention, or have a matter placed on a future Board agenda for a more comprehensive action or report.

#### 3. APPROVAL OF CONSENT AGENDA

Consent agenda items are considered to be routine and will be enacted by one motion. There will be no separate discussion on these items unless members of the Board, staff or public request specific items to be removed for separate action.

A. Approval of **May 17, 2018** Minutes *Action*

B. Approval of **May 17, 2018** Executive Committee Minutes

C. Approval of Payments and Deposits made April 2018 through September 2018

#### 4. TREASURER'S REPORT

A. Review of Preliminary Fiscal-Year-To-Date Financial Reports through September 2018 *Information*

B. Approve FY18 Audited Financial Statements *Action*

#### 5. OLD BUSINESS

##### Recess to Closed Session

##### CONFERENCE WITH LEGAL COUNSEL--EXISTING LITIGATION

Pursuant to Government Code Section 54956.9(d)(1)

Name of Case: Administrative Appeal of CalPERS Audit Services Review

A. Possible Report Out of Closed Session *Information*

#### 6. NEW BUSINESS

A. Approval of Resolution LGSBOD2018-02 Agreement with Municipal Shared Services and Distribution of Assets *Action*

B. Approval of Resolution LGSBOD2018-03 to Dissolve the JPA to Approve Successor Agent *Action*

#### 7. EXECUTIVE DIRECTOR AND MEMBER REPORTS

A. Executive Director: Concluding remarks *Information*

B. Members: *Information*

#### 8. ADJOURN and AUTHORIZE CHAIR TO APPROVE FINAL MINUTES *Action*

#### Americans with Disabilities Act

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact Richard Averett at (650) 587-7300. Notification in advance of the meeting will enable Agency to make reasonable arrangements to ensure accessibility.

**LOCAL GOVERNMENT SERVICES AUTHORITY  
BOARD OF DIRECTORS MINUTES  
MAY 17, 2018**

The Local Government Services Authority held a special meeting of the Board of Directors on May 17, 2018 via teleconference. The meeting was called to order at 1:10 p.m.

**1. CALL TO ORDER**

Members Present: Steve Rogers, Chair  
Julie Carter, Alternate Vice Chair  
Fran Robustelli, Member  
Dan Schwarz, Member

Other Attendees: Richard Averett, Executive Director  
Sophia Selivanoff, Director of HR Services  
Sky Woodruff, JPA General Counsel  
Scott Kivel, JPA Special Counsel

**2. PUBLIC COMMENT – None**

**3. APPROVAL OF CONSENT AGENDA**

A. Approval of **April 23, 2018** Minutes

**Action:** Moved and seconded (Schwarz/Carter) to approve consent agenda.  
**AYES:** Rogers, Carter, Robustelli, Schwarz  
**NOES:** None  
**ABSTAIN:** None

**4. TREASURER’S REPORT - None**

**5. OLD BUSINESS**

**1:16 p.m.**

**Recess to Closed Session**

**CONFERENCE WITH LEGAL COUNSEL--EXISTING LITIGATION**

Pursuant to Government Code Section 54956.9(d)(1)

Name of Case: Administrative Appeal of CalPERS Audit Services Review

**1:44 p.m.**

A. Report Out of Closed Session – The Chair noted there was no reportable action.

**6. NEW BUSINESS**

A. Approve Recommendation to Member Agencies to Mutually Dissolve LGS – The Executive Director noted that staff would provide a sample staff report and resolution for Member Agencies that will note litigation, claims, respect for rights of employees, history of JPA and joining members, AB1912 and that there is no liability exposure for members under existing law.

**Action:** Moved and seconded (Schwarz/Carter) to Recommend Dissolving LGS.  
**AYES:** Rogers, Carter, Robustelli, Schwarz  
**NOES:** None  
**ABSTAIN:** None

B. Approve Draft Utilization Plan for Agency Assets –

At the next meeting of the Board the Executive Director and General Counsel will recommend an appropriate successor agent to Administer Remaining Duties

**Action:** Moved and seconded (Schwarz/Carter) to Approve Draft Utilization Plan.  
**AYES:** Rogers, Carter, Robustelli, Schwarz  
**NOES:** None

**ABSTAIN:** None

- C. Approve Resolution LGSBOD2018-01 to Dissolve Municipal Services Authority  
The Executive Director noted that planning and implementation are underway to successfully transition benefits and insurance programs to RGS on or before June 30, 2018, so that employees and business needs are not negatively impacted by the change. The Directors asked for feedback on implementation efforts.

**Action:** Moved and seconded (Robustelli/Schwarz) to Dissolve Municipal Services Authority.

**AYES:** Rogers, Carter, Robustelli, Schwarz

**NOES:** None

**ABSTAIN:** None

**7. EXECUTIVE DIRECTOR AND MEMBER REPORTS**

- A. Executive Director: It is expected that this Board will meet at least one more time to address successor agent and JPA business needs.

A.

B. Members:

8. **ADJOURNMENT** - The meeting adjourned at 2:16 p.m. The next regular meeting is scheduled for August 16, 2018 at 1:00 p.m. in Dublin.

**LOCAL GOVERNMENT SERVICES AUTHORITY  
EXECUTIVE COMMITTEE MINUTES  
MAY 17, 2018**

The Local Government Services Authority held a regular meeting of the Executive Committee on May 17, 2018 via teleconference. The meeting was called to order at 2:16 p.m.

**1. CALL TO ORDER / ROLL CALL**

Members Present: Steve Rogers, Chair  
Julie Carter, Alternate Vice Chair  
Fran Robustelli, Member  
Dan Schwarz, Member

Other Attendees: Richard Averett, Executive Director  
Sophia Selivanoff, Director of HR Services  
Sky Woodruff, General Counsel  
Scott Kivel, Special Counsel

**2. PUBLIC COMMENT - None**

**3. APPROVAL OF CONSENT AGENDA**

- A. Approval of **March 12, 2018** Minutes
- B. Approval of Regularly Scheduled Meetings Calendar
- C. Approval of Payments and Deposits made February 2018 through March 2018
  - Action:** Moved and seconded (Robustelli/Schwarz) to approve consent agenda
  - AYES:** Rogers, Carter, Robustelli, Schwarz
  - NOES:** None
  - ABSTAIN:** None

**4. TREASURER'S REPORT**

- A. Review of Preliminary Fiscal-Year-To-Date Financial Reports through March 2018 Information item; no action was taken. Executive Director Averett noted the loss of \$463,327 due to CalPERS actions. Net equity is negative \$217,083.

**5. OLD BUSINESS - None**

**6. NEW BUSINESS - None**

**7. EXECUTIVE DIRECTOR AND COMMITTEE MEMBERS**

- A. Executive Director:
- B. Members:

**8. ADJOURN** – The meeting adjourned at 2:19 p.m. The next regular meeting is scheduled for August 16, 2018 at 1:00 p.m. in Dublin, although the Board may meet earlier as needed to address remaining JPA issues.



**TO:** BOARD OF DIRECTORS **BOD Meeting: 11-15-2018**  
**FROM:** RICHARD AVERETT, CFO **Item: 3C**  
**SUBJECT: PAYMENTS AND DEPOSITS – APRIL 2018 THROUGH SEPTEMBER 2018**

**RECOMMENDATION**

Review and approve expenditures made by the JPA for the period indicated.

**BACKGROUND**

The Executive Committee reviews and approves expenditures made by the JPA on a quarterly basis. This approval process is a component of JPA internal controls. Deposit history is also included in the list.

The following procedures are being implemented to maintain effective internal controls.

1. Invoices are received by staff.
2. JPA staff review invoices for accuracy and assignment to correct general ledger accounts.
3. The Executive Director or designee reviews, prints and signs/authorizes checks. All payments, including electronic payments, are reviewed by the Executive Director in a weekly disbursement report submitted by the Finance Department. This report contains all disbursements from the previous week. Information provided includes: date of transaction, amount, vendor or recipient, method of payment, identity of first and second staff approvers, and check or journal number.
4. All payments are brought to the next regular meeting of Executive Committee (or Board of Directors) meeting for review and approval.

**FISCAL IMPACT**

The net impact of all payments and deposits made this period maintains a minimal bank cash balance consistent with meeting funding obligations, while maximizing interest earnings in the Rabobank money market account, in the Local Agency Investment Fund (LAIF) investment pool and in the CalTrust medium term and short term investment pools. Staff seeks to minimize bank charges at all times.

The fiscal impact of approving the attached list of expenditures is included in the approved budget or in subsequently approved action by the Board/Executive Committee.

**Local Government Services**  
**Weekly Disbursement Report**  
 April through September 2018

110060 · Rabobank Checking	<u>Type</u>	<u>Date</u>	<u>Num</u>	<u>Name</u>	<u>Memo</u>	<u>Amount</u>
	General Journal	04/30/2018	1703		2018-04 PERS R Classic contribution Confirm #10001065774	-6,106.57
	General Journal	04/30/2018	1703		2018-04 PERS R PEPRA contribution Confirm #10001065773	-41.03
	Bill Pmt -Check	05/22/2018	3001	City of Lincoln		-14,417.00
	General Journal	05/30/2018	1714		5/30/18 PERS R Classic contribution Confirm #1001084933	-6,106.57
	General Journal	05/30/2018	1714		5/30/18 PERS R Pepra contribution Confirm #1001084933	-41.03
	General Journal	06/28/2018	1726		6/30/18 PERS R Classic contribution Confirm #10001104782	-6,106.57
	General Journal	06/28/2018	1726		6/30/18 PERS R PEPRA contribution Confirm #1001104782	-41.03
	General Journal	07/30/2018	1734		2018-07 Calpers UAL Expense	-2,307.96
	Check	08/29/2018	3002	Kathleen Gallagher		-25,000.00
	General Journal	08/29/2018	1743		Calpers Payment 2018-08	-2,307.96
	General Journal	09/28/2018	1740		Calpers Payment 2018-09	-2,307.96
Total 110060 · Rabobank Checking						<u>-64,783.68</u>
<b>TOTAL</b>						<u><u>-64,783.68</u></u>



**TO:** BOARD OF DIRECTORS **BOD Meeting: 11-15-2018**  
**FROM:** RICHARD AVERETT, Executive Director/CFO **Item: 4B**  
**SUBJECT: APPROVAL OF AUDITED FINANCIAL STATEMENTS FOR FISCAL YEAR  
ENDING JUNE 30, 2018**

**RECOMMENDATION**

Review and approve the independent audit reports for fiscal year (FY) 2018.

**BACKGROUND**

The outside audit firm of Badawi and Associates was retained to complete the FY2018 audit. The June 30, 2018 audited financial statements for the JPA, along with the audit report and Management Letter will be posted to the JPA web site.

**AUDIT RESULTS**

Audit results are summarized below, with more information and analysis in the Management Discussion and Analysis section of the audit report.

*LGS FINANCIAL HIGHLIGHTS*

- The JPA discontinued client services as of December 31, 2017.
- In the fiscal year ended June 30, 2017, the Authority's net loss of \$1,195,540 is a significant drop from the net loss of \$479,994 in the prior fiscal year.
- The JPA had a several factors that adversely impacted its financial results:
  - \$1,226,926 (57%) drop in client revenue
  - \$183,565 in legal costs associated with the CalPERS audit
  - \$226,052 benefits payout to the last client when its contract terminated
  - \$37,406 in continued payments of the JPAs unfunded accrued liability after all client revenue had ceased.
  - \$336,031 increase in GASB 68 pension liability.
- The JPA has been under-going a pension benefit audit by California Public Employee Retirement System (CalPERS) for over four years, costing LGS over \$200,000 in response costs for a second year in a row.
- Net Assets at the end of the fiscal year are (\$949,298).

**Local Government Services**  
**Profit & Loss**  
 July through September 2018

1:14 PM  
 10/22/2018  
 Accrual Basis

	<u>Jul 18</u>	<u>Aug 18</u>	<u>Sep 18</u>	<u>TOTAL</u>
Ordinary Income/Expense				
Expense				
512012 · Calpers Retirement Expense	2,308	27,308	2,308	31,924
520302 · Legal Services	6,473	5,684	5,072	17,229
529997 · Administrative Services - RGS	13,499	13,499	13,499	40,497
<b>Total Expense</b>	<u>22,280</u>	<u>46,491</u>	<u>20,879</u>	<u>89,650</u>
<b>Net Ordinary Income</b>	<u>-22,280</u>	<u>-46,491</u>	<u>-20,879</u>	<u>-89,650</u>
<b>Net Income</b>	<u><u>-22,280</u></u>	<u><u>-46,491</u></u>	<u><u>-20,879</u></u>	<u><u>-89,650</u></u>

**Local Government Services**  
**Balance Sheet**  
As of September 30, 2018

1:16 PM  
10/22/2018  
Accrual Basis

**Sep 30, 18**

**ASSETS**

Current Assets

Other Current Assets

143006 · Due from RGS 691,786

150007 · Prepaid Insurance 8

Total Other Current Assets 691,794

Total Current Assets 691,794

Other Assets

170000 · Deferred Outflows 778,116

Total Other Assets 778,116

**TOTAL ASSETS 1,469,910**

**LIABILITIES & EQUITY**

Liabilities

Current Liabilities

Other Current Liabilities

2100\*OE · Payroll Liabilities 0

214071 · Claims Reserve Payable MSA 1,292,649

221001 · Calpers Retirement Liab 1,735

221003 · 457/401A Retirement Liab 0

221006 · FSA Health & Day Care 0

221015 · Health Insurance Liability 0

221016 · Long Term Disability Liability 2

221017 · Short Term Disability Liability 2

221023 · Dental Insurance Liability 0

221024 · Vision Insurance Liability 36

221025 · Life Insurance/AD&D Liability 4

230060 · Accrued Salaries, Wages & Taxes 0

240011 · Refundable Deposits 0

250002 · Contra Vacation, Sick and Admin 0

Total Other Current Liabilities 1,294,428

Total Current Liabilities 1,294,428

Long Term Liabilities

270000 · Net Pension Liability 1,008,611

280000 · Deferred Inflows 116,169

Total Long Term Liabilities 1,124,780

Total Liabilities 2,419,208

Equity

32000 · Retained Earnings -1,760,198

370000 · Fund Bal Unreserved/Unrestrictd 1,334,881

380000 · Prior Period Adjustment -523,981

Net Income -89,650

Total Equity -1,038,948

**TOTAL LIABILITIES & EQUITY 1,380,260**



**TO:** BOARD OF DIRECTORS **EC Meeting: 11-15-2018**  
**FROM:** RICHARD AVERETT, Executive Director/CFO **Item: 4B**  
**SUBJECT: APPROVAL OF AUDITED FINANCIAL STATEMENTS FOR FISCAL YEAR  
ENDING JUNE 30, 2018**

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Review and approve the independent audit reports for fiscal year (FY) 2018.

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**AUDIT RESULTS**

Audit results are summarized below, with more information and analysis in the Management Discussion and Analysis section of the audit report.

***LGS FINANCIAL HIGHLIGHTS***

- The JPA discontinued client services as of December 31, 2017.
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- The JPA had a several factors that adversely impacted its financial results:
  - \$1,226,926 (57%) drop in client revenue
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- The JPA has been under-going a pension benefit audit by California Public Employee Retirement System (CalPERS) for over four years, costing LGS over \$200,000 in response costs for a second year in a row.
- Net Assets at the end of the fiscal year are (\$949,298).

**TO:** BOARD OF DIRECTORS **BOD Meeting: 11-15-2018**  
**FROM:** RICHARD AVERETT, Executive Director  
SKY WOODRUFF, Authority Counsel **Item: 6A**  
**SUBJECT: APPROVE RESOLUTION LGSBOD2018-02 AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE AN AGREEMENT WITH MUNICIPAL SHARED SERVICES CORPORATION (MSS) TO SUPPORT LGS IN MANAGEMENT OF ASSETS, LIABILITIES, AND OBLIGATIONS IN ANTICIPATION OF DISSOLUTION OF THE JPA AND TO APPROVE DISTRIBUTION OF ASSETS TO MSS**

**RECOMMENDATION**

Approve resolution number LGSBOD2018-02:

1. Authorizing the Executive Director to execute an agreement with Municipal Shared Services Corporation (MSS), a nonprofit public benefit corporation, to assist LGS with the management of its assets, liabilities, and obligations, in anticipation of dissolution of LGS; and
2. Approving the distribution of LGS assets to MSS in anticipation of dissolution of the JPA.

**BACKGROUND**

The full background regarding dissolution of LGS is discussed in the staff report for item 6A on the Board's May 17, 2018 agenda. In summary, as a result of an adverse audit decision by the California Public Employee Retirement System (CalPERS) against Local Government Services Authority (LGS), LGS has decided to dissolve prior to the end of calendar year 2018.

As a result of the determination, with concurrence from the Board, LGS terminated all of its service agreements with client agencies, stopped seeking new engagements, and separated all of its employees. Since that time, LGS has had no new revenue but has had ongoing expenses related to resolution of multiple issues related the CalPERS determination. At its May 17, 2018 meeting, the Board authorized staff to begin the process of dissolving the JPA, and Member Agencies' approval of dissolution was sought and obtained. Since that time, staff has been developing a plan to ensure that the JPA can dissolve consistent with California law and the Amended and Restated Joint Powers Agreement (Agreement).

The Agreement states, "Upon dissolution of LGS, after satisfaction of all debts, liabilities or obligations incurred by LGS, any and all remaining property of LGS, both real and personal, and all other assets of any kind shall be divided among the Members active as of the act of dissolution, in such manner as shall be agreed upon by those Members." (Article V, Section 3.)

The final dissolution date is not set; however, it will occur once all LGS assets and liabilities have been addressed.

The distribution of LGS assets is addressed in this staff report below.

**LGS Liabilities and Obligations**

To satisfy the requirements of the Agreement, LGS's potential liabilities and obligations must be identified and addressed prior to dissolution of the JPA.

#### **A. Former LGS Employees**

As the Board is aware, as a consequent of the CalPERS determination described above, CalPERS has offered to transfer most of LGS's former employees to the client agency to which the employee provided services, if the client agency contracts with CalPERS for retirement benefits. CalPERS refers to the process as "reallocating" employees. It is accomplished through a "Reallocation Agreement," to which LGS, CalPERS, and the client agency are parties. In some cases, because of differences between LGS's CalPERS plan and the client agencies, the client agency will experience an increase in its accrued unfunded liability. When that occurs, LGS has proposed a side agreement with the client agency to pay for the additional CalPERS costs in exchange for a waiver of claims against LGS related to the reallocation.

Initially, fourteen former employees could not easily be reallocated. Some did not provide services to an agency that contracted with CalPERS. Some worked for an entity that no longer exists.

A several of those former employees had cashed out their CalPERS accounts unrelated to LGS's issues with CalPERS. Several have agreed to cash out their accounts rather than seek reallocation. They are entitled to receive their employee contributions back from CalPERS. LGS has agreed with some to provide them with an estimate of the equivalent of the employer contributions made on their behalves, in expectation that CalPERS will return those contributions to LGS. LGS has entered and/or is attempting into agreements with them in which they waive claims against LGS in return for employer contribution. The return of employer contributions might not occur until after the dissolution date.

LGS staff is working with CalPERS to try to effectuate reallocation in several other cases. Working out those reallocations may extend past the dissolution date. One group of former employees might be able to obtain a PARS plan as a substitute, funded by employer and employee contributions. Staff is currently working with them and CalPERS to effectuate that possibility, but finalization it, if possible, might also occur after the dissolution date.

Assuming that work to address the former employees extends beyond the dissolution date, another entity is necessary to support LGS with the following, and substantially related tasks:

- Complete any reallocations that can be completed.
- In the event that a former client agency experiences increased CalPERS costs as a result of a reallocation, consider entering into an agreement to fund the costs in exchange for a release related to the reallocation.
- For former employees who cash out, assist with return of their employee contributions, consider entering into release agreements to provide them with the estimated employer contributions made on their behalf, and take any actions—including litigation—necessary to obtain the full return of employer contributions (including earnings) from CalPERS.
- For former employees who can obtain a substitute PARS plan, ensure that their full employee and employer contributions are released by CalPERS to fund the plans.

- For employees who cannot be reallocated and who do not think cashing out their CalPERS account is sufficient compensation for their lost CalPERS service credit, consider entering into agreements to provide them with a reasonable settlement in proportion to the length of their service and the assets available to fund a settlement.

## **B. Insurance**

Since its inception, LGS has had several insurance providers and policies. Staff has provided notice to all that are relevant of the potential losses related to the CalPERS determination. Some of the policies contain coverage for “benefits administration” losses, but either only cover LGS costs related to the loss (not the potential losses experienced by the former employees) or the insurer has preliminarily determined that LGS’s loss occurred outside of the coverage period.

We have a coverage attorney reviewing the matter and options. It might ultimately be necessary to initiate litigation against the relevant insurance providers to sort out whether the policies provide coverage for the LGS costs and the employees’ losses. That litigation would occur after the dissolution date.

Another entity is therefore necessary to support LGS in obtaining all insurance coverage to which LGS is entitled for the losses incurred as a result of the CalPERS determination, including continue to pursue those claims after dissolution.

## **C. Administrative Appeal of CalPERS Determination and Potential Litigation**

As the Board will recall, LGS filed an administrative appeal of CalPERS determination. If the consequences of the determination for the former employees can be reasonably mitigated, and LGS receives a full refund of its employer contributions, then staff would recommend dropping the appeal. If not, then pursuing the appeal might ultimately be necessary to address all of the implications of the determination for all former employees. A final decision about whether to dismiss the appeal would occur after dissolution.

LGS’s right to continue the administrative appeal and litigate the issues before a court could be assigned to another entity that desires to support LGS. The assignment of that right would survive dissolution of LGS.

## **D. Other Support Needs**

Even after the termination of all of its services agreements and separation of employees, LGS has continued to engage in a number of standard administrative functions, such as paying normal bills, entering into agreements. Some of those might have to extend beyond the dissolution date. LGS also has a contractual obligation to indemnify and defend the members of the JPA. LGS will need support from another entity to address those needs after dissolution.

## **Identified Entity to Provide Support Including Post-Dissolution**

Following direction from the Board at its May 17, 2018 meeting, staff began investigating potential partners to support LGS regarding the needs described above. A group of individuals interested in supporting the shared services model among local government agencies in California is working with LGS staff and legal counsel to create a nonprofit public benefit corporation that would be a viable partner. The new entity would be amenable to entering into

an agreement with LGS for the purposes described above, once the process of forming it has been completed.

Nonprofit public benefit corporations are authorized forms of nonprofit corporations in California law. They can be organized for charitable or public purposes. Many of those in existence were formed to support local government agencies and assist them in the performance of government functions through a variety of methods, including entering into contracts with local government agencies to assist them in the performance of public functions. They generally seek tax exemption under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code.

The relevant powers of a nonprofit public benefit corporation are: making donations for the public welfare or for civic or similar purposes; assuming obligations and entering into contracts; and participating with others in any transaction or arrangement of any kind. MSS has these powers and others that will allow it to assist LGS with post-dissolution liabilities, pursuing assigned LGS claims, and satisfaction of administrative functions of LGS that cannot be completed prior to dissolution.

The attached resolution would authorize the Executive Director to execute an agreement with MSS to provide support in the areas identified in this report, with the final terms of the agreement to the satisfaction of the Executive Director and Authority Counsel. The terms of the agreement would survive dissolution of LGS.

### **Financial Support of Partner**

To assist MSS with the support functions that it has agreed to provide to LGS, staff is recommending that LGS assets remaining after dissolution of LGS be distributed to MSS. The Board is being asked to authorize the distribution of remaining LGS assets to MSS for that purpose. The assets will assist MSS in supporting LGS in such public purposes as funding reasonable settlements with former LGS employees who are not able to retain their CalPERS service credit.

Staff is proposing LGS's assets be allocated to MSS as follows:

1. Upon Municipal Services Authority's dissolution, remaining assets would be distributed to its Member agencies, of which LGS is a member.
2. These assets would fund the negative balance of LGS first.
3. The remaining assets would be distributed to MSS upon LGS dissolution, to fund the above purposes for which LGS entered an agreement with MSS.

The attached resolution also includes the agreement of the members of LGS to the foregoing allocation of LGS's assets.

### **FINANCIAL IMPACT**

Upon distribution of assets to MSS, LGS will be dissolved.

**RESOLUTION NO. LGSBOD2018-02**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF LOCAL GOVERNMENT (LGS) SERVICES AUTHORITY AUTHORIZING AN AGREEMENT WITH MUNICIPAL SHARED SERVICES CORPORATION (MSS), A NONPROFIT PUBLIC BENEFIT CORPORATION, TO PROVIDE SUPPORT TO LGS REGARDING LGS'S PUBLIC FUNCTIONS AND THE SATISFACTION OF LGS'S OBLIGATIONS AND LIABILITIES PRIOR TO AND FOLLOWING DISSOLUTION OF THE JPA AND TO APPROVE DISTRIBUTION OF ASSETS TO MSS**

**WHEREAS**, Local Government Services Authority (LGS) is a joint powers authority formed pursuant to the Joint Exercise of Powers Act (the "Act"), Government Code section 6500 *et seq.*, with the purpose of providing shared staffing and support services for public agencies to achieve their goals cost-effectively; and

**WHEREAS**, the membership of LGS is currently comprised of the City of Dublin, the City Larkspur, the City of Walnut Creek, and the Town of Yountville; and

**WHEREAS**, at its May 17, 2018 meeting, the LGS Board of Directors authorized the initiation of the process of dissolving the JPA. The Agreement states that the JPA may be dissolved at any time by mutual agreement of the members. The legislative body of each of the members of LGS has adopted a resolution mutually agreeing to the dissolution of LGS; and

**WHEREAS**, the Amended and Restated Joint Powers Agreement among the members of LGS states, "Upon dissolution of LGS, after satisfaction of all debts, liabilities or obligations incurred by LGS, any and all remaining property of LGS, both real and personal, and all other assets of any kind shall be divided among the Members active as of the act of dissolution, in such manner as shall be agreed upon by those Members." (Article V, Section 3.); and

**WHEREAS**, LGS staff has advised the Board that it might not be possible to address the disposition of all assets and liabilities prior to dissolution and have been investigating an appropriate partner to assist LGS with those public purposes prior to and following dissolution; and

**WHEREAS**, a group of individuals interested in supporting the shared services model among local government agencies in California is working with LGS and legal counsel to create a nonprofit public benefit corporation that would be a viable partner to support those public purposes of LGS. The new entity would be amenable to entering into an agreement with LGS for those purposes, once the process of forming it has been completed; and

**WHEREAS**, the terms of the agreement would include the nonprofit public benefit corporation agreeing to support the LGS public purposes described in the staff report provided to the Board in conjunction with this resolution. The obligations that the nonprofit public benefit corporation would take on pursuant to the agreement to support LGS's public purposes would survive the dissolution of LGS. In the agreement, LGS would also assign to the nonprofit public benefit corporation certain claims against third parties and all assets. That assignment of rights would also survive dissolution of LGS. MSS has the authority to terminate any previously entered LGS contract not terminated by its dissolution; and

**WHEREAS**, the Board Members of LGS determine it to be in the best interest of LGS to further the objectives of agreement with MSS to allocate LGS's remaining assets to the non-profit public benefit corporation, MSS.

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED** that Board of Directors of the Local Government Services Authority vote to authorize the Executive Director to execute an agreement with MSS to support the public purposes of LGS in the ways described in this resolution, the final terms to be to the satisfaction of the Executive Director and Authority Counsel; and to allocate remaining Authority assets to MSS.

**PASSED AND ADOPTED** by the Board of Directors of Local Government Services Authority, this 15th day of November 2018 by the following vote, to wit:

**AYES:**

**NOES:**

**ABSTAIN:**

**ABSENT:**

**ATTEST:**

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**Board Secretary**

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**Steve Rogers, Chair**



**TO:** BOARD OF DIRECTORS **BOD Meeting: 11-15-2018**  
**FROM:** RICHARD AVERETT, Executive Director  
SKY WOODRUFF, Authority Counsel **Item: 6B**  
**SUBJECT: APPROVE RESOLUTION LGSBOD2018-03 TERMINATING AND  
DISSOLVING LOCAL GOVERNMENT SERVICES AUTHORITY, A JOINT  
POWERS AUTHORITY**

**RECOMMENDATION**

Approve resolution number LGSBOD2018-03 terminating and dissolving Local Government Services Authority.

**BACKGROUND**

Local Government Services Authority (LGS) is a joint powers authority formed in 2001 that began operations in 2002. The current members are the City of Dublin, the City of Larkspur, the City of Walnut Creek, and the Town of Yountville.

LGS's purpose was to provide staffing for small agencies without sufficient staff to effectively and efficiently serve as its own employer, and to meet the grant-funded or other limited term staffing needs of larger agencies. LGS provided competitive compensation, including a California Public Employee Retirement System (CalPERS) retirement benefit, and a shared platform for multiple agencies to use. Over the years, LGS served approximately a dozen agencies.

In 2006, CalPERS conducted a payroll and compensation audit of LGS and found the JPA only needed to correct its reporting of salaries, suggesting to LGS that it could report position salaries by client agency locations in order to comply with reporting requirements while paying market rates for the client's different geographic areas. LGS corrected its reporting of salaries to comply with the CalPERS audit.

LGS operations continued in the same manner, but eleven years later, in another CalPERS audit – this one lasting four and a half years – the single finding was that LGS should not have enrolled its employees in CalPERS because it did not exercise control of the workers. That is, CalPERS found the client agencies were the common law employers of LGS employees. All 144 LGS employees, from 2002 through 2017, were in jeopardy of losing the retirement service credit they had earned under LGS service.

LGS appealed the audit conclusions, but the appeal has still not been heard one year after the audit was finalized. As a result of the determination, with concurrence from the Board, LGS terminated all of its service agreements with client agencies, stopped seeking new engagements, and separated all of its employees. Since that time, LGS has had no new revenue but has had ongoing expenses related to resolution of multiple issues related the CalPERS determination. At its May 17, 208 meeting, the Board authorized staff to begin the process of dissolving the JPA. Since that time, staff has been developing a plan to ensure that the JPA can

dissolve consistent with California law and the Amended and Restated Joint Powers Agreement (Agreement).

The Agreement states, “Upon dissolution of LGS, after satisfaction of all debts, liabilities or obligations incurred by LGS, any and all remaining property of LGS, both real and personal, and all other assets of any kind shall be divided among the Members active as of the act of dissolution, in such manner as shall be agreed upon by those Members.” (Article V, Section 3.)

A significant consequence of the CalPERS determination and a potential liability of LGS has to do with the lost service credit of up to 14 former employees. The staff report for item 6A on the Board’s November 15, 2018 agenda provides a full discussion of that potential liability and the steps that LGS is taking to address it. In addition, as outlined in that staff report, LGS has an agreement in principle with a nonprofit public benefit corporation to provide assistance to LGS with its public purpose of addressing that potential liability, including subsequent to the dissolution of LGS. Assuming that the Board authorizes that agreement, those liabilities will have been addressed, in compliance with the requirements of the Agreement for dissolution.

The staff report for item 6A discusses other liabilities, obligations, and assets of LGS that must be addressed prior to dissolution. The same nonprofit public benefit corporation has also agreed in principle to assist with those liabilities and to pursue through an assignment any claims that LGS might have against third parties, including after dissolution. To assist with that support, LGS staff has recommended that the Board authorize the transfer of LGS assets to Municipal Shared Services Corporation (MSS).

Staff’s recommendation for item 6A also includes the members of the Board, acting pursuant to the authority granted to them in the resolutions of the JPA member legislative bodies authorizing dissolution, approving of the allocation of LGS assets to MSS.

Assuming that the Board adopts Resolution No. LGSBOD2018-02, all assets and liabilities of LGS will have been addressed, in compliance with the requirements of the Agreement prior to dissolution of the JPA.

As a joint powers authority, LGS is organized pursuant to the Joint Exercise of Powers Act, Government Code section 6500 et seq. (the “Act”). Together, the Act and the Agreement control LGS and establish the process for dissolution of the agency.

A joint powers agency may exist for a definite term or may continue in existence until dissolved. The Act does not provide a specific method for dissolution, but rather permits the joint powers agreement creating an agency to establish the process for that particular agency to dissolve. (Government Code § 6510.)

The Agreement provides that the members of the JPA “may mutually agree to dissolve LGS at any time,” subsequent to all LGS assets and liabilities having been addressed. (Article V, §§ 2, 3.) The City Councils of Dublin, Larkspur, and Walnut Creek and the Town Council of Yountville have all adopted resolutions mutually agreeing to the dissolution of LGS. As described above, all assets and liabilities of LGS have now been addressed.

Based on the above described events, Staff recommends that the Board adopt the attached Resolution of Termination and Dissolution.

**FINANCIAL IMPACT**

Approval of Resolution LGSBOD2018-03 terminating and dissolving Local Government Services Authority would conclude the activities of the JPA as of the effective date. At its November 15, 2018 meeting, the LGS Board adopted a resolution to distribute its remaining assets. Therefore, with approval of this resolution no further financial impact should occur.

**RESOLUTION NO. LGSBOD2018-03**

**A RESOLUTION OF THE BOARD OF DIRECTORS OF LOCAL GOVERNMENT SERVICES AUTHORITY (LSG) TERMINATING AND DISSOLVING LOCAL GOVERNMENT SERVICES AUTHORITY, A JOINT POWERS AUTHORITY**

**WHEREAS**, Local Government Services Authority (LGS) is a joint powers authority formed pursuant to the Joint Exercise of Powers Act (the “Act”), Government Code section 6500 *et seq.*, with the purpose of providing staffing for small local government agencies without sufficient staff to effectively and efficiently serve as its own employer, and to meet the grant-funded or other limited term staffing needs of larger agencies; and

**WHEREAS**, the membership of LGS is currently comprised of the City of Dublin, the City of Larkspur, the City of Walnut Creek, and the Town of Yountville; and

**WHEREAS**, LGS was created by a Joint Powers Agreement in 2001, which has subsequently been superseded by an Amended and Restated Joint Powers Agreement, which was approved in 2016 (the Agreement”). Under the terms of the Agreement, the members of LGS may mutually agree to dissolve LGS at any time, provided, however, all LGS debts, liabilities, obligations, and assets have been resolved and distributed according to the Agreement; and

**WHEREAS**, City Councils of Dublin, Larkspur, and Walnut Creek and the Town Council of Yountville have all adopted resolutions mutually agreeing to the dissolution of LGS; and

**WHEREAS**, having now satisfied all of LGS’s obligations and distributed assets as required by the Agreement, the Board desires to terminate the Agreement and LGS’s existence.

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED** that Board of Directors of the Local Government Services Authority hereby finds and declares, based on the report presented to the Board at its November 15, 2018 meeting, as follows:

1. LGS has been completely wound up.
2. LGS’s known debts, liabilities, or obligations will have been discharged upon the effective date of the agreement described in Resolution LGSBOD2018-02.
3. All LGS property, both real and personal, and all other assets of any kind will have been distributed in a manner agreed to by the members of LGS, upon the effective date of and as described in Resolution LGSBOD2018-02.
4. LGS is dissolved upon the effective date of the agreement described in Resolution LGSBOD2018-02.

**PASSED AND ADOPTED** by the Board of Directors of Municipal Services Authority, this 15th day of November 2018 by the following vote, to wit:

**AYES:**

**ABSTAIN:**

**NOES:**

**ABSENT:**

**ATTEST:**

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**Board Secretary**

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**Steve Rogers, Chair**