

RESOLUTION NO. SA-31

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
SUCCESSOR AGENCY TO THE SCOTTS VALLEY
REDEVELOPMENT AGENCY APPROVING AN AGREEMENT FOR
SERVICES WITH NHA ADVISORS FOR BOND COORDINATION AND
STRUCTURING SERVICES TO REFUND CERTAIN
SUCCESSOR AGENCY OBLIGATIONS**

RECITALS:

A. Assembly Bill X1 26 and AB 1484 resulted in the dissolution of the former Scotts Valley Redevelopment Agency and creation of the Scotts Valley Successor Agency, which has all the power and authority of the former agency.

B. The Dissolution Act authorizes the Successor Agency to refund bonds or other indebtedness for the purpose of achieving savings for debt service or other long term obligations.

C. The City engaged NHA Advisors, its municipal advisor to assess the refunding of debt and other obligations. After having analyzed the City's cash flows, and given near-record lows for yields for municipal bonds, NHA determined that a refunding would reduce debt service and other reimbursement obligations, ultimately increasing revenue to taxing entities.

D. Bonds will be issued to refund the following obligations:

The 2003 Certificates of Participation (COP) Reimbursement Obligation by and between the City of Scotts Valley and the Redevelopment Agency of the City of Scotts Valley. The COPs were refunded in prior years, and originally issued by the City to purchase property, which was acquired by the Redevelopment Agency of the City of Scotts Valley. This property is now known as the Scotts Valley Community Center.

The 2006 Redevelopment Agency of the City of Scotts Valley Tax Allocation Bonds. The bonds were previously refunded and issued to pay off a note to the City of Santa Cruz to purchase real property, which is now known as Skypark.

The 2009 Series A and Series B Lease Revenue Bonds Reimbursement Obligation by and between the City of Scotts Valley and the Redevelopment Agency of the City of Scotts Valley. These bonds were previously refunded and originally issued to purchase property, which later became the Scotts Valley Library.

E. Conducting a bond refinancing requires significant support and resources from specialized consultants.

F. NHA Advisors provides strategic, objective, and financially sound solutions to California public agencies as it relates to debt issuance and refunding.

G. NHA Advisors has regularly advised the City and the former Redevelopment Agency on debt issuance and opportunities to refund certain obligations.

H. The Successor Agency desires to hire NHA Advisors to assist with the refunding coordination and structuring.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE SUCCESSOR AGENCY TO THE SCOTTS VALLEY REDEVELOPMENT AGENCY HEREBY FINDS, DETERMINES, RESOLVES, AND ORDERS AS FOLLOWS:

The Executive Director is hereby authorized and directed to execute the Agreement for Services with NHA Advisors attached hereto.

The above and foregoing resolution was duly and regularly adopted by the Board of Directors of the Successor Agency of the Scotts Valley Redevelopment Agency, at a regular meeting held on the 19th of October, 2016, by the following vote:

AYES:	AGUILAR, BUSTICHI, JOHNSON, LIND, REED
NOES:	NONE
ABSENT:	NONE
ABSTAIN:	NONE



Donna R. Lind, Chairperson

ATTEST:



Tracy A. Ferrara, Secretary

**SUCCESSOR AGENCY OF THE
SCOTTS VALLEY REDEVELOPMENT AGENCY**

AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement for Professional Services ("Agreement") is made and entered into as of October 19, 2016, by and between the Successor Agency of the former Scotts Valley Redevelopment Agency, hereinafter referred to as "AGENCY", and NHA Advisors, LLC, hereinafter referred to as "CONSULTANT".

RECITALS

- A. AGENCY desires to retain CONSULTANT for certain professional services as set forth in this Agreement.
- B. CONSULTANT is specially trained, experienced and competent to perform the special services which will be required by this Agreement.
- C. CONSULTANT possesses the skill, ability, background, certification and knowledge to provide the services described in this Agreement on the terms and conditions described herein.

NOW, THEREFORE, in consideration of the recitals and the mutual promises contained herein, AGENCY and CONSULTANT agree as follows:

AGREEMENT

1. **Employment of CONSULTANT:** AGENCY agrees to, and hereby does, retain and employ CONSULTANT to perform the professional services as outlined in the Scope of Work attached hereto and incorporated herein as Exhibit "A". CONSULTANT'S work product shall be performed pursuant to generally accepted standards of practice in effect at the time of performance.
2. **Responsible Personnel:** AGENCY has relied upon the professional training and ability of CONSULTANT to perform the services hereunder as a material inducement to enter into this Agreement. Primary personnel responsible for the completion of the work described in this Agreement shall be Mark Northcross, Principal, NHA Advisors, LLC, whose address is 4040 Civic Center Drive, Suite 200, San Rafael, CA 94903; telephone: (415) 785-2025; Email: mark@nhaadvisors.com.
3. **Scope of Work:** CONSULTANT shall perform the services as specified in Exhibit A in a professional manner.
4. **Time of Performance:** The services of CONSULTANT are to commence upon execution of this Agreement and shall continue until all authorized work is approved by the AGENCY. All such work shall be completed no later than December 31, 2017. Time is of the essence in the performance of this Agreement. No waiver by either party hereto of the nonperformance or any breach of any term, provision, or condition of this Agreement, or any default hereunder shall be considered to be or operate as a waiver of any subsequent nonperformance, breach or default.

5. **Compensation:** CONSULTANT shall accept compensation for services performed as set forth in Section 3, Exhibit A, in an amount not to exceed \$67,500; and out-of-pocket direct expenses such as duplication, printing costs, and travel expenses. Such compensation shall be paid upon the completion of the services set forth in Section 3.

Payments to CONSULTANT shall be made upon invoices submitted by CONSULTANT to AGENCY for review and approval. Invoices will be paid by AGENCY within a reasonable time after said approved invoices are received.

6. **Indemnity:** CONSULTANT shall hold harmless, indemnify and defend AGENCY, its elective and appointive boards, commissions, officers, agents, servants, volunteers, and employees from and against any and all claims, costs, damages, liability, losses, or suits (including court costs and attorney fees) for personal injury (including death), property damage and any other damages of any sort whatsoever, arising out of, or alleged to have arisen out of, the willful or negligent acts, errors, or omissions of CONSULTANT or CONSULTANT'S contractors, subcontractors, agents, or employees in the performance of this Agreement. This indemnity shall not apply to a) claims brought by CONSULTANT for default of this Agreement, or (b) claims brought by AGENCY or any third party where the underlying injury or damage is finally determined by a court of competent jurisdiction to arise solely from the negligent or willful misconduct of AGENCY.

AGENCY shall hold harmless and indemnify CONSULTANT from any damage which may be caused to the AGENCY'S computer network system.

7. **Termination:** This Agreement may be terminated by the AGENCY immediately for cause or by either party without cause upon fifteen days' written notice of termination. Upon termination, CONSULTANT shall be entitled to compensation for services performed up to the effective date of termination.

CONSULTANT shall accept, for itself, as full payment for services rendered and all work to be done and performed hereunder and in complete satisfaction of all claims against AGENCY by reason of voluntary abandonment or suspension of work or termination of the Agreement, the sum determined on an hourly basis in accordance with the provisions of this Agreement, or any modification or amendment thereto, plus all direct expenses incurred, including those expenses incurred which are directly attributable to the incomplete portion of the work which could not be canceled.

In the event of termination, CONSULTANT shall deliver as a condition to the payment of the compensation provided for above, or otherwise make available to AGENCY, all research data, reports, estimates, summaries, and other such information and materials as may have been accumulated by CONSULTANT in performing this Agreement, whether completed or in process in accordance with Section 8 of this Agreement.

8. **Documents:** Notes, studies, charts, computations, electronic files, and other data and information obtained by CONSULTANT for this project shall, upon receipt of payment for services rendered, be made available to AGENCY by CONSULTANT at AGENCY'S request and shall become the property of AGENCY. In the event AGENCY alters the document, AGENCY agrees CONSULTANT shall have no responsibility whatsoever for any claim arising out of, or alleged to have arisen out of, use of the altered document.

All plans, studies, documents, charts, computations, and electronic files prepared by and for CONSULTANT, its officers, employees and agents and subcontractors in the course of implementing this Agreement, except working notes and internal documents, shall become the property of the AGENCY upon payment to CONSULTANT for such work, and the AGENCY shall have the sole right to use such materials in its discretion without further compensation to CONSULTANT or to any other party. CONSULTANT shall, at CONSULTANT'S expense, provide such reports, plans, studies, documents and other writings to AGENCY upon written request.

9. **Independent Contractor:** CONTRACTOR is an independent contractor retained by AGENCY to perform the work described herein. ALL personnel employed by CONSULTANT are not and shall not be deemed to be employees of AGENCY. CONSULTANT shall obtain no rights to retirement benefits or other benefits which accrue to AGENCY'S employees, and CONSULTANT hereby expressly waives any claim it may have to such rights. CONSULTANT shall comply with all state and federal laws pertaining to employment and compensation of its employees and its agents, including the provision of Workers' Compensation.

10. **Licenses:** CONSULTANT represents and warrants to AGENCY that it has all licenses, permits, qualifications, insurance and approvals of whatsoever nature which are legally required of CONSULTANT to practice its profession. CONSULTANT represents and warrants to AGENCY that CONSULTANT shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement, any licenses, permits, insurance and approvals which are legally required of CONSULTANT to practice its profession. Consultant shall maintain a City of Scotts Valley business license.

11. **Assignment:** The parties recognize that a substantial inducement to AGENCY for entering into this Agreement is the professional reputation, experience and competence of CONSULTANT. Assignments of any or all rights, duties or obligations of the CONSULTANT under this Agreement will be permitted only with the express consent of the AGENCY. CONSULTANT shall not subcontract any portion of the work to be performed under this Agreement without the written authorization of the AGENCY. If the AGENCY consents to such subcontract, CONSULTANT shall be fully responsible to AGENCY for all acts or omissions of the subcontractor. Nothing in this Agreement shall create any contractual relationship between AGENCY and subcontractor nor shall it create any obligation on the part of the AGENCY to pay or to see to the payment of any monies due to any such contractor other than as otherwise required by law.

12. **Binding on Successors:** This Agreement is binding on the heirs, successors and assigns of the parties hereto.

13. **Amendment:** This Agreement may be amended, modified or changed by the parties, provided that said Agreement, modification or change is in writing and approved by the authorized representative of the parties.

14. **Applicable Law and Attorney's Fees:** This Agreement shall be construed and enforced in accordance with the laws of the State of California, and any action brought relating to this Agreement shall be held exclusively in a state court in the County of Santa Cruz. Should any legal action be brought by a party for breach of this Agreement or to enforce any provision of the Agreement, the prevailing party of such action shall be entitled to recover its reasonable litigation expenses, including attorney fees.

15. **Entire Agreement:** This Agreement contains the entire understanding between the parties with respect to the subject matter herein. There are no representations, agreements or understandings, whether oral or written, between or among the parties relating to the subject matter of this Agreement which are not fully expressed herein. The drafting and negotiation of this Agreement have been participated in by each of the parties and/or their counsel, and for all purposes this Agreement shall be deemed to have been drafted jointly by all parties.


16. **Waiver:** Waiver of a breach or default under this Agreement shall not constitute a continuing waiver of a subsequent breach of the same or any other provision under this agreement.


17. **Severability:** If any term or portion of this Agreement shall be held by a court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable, the remaining provisions of this Agreement shall continue in full force and effect.

WITNESS WHEREOF this Agreement is executed by AGENCY and by CONSULTANT on this 19th day of October, 2016, at Scotts Valley, California.

CONSULTANT:
NHA ADVISORS


AGENCY:
SUCCESSOR AGENCY OF THE SCOTTS
VALLEY REDEVELOPMENT AGENCY


By: CRAG HILL, PRINCIPAL


Jenny D. Haruyama, Executive Director

APPROVED AS TO FORM:

ATTEST:


Kirsten M. Powell, Agency Counsel


Tracy A. Ferrara, Secretary

September 30, 2016

Jenny Haruyama
City Manager
City of Scotts Valley
One Civic Center Drive
Scotts Valley CA, 95066

RE: City of Scotts Valley – Municipal Advisory Services

This letter specifies the terms of the engagement between NHA Advisors, LLC, located at 4040 Civic Center Drive, Suite 200, San Rafael, CA 94903 and City of Scotts Valley, located at One Civic Center Drive, Scotts Valley, CA 95066.

This engagement between City of Scotts Valley (the “City”) and NHA Advisors, LLC shall become effective as of the date of its acceptance as provided below.

Scope of Municipal Advisory Activities to be Performed

Services will include the following:

- Provide and manage a detailed “master schedule” of tasks including bond structuring, documentation, approval, pricing, closing and post-closing phases.
- Work with City staff to solicit and select financing partner/funding source (e.g. bank, underwriter, etc.)
- Work with the City staff to solicit and select trustee service provider and negotiate of preferred terms and pricing
- Recommend options with respect to other consultants, as applicable, that may be required as part of financing process
- Work with Assured Guaranty Municipal to release the lien on one or more of the assets pledged to the City’s various lease backed debts
- Analyze the rating criteria, if appropriate, and its application to the financing’s underlying security characteristics to gauge credit quality
- Attend all organizational, document review, and special meetings related to the financing
- Evaluate, advise, and consult with the City and bond counsel regarding financial and non-financial bond covenants of the financing
- Work with the City and bond counsel to develop the necessary financing documents
- Assist in furnishing materials and data to rating agencies, bond insurers, and letter of credit providers (if required)

- Work with disclosure counsel to prepare the preliminary official statement (POS or “disclosure document”), if required, as well as review all appropriate financing documents
- Lead team discussions in conjunction with bond and disclosure counsel on form, content, and sufficiency of information in the POS
- Work with selected financing partner/source to determine optimal bond structure, including serial / term bonds, premium / discount bonds, and redemption provisions
- Pricing of Bond Issue
 - Work with selected financing partner/source to recommend timing of bond pricing
 - Monitor municipal markets, review proposed interest rates, and advise the City during negotiations with financing partner / source
 - Provide independent numerical analysis of proposed bond issue pricing proposals
 - Provide detailed schedule of actions and timing during critical bond marketing and sale (pricing) time-frame
- Recommendations to the City
 - Prepare an oral and written recommendation to the City for bond issue outlining financial feasibility, bond covenants, and pricing
- Bond Closing
 - Work with bond counsel to prepare a closing memorandum to outline the role of each party and to direct each party’s actions at closing
 - If requested, assist the City in evaluating the investment of bond proceeds for funds generated by the financing, (i.e. project construction fund, debt service reserve fund, etc.)
- Special Meetings of the City
 - Attend all City governing board meetings and any special meetings with staff, bond counsel, disclosure counsel, credit enhancement firms, and rating agencies as the City deems necessary
- Post Issuance Assistance
 - Provide follow-up to financing team participants on any issues that need attention
 - Conduct post issuance reviews as requested by the City
 - Provide written report to City summarizing salient financial and credit features and financing results (e.g. “Post-Closing Report”)

Independent Registered Municipal Advisor (“IRMA”)

If acting in the capacity of an Independent Registered Municipal Advisor (“IRMA”) with regard to the IRMA exemption of the SEC Rule, NHA Advisors, LLC will review all third party recommendations submitted to NHA Advisors, LLC in writing by the City.

Term of Engagement Agreement

The commencement date of the agreement is August 1, 2016 and the end date is December 31, 2017. Any extensions must be mutually agreed upon by all parties in writing.

Termination of Engagement Agreement

The City may terminate at any time and without cause upon written notification to NHA Advisors, LLC.

NHA Advisors, LLC may terminate upon 45 days' written notice to the City and shall include in such notice the reasons for termination.

In the event of termination, NHA Advisors, LLC shall be entitled to compensation for services performed to the effective date of termination; the City, however, may condition payment of such compensation upon NHA Advisors, LLC delivering to the City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to NHA Advisors, LLC or prepared by or for NHA Advisors, LLC or the City in connection with this Agreement.

Compensation and Out-of-Pocket Expenses

For work described above in "Scope of Municipal Advisory Activities to be Performed" above, NHA Advisors, LLC's fee will be \$67,500. All direct out-of-pocket expenses will be charged at cost and will not include California travel-related expenses.

We expect that such fees and expenses will be paid from the refunding bond proceeds. However, if the refunding is abandoned or otherwise terminated without the issuance of bonds, the Successor Agency will list the amounts due and payable on the Successor Agency's next available Recognized Obligation Payment Schedule.

Fiduciary Duty

NHA Advisors, LLC is registered as a Municipal Advisor with the SEC and Municipal Securities Rulemaking Board ("MSRB"). As such, NHA Advisors, LLC has a fiduciary duty to the City and must provide both a Duty of Care and a Duty of Loyalty that entails the following.

Duty of Care:

- a) exercise due care in performing its municipal advisory activities;
- b) possess the degree of knowledge and expertise needed to provide the City with informed advice;
- c) make a reasonable inquiry as to the facts that are relevant to the City's determination as to whether to proceed with a course of action or that form the basis for any advice provided to the City; and

- d) undertake a reasonable investigation to determine that NHA Advisors, LLC is not forming any recommendation on materially inaccurate or incomplete information; NHA Advisors, LLC must have a reasonable basis for:
- i. any advice provided to or on behalf of the City;
 - ii. any representations made in a certificate that it signs that will be reasonably foreseeably relied upon by the City, any other party involved in the municipal securities transaction or municipal financial product, or investors in City securities; and
 - iii. any information provided to the City or other parties involved in the municipal securities transaction in connection with the preparation of an official statement.

Duty of Loyalty:

NHA Advisors, LLC must deal honestly and with the utmost good faith with the City and act in the City's best interests without regard to the financial or other interests of NHA Advisors, LLC. NHA Advisors, LLC will eliminate or provide full and fair disclosure (included herein) to Issuer about each material conflict of interest (as applicable). NHA Advisors, LLC will not engage in municipal advisory activities with the City as a municipal entity, if it cannot manage or mitigate its conflicts in a manner that will permit it to act in the City's best interests.

Conflicts of Interest and Other Matters Requiring Disclosures

- As of the date of the Agreement, there are no actual or potential conflicts of interest that NHA Advisors, LLC is aware of that might impair its ability to render unbiased and competent advice or to fulfill its fiduciary duty. If NHA Advisors, LLC becomes aware of any potential conflict of interest that arise after this disclosure, NHA Advisors, LLC will disclose the detailed information in writing to the City in a timely manner.
- The fee paid to NHA Advisors, LLC increases the cost of investment to the City. The increased cost occurs from compensating NHA Advisors, LLC for municipal advisory services provided.
- NHA Advisors, LLC does not act as principal in any of the transaction(s) related to this Agreement.
- During the term of the municipal advisory relationship, this agreement will be promptly amended or supplemented to reflect any material changes in or additions to the terms or information within this agreement and the revised writing will be promptly delivered to the City.
- NHA Advisors, LLC does not have any affiliate that provides any advice, service, or product to or on behalf of the City that is directly or indirectly related to the municipal advisory activities to be performed by NHA Advisors, LLC;
- NHA Advisors, LLC has not made any payments directly or indirectly to obtain or retain the City's municipal advisory business;

- NHA Advisors, LLC has not received any payments from third parties to enlist NHA Advisors, LLC's recommendation to the City of its services, any municipal securities transaction or any municipal finance product;
- NHA Advisors, LLC has not engaged in any fee-splitting arrangements involving NHA Advisors, LLC and any provider of investments or services to the City;
- NHA Advisors, LLC will be compensated on a contingent basis for its municipal advisory services, which creates a conflict of interest
- NHA Advisors, LLC does not have any other engagements or relationships that might impair NHA Advisors, LLC ability either to render unbiased and competent advice to or on behalf of the City, as applicable; and
- NHA Advisors, LLC does not have any legal or disciplinary event that is material to the City's evaluation of the municipal advisory or the integrity of its management or advisory personnel.

Legal Events and Disciplinary History

NHA Advisors, LLC does not have any legal events and disciplinary history on its Form MA and Form MA-I, which includes information about any criminal actions, regulatory actions, investigations, terminations, judgments, liens, civil judicial actions, customer complaints, arbitrations and civil litigation. The City may electronically access NHA Advisors, LLC's most recent Form MA and each most recent Form MA-I filed with the Commission at the following website: www.sec.gov/edgar/searchedgar/companysearch.html.

There have been no material changes to a legal or disciplinary event disclosure on any Form MA or Form MA-I filed with the SEC.

Recommendations

If NHA Advisors, LLC makes a recommendation of a municipal securities transaction or municipal financial product or if the review of a recommendation of another party is requested in writing by the City and is within the scope of the engagement, NHA Advisors, LLC will determine, based on the information obtained through reasonable diligence of NHA Advisors, LLC whether a municipal securities transaction or municipal financial product is suitable for the City. In addition, NHA Advisors, LLC will inform the City of:

- the evaluation of the material risks, potential benefits, structure, and other characteristics of the recommendation;
- the basis upon which NHA Advisors, LLC reasonably believes that the recommended municipal securities transaction or municipal financial product is, or is not, suitable for the City; and
- whether NHA Advisors, LLC has investigated or considered other reasonably feasible alternatives to the recommendation that might also or alternatively serve the City's objectives.

If the City elects a course of action that is independent of or contrary to the advice provided by NHA, NHA Advisors, LLC is not required on that basis to disengage from the City.

Record Retention

Effective July 1, 2014, pursuant to the Securities and Exchange Commission (SEC) record retention regulations, NHA Advisors, LLC is required to maintain in writing, all communication and created documents between NHA Advisors, LLC and the City for five (5) years.

If there are any questions regarding the above, please do not hesitate to contact NHA Advisors, LLC.

Sincerely,



Mark Northcross, Principal
NHA Advisors, LLC