

CITY OF BELL
CONTRACT SERVICES AGREEMENT FOR
BOND COUNSEL SERVICES

This Contract Services Agreement for Bond Counsel Services ("Agreement") is made and entered into this ___ day of March 2012, by and between the City of Bell, a municipal corporation ("City"), and Fulbright & Jaworski L.L.P. ("Consultant").

WHEREAS, the City requested proposals for bond counsel services on November 29, 2011, for assistance in using remaining proceeds from its issuance of general obligation bonds to lower its general obligation debt service; and

WHEREAS, Consultant submitted a proposal to provide such services on December 12, 2011; and

WHEREAS, after reviewing Consultant's proposal and follow-up discussions regarding scope and compensation, City has selected Consultant to provide these services.

NOW, THEREFORE, the parties hereto agree as follows:

1.0 SERVICES OF CONSULTANT

Scope of Services. In compliance with all of the terms and conditions of this Agreement, Consultant shall perform the work or services set forth in the "Scope of Services" attached hereto as *Exhibit "A"* and incorporated herein by reference in connection with the proposed work-out plan for the City of Bell General Obligation Bonds (Election of 2003), Series 2004 and City of Bell General Obligation Bonds (Election of 2003), Series 2007. Consultant warrants that all work or services set forth in the Scope of Services will be performed in a competent, professional and satisfactory manner. As a material inducement to the City entering into this Agreement, Consultant represents and warrants that Consultant is a provider of first class work and services and Consultant is experienced in performing the work and services contemplated herein and, in light of such status and experience, Consultant covenants that it has the experience and knowledge to perform the contemplated services and shall follow the highest professional standards in performing the work and services required hereunder.

1.1 Compliance With Law. All work and services rendered hereunder shall be provided in accordance with all ordinances, resolutions, statutes, rules and regulations of the City and any federal, state or local governmental agency of competent jurisdiction.

1.2 Licenses, Permits, Fees and Assessments. Consultant shall obtain, at its sole cost and expense, such licenses, permits and approvals as may be required by law for the performance of the services required by this Agreement.

2.0 COMPENSATION

2.1 Contract Sum. For the services rendered pursuant to this Agreement, Consultant shall be paid a fixed fee of \$35,000 at the conclusion of the contemplated work-out ("Contract Sum"). Bond Counsel shall adjust its fees to downward to the extent a tender offer is determined not to be a viable option upon consultation with the Contract Officer (as defined herein). All reasonable expenses shall be Expenses shall be reimbursed at the cost thereof upon an itemization of such costs to the City, with appropriate information or receipts.

2.2 Method of Payment. Provided that Consultant is not in default under the terms of this Agreement, Consultant shall be paid upon completion and acceptance of the work by the City .

3.0 COORDINATION OF WORK

3.1 Representative of Consultant. Donald L. Hunt is hereby designated as being the representative of Consultant authorized to act on its behalf with respect to the work or services specified herein and make all decisions in connection therewith. Other attorneys working on the transaction include Richard L. Kornblith, Russel C. Trice, and Juan J. Redin.

3.2 Contract Officer. The City's Interim Chief Administrative Officer is hereby designated as being the representative the City authorized to act in its behalf with respect to the work and services specified herein and make all decisions in connection therewith ("Contract Officer"). The City may designate another Contract Officer by providing written notice to Consultant.

3.3 Prohibition Against Subcontracting or Assignment. Consultant shall not contract with any entity to perform in whole or in part the work or services required hereunder without the express written approval of the City. Neither this Agreement nor any interest herein may be assigned or transferred, voluntarily or by operation of law, without the prior written approval of City. Any such prohibited assignment or transfer shall be void.

3.4 Independent Contractor. Neither the City nor any of its employees shall have any control over the manner, mode or means by which Consultant, its agents or employees, perform the services required herein, except as otherwise set forth on *Exhibit "A"*. Consultant shall perform all services required herein as an independent contractor of City and shall remain under only such obligations as are consistent with that role. Consultant shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City.

4.0 INSURANCE AND INDEMNIFICATION

4.1 Insurance. Consultant shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to City, during the entire term of this Agreement including any extension thereof, the following policies of insurance:

(a) Commercial General Liability Insurance. A policy of commercial general liability insurance using Insurance Services Office "Commercial General Liability" policy form CG 00 01, with an edition date prior to 2004, or the exact equivalent.

Coverage for an additional insured shall not be limited to its vicarious liability. Defense costs must be paid in addition to limits. Limits shall be no less than \$1,000,00.00 per occurrence for all covered losses and no less than \$2,000,000.00 general aggregate.

(b) Workers' Compensation Insurance. A policy of workers' compensation insurance on a state-approved policy form providing statutory benefits as required by law with employer's liability limits no less than \$1,000,000 per accident for all covered losses.

(c) Automotive Insurance. A policy of comprehensive automobile liability insurance written on a per occurrence basis in an amount not less than \$1,000,000.00 per accident, combined single limit. Said policy shall include coverage for owned, non owned, leased and hired cars.

(d) Professional Liability or Error and Omissions Insurance. A policy of insurance in an amount not less than \$5,000,000.00 per claim or as is customary for the work to be performed under this contract with respect to loss arising from the actions of Consultant performing professional services hereunder on behalf of the City.

All of the above policies of insurance shall be primary insurance. The general liability policy shall name the City, its officers, employees and agents ("City Parties") as additional insureds and shall waive all rights of subrogation and contribution it may have against the City and the City's Parties and their respective insurers. All of said policies of insurance shall provide that said insurance may be not cancelled without providing ten (10) days prior written notice by registered mail to the City. In the event any of said policies of insurance are cancelled or amended, Consultant shall, prior to the cancellation or amendment date, submit new evidence of insurance in conformance with this Section 4.1 to the Contract Officer. No work or services under this Agreement shall commence until Consultant has provided City with Certificates of Insurance or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by City.

Consultant agrees that the provisions of this Section 4.1 shall not be construed as limiting in any way the extent to which Consultant may be held responsible for the payment of damages to any persons or property resulting from Consultant's activities or the activities of any person or persons for which Consultant is otherwise responsible.

The insurance required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the Risk Manager of the City due to unique circumstances.

In the event that the Consultant is authorized to subcontract any portion of the work or services provided pursuant to this Agreement, the contract between the Consultant and such subcontractor shall require the subcontractor to maintain the same policies of insurance that the Consultant is required to maintain pursuant to this Section 4.1.

4.2 No Limitation of Liability. Consultant and Consultant's employees, agents, and officers acknowledge that no claim by the City for damages resulting from breach of the Consultant's duties to the City in connection with its representation shall be limited to the amount of malpractice insurance retained by the Consultant.

5.0 TERM

5.1 Term. Unless earlier terminated in accordance with Section 5.2 below, this Agreement shall continue in full force and effect until completion and acceptance of the work by the City.

5.2 Termination Prior to Expiration of Term. Either party may terminate this Agreement at any time, with or without cause, upon seven (7) days' written notice to the other party. Upon receipt of the notice of termination, the Consultant shall immediately cease all work or services hereunder except as may be specifically approved by the Contract Officer. In the event of termination by the City, Consultant shall be entitled to compensation for all services rendered prior to the effectiveness of the notice of termination and for such additional services specifically authorized by the Contract Officer and City shall be entitled to reimbursement for any compensation paid in excess of the services rendered.

6.0 MISCELLANEOUS

6.1 Covenant Against Discrimination. Consultant covenants that, by and for itself, its heirs, executors, assigns and all persons claiming under or through it, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry in the performance of this Agreement. Consultant shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, marital status, national origin or ancestry.

6.2 Non-liability of City Officers and Employees. No officer or employee of the City shall be personally liable to the Consultant, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Consultant or to its successor, or for breach of any obligation of the terms of this Agreement.

6.3 Conflict of Interest. No officer or employee of the City shall have any financial interest in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which affects his financial interest or the financial interest of any corporation, partnership or association in which he is, directly or indirectly, interested, in violation of any state statute or regulation. The Consultant warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement. When requested by the Contract Officer, prior to the City's execution of this Agreement, Consultant shall provide the City with an executed statement of economic interest.

6.4 Notice. Any notice or other communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first class mail, in the case of the City, to the Chief Administrative Officer and to the attention of the Contract Officer, City of Bell, 6330 Pine Avenue, Bell,

California 90201, and in the case of the Consultant, to the person at the address designated on the execution page of this Agreement.

6.5 Interpretation. The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

6.6 Integration; Amendment. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and that this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. This Agreement may be amended at any time by a writing signed by both parties.

6.7 Severability. In the event that part of this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining portions of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

6.8 Waiver. No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. A party's consent to or approval of any act by the other party requiring the party's consent or approval shall not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

6.9 Attorneys' Fees. If either party to this Agreement is required to initiate, defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, shall be entitled to reasonable attorneys' fees, whether or not the matter proceeds to judgment.

6.10 Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound.

6.11 Confidentiality. Employees of Consultant, in the course of their duties, may have access to financial, accounting and statistical data provided by City. Consultant covenants that all data, documents, discussion, or other information developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Consultant without written authorization by City. City shall grant such

authorization if disclosure is required by law. Upon request, all City data shall be returned to City upon the termination of this Agreement. Consultant's covenant under this section shall survive the termination of this Agreement.

6.12 Law. This Agreement shall be governed by the laws of the State of California.

6.13 Ownership of Work Product. All reports, documents or other written material developed by Consultant in the performance of this Agreement shall be and remain the property of City without restriction or limitation upon its use or dissemination by City provided that Consultant may retain a record copy for its file, subject to confidentiality requirements stated above.

IN WITNESS WHEREOF, the parties have executed and entered into this Agreement as of the date first written above.

ATTEST:

By: [Signature]
City Clerk

"CITY"
CITY OF BELL
By: [Signature]
Arne Croce,
Interim Chief Administrative Officer

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

[Signature]
City Attorney

"CONSULTANT"
FULBRIGHT & JAWORSKI, L.L.P.

By: [Signature]
Signature
Donald L. Hunt, Partner
Print Name and Title

By: _____
Signature

Print Name and Title

Date: 3-20-12

Designee: Donald L. Hunt
Partner
Fulbright & Jaworski, L.L.P.
555 South Flower Street,
41st Floor
Los Angeles, California 90071

EXHIBIT "A"

SCOPE OF SERVICES

Consultant shall provide Bond Counsel Services in connection with the City's proposed defeasance and/or tender offer utilizing unspent bond proceeds of its City of Bell General Obligation Bonds (Election of 2003), Series 2004 and City of Bell General Obligation Bonds (Election of 2003), Series 2007. Such advice shall include all required services in connection with the workout, including but not limited to advise on the following:

- **Tax law considerations.** Consultant shall advise the City in connection with the tax law considerations related to a tender offer, purchase of bonds and/or defeasance. In addition, Bond counsel shall advise the City on the ability to use the 2007 general obligation bond issue to defease or purchase on the open market 2004 general obligation bonds. Such question may raise not only questions of State law regarding the use of proceeds, but also tax law questions regarding the effective transformation of a portion of the 2007 bond issue into an advance refunding.
- **Security law considerations.** Purchase of bonds through a tender program would be the most efficient use of outstanding proceeds, resulting in the lowest tax rate. The City anticipates using bond counsel to draft documents, and to provide advice as to how to approach the market in a way the best satisfies Federal and State securities laws and appropriate disclosures.
- **State Law and Documentation Issues.** Bond Counsel shall advise as to the appropriateness of the contemplated action for defeasance and/or tender under State law and the current bond documentation.
- **Continuing disclosure.** The City will seek advice regarding its continuing disclosure, including disclosure of material events.
- **Tender Offer/ Purchase of Bonds.** Bond Counsel shall draft all documents and disclosures necessary to provide for a tender offer and/or purchase of Bonds.
- **Defeasance.** Bond Counsel shall draft all documents and notices in connection with a defeasance of the Bonds.
- **Opinions.** Bond Counsel shall provide any opinions required by the documentation and such opinions as are appropriate in connection with a tender, purchase and/or defeasance of the Bonds.
- **Coordination.** Bond Counsel shall coordinate and work with the financing team, bondholder communications group, financial advisors, bond insurers and such other parties as may be necessary or appropriate to coordinate with under the circumstances.
- **Costs of Tender.** Bond Counsel shall advise on the viability of using the proceeds of Bonds to pay for the costs of the tender and defeasance.