



Council Agenda Report

From: Dick McKinley, Public Works Director
Marlaine Sanders, Administrative Services Director

Subject: Agreements with NHA Advisors, LLC for Project Financial Advisory Services for the 21st Street Reservoir Replacement Project and the Recycled Water Distribution System Project

Date: November 21, 2017

Facts

21st Street Reservoir Replacement

1. The City's 21st Street Reservoir, also known as the Main West Tank, is a critical City facility.
2. The 21st Street Reservoir holds four million gallons of potable water and, if the reservoir were to fail, the City's fire suppression capability would be seriously impaired.
3. Built in 1925 and repaired many times over the years, the 90-year old reservoir has outlived its life expectancy and additional repairs are not recommended.
4. In November 2011, the City Council prioritized construction of water system capital improvements and directed that the replacement of the 21st Street Reservoir is the highest priority following the construction of the Nacimiento Water Treatment Plant, which is now complete.
5. On June 6, 2017, following a qualifications-based selection process for a design firm, the City Council authorized an agreement with Water System Consulting to design the replacement reservoir.
6. The preliminary cost estimate for replacing the 21st Street Reservoir is \$9 million.
7. After years of drought and water conservation, the Water Fund has insufficient reserves to both finance the entire project and retain adequate emergency funds, thus necessitating partial project financing.

Recycled Water Distribution System

8. In 2014, the City Council adopted a master plan to deliver recycled water from the planned Tertiary Treatment Facility at the City's wastewater treatment plant through construction of a distribution system referred to as the Recycled Water Distribution System Project.
9. In 2015, the City hired Black & Veatch to design the Tertiary Treatment Facility and SWCA Environmental Consultants to prepare environmental documents for the Recycled Water Distribution System Project, as well as applied for an SRF loan and a Green Project Reserve grant.
10. A September 2015 Wastewater Rate and Revenue Analysis confirmed that there would be sufficient funds to pay the additional debt of the SRF loan.
11. In January 2016, SRF invited the City to expand its loan application to include the Recycled Water Distribution System Project.
12. On September 6, 2016, following a qualifications-based selection process for a design firm, the City Council hired RMC Water & Environment to design a Recycled Water Distribution System and SWCA for environmental permitting work.
13. The preliminary cost estimate for the Recycled Water Distribution System construction is \$19 million, as shown on the attached map, and a storage tank south of Barney Schwartz Park to provide for pressure in the system.

14. While the Wastewater Fund can absorb additional debt, there are insufficient reserves to fund the Recycled Water Distribution System costs as the costs are incurred, thus necessitating project financing.

Both Projects

15. For both the 21st Street Reservoir Replacement Project and for the Recycled Water Distribution System Project, the City requires the services of a municipal financial advisory service to develop funding strategies and financing alternatives, to manage a financing process, and to advise City Council, staff, and stakeholders as needed.
16. NHA Advisors, LLC (“NHA”) has the necessary professional skills to meet the City’s needs and requirements for both Projects and has worked well with the City in the past on other financing projects.

Options

1. Do nothing;
2. Enter into two agreements with NHA to provide municipal financial advisory services to the City to develop funding strategies and financing alternatives, to manage a financing process, and to advise City Council, staff, and stakeholders as needed on these two projects.
3. Issue an RFP for financial advisory services.
4. Fund the projects in some other manner.

Analysis and Conclusions

The City has two important water supply related projects underway – the 21st Street Reservoir and the Recycled Water Distribution System. There are not currently sufficient funds in the Water Fund or Sewer Fund reserves to do the projects on a pay-as-you-go basis. Options would be to increase the rates in both funds through a Prop 218 process, and to delay the projects until sufficient funds are available, or, to finance all or part of the project funding through one of several financing options, including bonds, Certificates of Participation (COPs), commercial paper, or some other mechanism.

The Water Fund is not strong after years of drought and significantly reduced water sales. The Sewer Fund is stronger and can better qualify for financing, but is already dealing with the financing of the Tertiary Treatment Plant project, and somewhat reduced revenues from lower water sales (sewer rates are generally based on water use). The status of these two funds drive the need to use financial advisor services to determine the best amount of funding versus pay-as-you-go, and to determine the best type of financing for each project.

The 21st Street Reservoir must be replaced as soon as possible and the design of the tank is currently underway. It is the most urgent project for the potable water system and is becoming a danger to the public. The Recycled Water Distribution System is the key to providing a fourth water supply to the City, to reduce pumping from the Paso Robles Basin, which is in a state of critical overdraft, and to get a return on investment in the Tertiary Treatment system.

Recycled water will be sold to customers and those funds will be used to offset costs of treating and delivering water, as well as to help retire the debt created by the project financing. Developing the Recycled Water Distribution System will be a key part of compliance with the Sustainable Groundwater Management Act (SGMA) for the City of Paso Robles GSA and the rest of the Paso Robles Basin.

Accordingly, the City requires the services of a municipal financial advisory service to develop funding strategies and financing alternatives and structures for these two projects. NHA has the necessary professional skills to meet the City’s needs and requirements and in particular to advise the City on optimal financing options, prepare the necessary analysis and documents, and assist in making arrangements for the financing, which could include bonds, COPs, commercial paper or other.

Depending on the type of financing selected there may be need for additional advisors, such as bond underwriters.

Fiscal Impact

The proposed funding will come from the unappropriated reserves of the Water Fund in the amount of \$60,000 and Wastewater Fund in the amount \$65,000 to pay its respective share of the NHA costs. NHA is tasked with ensuring that the City and the ratepayers obtain the best possible financing for these important projects. As water consumption increases with growth, both funds will generate more revenues to pay for the potential debt service payment. This financing will also allow for the project costs to be paid over time through debt service, and thus will be supported by future ratepayers as well as existing ratepayers

Recommendation

1. Approve Resolution 17-XXX to appropriate \$60,000 in funding from the Water Fund and to authorize the City Manager to enter into an agreement with NHA for financing of the replacement of the 21st Street Reservoir.
2. Approve Resolution 17-XXX to appropriate \$65,000 in funding from the Wastewater Fund and to authorize the City Manager to enter into an agreement with NHA for financing of the Recycled Water Pipeline project.

Attachments

1. Resolution 17-XXX
2. NHA Advisors, LLC Agreement for 21st Street Reservoir Financial Services
3. Resolution 17-XXX
4. NHA Advisors, LLC Agreement for Recycled Water Pipeline Financial Services
5. Map of Proposed Recycled Water Pipeline

RESOLUTION NO. 17-XXX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES
AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH NHA
ADVISORS, LLC FOR FINANCIAL ADVISORY SERVICES FOR THE 21ST STREET WATER
RESERVOIR REPLACEMENT PROJECT

WHEREAS, the City's 21st Street Reservoir, also known as the Main West Tank, is a critical City facility; and

WHEREAS, the 21st Street Reservoir holds four (4) million gallons of potable water and, if the reservoir were to fail, the City's fire suppression capability would be seriously impaired; and

WHEREAS, built in 1925 and repaired many times over the years, the 90-year old reservoir has outlived its life expectancy and further repairs are not recommended; and

WHEREAS, in November 2011, the City Council prioritized construction of water system capital improvements and directed that the replacement of the 21st Street Reservoir is the highest priority following the construction of the Nacimiento Water Treatment Plant, which is now complete; and

WHEREAS, on June 6, 2017, following a qualifications based selection process for a design firm, the City Council authorized an agreement with Water System Consulting to design the replacement reservoir; and

WHEREAS, the preliminary cost estimate for the replacement 21st Street Reservoir is \$9 million; and

WHEREAS, after years of drought and water conservation, the Water Fund has insufficient reserves to both finance the entire project and retain adequate emergency funds, thus necessitating partial project financing; and

WHEREAS, the City requires the services of a municipal financial advisory service to develop funding strategies and financing alternatives and structures for the 21st Street Reservoir replacement project, to manage a financing process, and to advise Council, staff, and stakeholders as appropriate; and

WHEREAS, NHA Advisors, LLC ("NHA") has the necessary professional skills to meet the City's needs and requirements for this project and has worked well with the City in the past on other financing projects.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. All of the above recitals are true and correct and incorporated herein by reference.

Section 2. The City Council hereby authorizes the City Manager to execute an agreement with NHA for financial advisory services for the 21st Street Reservoir in substantially the form attached hereto as Exhibit A and incorporated herein by reference (the "Agreement").

Section 3. The City Council hereby authorizes the City Manager and City Attorney to make minor, non-substantive or technical changes to the Agreement as are fully consistent with overall Council direction.

Section 4. The City Council hereby declares its intent to reimburse the Water Fund from the financing proceeds for the costs incurred for these projects prior to receipt of the financing proceeds, specifically including the costs for project analysis and design, and the costs of financing including the NHA agreement for this Project.

Section 5. The City Council hereby approves and appropriates from the Water Fund Reserve the amount of \$60,000 for expenditures consistent with this Resolution.

Section 6. This Resolution shall take effect on the date it is approved by the City Council.

APPROVED this 21st day of November, 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Steven W. Martin, Mayor

ATTEST:

Kristen L. Buxkemper, Deputy City Clerk

Exhibit A

NHA 21st Street Reservoir Agreement
[to be inserted][

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF EL PASO DE ROBLES
AND
NHA ADVISORS, LLC
(Project – 21st Street Reservoir Financing)**

THIS AGREEMENT for consulting services is made by and between the City of El Paso de Robles (the “City”) and NHA Advisors, LLC (the “Consultant”) (together referred to as the “Parties”) as of _____, 2017 (the “Effective Date”).

The City wishes to engage the municipal advisory services of NHA Advisors, LLC to assist in the funding of the 21st Street Reservoir replacement project (the “Project”). All work to be performed will be related to the Water Enterprise Fund and be paid from financing proceeds or Water Fund revenues.

Section 1 – SERVICES

Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to City the services described in the Scope of Work attached as **Exhibit A**, and incorporated herein, at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and **Exhibit A**, the Agreement shall prevail.

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

- 1.1 Term of Services.** The term of this Agreement shall begin on the Effective Date and shall end on the earlier of (i) June 30, 2019, or (ii) the date of completion of the tasks specified in **Exhibit A**. Consultant shall complete the work described in **Exhibit A** on or before that date, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 8 (Termination and Modification). The time provided to Consultant to complete the services required by this Agreement shall not affect the City’s right to terminate the Agreement, as referenced in Section 8. City in its sole discretion shall the right to modify the scope of work to delete tasks in whole or in part.
- 1.2 Standard of Performance.** Consultant shall perform all services required pursuant to this Agreement per the standards observed by a competent practitioner of the profession in which Consultant is engaged.
- 1.3 Assignment of Personnel.** Consultant shall assign only competent personnel to perform services pursuant to this Agreement. If City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Consultant shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.

- 1.4 Time.** Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Section 1.1 above and to satisfy Consultant's obligations hereunder.

Section 2 - COMPENSATION

City hereby agrees to pay Consultant an amount not to exceed a total of fifty-seven thousand and five hundred dollars (\$57,500) in compensation for services performed in **Exhibit A (Scope of Services)** at the rates specified in **Exhibit B (Compensation Schedule)**. In addition, City may pay an amount not to exceed a total of two thousand and five hundred dollars (\$2,500) pursuant to Section 2.4 (Reimbursable Expenses). Payments in excess of the amounts specified herein or at rates in excess of those specified in **Exhibit B** shall not be made absent a properly authorized and executed writing in conformance with Section 8.3 (Amendments) of this Agreement.

City shall pay Consultant for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Consultant for services rendered pursuant to this Agreement. Consultant shall submit all invoices to City in the manner specified herein. Except as specifically authorized by City in writing, Consultant shall not bill City for duplicate services performed by more than one person.

Consultant and City acknowledge and agree that compensation paid by City to Consultant under this Agreement is based upon Consultant's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

- 2.1 Invoices.** Consultant shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- The beginning and ending dates of the billing period;
- At City's option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense;
- For work performed on an hourly Compensation Schedule, the total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder;

- 2.2** In no event shall Consultant submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entire Agreement, unless the Agreement is modified prior to the submission of such an invoice by a properly executed change order or amendment.

- 2.3 Hourly Fees.** Fees for work performed by Consultant on an hourly basis shall not exceed the rates shown on the compensation schedule attached hereto as **Exhibit B (Compensation Schedule).**
- 2.4 Reimbursable Expenses.** Reimbursable expenses are the reasonable and typical expenses necessary for completion of the services specified in this Agreement and are limited to the following: copying, mailing, shipping, and data purchase (if not provided by others). Consultant travel expenses are specifically excluded as a reimbursable expense.
- 2.5 Payment of Taxes.** Consultant is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.
- 2.6 Payment upon Termination.** In the event that the City or Consultant terminates this Agreement pursuant to Section 8, the City shall compensate the Consultant for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Consultant shall maintain adequate logs and timesheets to verify costs incurred to that date.
- 2.7 Authorization to Perform Services.** The Consultant is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Contract Administrator.

Section 3 - FACILITIES AND EQUIPMENT

Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement. City shall make available to Consultant only the facilities and equipment listed in this section, and only under the terms and conditions set forth herein.

City shall furnish physical facilities such as desks, filing cabinets, and conference space, as may be reasonably necessary for Consultant’s use while consulting with City employees and reviewing records and the information in possession of the City. The location, quantity, and time of furnishing those facilities shall be in the sole discretion of City. In no event shall City be obligated to furnish any facility that may involve incurring any direct expense, including but not limited to computer, long-distance telephone or other communication charges, vehicles, and reproduction facilities.

Section 4 - INSURANCE REQUIREMENTS

Before beginning any work under this Agreement, Consultant, at its own cost and expense, unless otherwise specified below, shall procure the types and amounts of insurance listed below against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Consultant and its agents, representatives, employees, and subcontractors. Consistent with the following provisions, Consultant shall provide proof satisfactory to City of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects, and that such insurance is in effect prior to beginning work to the City. Consultant shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the Consultant's bid. Consultant shall not allow any subcontractor to commence work on any subcontract until Consultant has obtained all

insurance required herein for the subcontractor(s) and provided evidence that such insurance is in effect to City. Verification of the required insurance shall be submitted and made part of this Agreement prior to execution. Consultant shall maintain all required insurance listed herein for the duration of this Agreement.

4.1 Workers' Compensation. *Consultant is not subject to worker's compensation insurance at this time.* In the event Consultant engages employees subject to the State of California's worker's compensation requirements, the Consultant shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than \$1,000,000 per accident. In the alternative, Consultant may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the Labor Code shall be solely in the discretion of the Contract Administrator. The insurer, if insurance is provided, or the Consultant, if a program of self-insurance is provided, shall waive all rights of subrogation against the City and its officers, officials, employees, and volunteers for loss arising from work performed under this Agreement.

4.2 Commercial General and Automobile Liability Insurance.

4.2.1 General requirements. Consultant, at its own cost and expense, shall maintain commercial general and automobile liability insurance for the term of this Agreement in an amount not less than \$1,000,000 per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

4.2.2 Minimum scope of coverage. Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (most recent edition) covering comprehensive General Liability on an "occurrence" basis. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001 (most recent edition), Code 1 (any auto). No endorsement shall be attached limiting the coverage.

4.2.3 Additional requirements. Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:

- a. The Insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.
- b. City, its officers, officials, employees, and volunteers are to be named as additional insureds as respects: liability arising out of work or operations performed by or on behalf of the Consultant; or automobiles owned, leased, hired, or borrowed by the Consultant
- c. For any claims related to this Agreement or the work hereunder, the Consultant's insurance covered shall be primary insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
- d. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after 30 days' prior written notice has been provided to the City.

4.3 Professional Liability Insurance.

4.3.1 General requirements. Consultant, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than \$1,000,000 covering the licensed professionals' errors and omissions. Any deductible or self-insured retention shall not exceed \$250,000 per claim.

4.3.2 Claims-made limitations. The following provisions shall apply if the professional liability coverage is written on a claims-made form:

- a. The retroactive date of the policy must be shown and must be before the date of the Agreement.
- b. Insurance must be maintained and evidence of insurance must be provided for at least five years after completion of the Agreement or the work, so long as commercially available at reasonable rates.
- c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Consultant must purchase an extended period coverage for a minimum of five years after completion of work under this Agreement.

- d. A copy of the claim reporting requirements must be submitted to the City for review prior to the commencement of any work under this Agreement.

4.4 All Policies Requirements.

4.4.1 Acceptability of insurers. All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A:VII.

4.4.2 Verification of coverage. Prior to beginning any work under this Agreement, Consultant shall furnish City with complete copies of all policies delivered to Consultant by the insurer, including complete copies of all endorsements attached to those policies. All copies of policies and endorsements shall show the signature of a person authorized by that insurer to bind coverage on its behalf. If the City does not receive the required insurance documents prior to the Consultant beginning work, it shall not waive the Consultant's obligation to provide them. The City reserves the right to require complete copies of all required insurance policies at any time.

4.4.3 Deductibles and Self-Insured Retentions. Consultant shall disclose to and obtain the written approval of City for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, employees, and volunteers; or the Consultant shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

4.4.4 Wasting Policies. No policy required by this Section 4 shall include a "wasting" policy limit (i.e. limit that is eroded by the cost of defense).

4.4.5 Waiver of Subrogation. Consultant hereby agrees to waive subrogation which any insurer or contractor may require from vendor by virtue of the payment of any loss. Consultant agrees to obtain any endorsements that may be necessary to affect this waiver of subrogation.

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the entity for all work performed by the consultant, its employees, agents, and subcontractors.

4.4.6 Subcontractors. Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

4.5 Remedies. In addition to any other remedies City may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Consultant's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- Order Consultant to stop work under this Agreement or withhold any payment that becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement

Section 5 - CONSULTANT'S RESPONSIBILITIES AND INDEMNIFICATION

NHA Advisors, LLC is registered as a Municipal Advisor with the SEC and Municipal Securities Rulemaking Board ("MSRB"). As such and in addition to the indemnification and other obligations set forth herein, NHA Advisors, LLC has a Fiduciary duty to the City and must provide both a Duty of Care and a Duty of Loyalty that entails the following.

5.1 Duty of Care:

- exercise due care in performing its municipal advisory activities;
- possess the degree of knowledge and expertise needed to provide the City with informed advice;
- make a reasonable inquiry as to the facts that are relevant to the City's determination as to whether to proceed with a course of action or that form the basis for any advice provided to the City; and
- undertake a reasonable investigation to determine that Consultant is not forming any recommendation on materially inaccurate or incomplete information;
- Consultant must have a reasonable basis for:
 - any advice provided to or on behalf of the City;
 - any representations made in a certificate that it signs that will be reasonably foreseeably relied upon by the City, any other party involved in the municipal securities transaction or municipal financial product, or investors in the City securities; and
 - any information provided to the City or other parties involved in the municipal securities transaction in connection with the preparation of an official statement.

5.2 Duty of Loyalty:

NHA Advisors, LLC must deal honestly and with the utmost good faith with the City and act in the City's best interests without regard to the financial or other interests of NHA Advisors, LLC. NHA Advisors, LLC will eliminate or provide full and fair disclosure (included herein) to Issuer about each material conflict of interest (as applicable). NHA Advisors, LLC will not engage in

municipal advisory activities with the City as a municipal entity, if it cannot manage or mitigate its conflicts in a manner that will permit it to act in the City's best interests.

5.3 Conflicts of Interest and Other Matters Requiring Disclosures

- As of the date of the Agreement, there are no actual or potential conflicts of interest that NHA Advisors, LLC is aware of that might impair its ability to render unbiased and competent advice or to fulfill its fiduciary duty. If NHA Advisors, LLC becomes aware of any potential conflict of interest that arise after this disclosure, NHA Advisors, LLC will disclose the detailed information in writing to the City in a timely manner.
- The fee paid to NHA Advisors, LLC increases the cost of investment to the City. The increased cost occurs from compensating NHA Advisors, LLC for municipal advisory services provided.
- NHA Advisors, LLC does not act as principal in any of the transaction(s) related to this Agreement.
- During the term of the municipal advisory relationship, this agreement will be promptly amended or supplemented to reflect any material changes in or additions to the terms or information within this agreement and the revised writing will be promptly delivered to the City.
- NHA Advisors, LLC does not have any affiliate that provides any advice, service, or product to or on behalf of the client that is directly or indirectly related to the municipal advisory activities to be performed by NHA Advisors, LLC;
- NHA Advisors, LLC has not made any payments directly or indirectly to obtain or retain the City municipal advisory business;
- NHA Advisors, LLC has not received any payments from third parties to enlist Consultant's recommendation to the City of its services, any municipal securities transaction or any municipal finance product;
- NHA Advisors, LLC has not engaged in any fee-splitting arrangements involving NHA Advisors, LLC and any provider of investments or services to the City;
- NHA Advisors, LLC does not have any conflicts of interest from compensation for municipal advisory activities to be performed, that is contingent on the size or closing of any transactions as to which NHA Advisors, LLC is providing advice;
- NHA Advisors, LLC does not have any other engagements or relationships that might impair NHA Advisors, LLC ability either to render unbiased and competent advice to or on behalf of the City or to fulfill its fiduciary duty to the City, as applicable; and
- NHA Advisors, LLC does not have any legal or disciplinary event that is material to the City's evaluation of the municipal advisory or the integrity of its management or advisory personnel.

5.4 Other Regulations. Pursuant to Municipal Securities Rulemaking Board Rule G-10, on Investor and Municipal Advisory Client Education and Protection, Municipal Advisors are required to provide certain written information to their municipal entity and obligated person clients which include the following:

- NHA Advisors, LLC is currently registered as a Municipal Advisor with the U.S. Securities and Exchange Commission and the Municipal Securities Rulemaking Board.
- Within the Municipal Securities Rulemaking Board (“MSRB”) website at www.msrb.org, the City may obtain the Municipal Advisory client brochure that is posted on the MSRB website. The brochure describes the protections that may be provided by the MSRB Rules along with how to file a complaint with financial regulatory authorities.

5.5 Indemnity

Consultant shall indemnify, defend with counsel acceptable to City, and hold harmless City and its officers, officials, employees, agents and volunteers from and against any and all liability, loss, damage, claims, expenses, and costs (including without limitation, attorney’s fees and costs and fees of litigation) (collectively, “Liability”) of every nature arising out of or in connection with Consultant’s performance of the Services or its failure to comply with any of its obligations contained in this Agreement, except such Liability caused by the sole negligence or willful misconduct of City.

The Consultant’s obligation to defend and indemnify shall not be excused because of the Consultant’s inability to evaluate Liability or because the Consultant evaluates Liability and determines that the Consultant is not liable to the claimant. The Consultant must respond within 30 days, to the tender of any claim for defense and indemnity by the City, unless this time has been extended by the City. If the Consultant fails to accept or reject a tender of defense and indemnity within 30 days, in addition to any other remedy authorized by law, so much of the money due the Consultant under and by virtue of this Agreement as shall reasonably be considered necessary by the City, may be retained by the City until disposition has been made of the claim or suit for damages, or until the Consultant accepts or rejects the tender of defense, whichever occurs first.

With respect to third party claims against the Consultant, the Consultant waives any and all rights of any type to express or implied indemnity against the Indemnitees.

Notwithstanding the forgoing, to the extent this Agreement is a “construction contract” as defined by California Civil Code Section 2782, as may be amended from time to time, such duties of consultant to indemnify shall not apply when to do so would be prohibited by California Civil Code Section 2782.

In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Section 6 - STATUS OF CONSULTANT

- 6.1 Independent Contractor.** At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of City. City shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subparagraph 1.3; however, otherwise City shall not have the right to control the means by which Consultant accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.
- 6.2 Consultant Not an Agent.** Except as City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

Section 7 - LEGAL REQUIREMENTS

- 7.1 Governing Law.** The laws of the State of California shall govern this Agreement.
- 7.2 Compliance with Applicable Laws.** Consultant and any subcontractors shall comply with all laws applicable to the performance of the work hereunder.
- 7.3 Other Governmental Regulations.** To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.
- 7.4 Licenses and Permits.** Consultant represents and warrants to City that Consultant and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. Consultant represents and warrants to City that Consultant and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Consultant and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses from City.
- 7.5 Legal Events and Disciplinary History.** Consultant does not have any legal events and disciplinary history on its Form MA and Form MA-I, which includes information about any criminal actions, regulatory actions, investigations, terminations, judgments, liens,

civil judicial actions, customer complaints, arbitrations and civil litigation. City may electronically access Consultant's most recent Form MA and each most recent Form MA-I filed with the Commission at the following website:
www.sec.gov/edgar/searchedgar/companysearch.html

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

- 7.6 Nondiscrimination and Equal Opportunity.** Consultant shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Consultant under this Agreement. Consultant shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Consultant thereby.

Consultant shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

Section 8 - TERMINATION AND MODIFICATION

- 8.1 Termination.** City may cancel this Agreement at any time and without cause upon written notification to Consultant.

Consultant may cancel this Agreement upon 45 days' written notice to City and shall include in such notice the reasons for cancellation.

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

- 8.2 Extension.** City may, in its sole and exclusive discretion, extend the end date of this Agreement beyond that provided for in Subsection 1.1. Any such extension shall require a written amendment to this Agreement, as provided for herein. Consultant understands and agrees that, if City grants such an extension, City shall have no obligation to provide Consultant with compensation beyond the maximum amount provided for in this Agreement.

- 8.3 Amendments.** The parties may amend this Agreement only by a written and properly authorized and executed agreement in accordance with the provisions and requirements of the Municipal Code of the City.
- 8.4 Assignment and Subcontracting.** City and Consultant recognize and agree that this Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the Contract Administrator.
- 8.5 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Consultant shall survive the termination of this Agreement.
- 8.6 Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, City's remedies shall be included, but not be limited to, the following:
- 8.6.1** Immediately terminate the Agreement;
 - 8.6.2** Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;
 - 8.6.3** Retain a different consultant to complete the work described in **Exhibit A** not finished by Consultant; or
 - 8.6.4** Charge Consultant the difference between the costs to complete the work described in **Exhibit A** that is unfinished at the time of breach and the amount that City would have paid Consultant pursuant to Section 2 if Consultant had completed the work.

Section 9 - KEEPING AND STATUS OF RECORDS

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

If there are any questions regarding the above, please do not hesitate to contact Consultant. If the foregoing terms meet with your approval, please indicate your acceptance by executing both copies of this letter and returning one copy.

Section 10 - MISCELLANEOUS PROVISIONS

- 10.1 Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 10.2 Venue.** In the event that either party brings any action against the other under this Agreement, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of San Luis Obispo.
- 10.3 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 10.4 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 10.5 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the parties.
- 10.6 Use of Recycled Products.** Consultant shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.
- 10.7 Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Consultant in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Consultant shall not employ any City official in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*

Consultant hereby warrants that it is not now, nor has it been in the previous 12 months, an employee, agent, appointee, or official of the City. If Consultant was an employee, agent, appointee, or official of the City in the previous twelve months, Consultant warrants that it did not participate in any manner in the forming of this Agreement. Consultant understands that, if this Agreement is made in violation of Government Code § 1090 *et seq.*, the entire Agreement is void and Consultant will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Consultant will be required to reimburse the

City for any sums paid to the Consultant. Consultant understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code § 1090 and, if applicable, will be disqualified from holding public office in the State of California.

As of the date of the Agreement, there are no actual or potential conflicts of interest that Consultant is aware of that might impair its ability to render unbiased and competent advice or to fulfill its fiduciary duty. If Consultant becomes aware of any potential conflict of interest that arise after this disclosure, Consultant will disclose the detailed information in writing to City in a timely manner.

The fee paid to Consultant increases the cost of investment to City. The increased cost occurs from compensating Consultant for municipal advisory services provided.

Consultant does not act as principal in any of the transaction(s) related to this Agreement.

During the term of the municipal advisory relationship, this agreement will be promptly amended or supplemented to reflect any material changes in or additions to the terms or information within this agreement and the revised writing will be promptly delivered to City.

Consultant does not have any affiliate that provides any advice, service, or product to or on behalf of the City that is directly or indirectly related to the municipal advisory activities to be performed by Consultant.

Consultant has not made any payments directly or indirectly to obtain or retain the City's municipal advisory business.

Consultant has not received any payments from third parties to enlist the Consultant's recommendation to City of its services, any municipal securities transaction or any municipal finance product.

Consultant has not engaged in any fee-splitting arrangements involving Consultant and any provider of investments or services to City.

Consultant does not any conflicts of interest from compensation for municipal advisory activities to be performed, that is contingent on the size or closing of any transactions as to which Consultant is providing advice.

Consultant does not have any other engagements or relationships that might impair the Consultant's ability either to render unbiased and competent advice to or on behalf of City or to fulfill its fiduciary duty to the City, as applicable.

Consultant does not have any legal or disciplinary event that is material to City's evaluation of the municipal advisory or the integrity of its management or advisory personnel.

10.8 Solicitation. Consultant agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.

10.9 Contract Administration. This Agreement shall be administered by the City Finance Director ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.

10.10 Notices. Any written notice to Consultant shall be sent to:

Craig Hill, Principal
NHA Advisors, LLC
4040 Civic Center Drive, Suite 200
San Rafael, CA 94903

Any written notice to City shall be sent to:

Marlaine Saunders, Interim Administrative Services Director
City of El Paso de Robles
821 Pine Street
Paso Robles, CA 93446

10.11 Integration. This Agreement, including the scope of work attached hereto and incorporated herein as Exhibits A and B represents the entire and integrated agreement between City and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral.

Exhibit A Scope of Services
Exhibit B Compensation Schedule


10.12 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

The Parties have executed this Agreement as of the Effective Date.

CITY OF EL PASO DE ROBLES

Tom Frutchey, City Manager

CONSULTANT



Services Agreement between
City of El Paso de Robles and NHA Advisors, LLC

October 18, 2017
Page 15 of 16

Craig

Hill,

Managing

Principal

EXHIBIT A

PROFESSIONAL SERVICES SCOPE

Consultant will work with City staff and other parties to develop funding strategies, financing alternatives and structures for the Project. Consultant will serve as project manager for the financing process and also provide advice to City Council, staff and stakeholders as requested. The scope of work will generally include the following steps:

DEBT ISSUANCE

- Coordinate, Analyze and Provide Financing Capacity of the City's Water Enterprise Fund
- Based on net revenue coverage, recommend structure, term and financing approach
- Financing Structure – Present and Recommend Financing Alternatives for the Project taking into consideration bonding capacity, term of obligation and financing source (Public Offering of Water Revenue Bonds or Private Placement with a single Financial Institution)
- Manage or recommend professional services engagement (RFPs, recommendations or assistance) for underwriter, bond counsel, disclosure counsel, rating agency or others as requested by City
- Structure and manage specific financings in accordance with the City's financing plan, capital project plan, and specific capital project needs and financing requirements
- Bond Rating - prepare and coordinate a comprehensive presentation to the rating services (if required as part of public offering of water revenue bonds).
- Bond Insurance - Prepare credit package and communicate with credit enhancement companies if feasible (if required as part of public offering of water revenue bonds)
- Develop financing structure for bond counsel and disclosure counsel based on input and comments from rating agencies per above
- Coordinate the efforts of bond and disclosure counsel and any other legal counsel, with respect to the preparation and approval of the financing documents by the City Council
- Attend all requested meetings and/or calls related to the project and present materials for the debt financing procedure
- Based on information provided to us by the City and other participants in the financing, work with the City's disclosure counsel to assemble the official statement for the financing in a manner consistent with existing laws and regulations and standards of the securities industry. The official statement serves as a marketing instrument and a disclosure document of the City incident to the financing
- Assist the City in the negotiation of underwriting spread (if a Public Offering) and interest rates on behalf of the City and monitor the underwriter's sales effort to ensure the lowest financing costs are achieved
- Provide information and advice on the timing of bond issuance and financing process (schedule)
- Coordinate the delivery, printing and final approval of legal documents, and the preparation of closing certificates and final official statement
- Coordinate the work of the City and members of the financing team to ensure that the issue is consummated within a reasonable period of time

EXHIBIT B

COMPENSATION SCHEDULE

For work described under **EXHIBIT A**, Consultant will be compensated based on the hourly rate schedule shown below.

Staff Allocation	Hourly Rate
Principal	\$325
Vice President	\$250
Associate	\$175
Analyst	\$125
Administrative	\$ 75

RESOLUTION NO. 17-XXX

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES
AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH NHA
ADVISORS, LLC FOR FINANCIAL ADVISORY SERVICES FOR THE RECYCLED WATER
DISTRIBUTION SYSTEM PROJECT

WHEREAS, in 2014, the City Council adopted a master plan to deliver recycled water from the planned Tertiary Treatment Facility at the City's through construction of a distribution system referred to as the Recycled Water Distribution System Project; and

WHEREAS, in 2015, the City hired Black & Veatch to design the Tertiary Treatment Facility and SWCA Environmental Consultants to prepare environmental documents for the Recycled Water Distribution System Project, as well as applied for an SRF loan and a Green Project Reserve grant; and

WHEREAS, a September 2015 Wastewater Rate and Revenue Analysis confirmed that there would be sufficient funds to pay the additional debt of the SRF loan; and

WHEREAS, in January 2016, SRF invited the City to expand its loan application to include the Recycled Water Distribution System Project; and

WHEREAS, on September 6, 2016, following a qualifications-based selection process for a design firm, the City Council hired RMC Water & Environment to design a Recycled Water Distribution System and SWCA for environmental permitting work; and

WHEREAS, the preliminary cost estimate for the Recycled Water Distribution System construction is \$19 million, including the portion of the line that goes to the Municipal Airport, and a storage tank south of Barney Schwartz Park to provide for pressure in the system; and

WHEREAS, while the Wastewater Fund can absorb additional debt, there are insufficient reserves to fund the Recycled Water Distribution System costs as the costs are incurred, thus necessitating project financing; and

WHEREAS, the City requires the services of a municipal financial advisory service to develop funding strategies and financing alternatives and structures for the Recycled Water Distribution System Project, to manage a financing process, and to advise Council, staff, and stakeholders as appropriate; and

WHEREAS, NHA Advisors, LLC ("NHA") has the necessary professional skills to meet the City's needs and requirements for this project and has worked well with the City in the past on other financing projects.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. All of the above recitals are true and correct and incorporated herein by reference.

Section 2. The City Council hereby authorizes the City Manager to execute the agreement with NHA for financial advisory services for the Recycled Water Distribution System in substantially the form attached hereto as Exhibit A and incorporated herein by reference (the "Agreement").

Section 3. The City Council hereby authorizes the City Manager and City Attorney to make minor, non-substantive, or technical changes to the agreement as are fully consistent with overall Council direction.

Section 4. The City Council hereby declares its intent to reimburse the Wastewater Fund from the financing proceeds for project costs incurred prior to receipt of the financing proceeds, specifically including the costs for project analysis and design, and the costs of financing including the NHA Advisor, LLC agreement for this Project.

Section 5. The City Council hereby approves and appropriates from the Wastewater Fund Reserve the amount of \$65,000 for expenditures consistent with this Resolution.

Section 6. This Resolution shall take effect on the date it is approved by the City Council.

APPROVED this 21st day of November, 2017, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Steven W. Martin, Mayor

ATTEST:

Kristen L. Buxkemper, Deputy City Clerk

Exhibit A

Agreement with NHA re Recycled Water Distribution System

[to be inserted]

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE CITY OF EL PASO DE ROBLES
AND
NHA ADVISORS, LLC
(Project – Wastewater Treatment Plant Recycled Water Project Financing)**

THIS AGREEMENT for consulting services is made by and between the City of El Paso de Robles (the “City”) and NHA Advisors, LLC (the “Consultant”) (together referred to as the “Parties”) as of _____, 2017 (the “Effective Date”).

The City wishes to engage the municipal advisory services of NHA Advisors, LLC to assist in developing a financing program for the wastewater treatment plant recycled water project (the “Project”).

Section 1 – SERVICES

Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to City the services described in the Scope of Work attached as **Exhibit A**, and incorporated herein, at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and **Exhibit A**, the Agreement shall prevail.

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

- 1.1 Term of Services.** The term of this Agreement shall begin on the Effective Date and shall end on the earlier of (i) June 30, 2019 or (ii) the date of completion of the tasks specified in **Exhibit A**. Consultant shall complete the work described in **Exhibit A** on or before that date, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 8 (Termination and Modification). The time provided to Consultant to complete the services required by this Agreement shall not affect the City’s right to terminate the Agreement, as referenced in Section 8. City in its sole discretion shall have the right to modify the scope of work to delete tasks in whole or in part.
- 1.2 Standard of Performance.** Consultant shall perform all services required pursuant to this Agreement per the standards observed by a competent practitioner of the profession in which Consultant is engaged.
- 1.3 Assignment of Personnel.** Consultant shall assign only competent personnel to perform services pursuant to this Agreement. If City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Consultant shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.

- 1.4 Time.** Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Section 1.1 above and to satisfy Consultant’s obligations hereunder.

Section 2 - COMPENSATION

City hereby agrees to pay Consultant an amount not to exceed a total of sixty-two thousand and five hundred dollars (\$62,500) in compensation for services performed in **Exhibit A (Scope of Services)** at the rates specified in **Exhibit B (Compensation Schedule)**. In addition, City may pay an amount not to exceed two thousand and five hundred dollars (\$2,500) pursuant to Section 2.4 (Reimbursable Expenses). Payments in excess of the amounts specified herein or at rates in excess of those specified in Exhibit B shall not be made absent a properly authorized and executed written agreement in conformance with Section 8.3 (Amendments) of this Agreement.

City shall pay Consultant for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Consultant for services rendered pursuant to this Agreement. Consultant shall submit all invoices to City in the manner specified herein. Except as specifically authorized by City in writing, Consultant shall not bill City for duplicate services performed by more than one person.

Consultant and City acknowledge and agree that compensation paid by City to Consultant under this Agreement is based upon Consultant’s estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

- 2.1 Invoices.** Consultant shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- The beginning and ending dates of the billing period;
- At City’s option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense;
- For work performed on an hourly Compensation Schedule, the total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder;

- 2.2** In no event shall Consultant submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entire Agreement, unless the Agreement is modified prior to the submission of such an invoice by a properly executed change order or amendment.

- 2.3 Hourly Fees.** Fees for work performed by Consultant on an hourly basis shall not exceed the amounts shown on the compensation schedule attached hereto as Exhibit B.
- 2.4 Reimbursable Expenses.** Reimbursable expenses are the reasonable and typical expenses necessary for completion of the services specified in this Agreement and are limited to the following: copying, mailing, shipping, and data purchase (if not provided by others). Consultant travel expenses are specifically excluded as a reimbursable expense.
- 2.5 Payment of Taxes.** Consultant is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.
- 2.6 Payment upon Termination.** In the event that the City or Consultant terminates this Agreement pursuant to Section 8, the City shall compensate the Consultant for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Consultant shall maintain adequate logs and timesheets to verify costs incurred to that date.
- 2.7 Authorization to Perform Services.** The Consultant is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Contract Administrator.

Section 3 - FACILITIES AND EQUIPMENT

Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement. City shall make available to Consultant only the facilities and equipment listed in this section, and only under the terms and conditions set forth herein.

City shall furnish physical facilities such as desks, filing cabinets, and conference space, as may be reasonably necessary for Consultant’s use while consulting with City employees and reviewing records and the information in possession of the City. The location, quantity, and time of furnishing those facilities shall be in the sole discretion of City. In no event shall City be obligated to furnish any facility that may involve incurring any direct expense, including but not limited to computer, long-distance telephone or other communication charges, vehicles, and reproduction facilities.

Section 4 - INSURANCE REQUIREMENTS

Before beginning any work under this Agreement, Consultant, at its own cost and expense, unless otherwise specified below, shall procure the types and amounts of insurance listed below against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Consultant and its agents, representatives, employees, and subcontractors. Consistent with the following provisions, Consultant shall provide proof satisfactory to City of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects, and that such insurance is in effect prior to beginning work to the City. Consultant shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the Consultant's bid. Consultant shall not

allow any subcontractor to commence work on any subcontract until Consultant has obtained all insurance required herein for the subcontractor(s) and provided evidence that such insurance is in effect to City. Verification of the required insurance shall be submitted and made part of this Agreement prior to execution. Consultant shall maintain all required insurance listed herein for the duration of this Agreement.

4.1 Workers' Compensation. *Consultant is not subject to worker's compensation insurance at this time.* In the event Consultant engages employees subject to the State of California's worker's compensation requirements, the Consultant shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than \$1,000,000 per accident. In the alternative, Consultant may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the Labor Code shall be solely in the discretion of the Contract Administrator. The insurer, if insurance is provided, or the Consultant, if a program of self-insurance is provided, shall waive all rights of subrogation against the City and its officers, officials, employees, and volunteers for loss arising from work performed under this Agreement.

4.2 Commercial General and Automobile Liability Insurance.

4.2.1 General requirements. Consultant, at its own cost and expense, shall maintain commercial general and automobile liability insurance for the term of this Agreement in an amount not less than \$1,000,000 per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

4.2.2 Minimum scope of coverage. Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (most recent edition) covering comprehensive General Liability on an "occurrence" basis. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001 (most recent edition), Code 1 (any auto). No endorsement shall be attached limiting the coverage.

4.2.3 Additional requirements. Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:

- a. The Insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.
- b. City, its officers, officials, employees, and volunteers are to be named as additional insureds as respects: liability arising out of work or operations performed by or on behalf of the Consultant; or automobiles owned, leased, hired, or borrowed by the Consultant
- c. For any claims related to this Agreement or the work hereunder, the Consultant's insurance covered shall be primary insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
- d. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after 30 days' prior written notice has been provided to the City.

4.3 Professional Liability Insurance.

4.3.1 General requirements. Consultant, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than \$1,000,000 covering the licensed professionals' errors and omissions. Any deductible or self-insured retention shall not exceed \$250,000 per claim.

4.3.2 Claims-made limitations. The following provisions shall apply if the professional liability coverage is written on a claims-made form:

- a. The retroactive date of the policy must be shown and must be before the date of the Agreement.
- b. Insurance must be maintained and evidence of insurance must be provided for at least five years after completion of the Agreement or the work, so long as commercially available at reasonable rates.
- c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Consultant must purchase an extended period coverage for a minimum of five years after completion of work under this Agreement.

- d. A copy of the claim reporting requirements must be submitted to the City for review prior to the commencement of any work under this Agreement.

4.4 All Policies Requirements.

- 4.4.1 Acceptability of insurers.** All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A:VII.
- 4.4.2 Verification of coverage.** Prior to beginning any work under this Agreement, Consultant shall furnish City with complete copies of all policies delivered to Consultant by the insurer, including complete copies of all endorsements attached to those policies. All copies of policies and endorsements shall show the signature of a person authorized by that insurer to bind coverage on its behalf. If the City does not receive the required insurance documents prior to the Consultant beginning work, it shall not waive the Consultant's obligation to provide them. The City reserves the right to require complete copies of all required insurance policies at any time.
- 4.4.3 Deductibles and Self-Insured Retentions.** Consultant shall disclose to and obtain the written approval of City for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, employees, and volunteers; or the Consultant shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.
- 4.4.4 Wasting Policies.** No policy required by this Section 4 shall include a "wasting" policy limit (i.e. limit that is eroded by the cost of defense).
- 4.4.5 Waiver of Subrogation.** Consultant hereby agrees to waive subrogation which any insurer or contractor may require from vendor by virtue of the payment of any loss. Consultant agrees to obtain any endorsements that may be necessary to affect this waiver of subrogation.
- The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the entity for all work performed by the consultant, its employees, agents, and subcontractors.
- 4.4.6 Subcontractors.** Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

4.5 Remedies. In addition to any other remedies City may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Consultant's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- Order Consultant to stop work under this Agreement or withhold any payment that becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement

Section 5 - CONSULTANT'S RESPONSIBILITIES AND INDEMNIFICATION

NHA Advisors, LLC is registered as a Municipal Advisor with the SEC and Municipal Securities Rulemaking Board ("MSRB"). As such and in addition to the indemnification and other obligations set forth herein, NHA Advisors, LLC has a Fiduciary duty to the City and must provide both a Duty of Care and a Duty of Loyalty that entails the following.

5.1 Duty of Care:

- exercise due care in performing its municipal advisory activities;
- possess the degree of knowledge and expertise needed to provide the City with informed advice;
- make a reasonable inquiry as to the facts that are relevant to the City's determination as to whether to proceed with a course of action or that form the basis for any advice provided to the City; and
- undertake a reasonable investigation to determine that Consultant is not forming any recommendation on materially inaccurate or incomplete information;
- Consultant must have a reasonable basis for:
 - any advice provided to or on behalf of the City;
 - any representations made in a certificate that it signs that will be reasonably foreseeably relied upon by the City, any other party involved in the municipal securities transaction or municipal financial product, or investors in the City securities; and
 - any information provided to the City or other parties involved in the municipal securities transaction in connection with the preparation of an official statement.

5.2 Duty of Loyalty:

NHA Advisors, LLC must deal honestly and with the utmost good faith with the City and act in the City's best interests without regard to the financial or other interests of NHA Advisors, LLC. NHA Advisors, LLC will eliminate or provide full and fair disclosure (included herein) to Issuer about each material conflict of interest (as applicable). NHA Advisors, LLC will not engage in

municipal advisory activities with the City as a municipal entity, if it cannot manage or mitigate its conflicts in a manner that will permit it to act in the City's best interests.

5.3 Conflicts of Interest and Other Matters Requiring Disclosures

- As of the date of the Agreement, there are no actual or potential conflicts of interest that NHA Advisors, LLC is aware of that might impair its ability to render unbiased and competent advice or to fulfill its fiduciary duty. If NHA Advisors, LLC becomes aware of any potential conflict of interest that arise after this disclosure, NHA Advisors, LLC will disclose the detailed information in writing to the City in a timely manner.
- The fee paid to NHA Advisors, LLC increases the cost of investment to the City. The increased cost occurs from compensating NHA Advisors, LLC for municipal advisory services provided.
- NHA Advisors, LLC does not act as principal in any of the transaction(s) related to this Agreement.
- During the term of the municipal advisory relationship, this agreement will be promptly amended or supplemented to reflect any material changes in or additions to the terms or information within this agreement and the revised writing will be promptly delivered to the City.
- NHA Advisors, LLC does not have any affiliate that provides any advice, service, or product to or on behalf of the client that is directly or indirectly related to the municipal advisory activities to be performed by NHA Advisors, LLC;
- NHA Advisors, LLC has not made any payments directly or indirectly to obtain or retain the City municipal advisory business;
- NHA Advisors, LLC has not received any payments from third parties to enlist Consultant's recommendation to the City of its services, any municipal securities transaction or any municipal finance product;
- NHA Advisors, LLC has not engaged in any fee-splitting arrangements involving NHA Advisors, LLC and any provider of investments or services to the City;
- NHA Advisors, LLC does not have any conflicts of interest from compensation for municipal advisory activities to be performed, that is contingent on the size or closing of any transactions as to which NHA Advisors, LLC is providing advice;
- NHA Advisors, LLC does not have any other engagements or relationships that might impair NHA Advisors, LLC ability either to render unbiased and competent advice to or on behalf of the City or to fulfill its fiduciary duty to the City, as applicable; and
- NHA Advisors, LLC does not have any legal or disciplinary event that is material to the City's evaluation of the municipal advisory or the integrity of its management or advisory personnel.

5.4 Other Regulations. Pursuant to Municipal Securities Rulemaking Board Rule G-10, on Investor and Municipal Advisory Client Education and Protection, Municipal Advisors are required to provide certain written information to their municipal entity and obligated person clients which include the following:

- NHA Advisors, LLC is currently registered as a Municipal Advisor with the U.S. Securities and Exchange Commission and the Municipal Securities Rulemaking Board.
- Within the Municipal Securities Rulemaking Board (“MSRB”) website at www.msrb.org, the City may obtain the Municipal Advisory client brochure that is posted on the MSRB website. The brochure describes the protections that may be provided by the MSRB Rules along with how to file a complaint with financial regulatory authorities.

5.5 Indemnification

Consultant shall indemnify, defend with counsel acceptable to City, and hold harmless City and its officers, officials, employees, agents and volunteers from and against any and all liability, loss, damage, claims, expenses, and costs (including without limitation, attorney’s fees and costs and fees of litigation) (collectively, “Liability”) of every nature arising out of or in connection with Consultant’s performance of the Services or its failure to comply with any of its obligations contained in this Agreement, except such Liability caused by the sole negligence or willful misconduct of City.

The Consultant’s obligation to defend and indemnify shall not be excused because of the Consultant’s inability to evaluate Liability or because the Consultant evaluates Liability and determines that the Consultant is not liable to the claimant. The Consultant must respond within 30 days, to the tender of any claim for defense and indemnity by the City, unless this time has been extended by the City. If the Consultant fails to accept or reject a tender of defense and indemnity within 30 days, in addition to any other remedy authorized by law, so much of the money due the Consultant under and by virtue of this Agreement as shall reasonably be considered necessary by the City, may be retained by the City until disposition has been made of the claim or suit for damages, or until the Consultant accepts or rejects the tender of defense, whichever occurs first.

With respect to third party claims against the Consultant, the Consultant waives any and all rights of any type to express or implied indemnity against the Indemnitees.

Notwithstanding the forgoing, to the extent this Agreement is a “construction contract” as defined by California Civil Code Section 2782, as may be amended from time to time, such duties of consultant to indemnify shall not apply when to do so would be prohibited by California Civil Code Section 2782.

In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Section 6 - STATUS OF CONSULTANT

- 6.1 Independent Contractor.** At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of City. City shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subparagraph 1.3; however, otherwise City shall not have the right to control the means by which Consultant accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.
- 6.2 Consultant Not an Agent.** Except as City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

Section 7 - LEGAL REQUIREMENTS

- 7.1 Governing Law.** The laws of the State of California shall govern this Agreement.
- 7.2 Compliance with Applicable Laws.** Consultant and any subcontractors shall comply with all laws applicable to the performance of the work hereunder.
- 7.3 Other Governmental Regulations.** To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.
- 7.4 Licenses and Permits.** Consultant represents and warrants to City that Consultant and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. Consultant represents and warrants to City that Consultant and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Consultant and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses from City.

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

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

7.6 Nondiscrimination and Equal Opportunity. Consultant shall not discriminate, on the basis of a person’s race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Consultant under this Agreement. Consultant shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Consultant thereby.

Consultant shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

Section 8 - TERMINATION AND MODIFICATION

8.1 Termination. City may cancel this Agreement at any time and without cause upon written notification to Consultant.

Consultant may cancel this Agreement upon 45 days’ written notice to City and shall include in such notice the reasons for cancellation.

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

8.2 Extension. City may, in its sole and exclusive discretion, extend the end date of this Agreement beyond that provided for in Subsection 1.1. Any such extension shall require a written amendment to this Agreement, as provided for herein. Consultant understands and agrees that, if City grants such an extension, City shall have no obligation to provide Consultant with compensation beyond the maximum amount provided for in this Agreement.

- 8.3 Amendments.** The parties may amend this Agreement only by a properly authorized and executed writing in conformance with the provisions and requirements of the Municipal Code of the City.
- 8.4 Assignment and Subcontracting.** City and Consultant recognize and agree that this Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant’s unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the Contract Administrator.
- 8.5 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Consultant shall survive the termination of this Agreement.
- 8.6 Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, City’s remedies shall be included, but not be limited to, the following:
- 8.6.1** Immediately terminate the Agreement;
 - 8.6.2** Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;
 - 8.6.3** Retain a different consultant to complete the work described in **Exhibit A** not finished by Consultant; or
 - 8.6.4** Charge Consultant the difference between the costs to complete the work described in **Exhibit A** that is unfinished at the time of breach and the amount that City would have paid Consultant pursuant to Section 2 if Consultant had completed the work.

Section 9 - KEEPING AND STATUS OF RECORDS

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

If there are any questions regarding the above, please do not hesitate to contact Consultant. If the foregoing terms meet with your approval, please indicate your acceptance by executing both copies of this letter and returning one copy.

Section 10 - MISCELLANEOUS PROVISIONS

- 10.1 Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 10.2 Venue.** In the event that either party brings any action against the other under this Agreement, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of San Luis Obispo.
- 10.3 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 10.4 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 10.5 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the parties.
- 10.6 Use of Recycled Products.** Consultant shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.
- 10.7 Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Consultant in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Consultant shall not employ any City official in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*

Consultant hereby warrants that it is not now, nor has it been in the previous 12 months, an employee, agent, appointee, or official of the City. If Consultant was an employee, agent, appointee, or official of the City in the previous twelve months, Consultant warrants that it did not participate in any manner in the forming of this Agreement. Consultant understands that, if this Agreement is made in violation of Government Code § 1090 *et seq.*, the entire Agreement is void and Consultant will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Consultant will be required to reimburse the

City for any sums paid to the Consultant. Consultant understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code § 1090 and, if applicable, will be disqualified from holding public office in the State of California.

As of the date of the Agreement, there are no actual or potential conflicts of interest that Consultant is aware of that might impair its ability to render unbiased and competent advice or to fulfill its fiduciary duty. If Consultant becomes aware of any potential conflict of interest that arise after this disclosure, Consultant will disclose the detailed information in writing to City in a timely manner.

The fee paid to Consultant increases the cost of investment to City. The increased cost occurs from compensating Consultant for municipal advisory services provided.

Consultant does not act as principal in any of the transaction(s) related to this Agreement.

During the term of the municipal advisory relationship, this agreement will be promptly amended or supplemented to reflect any material changes in or additions to the terms or information within this agreement and the revised writing will be promptly delivered to City.

Consultant does not have any affiliate that provides any advice, service, or product to or on behalf of the City that is directly or indirectly related to the municipal advisory activities to be performed by Consultant.

Consultant has not made any payments directly or indirectly to obtain or retain the City's municipal advisory business.

Consultant has not received any payments from third parties to enlist the Consultant's recommendation to City of its services, any municipal securities transaction or any municipal finance product.

Consultant has not engaged in any fee-splitting arrangements involving Consultant and any provider of investments or services to City.

Consultant does not any conflicts of interest from compensation for municipal advisory activities to be performed, that is contingent on the size or closing of any transactions as to which Consultant is providing advice.

Consultant does not have any other engagements or relationships that might impair the Consultant's ability either to render unbiased and competent advice to or on behalf of City or to fulfill its fiduciary duty to the City, as applicable.

Consultant does not have any legal or disciplinary event that is material to City's evaluation of the municipal advisory or the integrity of its management or advisory personnel.

10.8 Solicitation. Consultant agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.

10.9 Contract Administration. This Agreement shall be administered by the City Finance Director ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.

10.10 Notices. Any written notice to Consultant shall be sent to:

Craig Hill, Principal
NHA Advisors, LLC
4040 Civic Center Drive, Suite 200
San Rafael, CA 94903

Any written notice to City shall be sent to:

Marlaine Saunders, Interim Administrative Services Director
City of El Paso de Robles
821 Pine Street
Paso Robles, CA 93446

10.11 Integration. This Agreement, including the scope of work attached hereto and incorporated herein as Exhibits A and B represents the entire and integrated agreement between City and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral.

Exhibit A Scope of Services
Exhibit B Payment Schedule


10.12 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

The Parties have executed this Agreement as of the Effective Date.

CITY OF EL PASO DE ROBLES

Tom Frutchey, City Manager

CONSULTANT



Services Agreement between
City of El Paso de Robles and NHA Advisors, LLC

October 18, 2017
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Craig

Hill,

Managing

Principal

EXHIBIT A

PROFESSIONAL SERVICES SCOPE

Consultant will work with City staff and other parties to develop funding strategies, financing alternatives and structures for the Project. Consultant will serve as project manager for the financing process and also provide advice to City Council, staff and stakeholders as requested. The scope of work will generally include the following steps:

DEBT ISSUANCE

- Coordinate, analyze and provide financing alternatives for the Project including the use of wastewater net revenues and/or the water net revenues
- If wastewater net revenues are the primary bond security source, develop loan or reimbursement mechanism from water fund (from recycled water sales) to the wastewater fund
- Based on net revenue coverage, recommend structure, term and financing approach
- Financing Structure – Present and Recommend Financing Alternatives for the Project taking into consideration bonding capacity, term of obligation and financing source (Public Offering of Wastewater Revenue Bonds or Private Placement with a single Financial Institution)
- Manage or recommend professional services engagement (RFPs, recommendations or assistance) for underwriter, bond counsel, disclosure counsel, rating agency or others as requested by City
- Structure and manage specific financings in accordance with the City's financing plan, capital project plan, and specific capital project needs and financing requirements
- Bond Rating - prepare and coordinate a comprehensive presentation to the rating services (if required as part of public offering of water revenue bonds).
- Bond Insurance - Prepare credit package and communicate with credit enhancement companies if feasible (if required as part of public offering of wastewater revenue bonds)
- Develop financing structure for bond counsel and disclosure counsel based on input and comments from rating agencies per above
- Coordinate the efforts of bond and disclosure counsel and any other legal counsel, with respect to the preparation and approval of the financing documents by the City Council
- Attend all requested meetings and/or calls related to the project and present materials for the debt financing procedure
- Based on information provided to us by the City and other participants in the financing, work with the City's disclosure counsel to assemble the official statement for the financing in a manner consistent with existing laws and regulations and standards of the securities industry. The official statement serves as a marketing instrument and a disclosure document of the City incident to the financing
- Assist the City in the negotiation of underwriting spread (if a Public Offering) and interest rates on behalf of the City and monitor the underwriter's sales effort to ensure the lowest financing costs are achieved
- Provide information and advice on the timing of bond issuance and financing process (schedule)
- Coordinate the delivery, printing and final approval of legal documents, and the preparation of closing certificates and final official statement

- Coordinate the work of the City and members of the financing team to ensure that the issue is consummated within a reasonable period of time

EXHIBIT B

COMPENSATION SCHEDULE

For work described under **EXHIBIT A**, Consultant will be compensated based on the hourly rate schedule shown below.

Staff Allocation	Hourly Rate
Principal	\$325
Vice President	\$250
Associate	\$175
Analyst	\$125
Administrative	\$ 75

