

## AGREEMENT FOR LEGAL SERVICES

THIS AGREEMENT is made and entered into effective [REDACTED], 2024, by and between the City of Stockton, a municipal corporation ("CITY"), and the law firm of Orrick, Herrington & Sutcliffe LLP ("FIRM").

### WITNESSETH

The City Attorney of the City of Stockton provides legal counsel and representation to the CITY and the Council members, Board members, officers, and employees of the CITY; and

Pursuant to Section 1306 of the Charter of the City of Stockton, the City Attorney shall not retain or employ outside counsel without the approval of the City Council; and

On [REDACTED], 2024, the City Council approved Council Resolution No. [REDACTED], authorizing the City Attorney to enter into this Agreement; and

The CITY and FIRM have determined that FIRM is especially qualified to provide bond counsel and disclosure counsel advice and representation on behalf of the CITY.

NOW, THEREFORE, in consideration of these premises and the following terms and conditions, FIRM and CITY agree as follows:

#### 1. CONDITIONS AND BILLING ATTORNEY DESIGNATION.

This Agreement will take effect and FIRM will only be obligated to provide legal services as needed once this Agreement is fully signed and initialed by both parties. Upon receipt of the signed Agreement, Brandon Dias, Devin Brennan will be the attorney(s) primarily responsible for all work performed under this Agreement unless otherwise authorized by CITY.

#### 2. SCOPE OF SERVICES.

CITY hires FIRM to, as may be requested by CITY from time to time, provide legal services as described more particularly in **Exhibit A**, which is incorporated herein by this reference.

#### 3. CITY'S DUTIES.

CITY agrees to be truthful with FIRM, to cooperate, to keep FIRM informed of any information or developments which may come to CITY's attention, to abide by this Agreement, to pay FIRM's bills on time, and to keep FIRM advised of CITY's address, telephone number, and whereabouts. CITY will assist FIRM in providing necessary information and documents.

#### 4. CONFLICTS OF INTEREST.

By accepting representation of CITY, FIRM acknowledges that it has undertaken reasonable and customary efforts to determine whether there are any potential conflicts of interest or adversity of positions between CITY and any other person or entity in accordance

with the Rules of Professional Conduct adopted in California, which would bar FIRM from representing CITY in general. CITY's execution of this Agreement represents an express agreement to the applicability of the Rules of Professional Conduct adopted in California as to any and all issues of representation arising under this Agreement.

## **5. INDEPENDENT CONTRACTOR/CONFLICTS OF INTEREST.**

FIRM shall be employed solely as an independent contractor to render a professional service, is responsible for all obligations consistent with that status, and nothing contained herein shall be interpreted so as to cause FIRM to be considered an employee of CITY. Consistent with FIRM's independent contractor status, nothing contained herein shall be deemed to prohibit or limit FIRM from representing parties other than those expressly covered by this Agreement, provided that FIRM shall not represent CITY's officials, officers, employees, board members and commissioners (whether individually or collectively) in disputes with CITY or in any other investigation, administrative proceeding, or litigation against CITY which would conflict with CITY's interests or create any other conflict as prohibited by law or the canons of ethics of the State Bar of California.

## **6. DISCLOSURE.**

By executing and returning this Agreement, FIRM discloses that it maintains professional errors and omissions insurance pursuant to the requirements of California Business & Professions Code Division 3, Chapter 4.

## **7. INDEMNIFICATION.**

FIRM agrees to indemnify and hold CITY harmless from and against any and all third party claims, suits and actions, and all associated damages, settlements, losses, liabilities, costs, and expenses, including without limitation reasonable attorneys' fees, to the extent finally determined to have resulted from FIRM's negligent performance of the services set forth in this Agreement. Notwithstanding the foregoing, nothing herein shall (i) serve to expand FIRM's scope of professional responsibilities as set forth in the laws and canons of ethics, (ii) extend any statute of limitations governing any claim arising from FIRM's acts or omissions, or (iii) waive any claims or defenses that FIRM may have against CITY or any other party.

## **8. INSURANCE REQUIREMENTS.**

FIRM shall secure and maintain at its own expense during the life of this Agreement Workers' Compensation and other insurance coverage in the forms and amounts set forth in the attached **Exhibit B**, which is incorporated herein by reference.

## **9. LICENSES, PERMITS, AND COMPLIANCE WITH LAW.**

FIRM represents and warrants that prior to commencing any work under this Agreement, it shall obtain and maintain at its own expense during the life of this Agreement any other licenses, permits, qualifications, and approval required to practice its profession and perform the contract services and shall comply with any and all applicable local, State, and federal laws in performing the contract services.

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**10. NOTICES.**

Any written notice to be given to the parties in connection with this Agreement may be affected by personal delivery or by mail and shall be considered effectively tendered upon actual receipt. Mailed notices shall be addressed as set forth below:

To CITY:                   Lori M. Asuncion  
                                  City Attorney  
                                  425 North El Dorado Street, Second Floor  
                                  Stockton, CA 95202

With copy to:           Carmen Barragan  
                                  425 N El Dorado St  
                                  Stockton, CA 95202

To FIRM:                   Brandon Dias  
                                  400 Capital Mall, Suite 3000  
                                  Sacramento, CA 95814

**11. LEGAL FEES AND BILLING PRACTICES.**

Legal services provided by FIRM under this Agreement shall be charged on a per-assignment basis. In connection therewith CITY agrees to pay the rates as set forth in **Exhibit C** to this Agreement.

**12. TERM, DISCHARGE, AND WITHDRAWAL.**

The term of this Agreement (the "Term") shall be for an initial period of five (5) years, and subject to earlier termination as specified herein. The Term may be extended by an instrument in writing signed by both CITY and FIRM.

CITY may discharge FIRM at any time. FIRM may withdraw with CITY's consent or for good cause. Good cause includes CITY's breach of this Agreement, refusal to cooperate or to follow FIRM's advice on a material matter or any fact or circumstance that would render FIRM's continuing representation unlawful or unethical. After services conclude, FIRM will deliver CITY's file and property in FIRM's possession whether or not CITY has paid for all services.

**13. DOCUMENT RETENTION POLICY.**

CITY is entitled to any files in FIRM's possession relating to the legal services performed by FIRM for CITY, excluding FIRM's internal accounting records and other documents not reasonably necessary to CITY's representation. Once a matter is concluded, FIRM will close the file, and CITY will receive notice and a copy thereof.

All CITY-supplied materials and all attorney end product (referred to generally as "CITY material") are the property of CITY. Attorney end product includes, for example, finalized contracts, pleadings, and trust documents. Attorney work product is the property of FIRM. Attorney work product includes, for example, drafts, notes, internal memoranda and electronic files, and attorney representation and administration materials, including attorney-CITY correspondence and conflicts materials.

**14. MEDIATION/ARBITRATION; WAIVER OF JURY TRIAL.**

If a dispute arises out of or relating to any aspect of this Agreement between CITY and FIRM, or the breach thereof, and if the dispute cannot be settled through negotiation, FIRM and CITY agree to discuss in good faith the use of mediation before resorting to arbitration, litigation, or any other dispute resolution procedure. Nothing herein shall limit or otherwise affect CITY's right under sections 6200-6206 of the California Business and Professions Code to request arbitration of any fee dispute by an independent, impartial arbitrator or panel of arbitrators through a bar association program created solely to resolve fee disputes between lawyers and CITYs. However, should discussions, mediation or non-binding arbitration provided through a local bar association program not resolve the dispute, each party is entitled to pursue all other available legal remedies. The claims or controversies subject to this provision shall include, without limitation, any claim of professional negligence or malpractice.

**15. ATTORNEYS' FEES CLAUSE.**

The prevailing party in any action or proceeding arising out of or to enforce any provision of this Agreement, with the exception of a fee arbitration or mediation under Business and Professions Code sections 6200-6206, will be awarded reasonable attorneys' fees and costs incurred in that action or proceeding, or in the enforcement of any judgment or award rendered.

**16. ENTIRE AGREEMENT.**

This Agreement contains the entire agreement of the parties. No other agreement, statement, or promise made on or before the effective date of this Agreement will be binding on the parties.

**17. SEVERABILITY IN EVENT OF PARTIAL INVALIDITY.**

If any provision of this Agreement is held in whole or in part to be unenforceable for any reason, the remainder of that provision and of the entire Agreement will be severable and remain in effect.

**18. MODIFICATION BY SUBSEQUENT AGREEMENT.**

This Agreement may be modified by subsequent agreement of the parties only by an instrument in writing signed by both of them.

**19. AUTHORITY TO CONTRACT.**

The undersigned hereby represent and warrant that they are authorized by the parties to execute this Agreement.

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

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"CITY"

LORI M. ASUNCION  
CITY ATTORNEY

By: \_\_\_\_\_  
CITY ATTORNEY

"FIRM"

ORRICK, HERRINGTON & SUTCLIFFE  
LLP

By: BLD  
Name: Brandon Dias

**EXHIBIT A**  
**SCOPE OF SERVICES**

**NATURE OF SERVICES REQUIRED**

Bond Counsel / Co-Bond Counsel

The scope of services for bond counsel and co-bond counsel may include, but not be limited to, the following:

Rendering the bond counsel opinion regarding the validity and binding effect of the bonds, the source of payment and security for the bonds, and the excludability of interest on the bonds from gross income for federal income tax purposes and/or State income tax purposes as applicable.

Rendering a supplemental bond counsel opinion regarding the Preliminary Official Statement and the Official Statement in so far as such statements expressly summarize certain provisions of the bonds are accurate in all material respects. Examining applicable laws, preparing authorizing documents, consulting with parties to the transactions, reviewing proceedings, and performing additional duties as necessary to render the opinion(s).

Providing advice or opinions as requested regarding any tax covenants or provisions to assure that interest on the bonds will be excluded from gross income for federal income tax purposes.

Preparing and reviewing of documents necessary or appropriate to the authorization, issuance, sale and delivery of the bonds, coordinating the authorization, review, and execution of these documents, and where appropriate, drafting enabling legislation.

Assisting the issuer in seeking from other governmental authorities any approvals, permissions, and exemptions necessary or appropriate in connection with the authorization, issuance, sale, and delivery of the bonds.

Reviewing legal and tax issues relating to the structure of the bond issue or projects being financed by the bonds.

Reviewing or preparing the applicable sections of the offering document to be disseminated in connection with the sale of the bonds that relate to the description of the bonds, financing documents, bond counsel opinion, and tax matters.

Participating, when requested, in activities associated with presenting information to rating agencies and/or credit enhancement providers relating to legal issues affecting the issuance of the bonds.

Reviewing or preparing the notice of sale or bond or note purchase contract for the bonds or notes, as requested.

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Providing continuing legal advice, as requested, on issues related to the sale and the administration of obligations.

In cases where a separate disclosure counsel is not retained by the issuer, performing the duties described under DISCLOSURE/CO-DISCLOSURE COUNSEL.

Provide guidance on issue price.

Providing other legal opinions as required.

Participating in meetings, as requested, relating to the issuance or administration of bonds or notes.

Preparing the official transcript for the bond or note issue.

Keeping the CFO informed of rulings issued by federal and State regulatory agencies including, but not limited to, the U.S. Securities Exchange Commission, Internal Revenue Service and Municipal Securities Rulemaking Board, which impact the issuance of the bonds and/or administration of bonds.

Provide training, as requested; and

Any additional duties as requested for specific bonds.

## **DISCLOSURE/CO-DISCLOSURE COUNSEL**

The scope of duties may include, but is not limited to, the following:

Preparing the preliminary and final official statements, including any supplements and related certificates.

Preparing the Notice of Sale, if requested.

Preparing disclosure on the City of Stockton, known as Appendix A, to the preliminary and final official statements for use in all offering documents.

Providing a "10b-5" letter of negative assurance with respect to the preliminary and final official statements.

Reviewing or preparing the continuing disclosure undertaking of the issuer.

Providing advice and review on matters relating to continuing disclosure compliance, annual reporting requirements, listed event notices, and policies and procedures.

Reviewing, as necessary, applicable laws and pertinent documents.

Providing disclosure training to the issuer, borrower, and other obligated parties.

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Participating in meetings and discussions with various parties, including investors, rating agencies, or credit providers as requested; and

Reviewing any investor presentations or advertising materials.



**Exhibit B:**  
**Insurance Requirements for Consultant Services**

FIRM (referred to in this Exhibit as “Contractor” or “Consultant”) shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees.

**MINIMUM SCOPE AND LIMIT OF INSURANCE**

Coverage shall be at least as broad as:

1. **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$2,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

2. **Automobile Liability:** Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if Consultant has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.

3. **Workers’ Compensation** insurance as required by the State of California, with Statutory Limits, and Employer’s Liability Insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease.

*(Not required if consultant provides written verification it has no employees)*

4. **Professional Liability/Errors and Omissions** Insurance appropriate to the Consultant’s profession, with limit no less than **\$1,000,000** per occurrence or claim, **\$1,000,000** aggregate.

If the Consultant maintains broader coverage and/or higher limits than the minimums shown above, the City of Stockton requires and shall be entitled to the broader coverage and/or the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City of Stockton.

**Other Insurance Provisions**

The insurance policies are to contain, or be endorsed to contain, the following provisions:

### ***Additional Insured Status***

The City of Stockton, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 if a later edition is used). Additional insured Name of Organization shall read "City of Stockton, its officers, officials, employees, and volunteers." Policy shall cover City of Stockton, its officers, officials, employees, and volunteers for all locations work is done under this contract.

### ***Primary Coverage***

For any claims related to this contract, the **Contractor's insurance coverage shall be primary and non-contributory** and at least as broad as ISO CG 20 01 04 13 as respects the City of Stockton, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City of Stockton, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it. This requirement shall also apply to any Excess or Umbrella liability policies. The City of Stockton does not accept endorsements limiting the Contractor's insurance coverage to the sole negligence of the Named Insured.

### ***Umbrella or Excess Policy***

The Contractor may use Umbrella or Excess Policies to provide the liability limits as required in this agreement. This form of insurance will be acceptable provided that all of the Primary and Umbrella or Excess Policies shall provide all of the insurance coverages herein required, including, but not limited to, primary and non-contributory, additional insured, Self-Insured Retentions (SIRs), indemnity, and defense requirements. The Umbrella or Excess policies shall be provided on a true "following form" or broader coverage basis, with coverage at least as broad as provided on the underlying Commercial General Liability insurance. No insurance policies maintained by the Additional Insureds, whether primary or excess, and which also apply to a loss covered hereunder, shall be called upon to contribute to a loss until the Contractor's primary and excess liability policies are exhausted.

### ***Notice of Cancellation***

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the City of Stockton.

### ***Waiver of Subrogation***

Contractor hereby grants to City of Stockton a waiver of any right to subrogation which any insurer of said Contractor may acquire against the City of Stockton by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this

provision applies regardless of whether or not the City of Stockton has received a waiver of subrogation endorsement from the insurer.

### ***Self-Insured Retentions***

Self-insured retentions must be declared to and approved by the City of Stockton. The City of Stockton may require the Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or City of Stockton. The CGL and any policies, including Excess liability policies, may not be subject to a self-insured retention (SIR) or deductible that exceeds \$25,000 unless approved in writing by City of Stockton. Any and all deductibles and SIRs shall be the sole responsibility of Contractor or subcontractor who procured such insurance and shall not apply to the Indemnified Additional Insured Parties. City of Stockton may deduct from any amounts otherwise due Contractor to fund the SIR/deductible. Policies shall NOT contain any self-insured retention (SIR) provision that limits the satisfaction of the SIR to the Named. The policy must also provide that Defense costs, including the Allocated Loss Adjustment Expenses, will satisfy the SIR or deductible. City of Stockton reserves the right to obtain a copy of any policies and endorsements for verification.

### ***Acceptability of Insurers***

Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City of Stockton.

### ***Claims Made Policies***

If any of the required policies provide claims-made coverage:

1. The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided ***for at least five (5) years after completion of the contract of work.***
3. If coverage is canceled or non-renewed, and not replaced ***with another claims-made policy form with a Retroactive Date prior to*** the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of ***five (5)*** years after completion of work.

### ***Verification of Coverage***

Contractor shall furnish the City of Stockton with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause **and a copy of the Declarations and Endorsements Pages of the CGL and any Excess policies listing all policy endorsements**. All certificates and endorsements and copies of the Declarations & Endorsements pages are to be received and approved by the City of Stockton before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The City of Stockton reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time. City of Stockton reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

### ***Subcontractors***

Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that City of Stockton is an additional insured on insurance required from subcontractors.

### ***Duration of Coverage***

CGL & Excess liability policies **for any construction related work, including, but not limited to, maintenance, service, or repair work**, shall continue coverage for a minimum of 5 years for Completed Operations liability coverage. Such Insurance must be maintained and evidence of insurance must be provided **for at least five (5) years after completion of the contract of work**.

### ***Special Risks or Circumstances***

City of Stockton reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

### **Certificate Holder Address**

The address for mailing certificates, endorsements and notices shall be:

City of Stockton  
Its Officers, Officials, Employees, and Volunteers  
400 E Main Street, 3<sup>rd</sup> Floor – HR  
Stockton, CA 95202

### EXHIBIT C COMPENSATION

Type of Bond	Principal Amount	Bond & Disclosure Counsel <sup>(1)(2)</sup>	Bond Counsel <sup>(1)</sup>	Disclosure Counsel <sup>(1)(2)</sup>
<b>Mello-Roo's (CFD) Bonds<sup>(3)</sup></b>	Any	\$120,000	\$75,000	\$65,000
<b>Certificates of Participation/Lease Revenue Bonds</b>	Any	\$135,000	\$85,000	\$65,000
<b>Water/Sewer Revenue Bonds</b>	Any	\$135,000	\$85,000	\$65,000
<b>1913/15 Act Assessment Bonds<sup>(3)</sup></b>	Any	\$120,000	\$75,000	\$65,000
<b>Marks-Roo's Revenue Bonds.</b>	Any	\$135,000	\$85,000	\$65,000

<sup>(1)</sup> Based on a single series of publicly offered, fixed rate, new money bonds without credit enhancement. Bond counsel fee estimate and bond and disclosure counsel fee estimate for Certificates of Participation/Lease Revenue Bonds, Water/Sewer Revenue Bonds, and Marks-Roos Revenue Bonds assumes that an appropriate existing joint powers authority or financing corporation is used. Multiple series of bonds, variable rate bonds, refunding bonds, bonds issued with credit enhancement and the need to form a joint powers authority or financing corporation are examples of structural factors that could result in increased fees, although typically the increases are not material (\$10,000 - \$20,000 depending on the circumstances). Conversely, fixed rate bonds directly purchased by a commercial bank without an offering document could result in lower bond counsel fees (because there is no need to review an offering document) and no disclosure counsel fees.

<sup>(2)</sup> Except for Mello-Roos (CFD) Bonds and 1913/15 Act Assessment Bonds, assumes that an offering document for the same credit has been prepared in the relatively recent past. If an offering document for a new credit (other than a new assessment or Mello-Roos credit) is needed, that is a factor that might result in increased disclosure counsel fees.

<sup>(3)</sup> Bond Counsel and Bond and Disclosure Counsel fees do not include district formation proceedings. Bond Counsel and Bond and Disclosure Counsel fees for district formation are estimated at an additional \$25,000. This estimate is based on a single, traditional district without improvement areas formed with waivers and consents from 100% of the property owners and, in the case of Mello-Roos formations, a landowner vote rather than a registered voter vote. Includes review of the rate and method of apportionment or assessment engineer's report but does not include fees for the preparation or review of acquisition agreements, fee reimbursement agreements, joint community facilities agreements or similar arrangements.