

OVERSIGHT BOARD RESOLUTION NO. 2012-12
RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE
COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF MISSION VIEJO
AUTHORIZING THE SUCCESSOR AGENCY TO ENTER INTO AGREEMENT FOR
PROFESSIONAL LEGAL SERVICES (HARPER & BURNS, LLP)

WHEREAS, the Community Development Agency of the City of Mission Viejo ("Agency") was established as a redevelopment agency that was previously organized and existing under the California Community Redevelopment Law, Health and Safety Code Section 33000, *et seq.* ("CRL"), and previously authorized to transact business and exercise powers of a redevelopment agency pursuant to action of the City Council of the City of Mission Viejo ("City"); and

WHEREAS, Assembly Bill x1 26 chaptered and effective on June 27, 2011 added Parts 1.8 and 1.85 to Division 24 of the California Health & Safety Code, which caused the dissolution of all redevelopment agencies and winding down of the affairs of former agencies, including as such laws were amended by Assembly Bill 1484 chaptered and effective on June 27, 2012 (together, the "Dissolution Act"); and

WHEREAS, as of February 1, 2012 the Agency was dissolved pursuant to the Dissolution Act and as a separate legal entity the City serves as the Successor Agency to the Community Development Agency of the City of Mission Viejo ("Successor Agency"); and

WHEREAS, the Successor Agency administers the enforceable obligations of the former Agency and otherwise unwinds the Agency's affairs, all subject to the review and approval by a seven-member oversight board ("Oversight Board"); and

WHEREAS, pursuant to Section 34179 the Successor Agency's Oversight Board has been formed and the initial meeting has occurred on March 29, 2012 and

WHEREAS, Section 34179 provides that the Oversight Board has fiduciary responsibilities to holders of enforceable obligations and the taxing entities that benefit from distributions of property tax and other revenues pursuant to Section 34188 of Part 1.85 of the Dissolution Act; and

WHEREAS, Section 34171(d)(1)(F) defines "enforceable obligation" to include: "Contracts or agreements necessary for the administration or operation of the successor agency, in accordance with this part,..."; and

WHEREAS, the Successor Agency desires to enter into that certain *Agreement for Professional Services (Harper & Burns, LLP)* ("*Harper Agreement*") for legal counsel for the Oversight Board; and

WHEREAS, the Oversight Board has reviewed the Harper Agreement and desires to authorize the Successor Agency to enter into such agreement, and subject to approval of such contract by the Successor Agency to cause posting of this Resolution on the Successor Agency website, and to direct transmittal thereof with a copy of such contract to the County Auditor-Controller and Department of Finance ("DOF"); and

WHEREAS, pursuant to Section 34179(h) as amended by Assembly Bill 1484, written notice and information about all actions taken by the Oversight Board shall be provided to the DOF by electronic means and in a manner of DOF's choosing, and an Oversight Board's action shall become effective five (5) business days after notice in the manner specified by the DOF unless the DOF requests a review.

NOW, THEREFORE, BE IT RESOLVED BY THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF MISSION VIEJO:

Section 1. The foregoing recitals are incorporated into this Resolution by this reference, and constitute a material part of this Resolution.

Section 2. Pursuant to the Dissolution Act, the Oversight Board authorizes the Successor Agency to enter into the *Agreement for Professional Services (Harper & Burns, LLP)*, which is incorporated herein by this reference.

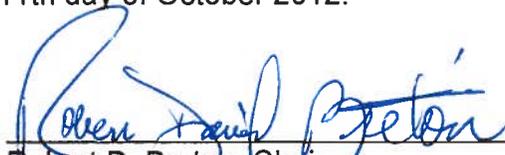
Section 3. The Oversight Board authorizes transmittal of such contract to the County Auditor-Controller and DOF.

Section 4. The City Treasury Manager of the Successor Agency or an authorized designee is directed to post this Resolution on the Successor Agency website pursuant to the Dissolution Act.

Section 5. Pursuant to Section 34179(h) as amended by Assembly Bill 1484, written notice and information about all actions taken by the Oversight Board shall be provided to the DOF by electronic means and in a manner of DOF's choosing. An Oversight Board's action shall become effective five (5) business days after notice in the manner specified by the DOF unless the DOF requests a review.

Section 6. The Secretary of the Oversight Board shall certify to the adoption of this Resolution.

APPROVED AND ADOPTED this 11th day of October 2012.



Robert D. Breton, Chair
Oversight Board of the Successor Agency to the
Community Development Agency of the City of
Mission Viejo

ATTEST:



Sherry Merrifield, Secretary
Oversight Board of the Successor Agency
to the Community Development Agency of the City of Mission Viejo

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF MISSION VIEJO)

I, Sherry Merrifield, Secretary of the Oversight Board of the Successor Agency to the Community Development Agency of the City of Mission Viejo, hereby certify that the foregoing resolution was duly adopted by the Oversight Board at a special meeting held on the 11th day of October 2012, and that it was so adopted by the following vote:

AYES: Chairperson Breton, Board Member Dyas, Board Member Hampton,
 Board Member Imburgia and Board Member Ury

NOES: None

ABSENT: Board member Fitzsimons and Vice-Chairperson Probolsky



Sherry Merrifield, Secretary
Oversight Board of the Successor Agency to the
Community Development Agency of the City of
Mission Viejo

**AGREEMENT FOR PROFESSIONAL SERVICES
(Oversight Board Legal Counsel)**

This **AGREEMENT FOR PROFESSIONAL SERVICES** ("Agreement") is made and effective as of September 4, 2012 between the **CITY OF MISSION VIEJO ACTING AS SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF MISSION VIEJO** ("Successor Agency") pursuant Division 24, Community Redevelopment Law of the California Health & Safety Code in particular Parts 1.8 and 1.85 added by Assembly Bill x1 26 ("Dissolution Act"), and Harper & Burns LLP a professional law corporation ("Firm") solely for the purpose of retaining Firm to provide certain legal services to the "Oversight Board" as hereinafter more fully described. In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

RECITALS

A. On December 29, 2011, in the petition *California Redevelopment Association v. Matosantos*, Case No. S194861, the California Supreme Court upheld the Dissolution Act that dissolved all redevelopment agencies in California as of and on February 1, 2012.

B. The Community Development Agency of the City of Mission Viejo ("Agency") is now a dissolved community redevelopment agency pursuant to the Dissolution Act.

C. By resolution considered and approved by the City Council at an open public meeting the City chose to become and serve as the "successor agency" to the dissolved Agency under the Dissolution Act.

D. As of and on and after February 1, 2012 the Successor Agency has been performing its functions as the "successor agency" under the Dissolution Act.

E. In functioning as the Successor Agency, the City Council and City are serving in a role established by and carrying out functions pursuant to the Dissolution Act which duties are distinct from its powers as a municipal corporation and general law city under California laws and the California Constitution.

F. Prior to dissolution the Agency was engaged in redevelopment activities to execute and implement its community development plan and project area pursuant to the provisions of the California Community Redevelopment Law (Health & Safety Code §33000, *et seq.*) ("CRL").

G. Pursuant to the Dissolution Act, in particular Section 34179, there exists a seven-member "Oversight Board" to the Successor Agency, which members are appointed as follows: two members by the Orange County Board of Supervisors, two members by the Mayor of the City of Mission Viejo, one member by the Department of Education, one member by the State Chancellor of Community Colleges, and one member by the largest special district serving the former redevelopment project area.

H. Successor Agency in-house staff are providing services to the Oversight Board pursuant to Section 34179. A successor agency's "administrative budget" is defined in Section 34171 of the Dissolution Act as "the budget for administrative costs of the successor agencies as

provided in Section 34177” however the law fails to include in the definition of administrative budget the costs of oversight boards, which in turn does not establish explicit authority to pay for legal counsel or other outside costs of an oversight board.

I. The Oversight Board has taken action requesting that the Successor Agency retain legal counsel to the Oversight Board through the Successor Agency for the sole and exclusive representation of the Oversight Board.

J. Under the Dissolution Act, the costs to be funded by a successor agency must be identified on the Recognized Obligation Payment Schedule (“ROPS”) for each six-month fiscal period, and reviewed by State Department of Finance (“DOF”) before funds will be disbursed to the Successor Agency by the County Auditor-Controller from the Redevelopment Property Tax RPTTF (“RPTTF”).

K. The City of Mission Viejo general fund is neither available nor adequate and is not and shall not be expended or committed, expressly or impliedly, by Successor Agency entering into this Agreement with Firm; in this regard, the sole source of monies that may be available to pay for legal services provided by Firm to the Oversight Board is and shall be limited to monies allocated to the Successor Agency either as a State approved, via DOF, separate item listed on a ROPS or as a part of the Successor Agency’s administrative budget and in no event to exceed the amount set forth herein or in any other Successor Agency approved instrument for and during each six-month fiscal period of each ROPS prepared by Successor Agency and thereafter as reviewed and approved by the Oversight Board and the DOF.

L. Firm is a law firm that is qualified in the area of public law, in particular the CRL, the Dissolution Act, general municipal law, and other federal and state laws relating to state and local government law and possesses professional skills with respect to interpreting such laws and representing the Oversight Board as legal counsel relating to the Dissolution Act and all other relevant law.

M. The Oversight Board has conducted a request for qualifications and proposals to select qualified legal counsel to the Oversight Board and by this Agreement the Successor Agency desires to retain Firm for such purpose as reasonably requested and directed by the Oversight Board or its authorized designee, subject to the terms and conditions and not to exceed fees and costs set forth herein.

N. Firm recognizes and acknowledges that Successor Agency is entering into this Agreement and retaining Firm to provide independent legal services to the Oversight Board and not to the Successor Agency, City of Mission Viejo, or any other public agency.

O. Firm acknowledges that inherent in providing legal services to the Oversight Board there may be and may arise facts and circumstances that present potential conflicts of interest between or among members of the Oversight Board because of employment or official positions, and in this regard Firm shall inform the Oversight Board when and if such facts or circumstances arise and shall receive direction from the whole of the Oversight Board relating thereto. Oversight Board members shall, upon Firm’s employment, thoroughly disclose all interests to Firm.

NOW, THEREFORE, Successor Agency wishes to engage Firm as legal counsel to the Oversight Board on the terms and conditions set forth in the preceding Recitals, which are incorporated herein, as set forth below.

- 1) **Term.** This Agreement shall commence on September 4, 2012 and shall remain and continue in effect for three hundred sixty-five days (365) unless sooner terminated pursuant to the provisions of this Agreement; further, such term and the provisions hereof may be extended by action and approval of the Oversight Board and by subsequent administrative action and approval of the City Manager and/or City Attorney, in writing, in furtherance of the Oversight Board direction.
- 2) **Services and Fees.** Firm shall provide legal services to the Oversight Board relating to the Dissolution Act, the CRL, other public law matters affecting the Oversight Board at the hourly rates set forth in Exhibit A, attached hereto and incorporated herein as though set forth in full; provided however, in no event shall the cumulative fees and costs exceed the Five Thousand Dollars (\$5,000.00) for each six-month fiscal period of each ROPS and subject to the Successor Agency receiving an adequate allocation of monies from the RPTTF to pay for the legal services provided by Firm to the Oversight Board.
- 3) **Performance.** Firm shall at all times faithfully, competently and to the best of its ability, experience, and talent perform all legal services as assigned and directed by the Oversight Board and authorized representatives of the Oversight Board. Firm shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing similar services as are required of Firm hereunder in meeting its obligations under this Agreement.
- 4) **Management.** The Chair of the Oversight Board is hereby authorized to and shall represent Oversight Board in all matters pertaining to the administration of this Agreement, including review and approval of all products submitted by Firm.
- 5) **Payment.** Pursuant to the above section titled "Services and Fees" (Section 2), the Successor Agency agrees to pay Firm, in accordance with the payment rates, terms and schedule of payment as set forth in **Exhibit A** based upon actual time spent on the tasks to be performed, as assigned by the Oversight Board or other authorized persons during the term of the Agreement, subject to the limitations of Section 2 above relating to not to exceed fees and costs and allocation of monies to the Successor Agency from the RPTTF to pay Firm.

Firm will submit invoices to the Successor Agency, with copy to the Chair of the Oversight Board, for actual legal services performed. Payment shall be made within sixty (60) days of receipt of each invoice as to all non-disputed fees. If the Oversight Board (or Successor Agency) disputes any of Firm's fees it shall give written notice to Firm within thirty (30) days of receipt of an invoice of any disputed fees set forth on the invoice.

Suspension or Termination of Agreement without Cause

Oversight Board may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the Firm at least ten (10) calendar days prior written notice. Upon receipt of said notice, the Firm shall immediately cease all work

under this Agreement, unless the notice provides otherwise or upon the Approval of the Chairman of the Oversight Board upon compelling facts and circumstances.

Firm reserves the right to withdraw from representation of the Oversight Board if, among other events, Oversight Board (or Successor Agency) fails to honor the terms of this Agreement, Oversight Board fails to cooperate fully or follow Firm's advice on a material matter, or any fact or circumstance occurs that would, in Firm's view, render continuing representation unlawful or unethical. If Firm elects to withdraw, Oversight Board will take all steps necessary to free Firm of any obligation to perform further legal services, including the execution of any documents necessary to complete Firm's withdrawal, and Firm will be entitled to be paid at the time of withdrawal for all services rendered and costs and expenses paid or incurred on Oversight Board behalf subject to Section 2 above. If requested by the Oversight Board, in connection with litigation, Firm would request leave of court to withdraw and cooperate in all ways to substitute alternate legal counsel.

In the event this Agreement is terminated pursuant to this Section 6, the Successor Agency shall pay to Firm the actual value of the work performed up to the time of termination, provided that the work performed is of value to the Oversight Board and subject to Section 2 above. Upon termination of the Agreement pursuant to this Section 6., the Firm will submit an invoice to the Successor Agency pursuant to Section 5 and subject to Section 2.

Date of Termination. Firm's representation of the Oversight Board will be considered terminated at the earlier of (i) Oversight Board termination of Firm's representation or (ii) Firm's withdrawal from representation of the Oversight Board.

Related Activities. If any claim or action is brought against Firm or any personnel or agents of Firm based on Oversight Board's negligence or misconduct, or if Firm is asked to testify as a result of Firm's representation of the Oversight Board or must defend the confidentiality of the Oversight Board's communications in a legal or administrative proceeding, Successor Agency agrees to pay Firm for resulting fees, costs, or damages, including Firm's time, even if Firm's representation of the Oversight Board has ended.

No Guarantee of Outcome. Firm does not and cannot guarantee any outcome in a matter.

Insurance. Firm shall obtain, maintain, and keep in full force and effect during the Term of this Agreement all of the following minimum scope of insurance coverages with an insurance company admitted to do business in California, rated "A," Class X, or better in the most recent Best's Key Insurance Rating Guide, and approved by Successor Agency:

Commercial general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury or bodily injury with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or shall be twice the required occurrence limit.

Business automobile liability for owned vehicles, hired, and non owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence for bodily injury and property damage.

Workers' compensation insurance as required by the State of California. Firm agrees to waive, and to obtain endorsements from its workers' compensation insurer waiving subrogation rights under its workers' compensation insurance policy against the City of Mission Viejo, the Successor Agency, the Oversight Board and their officers, agents, employees, and volunteers arising from work performed by Firm for the Oversight Board and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies.

Professional errors and omissions ("E&O") liability insurance with policy limits of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate. If the policy is written as a "claims made" policy, the retro date shall be prior to the start of the contract work. Firm shall obtain and maintain, said E&O liability insurance during the Term of this Agreement and for three years after completion of the work hereunder.

Endorsements. The commercial general liability insurance policy and business automobile liability policy shall contain or be endorsed to contain the following provisions:

Additional insureds: "The City of Mission Viejo, the City of Mission Viejo acting as Successor Agency, the Oversight Board and their elected and appointed boards, officers, officials, agents, employees, and volunteers are additional insureds with respect to: liability arising out of activities performed by or on behalf of the Firm pursuant to this Agreement; products and completed operations of the Firm; premises owned, occupied or used by the Firm; automobiles owned, leased, hired, or borrowed by the Firm."

Notice: "Said policy shall not terminate, be suspended, or voided, nor shall it be cancelled, nor the coverage or limits reduced, until thirty (30) calendar days after written notice is given to the Successor Agency and Oversight Board." Firm agrees that it has a duty to provide this notice, by its own action or that of its agent, to Oversight Board.

Other insurance: "The Firm's insurance coverage shall be primary insurance as respects the City of Mission Viejo, the City of Mission Viejo acting as Successor Agency, the Oversight Board and their officers, officials, agents, employees, and volunteers. Any other insurance maintained by the City shall be excess and not contributing with the insurance provided by this policy."

Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the City of Mission Viejo, the City of Mission Viejo acting as Successor Agency, the Oversight Board and their officers, officials, agents, employees, and volunteers.

The Firm's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

Deductible or Self Insured Retention. If any of such policies provide for a deductible or self-insured retention to provide such coverage, the amount of such deductible or self-insured

retention shall be approved in advance by Successor Agency. No policy of insurance issued as to which the City of Mission Viejo, the City of Mission Viejo acting as Successor Agency, or the Oversight Board is an additional insured shall contain a provision which requires that no insured except the named insured can satisfy any such deductible or self-insured retention.

Certificates of Insurance: Firm shall provide to Successor Agency duplicate originals of insurance showing the insurance coverages and required endorsements described above, in a form and content approved by Successor Agency, prior to performing any services under this Agreement.

Non-limiting: Nothing in this Section 10. shall be construed as limiting in any way, the indemnification provision contained in this Agreement, or the extent to which Firm may be held responsible for payments of damages to persons or property.

Payment Notwithstanding Dispute. In the event of any dispute that relates to Firm's entitlement to payment from Successor Agency, all undisputed amounts shall be paid by Successor Agency. Any amounts in a client trust account, if any, held on Successor Agency's and/or Oversight Board's behalf, sufficient to pay the disputed amounts, shall continue to be held in such trust account until the final disposition of the dispute.

Default of Firm

Firm's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Firm is in default for cause under the terms of this Agreement, Successor Agency, subject to Sections 2 and 6 above, shall have no obligation or duty to continue compensating Firm for any work performed after the date of default and can terminate this Agreement immediately by written notice to the Firm. If such failure by the Firm to make progress in the performance of work hereunder arises out of causes beyond the Firm's control, and without fault or negligence of the Firm, it shall not be considered a default.

If the Chair of the Oversight Board or his authorized representative or the Successor Agency determines that the Firm is in default in the performance of any of the terms or conditions of this Agreement, he/she shall cause to be served upon the Firm a written notice of the default. Firm shall have five (5) consecutive calendar days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that the Firm fails to cure its default within such period of time, Successor Agency and/or Oversight Board shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

Ownership of Documents

Firm shall maintain complete and accurate records with respect to information required by the Oversight Board that relate to the performing legal services under this Agreement. Firm shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Subject to applicable laws and rules

of professional conduct, Firm shall provide free access to the representatives of the Oversight Board and the Successor Agency, or their designees at reasonable times to such books and records; shall give Mission Viejo the right to examine and audit said books and records; shall permit Oversight Board and the Successor Agency, or their designees to make transcripts therefrom as necessary; and shall allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment and as subject to the City of Mission Viejo records retention policy.

Subject to applicable laws and rules of professional conduct, upon completion, termination, or suspension of this Agreement, all documents prepared in the course of providing the services to be performed pursuant to this Agreement, with the exception of computer models previously developed by Firm, shall become the sole property of Successor Agency and the Oversight Board and may be used, reused or otherwise disposed of by Successor Agency and the Oversight Board without the permission of the Firm. With respect to computer files, Firm shall make available to Successor Agency and the Oversight Board, at the Firm's office and upon reasonable written request by Successor Agency and the Oversight Board, the necessary computer software and hardware for purposes of accessing, compiling, transferring and printing computer files, but excluding access to Firm's computer models.

Independent Entity

Firm is and shall at all times remain as to Successor Agency and the Oversight Board a wholly independent Firm and legal entity. The personnel performing the services under this Agreement on behalf of Firm shall at all times be under Firm's exclusive direction and control. Neither Successor Agency, nor the Oversight Board, nor any of their officers, employees, or agents shall have control over the conduct of Firm or any of Firm's shareholders, officers, employees, or agents, except as set forth in this Agreement. Firm shall not incur or have the power to incur any debt, obligation, or liability whatever against Successor Agency or the Oversight Board or bind Successor Agency or the Oversight Board in any manner.

No employee benefits shall be available to Firm in connection with the performance of this Agreement. Except for the fees paid to Firm as provided in the Agreement, Successor Agency and the Oversight Board shall not pay salaries, wages, or other compensation to Firm for performing services hereunder for the Oversight Board.

Legal Responsibilities

Firm shall keep itself informed of State and Federal laws and regulations that affect those employed by it or affect the performance of its service pursuant to this Agreement. Firm shall at all times observe and comply with all such laws and regulations.

Undue Influence

Firm declares and warrants that no undue influence or pressure is used against or in concert with any officer or employee of Successor Agency in connection with the award, terms or implementation of this Agreement, including any method of coercion, confidential financial

arrangement or financial inducement. No officer or employee of Successor Agency or the Oversight Board will receive compensation, directly or indirectly, from Firm, or from any officer, employee or agent of Firm, in connection with the award of this Agreement or any work to be conducted as a result of this Agreement. Violation of this Section shall be a material breach of this Agreement entitling Successor Agency and/or the Oversight Board to any and all remedies at law or in equity and Firm shall indemnify and defend the Successor Agency, Oversight Board and City of Mission Viejo, at its own cost, with legal counsel of the Oversight Board, Successor Agency or City's choosing against any and all actions that may arise from Firm's violation of this duty set forth herein.

No Benefit to Arise to Local Employees

No member, officer, or employee of Successor Agency or the Oversight Board or their designees or agents, and no public official who exercises authority over or responsibilities with respect to legal services provided hereunder during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any agreement or subagreement, or the proceed thereof, for work to be performed in connection therewith.

Release of Information / Conflicts of Interest

All information gained by Firm in performance of this Agreement shall be considered confidential and shall not be released by Firm without Successor Agency and the Oversight Board's prior written authorization. Firm, its shareholders, officers, employees, agents, or subFirms, shall not without written authorization from the Chair of the Oversight Board or unless requested by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories, or other information concerning the work performed under this Agreement or relating to any project or property located within the city boundaries. Response to a subpoena or court order shall not be considered "voluntary" provided Firm gives Successor Agency and the Oversight Board notice of such court order or subpoena.

Firm shall promptly notify Successor Agency and the Oversight Board should Firm, its shareholders, officers, employees, agents or subFirms be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, requests for admissions, or other discovery request, court order, or subpoena from any person or party regarding this Agreement and the work performed thereunder. Successor Agency retains the right, but has no obligation, to represent Firm and/or be present at any deposition, hearing, or similar proceeding. Firm agrees to cooperate fully with Successor Agency and the Oversight Board and to provide the opportunity to review any response to discovery requests provided by Firm. However, Successor Agency and the Oversight Board's right to review any such response does not imply or mean the right by Successor Agency or the Oversight Board to control, direct, or rewrite said response.

Notices

Any notices that any party may desire to give to any other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, which provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address

as that party may later designate by notice:

To Successor Agency: City Hall
200 Civic Center
Mission Viejo, CA 92691
Attention: City Manager

To Firm: Harper & Burns LLP
453 S. Glassell Street
Orange, CA 92866
Attention: John R. Harper

Assignment

The Firm shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of Successor Agency and the Oversight Board.

Licenses

At all times during the term of this Agreement, Firm shall have in full force and effect, all licenses required of it by law for the performance of the services described in this Agreement.

Governing Law

Successor Agency, the Oversight Board and Firm understand and agree that the laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the superior court of the County of Orange or in the federal district court with jurisdiction over the City, unless the Dissolution Act requires otherwise.

Entire Agreement

This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

Modification

No modification to this Agreement shall be effective unless it is in writing and signed by authorized representatives of the parties hereto.

Authority to Execute this Agreement

The City Manager on behalf of the Successor Agency is hereby authorized to execute this Agreement on behalf of the Successor Agency and for the benefit of the Oversight Board. The persons executing this Agreement each warrant and represent that he/she has the authority to execute this Agreement on behalf of the party and has the authority to bind such party(ies) to the performance of its obligations hereunder.

Interpretation

In the event of conflict or inconsistency between this Agreement and any other document or Exhibit A this Agreement shall control unless a contrary intent is clearly stated.

[Signatures on following page]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement for Professional Services to be executed the day and year first above written.

Successor Agency

Firm

SUCCESSOR AGENCY TO THE COMMUNITY
DEVELOPMENT AGENCY OF THE CITY OF
MISSION VIEJO

HARPER & BURNS LLP
JOHN R. HARPER

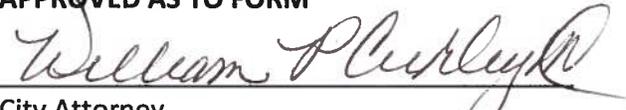


City Manager



Partner

APPROVED AS TO FORM



City Attorney

ATTEST:



City Clerk

EXHIBIT A

SERVICES AND COMPENSATION RATES

1. **Specific Legal Services for the Oversight Board shall be as requested and directed by the Oversight Board and/or by the Chair of the Oversight Board and authorized officials:**
 - Attendance at Oversight Board meetings
 - Advisory legal services, legal research, writing, document preparation, conference calls, meetings, communications and correspondence related to the CRL, the Dissolution Act, and other federal and state laws relating to general public law.

2. **Other Special Counsel Legal Services, as and if requested and directed by the Oversight Board:**

None.

3. Compensation:

Firm shall be entitled to the following hourly rates during the Term of the Agreement; provided however, in no event shall the cumulative fees and costs exceed the Five Thousand Dollars (\$5,000.00) for each six-month fiscal period of each ROPS and subject to the Successor Agency receiving an adequate allocation of monies from the RPTTF to pay for the legal services provided by Firm to the Oversight Board.

Shareholders/Partners	\$175.00
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In addition to the fees herein above set forth, Firm shall be reimbursed for all expenses incurred at the direction of the Oversight Board and paid by Firm, such as overnight and messenger delivery charges, postage, reproduction of documents, travel at the request of the Oversight Board, court fees, and other expenses that may be necessary in connection with the legal services and scope of work to be undertaken by Firm for and on behalf of the Oversight Board; provided however, Firm shall pay and absorb the costs incurred for long distance telephone calls, copying/duplication, facsimiles, electronic research, word processing, secretarial services, and travel to and from meetings of the Oversight Board.

4. Principal Attorney:

John A. Harper shall be primarily responsible for providing Firm's services to the Oversight Board pursuant to this Agreement.