

RESOLUTION NO. OB-08-14

A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY OF THE FORMER CITY OF EL CAJON REDEVELOPMENT AGENCY APPROVING A RETAINER AGREEMENT FOR LEGAL SERVICES WITH MCDUGAL LOVE ECKIS BOEHMER & FOLEY.

WHEREAS, the City of El Cajon, as the Successor Agency to the El Cajon Redevelopment Agency, is charged with the winding down of the affairs of the former El Cajon Redevelopment Agency ("Agency"); and

WHEREAS, Health and Safety Code Section 34177.3(b) provides that successor agencies may create enforceable obligations to conduct the work of the winding down of the redevelopment agency, including hiring staff, acquiring necessary professional administrative services and legal counsel, and procuring insurance; and

WHEREAS, because the Successor Agency is a separate public entity from the City of El Cajon, a separate agreement for legal services ("Legal Agreement") is necessary to distinguish the work directly associated with the winding down of the former Agency; and

WHEREAS, staff anticipates that various legal services outlined in Exhibit A will be required for ongoing Successor Agency efforts, including the following activities/projects: Successor Agency Administration; Hazmat Testing Park Ballantyne (RD0704S); Hazmat Testing Prescott Promenade (RD0705S); Former Police Station – 100 Fletcher Parkway (RD0801S); Johnson Avenue Corridor Revitalization Project (RD1017S); Management of DDAs, OPAs, OAs, and Reimbursement and Indemnity Agreements (RD1201S); Real Property Asset Management (RD1202S); Civic Center Complex Revitalization Project (RDR0703S); and various capital projects utilizing the remaining 2007 Tax Allocation Bonds and Low and Moderate-Income Housing Fund portion of the 2005 Tax Allocation Refunding Bonds;

WHEREAS, separate authorization for approval of the Legal Agreement has also been requested by the City Council, acting as the Successor Agency, at their regularly-scheduled meeting to be held on February 11, 2014; and

WHEREAS, MLEBF has provided legal services to the former Agency since 2000 pursuant to a previous legal services agreement and is familiar with complex redevelopment transactions, environmental contamination issues, and has extensive experience dealing with form Agency projects, activities and properties; and

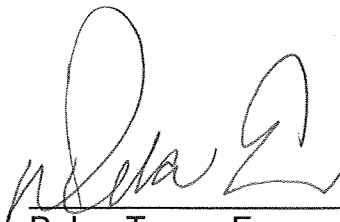
WHEREAS, MLEBF is the firm most qualified and experienced to represent the Successor Agency in their duties of winding down the affairs of the Successor Agency.

NOW, THEREFORE, BE IT RESOLVED BY THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY OF THE FORMER CITY OF EL CAJON REDEVELOPMENT AGENCY, AS FOLLOWS:

- A. The Oversight Board finds that:
1. The recitals above are true and correct and have been incorporated herein by reference.
 2. Approval to execute an Agreement is exempt from the California Environmental Quality Act (CEQA) under Section 15061 (b) (3) (General Rule) of the CEQA Guidelines because the proposed agreements will not cause a significant adverse physical change to the environment either directly or indirectly.
 3. Health and Safety Code Section 34177.3(b) provides that successor agencies may create enforceable obligations to conduct the work of the winding down of the redevelopment agency, including hiring staff, acquiring necessary professional administrative services and legal counsel, and procuring insurance.
 4. McDougal Love Eckis Bohemer & Foley has provided legal services to the former El Cajon Redevelopment Agency since 2000 and are familiar with complex redevelopment transactions, environmental contamination issues, and has extensive experience dealing with Agency projects, activities and properties.
 5. McDougal Love Eckis Boehmer & Foley is the firm most qualified and experienced to represent the Successor Agency in legal matters relating to the dissolution of the former El Cajon Redevelopment Agency and the services outlined in Exhibit A as part of the proposed Legal Agreement, attached hereto as Exhibit "1", are a required and necessary function of winding down the affairs of the former Agency.
- B. The Oversight Board hereby APPROVES execution of a Retainer Agreement for Legal Services, substantially in the form as presented, between the Successor Agency and McDougal Love Eckis Boehmer & Foley for legal counsel services relating to the dissolution activities of the former El Cajon Redevelopment Agency; and
- C. The Oversight Board hereby FINDS that the Legal Agreement with McDougal Love Eckis Boehmer & Foley is an enforceable obligation and legal costs associated with Successor Agency activities shall be placed on the next and each successive Recognized Obligation Payment Schedule ("ROPS") for payment; and
- D. The Oversight Board hereby APPROVES execution of the Legal Agreement by the City Manager of the City of El Cajon, or such person designated by the City Manager, acting in the capacity of the chief executive officer for the Successor Agency.

PASSED AND ADOPTED by the Oversight Board of the Successor Agency of the former El Cajon Redevelopment Agency at a regularly-scheduled meeting held this 19th day of February 2014, by the following vote to wit:

AYES: ABUSHABAN, BUXBAUM, GRIFFIN, GRIFFITHS, RANU, TURNER-EMERSON
NOES: NONE
ABSENT: CHADWICK



Debra Turner-Emerson, Chairperson

ATTEST:



Majed Al-Ghafry, Oversight Board Secretary

[This page intentionally left blank.]

**RETAINER AGREEMENT FOR LEGAL SERVICES RELATED TO THE SUCCESSOR
AGENCY TO THE FORMER EL CAJON REDEVELOPMENT AGENCY**

This Agreement is entered into this ___ day of February 2014, by and between the City of El Cajon, a California charter city and municipal corporation, solely in its capacity as the Successor Agency to the Former El Cajon Redevelopment Agency (hereinafter "the Successor Agency") and MCDUGAL LOVE ECKIS BOEHMER & FOLEY, a Professional Corporation (hereinafter the "Attorney").

RECITALS

- A. The City requires legal services to advise and assist the Successor Agency in the winding down of its affairs.
- B. Attorney is fully qualified to provide the legal services sought by the Successor Agency and willing to provide such legal services. The duties under this Agreement shall be performed by Morgan L. Foley. Other members of the firm may handle various aspects of the matter as appropriate.
- C. Attorney is willing to devote such time as may be necessary to provide such services in keeping with standards of the legal profession and refrain from any employment that would conflict with representation of the Successor Agency.

NOW, THEREFORE, the parties hereby agree that Attorney shall be retained by the Successor Agency as legal counsel subject to the following terms and conditions:

1. **SCOPE OF SERVICES**

Attorney shall provide specialized legal services in accordance with **Exhibit A**, "Scope of Legal Services," attached and incorporated by reference as if fully set forth herein.

2. **COMPENSATION**

The Successor Agency agrees to compensate Attorney, for services rendered, at the rates set forth in **Exhibit B**, "Hourly Rates." In no event shall the total compensation exceed Thirty Thousand Dollars (\$30,000) for the one year term without amendment of this Agreement, approved by the Oversight Board to the Successor Agency and the State Department of Finance.

3. **INSURANCE**

Attorney shall maintain their own liability, health, worker's compensation, disability, and other insurance and the City shall not be responsible therefor. At a minimum, Attorney shall maintain one million dollars (\$1,000,000) in malpractice insurance, or such other amounts as may be required by the State Bar of California.

4. **INDEMNIFICATION AND HOLD HARMLESS**

Attorney shall defend, indemnify, and hold the Successor Agency harmless from any and all claims, liabilities, obligations, and causes of action for injury or death of any person and for injury or damage or destruction of property that directly results from Attorney's negligence, including the operation of any motor vehicle. This provision shall not be construed to waive or affect the immunities of the parties provided to public agencies, their agents and employees by law.

5. **CONFLICT OF INTEREST**

Attorney shall not knowingly represent any person or entity in any matter that may reasonably result in a contrary position to that of the Successor Agency. However, upon full disclosure to the Successor Agency, the Successor Agency may waive this provision in writing.

6. **ADDRESSES FOR NOTICE**

If to Successor Agency:

City of El Cajon/Successor Agency
200 Civic Center Way
El Cajon CA 92020
Atten: Jenny Ficacci, Housing Manager

If to Attorney:

McDougal, Love, Eckis, Boehmer & Foley
8100 La Mesa Blvd., Suite 200
La Mesa CA 91942
Atten: Morgan L. Foley

7. **TERM**

The services to be provided by Attorney under this Agreement shall begin as of the date of this Agreement and shall remain in full force and effect for one year unless both parties hereto agree to a one-year extension of the agreement in writing.

8. **TERMINATION**

The Successor Agency may immediately terminate this Agreement with or without cause at any time. Attorney may terminate this Agreement at any time by providing thirty (30) days' notice in writing to the Successor Agency.

9. **FILES**

Attorney's files for matters involving the Successor Agency, and works in progress thereof, are the property of the Successor Agency and upon termination of this

Agreement, shall, upon demand, be immediately delivered to the Successor Agency. Attorney may retain copies of pertinent documents, unless expressly prohibited or restricted by the Successor Agency.

10. **ATTORNEYS' FEES**

In the event of any dispute between the parties, the prevailing party shall recover its attorneys' fees and any costs and expenses incurred due to the dispute.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first specified above.

"Successor Agency"

"Attorney"

City of El Cajon, a California charter City and Municipal Corporation, solely in its capacity as Successor Agency to the Former El Cajon Redevelopment Agency

McDougal, Love, Eckis, Boehmer & Foley
A Professional Corporation

By _____
Douglas Williford, City Manager

By _____
Steven E. Boehmer, President

ATTEST:

Belinda Hawley, CMC, City Clerk

By: _____
Morgan L. Foley

[This page intentionally left blank.]

EXHIBIT A
SCOPE OF LEGAL SERVICES

THIS EXHIBIT CONTAINS CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATIONS PURSUANT TO CALIFORNIA BUSINESS & PROFESSIONS CODE SECTION 6149.

The Successor Agency will utilize the specialized legal services of McDougal Love Eckis Boehmer & Foley (the "MLEBF") provides with respect to the dissolution activities and the winding up of the affairs of the former El Cajon Redevelopment Agency ("Agency").

MLEBF has provided legal services to the former Agency since 2000 pursuant to a previous legal services agreement and is familiar with complex redevelopment transactions, environmental contamination issues, and has extensive experience dealing with former Agency projects, activities and properties. In particular, MLEBF will provide legal advice to the Successor Agency on an as-needed basis in the areas which include but are not limited to the following:

1. Consultation, representation and response to actions taken by the California Department of Finance ("DOF"), State Controller's Office ("SCO"), County Auditor Controller's Office ("CAC"), among others.
2. Litigation, claims and legal action expertise and representation.
3. Environmental law and hazardous substances liability representation.
4. Review, evaluation, negotiations, termination, enforcement action, foreclosure, bankruptcy, collection efforts, and document preparation related to all outstanding Enforceable obligations, contracts and agreements.
5. Negotiation, review, draft and analysis of documents and agreements related to the disposition of Successor Agency properties.
6. Consultation with bond counsel for the use of remaining unspent Agency bond proceeds.
7. Other legal consultation needs as they may arise.

EXHIBIT B

Hourly Billing Rates (Effective February 11, 2014)

Attorney	\$165.00
Paralegal (including paralegals and legal assistants as defined by the ABA)	85.00
Law Clerks	60.00

City/Agency shall pay direct costs incurred for litigation and other services, including but not limited to, filing fees, fees for service of process, witness fees, and trial preparation of exhibits, and other related expenses.