

OVERSIGHT BOARD RESOLUTION NO. 2015-07

A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF MISSION VIEJO AUTHORIZING THE SUCCESSOR AGENCY TO AMEND AGREEMENT FOR CONSULTANT SERVICES (ARBITRAGE COMPLIANCE SPECIALISTS, INC.)

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

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

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

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

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

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

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

WHEREAS, the Successor Agency desires to amend certain *Agreement for Consultant Services (Arbitrage Compliance Specialists, Inc.)* (“Arbitrage Compliance Services Agreement”) for arbitrage compliance services related to the 1999 Variable Rate Demand Revenue Bonds (Mission Viejo Mall Improvement Project); and

WHEREAS, the Oversight Board has reviewed Amendment (Attachment 1) to the Arbitrage Compliance Services Amendment to the Agreement and desires to authorize the Successor Agency to enter into such amendment and subject to approval of such contract by the Successor Agency to cause posting of this Resolution on the Successor Agency website, and to direct transmittal thereof with a copy of such contract to the Department of Finance (“DOF”); and

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

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

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

Section 2. Pursuant to the Dissolution Act, the Oversight Board authorizes the Successor Agency to enter into the *Amendment to Agreement for Consultant Services (Arbitrage Compliance Specialists)*, which is incorporated herein by this reference. (Attachment 1)

Section 3. The Oversight Board authorizes transmittal of such contract to DOF.

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

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

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

APPROVED AND ADOPTED this 24th day of September 2015



Brian Probolsky, Chairperson
Oversight Board of the Successor Agency to the
Community Development Agency of the City of
Mission Viejo

ATTEST



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

APPROVED AS TO FORM:
HARPER & BURNS LLP



John R. Harper, Esq.
Oversight Board Counsel

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

I, Sherry Merrifield, Secretary of the Oversight Board of the Successor Agency to the Community Development Agency of the City of Mission Viejo, hereby certify that the foregoing resolution was duly adopted by the Oversight Board at a regular meeting held on the 24th day of September 2015, and that it was so adopted by the following vote:

AYES: Chairperson Probolsky, Vice-Chair Butterfield, Board Member
 Dyas, Board Member Gilbert and Board Member Kelley

NOES: None

ABSENT: Board Member Fitzsimons and Board Member Hampton



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

ATTACHMENT 1
to Oversight Board Resolution No. 2015-07
Amendment to Agreement for Consultant Services
(Arbitrage Compliance Specialists)
(attached)

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

**AMENDMENT TO AGREEMENT
WITH ARBITRAGE COMPLIANCE SPECIALISTS, INC.
FOR ARBITRAGE REBATE CALCULATION SERVICES**

THIS AMENDMENT TO CONSULTANT AGREEMENT (hereafter "Amendment") is made and effective as of July 1, 2015, by and between the SUCCESSOR AGENCY OF THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF MISSION VIEJO, a public body corporate and politic, (hereafter "Successor Agency") and Arbitrage Compliance Specialist, Inc., a California corporation (hereafter "Consultant"). In consideration of the mutual promises and covenants contained herein, the parties hereto mutually agree as follows:

1. This Amendment is made and entered into with respect to the following facts:
 - a. On July 1, 2014, the Successor Agency and Consultant entered into that certain agreement entitled "Successor Agency of the Community Development Agency of the City of Mission Viejo Agreement with Arbitrage Compliance Specialists, Inc. for Arbitrage Rebate Calculation Services" in which the Consultant agreed to provide certain services for the Successor Agency (hereafter "Agreement").
 - b. The California Department of Finance approved this Agreement in a letter dated August 19, 2014.
 - c. Successor Agency and Consultant desire to make certain modifications to the Agreement as set forth in this Amendment.

2. Section 1, 2 and 4 a. of the Agreement is hereby amended to read as follows:
 1. TERM. This Agreement shall commence on July 1, 2015 and shall remain and continue in effect until tasks described herein are completed, but in no event later than June 30, 2016, unless sooner terminated pursuant to the provisions of this Agreement.
 2. SERVICES. Consultant shall perform the tasks described and set forth in Exhibit A-1, attached hereto and incorporated herein as though set forth in full. Consultant shall complete the tasks according to the schedule of performance which is also set forth in Exhibit A-1.
 4. PAYMENT.
 - a. Subject to the Dissolution Act, the Successor Agency agrees to pay Consultant quarterly, in accordance with the payment rates and terms and the Compensation schedule set forth in Exhibit A-1 attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the tasks described in Exhibit A-1. This amount shall not exceed Two Thousand One Hundred Dollars (\$2,100.00) for the additional one-year term of this Agreement unless additional payment is approved as provided in this Agreement. Any terms or conditions set forth on Exhibit A-1 that do not describe the work to be performed, the payment rates and terms, or the payment schedule have not been agreed to by the Successor Agency and

shall not be deemed a part of this Agreement.

3. Except as otherwise specifically provided in this Amendment, all other terms and provisions of the Agreement shall remain in full force and effect.

Consultant:

Robert Goubert 9/25/15
By: Robert Goubert Date

SUCCESSOR AGENCY:

Successor Agency to the Community
Development Agency of the City of
Mission Viejo

By: Dennis Wilberg Date
Title: City Manager

Consultant:

Doug Pahnke 9/25/15
By: Doug Pahnke Date

Attest:

Karen Hamman Date
City Clerk
On behalf of the Successor Agency

Approved as to Form:

Celeste Brady Date
Special Counsel to Successor Agency



September 02, 2015

Exhibit A-1

Ms. Josephine V. Julian, Treasury Manager
City of Mission Viejo, California ("Issuer")
200 Civic Center
Mission Viejo, CA 92691

ENGAGEMENT LETTER FOR ARBITRAGE COMPLIANCE SERVICES

CONTROL #4.00

\$31,100,000.00 VARIABLE RATE DEMAND REVENUE BONDS, 1999 SERIES A

Arbitrage Compliance Specialists, Inc. ("ACS") is pleased to present our fees to provide arbitrage compliance services for the Issuer. Our firm has distinctive legal and accounting experience with arbitrage compliance services dating back to the inception of the arbitrage rebate regulations of 1986. ACS is one of the most prominent and well-respected providers of arbitrage compliance services in the nation. ACS' staff members are accounting professionals who have extensive knowledge of governmental accounting, accounting allocation methods and legal interpretation skills to compute the lowest permissible liability allowed. We pride ourselves on our unprecedented commitment to each and every client we represent.

ACS has provided a fee schedule to encompass the various elements that we may encounter during the calculations. ACS' fees are derived by the number of years included in the calculation. The fee schedule listed on page 2 provides fees for reports covering the applicable periods. Each calculation includes both a legal opinion and a CPA opinion to provide assurance that the calculations were completed according to Section 148(f) of the Internal Revenue Code of 1986 that governs the arbitrage rebate requirements (the "Tax Code").

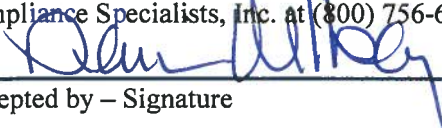
We appreciate the opportunity to provide assistance to help the Issuer comply with the IRS arbitrage compliance requirements. As always, if we may be of further assistance or if there are any questions, please do not hesitate to call us at (800) 672-9993 ext.7536.

Sincerely,
Arbitrage Compliance Specialists, Inc.

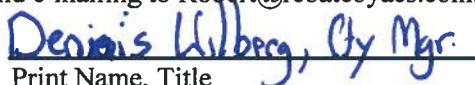


Robert Goubert, Vice President

Please acknowledge acceptance of this engagement by signing and faxing this letter in its entirety to Arbitrage Compliance Specialists, Inc. at (800) 756-6505 or scanning and e-mailing to Robert@rebatebyacs.com.



Accepted by – Signature

 10/6/15

Print Name, Title Date



Bond Compliance Program Services:	Fees
Arbitrage Rebate Calculation Interim: 05/19/2014 to 05/19/2016	\$2,100.00
TOTAL	\$2,100.00

Arbitrage Rebate Calculation Services	
Comprehensive Arbitrage Compliance Analysis/Set-Up	Included
Yield Restriction Calculation (Per Report Period)	Included
Spending Exception Calculations (Per 6-Month Report Period)	Included
Commingled Funds and / or Transferred Proceeds	Included
Preparation of IRS Form 8038-T and IRS Filing Instructions	Included
Legal Services	
IRS Audit Assistance (For Bond Issues Completed By ACS)	Included
Post-Calculation Services	
Debt Compliance Monitoring Service	Included
Record Retention Service	Included

Calculation Services

1. Review the documents related to the debt issue to include the Official Statement, Tax Certificate, IRS Form 8038-G and CPA Verification Report.
2. Complete an in-depth analysis of the debt structure by our in-house tax attorney to determine if the debt issue is subject to rebate and/or yield restriction and identify applicable exceptions.
3. Monitor IRS filing deadlines, election requirements and restricted periods in our database tracking system to ensure timely reporting.
4. Perform the rebate, yield restriction/yield reduction or spending exception/penalty calculations in compliance with Internal Revenue Code of 1986.
5. Provide calculations with legal opinion and CPA certified professional opinion that can be relied upon by the Issuer regarding the liability. The report will provide supporting documentation to include the calculation method employed, assumptions and conclusions.
6. Prepare payment Form 8038-T with detailed filing instructions for accurate and timely filing to the IRS, if applicable.

Support Services

7. Discuss the report and findings to ensure a complete understanding of the procedures and recommendations in such report.
8. Prepare a debt compliance monitoring schedule that identifies all-important relevant information by issue including prior calculations, liability amounts, future calculation due dates and important status notes.
9. Advise on how future changes in the Tax Code may affect the debt issue.
10. Provide technical assistance and consultation in matters related to the arbitrage compliance regulations.
11. Assist in the IRS record retention requirements, which include storage of records related to the debt issue.
12. Provide no cost audit support in the event of an IRS audit.