

**AMENDMENT NUMBER TWO  
TO PROFESSIONAL SERVICES AGREEMENT  
WITH STRADLING YOCCA CARLSON & RAUTH, PC**

This **Amendment Number Two to Professional Services Agreement with Stradling Yocca Carlson & Rauth, PC** ("Amendment Two") is made and entered into as of the 18th day of April, 2017 ("Effective Date"), by and among the **CITY OF COSTA MESA**, a municipal corporation ("City"), the **SUCCESSOR AGENCY TO THE COSTA MESA REDEVELOPMENT AGENCY**, a public entity existing under Division 24, Part 1.85 of the California Health and Safety Code ("Successor Agency"), the **COSTA MESA HOUSING AUTHORITY**, a public body corporate and politic ("Housing Authority"), and **STRADLING YOCCA CARLSON & RAUTH, PC**, a California professional law corporation ("Consultant"). Together, City, Successor Agency, and Housing Authority may be referred to as "City."

WHEREAS, City and Consultant entered into a professional services agreement dated as of February 1, 2012 for Consultant to provide special counsel legal services to the City ("Agreement"); and

WHEREAS, City and Consultant previously amended and extended the Agreement for one (1) year, through January 31, 2018 by the Amendment Number One to Professional Services Agreement (as amended, "Agreement"); and

WHEREAS, the scope of legal services authorized to be provided to City under the existing Agreement includes, without limitation, Consultant "rendering public finance advisory services, bond counsel services, bond counsel opinions related to preparing bond offerings..."; and

WHEREAS, under the Agreement and in connection with the City requesting and directing Consultant to render public finance, including bond counsel and disclosure counsel, legal services related to the City's potential issuance of Certificates of Participation (approximately \$18.6M COP) for the Lions Park projects ("Bonds"), Consultant has prepared a more specific "Scope of Services" that Consultant will perform for the execution and delivery of the Bonds, which scope of legal services is set forth in a letter dated March 20, 2017 from Celeste Brady of Consultant to Steve Dunivent, City Interim Finance Director that is attached as Exhibit "A", *Scope of Services (Bond Counsel and Disclosure Counsel)*, and fully incorporated by this reference; and

WHEREAS, Exhibit "A" also sets forth Consultant's compensation for rendering the public finance legal services as bond counsel and disclosure counsel for the Bonds, which the City intends to authorize by this Amendment Two.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The Scope of Services under the existing Agreement is hereby amended to more fully describe the legal services that Consultant will render related to the Bonds, including public finance legal services as bond counsel and disclosure counsel, as described in Exhibit "A".

2. Consultant's compensation for the public finance legal services as bond counsel and disclosure counsel for the Bonds is set forth in Exhibit "A", which includes a flat fee of Fifty Thousand Dollars (\$50,000.00) for bond counsel legal services, a flat fee of Thirty Thousand Dollars (\$30,000.00) for disclosure counsel legal services, and payment of actual costs and expenses incurred up to Three Thousand Five Hundred Dollars (\$3,500.00), for a cumulative total under the Scope of Services of Eighty-Three Thousand Five Hundred Dollars (\$83,500.00),

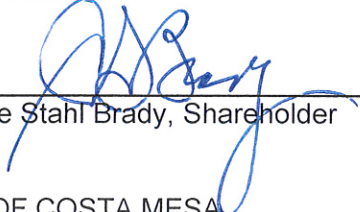
subject to the terms and conditions in the letter in the event that the Bonds are not issued as well as the hourly fees for special legal services rendered outside the scope of normal bond counsel or disclosure counsel work, or for special legal services following the issuance of the Bonds for which Consultant would be compensated on a fee basis, flat or hourly, to be negotiated but not less than the hourly fee schedule under the existing Agreement.

3. All other terms not defined in this Amendment Two shall have the same meaning and use as set forth in the Agreement.

4. All other provisions of the Agreement, as amended by Amendment One and this Amendment Two, shall remain in full force and effect.

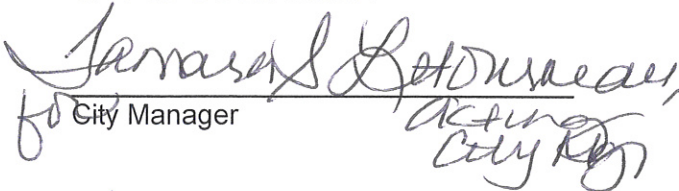
IN WITNESS WHEREOF, the parties hereto have caused this Amendment Two to be executed by and through their respective authorized officers, as of the date first written above.

CONSULTANT

  
\_\_\_\_\_  
Celeste Stahl Brady, Shareholder

Date: May 8, 2017

CITY OF COSTA MESA

  
for City Manager *acting City Manager*



Date: 5/31/17

SUCCESSOR AGENCY

  
\_\_\_\_\_  
Executive Director

Date: 6/15/17

HOUSING AUTHORITY

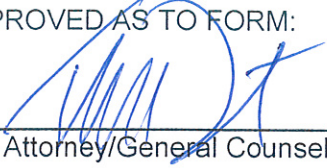
   
\_\_\_\_\_  
Executive Director

Date: 6/15/17

ATTEST:

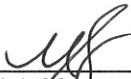
  
\_\_\_\_\_  
City Clerk and Secretary

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney/General Counsel


Date: 05/18/17

APPROVED AS TO INSURANCE:

  
\_\_\_\_\_  
Risk Management

Date: 5/10/17

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Project Manager

Date: 5.11.17

DEPARTMENTAL APPROVAL

  
for \_\_\_\_\_  
Development Services Director

Date: 5/17/17

APPROVED AS TO PURCHASING:

  
\_\_\_\_\_  
Interim Finance Director

Date: 5.11.17

**EXHIBIT A**

**SCOPE OF SERVICES  
(Bond Counsel and Disclosure Counsel)**

## EXHIBIT A

### SCOPE OF SERVICES LEGAL SERVICES TO CITY OF COSTA MESA BONDS FOR LIONS PARK PROJECTS

The City and Stradling are parties to an existing Professional Services Agreement dated as of February 21, 2012, which as amended extends to June 30, 2018 ("PSA"). The scope of legal services authorized under the PSA includes Stradling, as Consultant thereunder, "rendering public finance advisory services, bond counsel services, bond counsel opinions related to preparing bond offerings...". In connection with the City directing Stradling to act as Bond Counsel for the issuance of Bonds, and if directed acting also as Disclosure Counsel, specifically the Certificates of Participation ("COP") for the Lions Park projects ("Bonds"), the "Scope of Services" that Stradling will provide related to the execution and delivery of the Bonds includes the following:

#### 1. SERVICES

##### (a) In the first phase-the planning stage-we would expect:

(i) to research applicable laws including federal and state tax laws, securities laws and other laws that may be applicable to the financing structure currently proposed;

(ii) to attend conferences and consult with the City/City staff (including the Interim Finance Director and counsel) regarding such laws, to participate with Fieldman Rolapp, the City's selected financial advisor for the Bonds, any other financial advisor(s), underwriters, lenders, developers, as applicable, and other experts retained by the City in structuring the financing;

(iii) to consult with other firms active in the bond practice when necessary to ensure that any novel approaches being considered would be generally accepted in the bond community; and

(iv) if directed to act as Disclosure Counsel, to work with the City regarding preparation of a preliminary official statement describing the City and the Bonds.

##### (b) In the second phase-the implementation stage-we would expect:

(i) to supervise and prepare documentation of all steps to be taken through the execution and delivery of the Bonds including:

(A) draft or review all resolutions of the City and, as applicable its affiliated entity(ics), and all other basic documents relating to the security of the Bonds, in consultation with the City, its counsel and financial advisors, underwriters and other experts;

(B) prepare the record of proceedings for the authorization, sale and delivery of the Bonds by the nonprofit corporation;

(C) prepare documents relating to the financing, including the indenture and related resolutions;

(D) review the bond purchase contract(s) or the bond sale bidding documents and participate in the related negotiations;

(E) attend information meetings and other conferences scheduled by the City, the financial advisor or the underwriter;

(F) consult with the City Attorney concerning any legislation or litigation during the course of the financing;

(G) consult with the trustee and counsel to the trustee;

(H) prepare the form of the Bonds, and supervise production or printing, signing, authentication and delivery of the Bonds; and

(I) render necessary collateral legal opinions as to the inapplicability of the registration requirements of federal securities laws and other matters related to the execution and delivery of the Bonds and City authority with respect to the financing generally.

(ii) if directed to act as Disclosure Counsel, to deliver to the underwriter of the Bonds our letter to the effect that, based upon our participation in the preparation of the official statement, no information has come to the attention of the attorneys in the firm representing the City in this matter which caused us to believe that the Official Statement as of its date contained, or as of the date thereof contains, any untrue statement of a material fact or omitted or omits to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, subject to customary qualifications and exclusions.

(c) to render a final legal opinion pertaining to the Bonds to the effect that:

- a. the Bonds have been properly authorized and issued and are valid and binding obligations;
- b. the essential sources of security for the Bonds have been legally provided; and
- c. all interest with respect to the Bonds is excludable from gross income for federal income tax purposes and exempt from California personal income taxation, as applicable.

## 2. FOLLOW-UP SERVICES

Stradling will provide without additional cost normal follow-up consultation and related services following the sale of the Bonds. As noted in the fee letter, should the City require Stradling to provide extraordinary services after the sale of the Bonds such services will be provided at an additional fee to be agreed upon at a later date.



STRADLING YOCCA CARLSON & RAUTH, P.C.  
660 NEWPORT CENTER DRIVE, SUITE 1600  
NEWPORT BEACH, CA 92660-8422  
SYCR.COM

CALIFORNIA  
NEWPORT BEACH  
SACRAMENTO  
SAN DIEGO  
SAN FRANCISCO  
SANTA BARBARA  
SANTA MONICA

COLORADO  
DENVER

NEVADA  
RENO

WASHINGTON  
SEATTLE

CELESTE STAHL BRADY  
(949) 725-4141  
CSEBRADY@SYCR.COM  
E. KURT YEAGER  
(949) 725-4169  
KYEAGER@SYCR.COM

March 20, 2017

**Via Email**

Steve Dunivent, Interim Finance Director  
*City of Costa Mesa*  
77 Fair Drive  
Costa Mesa, CA 92628-1200

*Re: Stradling Legal Services for Issuance of COP Bonds for Lions Park Projects; Fee and Cost Estimate and Scope of Services*

Dear Steve:

Thank you very much for your emails of March 14 to me (copied to Kurt and your senior staff) requesting bond counsel services in connection with the City's issuance Certificates of Participation (approx. \$18.6M COP) for the Lions Park projects this summer to fall ("Bonds"). We confirm Kurt's and my reply emails to you that Stradling Yocca Carlson & Rauth is pleased and available to serve as bond counsel for this COP issue, and if directed to serve as disclosure counsel too. And, as requested and from your email of today, this letter provides both our fee and cost estimates for our legal services and a scope of services.

*Fee and Costs.* We propose a flat fee of \$50,000.00 for bond counsel services for the City as issuer (or its public financing authority or affiliated entity) ("Bond Counsel"), and an additional fee of \$30,000 for the service of preparing the Official Statement for the Bonds ("Disclosure Counsel"). For longstanding clients, the flat fee estimate for Bond Counsel services is based on \$35,000 for the first \$10,000,000 of principal amount and then 2/10 of 1% for the principal amount over \$10,000,000; so, for the estimated \$18.6M COP, our Bond Counsel fee would be \$52,200, but as a courtesy we have rounded down to a flat fee of \$50,000 for this \$18.6M COP (separate from the Official Statement fee of \$30,000 for Disclosure Counsel services).

In addition, we would charge for reimbursement of actual costs for out-of-pocket expenses reasonably incurred by the Firm such as document reproduction, postage, facsimiles, telecommunications, printing, filing fees, travel, messenger and overnight delivery services and similar expenses, but will agree to place a cap on these expenses of \$3500, unless the City agrees, in advance, to a higher figure due to extraordinary circumstances. Payment of the flat fees and out-of-pocket expenses related to our legal services are not contingent upon the successful sale of the Bonds however if the Bonds are issued payment of fees and costs would be expected paid to be made from the proceeds of the Bonds; this is consistent with the California Attorney General's opinion that such legal services will be undertaken on a

Steve Dunivent, Interim City Manager  
*City of Costa Mesa*  
March 20, 2017  
Page 2

non-contingent basis and in the event a financing fails to close the Firm may request a fair fee on an hourly basis that will not exceed the fixed fees.

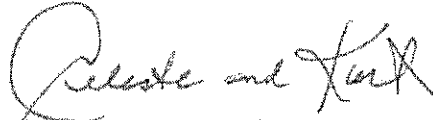
In the event the Firm is requested to perform special services outside the scope of normal bond counsel or disclosure counsel or services following the issuance of the Bonds for which hourly fees apply, we would be compensated on a fee basis, flat or hourly, to be negotiated but not less than the hourly fee schedule under the existing professional services agreement ("PSA") between Stradling and the City, which rates are materially reduced from the Firm's "design rates" for attorneys.

*Scope of Services.* The Scope of Services as Bond Counsel and Disclosure Counsel, as applicable, is presented on Exhibit A attached to this letter and incorporated by this reference.

Kurt will be lead bond counsel and primarily responsible for working on the financing, with assistance from shareholder Vanessa Locklin, a Costa Mesa resident, along with Carol Lew as to tax matters. I will continue to provide general advisory services to the City in connection with the Bonds. Please contact Kurt or me with any questions regarding this letter.

We sincerely appreciate the opportunity to serve the City on this and future financings.

Very truly yours,



Celeste Stahl Brady and  
E. Kurt Yeager  
STRADLING YOCCA CARLSON & RAUTH, P.C.

CSB/EKY:ja