

RESOLUTION NO. SA-34

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE
SUCCESSOR AGENCY TO THE SCOTTS VALLEY REDEVELOPMENT
AGENCY APPROVING AN AGREEMENT FOR SERVICES WITH
JONES HALL FOR BOND COUNSEL SERVICES AND
GENERAL DISCLOSURE 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. Jones Hall is a law firm which assists cities, counties, school districts, housing authorities, special districts and other public agencies finance public infrastructure through its practice which is devoted exclusively to municipal bond law and specializes in refunding activities as it relates to California successor agencies.

G. Jones Hall would provide bond counsel services and general disclosure services.

H. The Successor Agency desires to hire Jones Hall to assist with the refinancing.

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 Jones Hall 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 Scotts Valley Redevelopment Agency, a public entity duly organized and existing under the laws of the State of California referred to as "SUCCESSOR AGENCY", and Jones Hall hereinafter referred to as "CONSULTANT".

RECITALS

- A. SUCCESSOR 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, SUCCESSOR AGENCY and CONSULTANT agree as follows:

AGREEMENT

1. **Employment of CONSULTANT:** SUCCESSOR 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:** SUCCESSOR 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 Christopher Lynch whose address is 475 Sansome Street, Suite 1700, San Francisco, CA 94111; telephone: 415-391-5780; fax: 415 276 2088; Email: clynch@joneshall.com.
3. **Scope of Work; Responsibilities of Successor Agency:**
 - (a) **Scope of Work.** CONSULTANT shall perform the services as specified in Exhibit A in a professional manner.

(b) **Responsibilities of Successor Agency.**

(i) General. SUCCESSOR AGENCY will cooperate with CONSULTANT and furnish CONSULTANT with certified copies of all proceedings taken by SUCCESSOR AGENCY, or otherwise deemed necessary by CONSULTANT to render an opinion upon the validity of the proceedings. During the course of this engagement, CONSULTANT will rely on SUCCESSOR AGENCY to provide CONSULTANT with complete and timely information on all developments pertaining to any aspect of the Bonds and their security. CONSULTANT is not responsible for costs and expenses incurred incidental to the actual issuance and delivery of the Bonds, including the cost of preparing certified copies of proceedings required by CONSULTANT in connection with the issuance of the Bonds, and printing and publication costs.

(ii) Federal Tax Law-Related Responsibilities. The Code (as defined in Exhibit A) imposes various restrictions, conditions and requirements relating to the exclusion from gross income for federal income tax purposes of interest on obligations such as the Series A Bonds (as defined in Exhibit A). As a condition of CONSULTANT issuing its opinion, you will be required to make certain representations and covenants to comply with certain restrictions designed to insure that interest on the Series A Bonds will not be included in federal gross income. Inaccuracy of these representations or failure to comply with these covenants may result in interest on the Series A Bonds being included in gross income for federal income tax purposes, possibly from the date of original issuance of the Series A Bonds. CONSULTANT'S opinion will assume the accuracy of these representations and compliance with these covenants. CONSULTANT will not undertake to determine (or to inform any person) whether any actions taken (or not taken) or events occurring (or not occurring) after the date of issuance of the Series A Bonds may adversely affect the value of, or the tax status of interest on, the Series A Bonds. In this regard, SUCCESSOR AGENCY agrees to familiarize itself with the relevant requirements and restrictions necessary for the Series A Bonds to qualify for exemption from federal income taxation and to exercise due diligence both before and after issuance of the Series A Bonds in complying with these requirements.

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 SUCCESSOR AGENCY. 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 in the amount of \$65,000, plus reimbursement of expenses in an amount not to exceed \$2,500. 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 SUCCESSOR AGENCY for review and approval. Invoices will be paid by SUCCESSOR AGENCY within a reasonable time after said approved invoices are received.

6. **Indemnity:** CONSULTANT shall indemnify and hold harmless SUCCESSOR AGENCY from and against any and all losses, claims, demands, damages, liabilities, actions, judgments and awards (collectively, "Claims") sustained by SUCCESSOR AGENCY that are determined in a final, binding judgment against CONSULTANT by a court of competent jurisdiction to have proximately resulted from professional negligence of CONSULTANT in connection with its performance of services under this Agreement. Nothing in this Section 6 shall obligate CONSULTANT to pay or reimburse SUCCESSOR AGENCY for any damages, legal costs or expenses incurred, including attorneys' fees, unless CONSULTANT IS adjudicated liable for such damages, legal costs or expenses incurred, including attorneys' fees, in such a final judgment.

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

7. **Termination:** This Agreement may be terminated by the SUCCESSOR 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 SUCCESSOR 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 SUCCESSOR 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.

Notwithstanding any other provision of this Agreement, this Agreement shall terminate upon issuance of the Bonds.

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 SUCCESSOR AGENCY by CONSULTANT at SUCCESSOR AGENCY'S request and shall become the property of SUCCESSOR AGENCY. In the event SUCCESSOR AGENCY alters the document, SUCCESSOR 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 SUCCESSOR AGENCY upon payment to CONSULTANT for such work, and the

SUCCESSOR 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 SUCCESSOR AGENCY upon written request.

9. **Independent Contractor:** CONTRACTOR is an independent contractor retained by SUCCESSOR AGENCY to perform the work described herein. All personnel employed by CONSULTANT are not and shall not be deemed to be employees of SUCCESSOR AGENCY. CONSULTANT shall obtain no rights to retirement benefits or other benefits which accrue to SUCCESSOR 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 SUCCESSOR 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 SUCCESSOR 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 Successor Agency of Scotts Valley business license.

11. **Assignment:** The parties recognize that a substantial inducement to SUCCESSOR 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 SUCCESSOR AGENCY. CONSULTANT shall not subcontract any portion of the work to be performed under this Agreement without the written authorization of the SUCCESSOR AGENCY. If the SUCCESSOR AGENCY consents to such subcontract, CONSULTANT shall be fully responsible to SUCCESSOR AGENCY for all acts or omissions of the subcontractor. Nothing in this Agreement shall create any contractual relationship between SUCCESSOR AGENCY and subcontractor nor shall it create any obligation on the part of the SUCCESSOR 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.

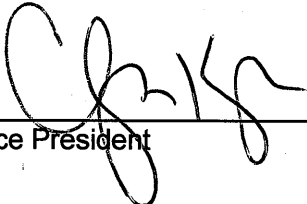
15. **Entire Agreement:** This Agreement contains the entire understanding between the parties with respect to the subject matter herein. There are no representations, agreements or understandings, whether oral or written, between or among the parties relating to the subject matter of this Agreement 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.

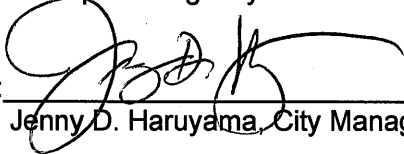
17. **Severability:** If any term or portion of this Agreement shall be held by a court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable, the remaining provisions of this Agreement shall continue in full force and effect.

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

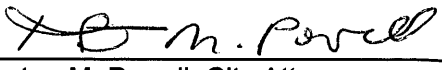
CONSULTANT:
Jones Hall, A Professional Law Corporation

By: 
Vice President

SUCCESSOR AGENCY:
Successor Agency of the Scotts Valley
Redevelopment Agency

By: 
Jenny D. Haruyama, City Manager

APPROVED AS TO FORM:

By: 
Kirsten M. Powell, City Attorney

ATTEST

By: 
Tracy A. Ferrara, City Clerk

EXHIBIT A

SCOPE OF SERVICES

Section 1. Scope of Engagement as Bond Counsel. CONSULTANT shall perform all of the following services as bond counsel in connection with the issuance and sale of two series of bonds, one tax-exempt ("Series A Bonds") and one federally taxable (collectively, the "Bonds"), for the purpose of refinancing SUCCESSOR AGENCY's outstanding tax increment obligations:

- a. Consultation and cooperation with SUCCESSOR AGENCY and SUCCESSOR AGENCY staff to assist in the formulation of a coordinated financial and legal issuance of the Bonds.
- b. Preparation of all legal proceedings for the authorization, issuance and delivery of the Bonds by the SUCCESSOR AGENCY; including (a) preparation of a resolution of the governing board of the SUCCESSOR AGENCY and resolution of SUCCESSOR AGENCY'S Oversight Board authorizing the issuance and sale of the Bonds and approving related documents and actions, (b) preparation of all financing documents, including an indenture of trust, (c) preparation of all documents required for the closing of the issue, (d) supervising the closing, and (e) preparation of all other proceedings incidental to or in connection with the issuance and sale of the Bonds.
- c. Advising the SUCCESSOR AGENCY, from the time CONSULTANT are hired as Bond Counsel until the Bonds are issued, as to compliance with federal tax law as required to ensure that interest on the Bonds is exempt from federal income taxation.
- d. Upon completion of proceedings to CONSULTANT'S satisfaction, providing a legal opinion (the "Bond Opinion") approving the validity and enforceability of the proceedings for the authorization, issuance and delivery of the Bonds, and stating that interest on the Bonds is (a) excluded from gross income for purposes of federal income taxes and (b) exempt from California personal income taxation. The Bond Opinion will be addressed to the SUCCESSOR AGENCY, and may also be addressed to the underwriter of the Bonds and other participants in the financing.
- e. Review those sections of the official statement or other form of offering or disclosure document to be disseminated in connection with the sale of the Bonds involving summary descriptions of the

Bonds, the legal proceedings leading to the authorization and sale of the Bonds, the legal documents under which the Bonds will be issued, and federal tax law and securities law provisions applicable to the Bonds, as to completeness and accuracy.

- f. Assist the SUCCESSOR AGENCY in presenting information to bond rating organizations and providers of credit enhancement relating to legal issues affecting the issuance of the Bonds.
- g. Such other and further services as are normally performed by bond counsel in connection with similar financings.

CONSULTANT'S Bond Opinion will be delivered by CONSULTANT on the date the Bonds are exchanged for their purchase price (the "Closing").

The Bond Opinion will be based on facts and law existing as of its date, will cover certain matters not directly addressed by such authorities, and will represent CONSULTANT'S judgment as to the proper treatment of the Bonds for federal income tax purposes. CONSULTANT'S opinion is not binding on the Internal Revenue Service ("IRS") or the courts. CONSULTANT cannot and will not give any opinion or assurance about the effect of future changes in the Internal Revenue Code of 1986 (the "Code"), the applicable regulations, the interpretation thereof or the enforcement thereof by the IRS. SUCCESSOR AGENCY acknowledges that future legislation, if enacted into law, or clarification of the Code may cause interest on the Bonds to be subject, directly or indirectly, to federal income taxation, or otherwise prevent owners of the Bonds from realizing the full current benefit of the tax status of such interest. The introduction or enactment of any such future legislation or clarification of the Code may also affect the market price for, or marketability of, the Bonds. CONSULTANT will express no opinion regarding any pending or proposed federal tax legislation.

In rendering the Bond Opinion, CONSULTANT will rely upon the certified proceedings and other certifications of public officials and other persons furnished to CONSULTANT without undertaking to verify the same by independent investigation, and CONSULTANT will assume continuing compliance by the SUCCESSOR AGENCY with applicable laws relating to the Bonds.

Section 2. Excluded Services. CONSULTANT'S duties in this engagement are limited to those expressly set forth above in Section 1, except as expressly set forth in a written amendment to this Agreement. Among other things, CONSULTANT'S duties do not include:

- a. Preparing requests for tax rulings from the Internal Revenue Service, or "no-action" letters from the Securities and Exchange Commission.

- b. Preparing blue sky or investment surveys with respect to the Bonds.
- c. Except as described in Section 1 above, drafting state constitutional or legislative amendments.
- d. Pursuing test cases or other litigation, such as contested validation proceedings, except as set forth above.
- e. Making an investigation or expressing any view as to the creditworthiness of the SUCCESSOR AGENCY or the Bonds.
- f. After Closing, providing advice concerning any actions necessary to assure compliance with any continuing disclosure undertaking under Securities and Exchange Commission Rule 15c2-12.
- g. Representing the SUCCESSOR AGENCY in Internal Revenue Service examinations, audits or inquiries, or Securities and Exchange Commission investigations.
- h. After Closing, unless specifically requested to do so by SUCCESSOR AGENCY, and agreed to by CONSULTANT, providing continuing advice to the SUCCESSOR AGENCY or any other party concerning any actions that need to be taken regarding the Bonds; e.g., actions necessary to assure that interest paid on the Bonds will continue to be excludable from gross income for federal income tax purposes (e.g., our engagement does not include rebate calculations for the Bonds).
- i. Reviewing or opining on the business terms of, validity, or federal tax consequences of any investment agreement that the SUCCESSOR AGENCY may choose as an investment vehicle for the proceeds of the Bonds, unless the SUCCESSOR AGENCY and CONSULTANT agree on the terms of such review and compensation for such review.
- j. Reviewing or opining on the business terms of, validity, or federal tax consequences of any derivative financial products, such as an interest rate swap agreement, that the SUCCESSOR AGENCY may choose to enter into in connection with the issuance of the Bonds, unless the SUCCESSOR AGENCY and CONSULTANT agree on the terms of such review and compensation for such review.
- k. Addressing any other matter not specifically set forth above that is not required to render our Bond Opinion.

SUCCESSOR AGENCY has retained another law firm to provide assistance to it with respect to compliance with federal securities laws.