CITY OF UPLAND
PROFESSIONAL SERVICES AGREEMENT

This Agreement is made and entered into as of May 10, 2021 ("Effective Date") by and between the City of Upland, a public agency organized and operating under the laws of the State of California with its principal place of business at 460 N. Euclid Avenue, Upland, CA 91786 ("City"), and Stradling Yocca Carlson & Rauth, a Professional Corporation with its principal place of business at 660 Newport Center Drive, Suite 1600, Newport Beach, CA 92660 (hereinafter referred to as "Consultant"). City and Consultant are sometimes individually referred to as "Party" and collectively as "Parties" in this Agreement.

RECITALS

A. City is a public agency of the State of California and is in need of professional services for the following project: Bond disclosure legal services (hereinafter referred to as "the Project").

B. Consultant is duly licensed and has the necessary qualifications to provide such services.

C. The Parties desire by this Agreement to establish the terms for City to retain Consultant to provide the services described herein.

AGREEMENT

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. <u>Services</u>.

Consultant shall provide the City with the services described in the Scope of Services attached hereto as Exhibit "A."

2. <u>Compensation</u>.

a. Subject to paragraph 2(b) below, the City shall pay for such services in accordance with the Schedule of Charges set forth in Exhibit "B."

b. In no event shall the total amount paid for services rendered by Consultant under this Agreement exceed the sum of $36,500. This amount is to cover all printing and related costs, and the City will <u>not</u> pay any additional fees for printing expenses. Payments to Consultant for work performed will be made upon successful closing of the bonds.

3. <u>Additional Work</u>.

If changes in the work seem merited by Consultant or the City, and informal consultations with the other party indicate that a change is warranted, it shall be processed in the following manner: a letter outlining the changes shall be forwarded to the City by Consultant with a statement of estimated changes in fee or time schedule. An amendment to this Agreement shall be prepared by the City and executed by both Parties before performance of such services, or the City will not be required to pay for the changes in the scope of work. Such amendment shall not render ineffective or invalidate unaffected portions of this Agreement.

4. Maintenance of Records.

Books, documents, papers, accounting records, and other evidence pertaining to costs incurred shall be maintained by Consultant and made available at all reasonable times during the contract period and for four (4) years from the date of final payment under the contract for inspection by City.

5. Term.

The term of this Agreement shall be from the Effective Date to December 31, 2023, unless earlier terminated as provided herein. The Parties may, by mutual, written consent, extend the term of this Agreement if necessary to complete the Project. Consultant shall perform its services in a prompt and timely manner within the term of this Agreement and shall commence performance upon receipt of written notice from the City to proceed ("Notice to Proceed"). The Notice to Proceed shall set forth the date of commencement of work.

6. Delays in Performance.

a. Neither City nor Consultant shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Agreement, such circumstances include but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; pandemics; war; riots and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage or judicial restraint.

b. Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

7. Compliance with Law.

a. Consultant shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local government, including Cal/OSHA requirements.

b. If required, Consultant shall assist the City, as requested, in obtaining and maintaining all permits required of Consultant by federal, state and local regulatory agencies.

c. If applicable, Consultant is responsible for all costs of clean up and/ or removal of hazardous and toxic substances spilled as a result of his or her services or operations performed under this Agreement.

8. Standard of Care.

Consultant's services will be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions.

9. Assignment and Subconsultant.

Consultant shall not assign, sublet, or transfer this Agreement or any rights under or interest in this Agreement without the written consent of the City, which may be withheld for any reason. Any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination. Subcontracts, if any, shall contain a provision making them subject to all provisions stipulated in this Agreement. Nothing contained herein shall prevent Consultant from employing independent associates, and subconsultants as Consultant may deem appropriate to assist in the performance of services hereunder.

10. Independent Contractor.

Consultant is retained as an independent contractor and is not an employee of City. No employee or agent of Consultant shall become an employee of City. The work to be performed shall be in accordance with the work described in this Agreement, subject to such directions and amendments from City as herein provided.

11. Insurance. Consultant shall not commence work for the City until it has provided evidence satisfactory to the City it has secured all insurance required under this section. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has secured all insurance required under this section.

a. Commercial General Liability

(i) The Consultant shall take out and maintain, during the performance of all work under this Agreement, in amounts not less than specified herein, Commercial General Liability Insurance, in a form and with insurance companies acceptable to the City.

(ii) Coverage for Commercial General Liability insurance shall be at least as broad as the following:

(1) Insurance Services Office Commercial General Liability coverage (Occurrence Form CG 00 01) or exact equivalent.

(iii) Commercial General Liability Insurance must include coverage for the following:

(1) Bodily Injury and Property Damage
(2) Personal Injury/Advertising Injury
(3) Premises/Operations Liability
(4) Products/Completed Operations Liability
(5) Aggregate Limits that Apply per Project
(6) Explosion, Collapse and Underground (UCX) exclusion deleted
(7) Contractual Liability with respect to this Agreement
(8) Property Damage
(9) Independent Contractors Coverage

(iv) The policy shall contain no endorsements or provisions limiting coverage for (1) contractual liability; (2) cross liability exclusion for claims or suits by one insured against another; (3) products/completed operations liability; or (4) contain any other exclusion contrary to the Agreement.

(v) The policy shall give City, its officials, officers, employees, agents and City designated volunteers additional insured status using ISO endorsement forms CG 20 10 10 01 and 20 37 10 01, or endorsements providing the exact same coverage.

(vi) The general liability program may utilize either deductibles or provide coverage excess of a self-insured retention, subject to written approval by the City, and provided that such deductibles shall not apply to the City as an additional insured.

b. Automobile Liability

(i) At all times during the performance of the work under this Agreement, the Consultant shall maintain Automobile Liability Insurance for bodily injury and property damage including coverage for owned, non-owned and hired vehicles, in a form and with insurance companies acceptable to the City.

(ii) Coverage for automobile liability insurance shall be at least as broad as Insurance Services Office Form Number CA 00 01 covering automobile liability (Coverage Symbol 1, any auto).

(iii) The policy shall give City, its officials, officers, employees, agents and City designated volunteers additional insured status.

(iv) Subject to written approval by the City, the automobile liability program may utilize deductibles, provided that such deductibles shall not apply to the City as an additional insured, but not a self-insured retention.

c. Workers' Compensation/Employer's Liability

(i) Consultant certifies that he/she is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and he/she will comply with such provisions before commencing work under this Agreement.

(ii) To the extent Consultant has employees at any time during the term of this Agreement, at all times during the performance of the work under this Agreement, the Consultant shall maintain full compensation insurance for all persons employed directly by him/her to carry out the work contemplated under this Agreement, all in accordance with the "Workers' Compensation and Insurance Act," Division IV of the Labor Code of the State of California and any acts amendatory thereof, and Employer's Liability Coverage in amounts indicated herein. Consultant shall require all subconsultants to obtain and maintain, for the period required by this Agreement, workers' compensation coverage of the same type and limits as specified in this section.

d. Professional Liability (Errors and Omissions)

At all times during the performance of the work under this Agreement the Consultant shall maintain professional liability or Errors and Omissions insurance appropriate to its profession, in a form and with insurance companies acceptable to the City and in an amount indicated herein. This insurance shall be endorsed to include contractual liability applicable to this Agreement and shall be written on a policy form specifically designed to protect against acts, errors or omissions of the Consultant. "Covered Professional Services" as designated in the policy must specifically include work performed under this Agreement. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend.

e. Minimum Policy Limits Required

(i) The following insurance limits are required for the Agreement:

	Combined Single Limit
Commercial General Liability	$1,000,000 per occurrence/ $2,000,000 aggregate for bodily injury, personal injury, and property damage
Automobile Liability	$1,000,000 combined single limit
Employer's Liability	$1,000,000 per accident or disease
Professional Liability	$1,000,000 per claim and aggregate (errors and omissions)

(ii) Defense costs shall be payable in addition to the limits.

(iii) Requirements of specific coverage or limits contained in this section are not intended as a limitation on coverage, limits, or other requirement, or a waiver of any coverage normally provided by any insurance. Any available coverage shall be provided to the parties required to be named as Additional Insured pursuant to this Agreement.

f. Evidence Required

Prior to execution of the Agreement, the Consultant shall file with the City evidence of insurance from an insurer or insurers certifying to the coverage of all insurance required herein. Such evidence shall include original copies of the ISO CG 00 01 (or insurer's equivalent) signed by the insurer's representative and Certificate of Insurance (Acord Form 25-S or equivalent), together with required endorsements. All evidence of insurance shall be signed by a properly authorized officer, agent, or qualified representative of the insurer and shall certify the names of the insured, any additional insureds, where appropriate, the type and amount of the insurance, the location and operations to which the insurance applies, and the expiration date of such insurance.

g. Policy Provisions Required

(i) Consultant shall provide the City at least thirty (30) days prior written notice of cancellation of any policy required by this Agreement, except that the Consultant shall provide at least ten (10) days prior written notice of cancellation of any such policy due to non-payment of premium. If any of the required coverage is cancelled or expires during the term of this Agreement, the Consultant shall deliver renewal certificate(s) including the General Liability Additional Insured Endorsement to the City at least ten (10) days prior to the effective date of cancellation or expiration.

(ii) The Commercial General Liability Policy and Automobile Policy shall each contain a provision stating that Consultant's policy is primary insurance and that any insurance, self-insurance or other coverage maintained by the City or any named insureds shall not be called upon to contribute to any loss.

(iii) The retroactive date (if any) of each policy is to be no later than the effective date of this Agreement. Consultant shall maintain such coverage continuously for a period of at least three years after the completion of the work under this Agreement. Consultant shall purchase a one (1) year extended reporting period A) if the retroactive date is advanced past the effective date of this Agreement; B) if the policy is cancelled or not renewed; or C) if the policy is replaced by another claims-made policy with a retroactive date subsequent to the effective date of this Agreement.

(iv) All required insurance coverages, except for the professional liability coverage, shall contain or be endorsed to provide a waiver of subrogation in favor of the City, its officials, officers, employees, agents, and volunteers or shall specifically allow Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against City, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

(v) The limits set forth herein shall apply separately to each insured against whom claims are made or suits are brought, except with respect to the limits of liability. Further the limits set forth herein shall not be construed to relieve the Consultant from liability in excess of such coverage, nor shall it limit the Consultant's indemnification obligations to the City and shall not preclude the City from taking such other actions available to the City under other provisions of the Agreement or law.

h. <u>Qualifying Insurers</u>

(i) All policies required shall be issued by acceptable insurance companies, as determined by the City, which satisfy the following minimum requirements:

(1) Each such policy shall be from a company or companies with a current A.M. Best's rating of no less than A:VII and admitted to transact in the business of insurance in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law.

i. <u>Additional Insurance Provisions</u>

(i) The foregoing requirements as to the types and limits of insurance coverage to be maintained by Consultant, and any approval of said insurance by the City, is not intended to and shall not in any manner limit or qualify the liabilities and obligations otherwise assumed by the Consultant pursuant to this Agreement, including but not limited to, the provisions concerning indemnification.

(ii) If at any time during the life of the Agreement, any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by City will be promptly reimbursed by Consultant or City will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, City may cancel this Agreement.

(iii) The City may require the Consultant to provide complete copies of all insurance policies in effect for the duration of the Project.

(iv) Neither the City nor any of its officials, officers, employees, agents or volunteers shall be personally responsible for any liability arising under or by virtue of this Agreement.

j. Subconsultant Insurance Requirements. Consultant shall not allow any subcontractors or subconsultants to commence work on any subcontract until they have provided evidence satisfactory to the City that they have secured all insurance required under this section. Policies of commercial general liability insurance provided by such subcontractors or subconsultants shall be endorsed to name the City as an additional insured using ISO form CG 20 38 04 13 or an endorsement providing the exact same coverage. If requested by Consultant, City may approve different scopes or minimum limits of insurance for particular subcontractors or subconsultants.

12. Indemnification.

a. To the fullest extent permitted by law, Consultant shall defend (with counsel of City's choosing), indemnify and hold the City, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Consultant, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Consultant's services, the Project or this Agreement, including without limitation the payment of all damages, expert witness fees and attorney's fees and other related costs and expenses. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Consultant, the City, its officials, officers, employees, agents, or volunteers.

b. If Consultant's obligation to defend, indemnify, and/or hold harmless arises out of Consultant's performance of "design professional" services (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Consultant's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, and, upon Consultant obtaining a final adjudication by a court of competent jurisdiction, Consultant's liability for such claim, including the cost to defend, shall not exceed the Consultant's proportionate percentage of fault.

13. California Labor Code Requirements.

a. Consultant is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects ("Prevailing Wage Laws"). If the services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is $1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Consultant and all subconsultants to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Section 1777.1). The requirement to submit certified payroll records directly to the Labor Commissioner under Labor Code section 1771.4 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Section 1771.4.

b. If the services are being performed as part of an applicable "public works" or "maintenance" project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Consultant and all subconsultants performing such services must be registered with the Department of Industrial Relations. Consultant shall maintain registration for the duration of the Project and require the same of any subconsultants, as applicable. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

c. This Agreement may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Consultant's sole responsibility to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor that affect Consultant's performance of services, including any delay, shall be Consultant's sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Consultant caused delay and shall not be compensable by the City. Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Consultant or any subcontractor.

14. Verification of Employment Eligibility.

By executing this Agreement, Consultant verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and shall require all subconsultants and sub-subconsultants to comply with the same.

15. Reserved.

16. Laws and Venue.

This Agreement shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in a state or federal court situated in the County of San Bernardino, State of California.

17 Termination or Abandonment.

a. City has the right to terminate or abandon any portion or all of the work under this Agreement by giving ten (10) calendar days written notice to Consultant. In such event, City shall be immediately given title and possession to all original field notes, drawings and specifications, written reports and other documents produced or developed for that portion of the work completed and/or being abandoned. City shall pay Consultant the reasonable value of services rendered for any portion of the work completed prior to termination. If said termination occurs prior to completion of any task for the Project for which a payment request has not been received, the charge for services performed during such task shall be the reasonable value of such services, based on an amount mutually agreed to by City and Consultant of the portion of such task completed but not paid prior to said termination. City shall not be liable for any costs other than the charges or portions thereof which are specified herein. Consultant shall not be entitled to payment for unperformed services, and shall not be entitled to damages or compensation for termination of work.

b. Consultant may terminate its obligation to provide further services under this Agreement upon thirty (30) calendar days' written notice to City only in the event of substantial failure by City to perform in accordance with the terms of this Agreement through no fault of Consultant.

18 Documents. Except as otherwise provided in "Termination or Abandonment," above, all original field notes, written reports, Drawings and Specifications and other documents, produced or developed for the Project shall, upon payment in full for the services described in this Agreement, be furnished to and become the property of the City.

19. Organization.

Consultant shall assign Brian Forbath as Project Manager. The Project Manager shall not be removed from the Project or reassigned without the prior written consent of the City.

20. Limitation of Agreement.

This Agreement is limited to and includes only the work included in the Project described above.

21. Notice.

Any notice or instrument required to be given or delivered by this Agreement may be given or delivered by depositing the same in any United States Post Office, certified mail, return receipt requested, postage prepaid, addressed to:

DISTRICT:	CONSULTANT:
City of Upland	Stradling Yocca Carlson & Rauth
460 N. Euclid Avenue	660 Newport Center Drive, Suite 1600
Upland, CA 91786	Newport Beach, CA 92660
Attn: Stephen Parker, Acting City Manager	Attn: Brian Forbath, Esq.

and shall be effective upon receipt thereof.

22. Third Party Rights.

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and the Consultant.

23. Equal Opportunity Employment.

Consultant represents that it is an equal opportunity employer and that it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex, age or other interests protected by the State or Federal Constitutions. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

24. Entire Agreement.

This Agreement, with its exhibits, represents the entire understanding of City and Consultant as to those matters contained herein, and supersedes and cancels any prior or contemporaneous oral or written understanding, promises or representations with respect to those matters covered hereunder. Each Party acknowledges that no representations, inducements, promises or agreements have been made by any person which are not incorporated herein, and that any other agreements shall be void. This Agreement may not be modified or altered except in writing signed by both Parties hereto. This is an integrated Agreement.

25. Severability.

The unenforceability, invalidity or illegality of any provision(s) of this Agreement shall not render the remaining provisions unenforceable, invalid or illegal.

26. Successors and Assigns.

This Agreement shall be binding upon and shall inure to the benefit of the successors in interest, executors, administrators and assigns of each Party to this Agreement. However, Consultant shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of City. Any attempted assignment without such consent shall be invalid and void.

27. Non-Waiver.

None of the provisions of this Agreement shall be considered waived by either Party, unless such waiver is specifically specified in writing.

28. Time of Essence.

Time is of the essence for each and every provision of this Agreement.

29. City's Right to Employ Other Consultants.

City reserves its right to employ other consultants, including engineers, in connection with this Project or other projects.

30. Prohibited Interests.

Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no director, official, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

31. Reserved.

[SIGNATURES ON FOLLOWING PAGE]

**SIGNATURE PAGE FOR PROFESSIONAL SERVICES AGREEMENT
BETWEEN CITY OF UPLAND
AND STRADLING YOCCA CARLSON & RAUTH**

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

CITY OF UPLAND

By: ______________________
Stephen Parker
Acting City Manager

STRADLING YOCCA CARLSON & RAUTH

By: ______________________

Its: President / Shareholder

Printed Name: Brian Forbath

ATTEST:

By: ______________________
Keri Johnson
City Clerk

99999.91509\29695835.3

EXHIBIT A

Scope of Services

PROPOSAL OF

STRADLING YOCCA CARLSON & RAUTH

FOR BOND, DISCLOSURE AND VALIDATION COUNSEL SERVICES

IN CONNECTION WITH

REQUEST FOR PROPOSALS (RFP) NO. 21-02 CM
THE CITY OF UPLAND
2021 PENSION OBLIGATION BONDS

Brian Forbath, Esq.
Stradling Yocca Carlson & Rauth
660 Newport Center Drive, Suite 1600
Newport Beach, California 92660
(949) 725-4193
bforbath@stradlinglaw.com

April 2, 2021

I. PROFILE OF THE FIRM

Stradling Yocca Carlson & Rauth, a Professional Corporation (the "Firm") was formed in 1975 and has had a municipal finance practice since 1978. With approximately 110 attorneys, the Firm's primary areas of specialization are public finance, public law, tax, general corporate law, corporate securities, real estate, bankruptcy, and litigation. Public finance has remained an important part of the Firm's practice for more than four decades. Thirty-five members of the Firm practice in the areas of public finance and related areas of public law, making the Firm the second largest group of municipal finance attorneys in California. Sixteen shareholders, two of counsel, eight associates and ten paralegals devote substantially all of their efforts to the Firm's municipal finance practice. One shareholder of the Firm restricts her practice exclusively to the tax aspects of public finance, advising clients on the structuring of transactions and representing clients in the event that a transaction is audited by the Internal Revenue Service. The Firm's public law attorneys devote their time primarily to the representation of the interests of public agencies, including cities, counties, the State of California, water districts, redevelopment successor agencies, school/community college districts, and special districts of various kinds, and to the supplying of legal services in connection with the financings of such agencies. 26 of these attorneys focus their practices on municipal financing matters and 5 devote their practice exclusively on public finance litigation, including validation matters. The Firm's public finance practice serves hundreds of clients.

Through the Firm's representation of the full range of public agencies issuing bonds in the State, we have demonstrated and proven our ability to communicate effectively, both verbally and in a concise written form, to explain complex concepts, contracts and laws clearly and to organize and format written material logically and presentably. We frequently work closely with standing committees or ad hoc committees advising on capital programs. We also are fully comfortable working with land developers, other public agencies and the community concerning financing issues and/or contract negotiations, while at the same time recognizing the need for consensus among such groups.

The Firm is a perennial leader in public finance in California. For more than 15 years, the Firm has consistently been ranked among the top bond counsel firms in the State, and in most years has been ranked among the top two or three, both in terms of dollar volume and number of transactions. In addition, for each of 2015, 2016, 2017, 2018, 2019, and 2020, the Firm participated in more bond issuances in California as bond counsel, disclosure counsel or underwriter's counsel than any other law firm. The Firm believes that being involved in so many transactions provides the Firm with a greater breadth of experience and practical "know how" than any of the Firm's peers.

The Firm is more than simply a bond and disclosure counsel firm. The Firm has a broad-based general public law practice and actively represents issuers with respect to debt management, debt issuance and post-issuance matters on a daily basis. Consequently, the Firm recognizes that the City will have to live with its financings for years to come and the Firm does not expect its active engagement with the City to end upon the closing of the financing. The Firm expects to be intimately involved with the City's key staff, its municipal advisors and its underwriters and is committed to carefully reviewing bond purchase agreements and other contracts that the City may be requested to execute in order to ensure that there is nothing unlawful or atypical being requested of the City. The Firm's overall goal is to help to structure each financing in a way that the City is not going to regret in the years ahead.

In addition to its municipal finance department, attorneys in the Firm practice in the areas of general public law, corporate law, securities litigation (including former SEC staff attorneys with extensive experience representing municipal issuers in SEC investigations), business litigation, intellectual property litigation, bankruptcy, corporate taxation and white collar criminal defense, among others. Many of these specialties can be helpful in analyzing various aspects of municipal finance transactions, and the full resources of the Firm are always available to the City.

II. PENSION OBLIGATION BOND EXPERIENCE

As demonstrated in the following table, since 2015 the Firm has served as bond counsel, disclosure counsel and/or underwriter's counsel on a significant number of pension obligation bond issues, including recent pension obligation bond offerings for the Cities of Arcadia, Chula Vista, Coachella, El Cajon, Glendora, Ontario, Orange, Monterrey Park, Pomona, and Riverside and for the North County Fire Protection District. In addition, the Firm is currently serving as bond and disclosure counsel on pension obligation bond transactions for the Cities of Commerce, Manhattan Beach, Sanger, Santa Ana, San Jose and Whittier and is serving as disclosure counsel to the Cities of Corona and El Segundo on their pension obligation bond transactions. The Firm is validation counsel on all of the above-described transactions where we served as Bond Counsel.

Bond Counsel		***Disclosure Counsel***		***Underwriter's Counsel***	
# of Issues	**Par Value**	**# of Issues**	**Par Value**	**# of Issues**	**Par Value**
15	$2,097,075,000	12	$1,957,525,000	14	$1,386,045,000

We view our role as bond counsel as one of providing consultation and advice to the City as it attempts to make the policy decision as to how much of its unfunded liability should be funded.

If asked to provide disclosure counsel services to the City, we would work diligently with the City and staff to ensure that the offering document satisfies all legal disclosure requirements. We would also prepare disclosure policies that the City could adopt and utilize for both the current and future financings, and we would offer to lead disclosure trainings for City officials and staff.

The theory upon which the pension obligation bonds are issued is that the City's obligation to amortize the unfunded liability and make normal contributions to CalPERS is an obligation imposed by law and thus exempt from the debt limit provisions of the State Constitution. While there is case law supporting the conclusion that the City's duty to fund its pension obligations is an obligation imposed by law, there is no case directly on point stating that the issuance of bonded indebtedness for this purpose is exempt from the Constitutional debt limit. Accordingly, we recommend judicial validation.

The formal process for authorizing the indebtedness is fairly straightforward. The City Council would be required to adopt a resolution authorizing the issuance of the Bonds, taking of related actions and the taking of the validation action. Once the resolution of issuance is adopted, the judicial validation process would begin, which generally takes 75-105 days in San Bernardino County to have the judgment entered and the appeal period run. Although validation actions by statute are given priority, the timing of the validation proceedings is very much at the mercy of the Courts and the COVID-19 Pandemic has exacerbated delays in the court system. Fortunately, we have significant experience dealing with San Bernardino County Superior Courts on these actions.

During the time that the validation action is pending, the financing team would be working on financing documents, which include an indenture, a bond purchase agreement, a preliminary official statement and a continuing disclosure agreement. The drafting process would also include the review of any investment agreements or interest rate agreements related to the bonds. By having the financing and judicial validation processes run concurrently, we would significantly shorten the length of the transaction.

The Firm has 4 public law litigators who have validated several pension obligations over the past decade. Accordingly, we have significant experience in this regard and will be able to assist the City throughout the entire validation process.

A. ASSIGNED PERSONNEL

Brian Forbath, a shareholder and President of the Firm's Board of Directors, would be the lead attorney in charge of the engagement with the City and would be the Project Manager responsible for all aspects relating to the bond issuance and the City's main point of contact. He would be assisted by one or more shareholders or associates. He would be assisted by Allison Burns, also a shareholder in the Firm, would be the lead attorney in charge of the judicial validation process. Mr. Forbath and Ms. Burns would expect to be involved in all of the key negotiations, conference calls and meetings for the City's financings.

Mr. Forbath works exclusively in the public finance area and has extensive experience in general fund, utility revenue and tax increment financings and derivative transactions. Mr. Forbath has over [seventeen] years of experience serving as bond counsel, disclosure counsel or counsel to the underwriter on public finance transactions. Mr. Forbath is a 1998 graduate of Loyola Law School and attended the University of California, Santa Barbara as an undergraduate. Mr. Forbath has been a lecturer on federal securities laws at the National Association of Bond Lawyers Workshop in Chicago and was a member of the National Association of Bond Lawyers' task force on drafting *Disclosure Roles of Counsel in State and Local Government Securities Offerings (3rd Edition, 2008)*. He is a frequent lecturer for the California Debt and Investment Advisory Commission. Mr. Forbath has recently completed pension obligation bond offerings for the Cities of Arcadia, Chula Vista, Coachella, El Cajon, Glendora, Oceanside, Ontario, Orange, Pomona and Riverside. He is currently working on pension obligation transactions for the Cities of Corona, Commerce, San Jose, Santa Ana and Whittier. Mr. Forbath can be reached at (949) 725-4193 or bforbath@stradlinglaw.com.

Allison Burns is a shareholder and head of the Public Law Litigation Department at the Firm. She has a wealth of experience in public entity litigation and possesses specialized knowledge relating to validation proceedings, foreclosure, eminent domain, business contract disputes and CEQA litigation. Ms. Burns is a frequent speaker on issues before the International Right-of-Way Association, the California Redevelopment Association and at UCLA Extension seminars. She received her J.D. from the University of California at Davis in 1998, where she was Senior Articles Editor of the U.C. Davis Law Review and Articles Editor of the Journal of Juvenile Law and Policy. She served as a judicial extern to Justice Fred K. Morrison of the Third District Court of Appeal of the State of California and to the Honorable Garland E. Burrell of the United States District Court of the Eastern District of California. Ms. Burns can be reached at (949) 725-4187 or aburns@stradlinglaw.com.

III. FEE PROPOSAL

In connection with the proposed issuance of the $120 million 2021 POBs, we would propose a fixed fee of $90,000 to serve as bond and validation counsel. This fee is inclusive of the fees for the judicial validation proceedings and assume that the judicial validation complaint is not responded to by a third party. If the complaint is answered by a third party, we would propose to charge the City for work in connection with the litigation at our normal hourly rates which range from $350/hour for associates and up to $600/hour for senior partners. The fees listed above would be contingent upon the successful issuance of the 2021 POBs, provided however, that if the City chose not to proceed forward with the issuance of the 2021 POBs after the filing of the validation action, we would seek to be reimbursed the fees associated with the validation action at the hourly rates listed above in an amount not to exceed $20,000. If engaged as bond and validation counsel, the Firm would also agree to serve as disclosure counsel for a fixed fee of $20,000. If the City chooses another firm to serve as bond and validation counsel, we would agree to serve as disclosure counsel for a fixed fee of $35,000.

The fees referenced above would apply to any bonds issued within two years from the date the Firm is retained, and we acknowledge that the agreement may be extended for up to two additional one year terms, contingent upon the direction of the City Manager. We would request an opportunity to meet with the City to discuss adjustments to the schedule for bonds issued beyond two years, as justified by reason of increased cost to the Firm and the then prevailing fees for bond and validation counsel services.

In the event the Firm is requested to perform special services outside the scope of normal bond counsel services or services following the issuance of a series of bonds, we would propose to be compensated at the hourly rate of $600 for shareholders, $350 for associates and $150 for paralegals. These rates are significant reductions from the Firm's "Design Rates." Time is charged in increments of one-tenth of an hour. Such fees would be billed monthly.

In addition to the fees set forth above, we would propose to be reimbursed for the actual cost of any out-of-pocket expenses reasonably incurred by the Firm in the course of its employment, such as document reproduction, telecommunications charges, printing costs, long-distance telephone calls, messenger services, overnight delivery services, travel and similar items of expense and any court filing and publication costs associated with the validation action. We would expect to get fully reimbursed for litigation costs associated with the validation action, which could cost approximately $2,000-$3,000 depending upon publication costs. For all other costs, we would agree to cap expenses at $1,500 per series of bonds, unless the City agreed, in advance, to a higher figure due to extraordinary circumstances.

IV. CONCLUSION

We have fully read the RFP and affirm that the terms and conditions stated therein are fully understood and are acceptable to the Firm.

We are honored to be considered to provide legal services in connection with the City's pension obligation bonds. The Firm agrees to accept the terms and conditions contained in the Standard Agreement and if chosen, will perform the requested services. We believe that the combination of our finance and litigation experience, our specific experience with pension obligation bond financings, our understanding of the City's issues and concerns, and our willingness to commit, as a first priority, the personnel and other resources required to meet your requirements in this area make us well suited to assist the City. We would be pleased to meet with you further to discuss our proposal in more detail or to answer any additional questions you may have.

I am President of the Firm's Board of Directors and am authorized to execute a legally binding commitment with the City with respect to the 2021 POBs. Should you have any questions or need additional information, please do not hesitate to contact me at (949)725-4193.

Very truly yours,

STRADLING YOCCA CARLSON & RAUTH

Brian Forbath

EXHIBIT B

Schedule of Charges/Payments

Contingent. There will be no retainer for bond disclosure legal services for pension-related bond transactions. Fees for legal advisory services on bond issuances are contingent on the success of the financing of the bond issuance and will be invoiced at the end of the transaction.

Amount of Payment. The proposed fee for bond disclosure legal services shall be in the amount not to exceed $35,000.

Out-of-Pocket Expenses. Out-of-pocket expenses include the following items: travel, meals, data recovery, business, third party data fees, business licenses, applications, internal compliance requirements, and other City fees. Out-of-pocket expenses shall not exceed $1,500.