

AGREEMENT FOR LEGAL SERVICES

**BETWEEN THE CITY OF SUNNYVALE AND JONES HALL, A
PROFESSIONAL LAW CORPORATION, FOR BOND COUNSEL AND
DISCLOSURE COUNSEL SERVICES IN CONNECTION WITH WATER
AND WASTEWATER REFUNDING BONDS**

This AGREEMENT FOR LEGAL SERVICES is entered into this ____ day of _____, 2017, between the CITY OF SUNNYVALE (the "City", or the "Client") and JONES HALL, A PROFESSIONAL LAW CORPORATION ("Attorneys").

B A C K G R O U N D :

A. The Client anticipates that it will issue multiple series of bonds (collectively, the "Refunding Bonds") in order to refund certain outstanding obligations of the City's water system and wastewater system.

B. In order to issue and sell the Refunding Bonds, the Client requires the services of nationally-recognized bond counsel and disclosure counsel. The Client has determined that Attorneys are specially trained and experienced to provide services for accomplishing such refinancings, and Attorneys are willing to provide such services.

C. The public interest, economy and general welfare will be served by this Agreement for Legal Services.

A G R E E M E N T :

In consideration of the foregoing and the mutual covenants contained in this Agreement, the Client and Attorneys agree as follows:

Section 1. Attorney-Client Relationship. Upon execution of this Agreement, the Client will be Attorney's client, and an attorney-client relationship will exist between Client and Attorneys. Attorneys assume that all other parties will retain such counsel as they deem necessary and appropriate to represent their interests in the proposed financing transaction. Attorneys further assume that all other parties understand that in the proposed financing transaction Attorneys represent only the Client, Attorneys are not counsel to any other party, and Attorneys are not acting as an intermediary among the parties. Attorneys' services as bond counsel are limited to those contracted for in this Agreement; the Client's execution of this Agreement will constitute an acknowledgment of those limitations. Attorneys' representation of the Client will not affect, however, our responsibility to render an objective Bond Opinion.

Section 2. Scope of Engagement.

a. Bond Counsel Services. Attorneys shall perform all of the following services as bond counsel in connection with the issuance and sale of the Refunding Bonds:

- (i) Consultation and cooperation with Client and Client's staff to assist in the formulation of a coordinated financial and legal issuance of the Refunding Bonds.
- (ii) Preparation of all legal proceedings for the authorization, issuance and delivery of each series of the Refunding Bonds by the Client; including (a) preparation of a resolution of the City Council of the City authorizing the issuance and sale of the Refunding Bonds, and approving related documents and actions, (b) preparation of all financing documents, including an indenture and escrow agreement, (c) preparation of all documents required for the closing of the issue, (d) supervising the closing, and (e) preparation of all other proceedings incidental to or in connection with the issuance and sale of the Refunding Bonds.
- (iii) Advising the Client, from the time Attorneys are hired as Bond Counsel until the Refunding Bonds are issued, as to compliance with federal tax law as required to ensure that interest on the Refunding Bonds is exempt from federal income taxation (if such Bonds are issued as tax-exempt obligations).
- (iv) Upon completion of proceedings to Attorneys' satisfaction, providing a legal opinion (the "Bond Opinion") approving the validity and enforceability of the proceedings for the authorization, issuance and delivery of the Refunding Bonds, and stating (if such Bonds are issued as tax-exempt obligations) that interest with respect to the Refunding Bonds is (a) excluded from gross income for purposes of federal income taxes and (b) exempt from California personal income taxation. The Bond Opinion will be addressed to the Client, and may also be addressed to the Lender and other participants in the financing.
- (v) Such other and further services as are normally performed by bond counsel in connection with similar financings.

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

The Bond Opinion will be based on facts and law existing as of its date, will cover certain matters not directly addressed by such authorities, and will represent Attorneys' judgment as to the proper treatment of the Refunding Bonds for federal income tax purposes. Attorneys' opinion is not binding on the Internal Revenue Service ("IRS") or the courts. Attorneys cannot and will not give any opinion or assurance about the effect of future changes in the Internal Revenue Code of 1986 (the "Code"), the applicable regulations, the interpretation thereof or the

enforcement thereof by the IRS. Client acknowledges that future legislation, if enacted into law, or clarification of the Code, may cause interest with respect to the Refunding Bonds to be subject, directly or indirectly, to federal income taxation, or otherwise prevent owners of the Refunding Bonds from realizing the full current benefit of the tax status of such interest. The introduction or enactment of any such future legislation or clarification of the Code may also affect the market price for, or marketability of, the Refunding Bonds. Attorneys will express no opinion regarding any pending or proposed federal tax legislation.

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

b. Disclosure Counsel Services. Attorneys shall perform all of the following services as bond counsel in connection with the issuance and sale of the Refunding Bonds:

(i) Prepare the Official Statement (both preliminary and final) in connection with the offering of the Bonds.

(ii) Confer and consult with the officers and administrative staff of the City as to matters relating to the Official Statement.

(iii) Attend all meetings of the City and any administrative meetings at which the Official Statement is to be discussed, deemed necessary by Attorneys for the proper exercise of its due diligence with respect to the Official Statement, or when specifically requested by the City to attend.

(iv) On behalf of the City, review the bond purchase contract, to be prepared by counsel to the bond underwriter, pursuant to which the Bonds will be sold to the underwriter.

(v) On behalf of the City, prepare a continuing disclosure certificate of the City to assist the underwriter with complying with the provisions of SEC Rule 15c2-12.

(vi) Subject to the completion of proceedings to the satisfaction of Attorneys, and subject to the scope of services described herein, provide a letter from Attorneys addressed to the City and the underwriter that, although Attorneys is not passing upon and does not assume any responsibility for the accuracy, completeness or fairness of the statements contained in the Official Statement and makes no representation that Attorneys has independently verified the accuracy, completeness or fairness of any such statements, no facts have come to Attorneys' attention that cause Attorneys to believe that the Official Statement (except for any financial and statistical data and forecasts, numbers, estimates, assumptions and expressions of opinion, information regarding any bond insurer, and information concerning the Depository Trust Company and the book-entry system for the Bonds, contained or incorporated by reference in the Official Statement and the appendices to the Official Statement, which Attorneys will expressly exclude from the scope of this sentence) as of the date of the Official Statement or the

closing date contains any untrue statement of a material fact or omits to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

Section 3. Excluded Services. Attorneys duties in this engagement are limited to those expressly set forth above in Section 2, except as expressly set forth in a written amendment to this Agreement. Among other things, our duties do not include:

- a. Preparing requests for tax rulings from the Internal Revenue Service, or “no-action” letters from the Securities and Exchange Commission.
- b. Drafting state constitutional or legislative amendments.
- c. Representing the City in any litigation or any legal challenges to the issuance of the Refunding Bonds.
- d. Making an investigation or expressing any view as to the creditworthiness of the Client or the Refunding Bonds.
- e. Representing the Client in Internal Revenue Service examinations, audits or inquiries, or Securities and Exchange Commission investigations.
- f. Reviewing or opining on the business terms of, validity, or federal tax consequences of any investment agreement that the Client may choose as an investment vehicle for the proceeds of the Refunding Bonds, unless the Client and Attorneys agree on the terms of such review and compensation for such review.
- g. Reviewing or opining on the business terms of, validity, or federal tax consequences of any derivate financial products, such as an interest rate swap agreement that the Client may choose to enter into in connection with the issuance of the Refunding Bonds, unless the Client and Attorneys agree on the terms of such review and compensation for such review.
- h. Addressing any other matter not specifically set forth above that is not required to render our Bond Opinion.

Section 4. Conflicts; Prospective Consent. Attorneys represent many political subdivisions, investment banking firms and financial advisory firms. It is possible that during the time that Attorneys are representing the Client, one or more of Attorneys’ present or future clients will have transactions with the Client. It is also possible that Attorneys may be asked to represent, in an unrelated matter, one or more of the entities involved in the issuance of the Refunding Bonds. Attorneys do not believe such representation, if it occurs, will adversely affect Attorneys’ ability to represent the Client as provided in this Agreement, either because such matters will be sufficiently different from the issuance of the Refunding Bonds so as to make such representations not adverse to our representation of you, or because the potential for such adversity is remote or minor and outweighed by the consideration that it is unlikely

that advice given to the other client will be relevant to any aspect of the issuance of the Refunding Bonds. Execution of this Agreement will signify the Client's consent to Attorneys' representation of others consistent with the circumstances described in this paragraph.

Section 5. Compensation. For the bond counsel services rendered to the Client specified in Section 2(a), Attorneys shall be paid a legal fee equal to \$58,000 with respect to the Refunding Bonds for the water system, and a legal fee equal to \$65,000 with respect to the Refunding Bonds for the wastewater system.

For the disclosure counsel services rendered to the Client specified in Section 2(b), Attorneys shall be paid a legal fee equal to \$35,000 with respect to the Refunding Bonds for the water system, and a legal fee equal to \$35,000 with respect to the Refunding Bonds for the wastewater system.

In addition, Attorneys shall be reimbursed for any costs advanced by Attorneys on behalf of the City, including delivery and messenger services, closing costs, duplication costs, transcript binding costs and expenses for travel outside the State of California, if any, but specifically excluding travel expenses within the State of California.

Section 6. Responsibilities of the Client.

(a) General.

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

(b) Federal Tax Law-Related Responsibilities. The Code imposes various restrictions, conditions and requirements relating to the exclusion from gross income for federal income tax purposes of interest on obligations such as the Refunding Bonds. As a condition of Attorneys issuing their opinion, you will be required to make certain representations and covenants to comply with certain restrictions designed to insure that interest on the Refunding Bonds will not be included in federal gross income. Inaccuracy of these representations or failure to comply with these covenants may result in interest on the Refunding Bonds being included in gross income for federal income tax purposes, possibly from the date of original issuance of the Refunding Bonds. Attorneys' opinion will assume the accuracy of these representations and compliance with these covenants. Attorneys will not undertake to determine (or to inform any person) whether any actions taken (or not taken) or events occurring (or not occurring) after the date of issuance of the Refunding Bonds may adversely affect the value of, or the tax status of interest on, the Refunding Bonds. In this regard, Client agrees to familiarize itself with the relevant

requirements and restrictions necessary for the Refunding Bonds to qualify for exemption from federal income taxation and to exercise due diligence both before and after issuance of the Refunding Bonds in complying with these requirements.

Section 7. Insurance. Attorneys shall maintain insurance for the duration of this Agreement against claims for injuries to persons or damage to property that may arise from or in connection with the performance of work under this Agreement. The insurance shall be in the form and amount set forth in Exhibit A, attached.

Section 8. Indemnification. Attorneys agree to indemnify and hold harmless the City and its officers, agents and employees, from and against any and all liability, losses, damages, costs and expenses resulting from any professional malpractice of Attorneys, its officers, employees, agents or subcontractors determined by a final binding judgment of a court of law to have occurred in the performance of services under this Agreement.

Section 9. Independent Contractor. Attorneys will act as an independent contractor in performing the services required under this Agreement, and under no circumstances shall Attorneys be considered an agent, partner, or employee of the Client.

Section 10. Assignment. Attorneys may not assign their rights or delegate their obligations under this Agreement, in whole or in part, except with the prior written consent of the Client.

Section 11. Termination of Agreement.

(a) Termination by Client. This Agreement may be terminated at any time by the Client with or without cause upon written notice to Attorneys.

(b) Termination by Attorneys. This Agreement may be terminated by Attorneys upon 15 days' written notice to Client if Client fails to follow written legal advice given by Attorneys.

(c) Termination Upon Issuance of Bonds. This Agreement shall terminate upon the issuance of each series of the Refunding Bonds.

(d) Consequences of Termination. In the event of termination, all finished and unfinished documents shall at the option of the Client become its property and shall be delivered to the Client by Attorneys.

IN WITNESS WHEREOF, the City and Attorneys have executed this Agreement as of the date first above written.

CITY OF SUNNYVALE,
a municipal corporation

By _____
JOHN A. NAGEL
City Attorney

JONES HALL, A PROFESSIONAL
LAW CORPORATION, a California
corporation

SCOTT R. FERGUSON
Shareholder

EXHIBIT A

Insurance

Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial Liability coverage (occurrence Form CG 0001).
2. Insurance Services office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto).
3. Workers' Compensation insurance as required by the State of California.

Minimum Limits of Insurance

Attorneys shall maintain limits no less than:

1. General Liability: \$1,000,000 per occurrence and \$2,000,000 (including operations, for bodily injury, personal and property damage, products and completed operations)
2. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
3. Errors and Omissions Liability: \$1,000,000 per claim and in the aggregate limits

Other Insurance Provisions

The commercial general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City, its officers, officials, employees and volunteers are to be covered as additional insureds as respects: liability arising out of work or operations performed by or on behalf of the Attorneys or automobiles owned, leased, hired or borrowed by the Attorneys.
2. For any claims related to this project, the Attorneys' insurance coverage 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 Attorneys' insurance and shall not contribute with it.

3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.
4. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

Verification of Coverage

Attorneys shall furnish the City with original Certificates and amendatory endorsements affecting coverage by this clause. The endorsements should be on forms provided by the City or on other than the City's forms provided those endorsements conform to City requirements. All Certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.