



# Memorandum

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**TO:** SUCCESSOR AGENCY BOARD

**FROM:** NORA FRIMANN  
Successor Agency  
General Counsel

**SUBJECT:** Second Amendment to  
Agreement with Jones Hall, A  
Professional Law Corporation,  
and General Counsel  
Contracting Authority

**DATE:** February 11, 2021

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## **RECOMMENDATION**

- (a) Adopt a resolution by the Successor Agency Board authorizing the General Counsel to negotiate and execute a second amendment to an agreement with Jones Hall, a Professional Law Corporation, for bond counsel services for the Successor Agency on an as-needed basis to increase the compensation by \$50,000 to a total amount not to exceed \$160,000.
- (b) Adopt a resolution by the Successor Agency Board granting the General Counsel of the Successor Agency the same contracting authority granted to the City Attorney by the San José Municipal Code.

## **OUTCOME**

Approval of the agreement with Jones Hall, a Professional Law Corporation (“Jones Hall”), for bond counsel services will allow Jones Hall to continue to represent the Successor Agency on matters related to the Successor Agency’s outstanding bonds, including, but not limited to, providing legal services in connection with any audits by regulatory agencies such as the Internal Revenue Service (“IRS”) or the Securities and Exchange Commission (“SEC”) on an as-needed basis. Approval of the resolution granting the General Counsel of the Successor Agency the same contracting authority granted to the City Attorney by the San José Municipal Code will allow the General Counsel to execute contracts up to a maximum compensation of \$320,000, as adjusted pursuant to Section 4.04.085 of the San José Municipal Code, consistent with the authority currently granted to the City Attorney pursuant to Section 4.04.030,<sup>1</sup> and

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<sup>1</sup> All references are to the San José Municipal Code, unless otherwise stated.

consistent with the contracting authority granted to the City Manager acting as the Executive Officer of the Successor Agency by Resolution No. 7001.

## **BACKGROUND**

The Successor Agency is the successor entity to the former Redevelopment Agency, which was dissolved under the Dissolution Act (described below). The former Redevelopment Agency was a redevelopment agency with all of the powers vested in such entities under the California Community Redevelopment Law (the "Redevelopment Law"). The City Council was the legislative body of the former Redevelopment Agency and is the governing board of the Successor Agency. The former Redevelopment Agency was activated by the City Council in October 1956, upon the determination by the City Council that there was a need for redeveloping portions of the City. On January 14, 1975, the City Council replaced an appointed governing board and declared itself to be the board of the former Redevelopment Agency.

On June 29, 2011, the State enacted Assembly Bill No. 26 ("AB X1 26"), together with a companion bill, Assembly Bill No. 27 ("AB X1 27"). The provisions of AB X1 26 provided for the dissolution of all redevelopment agencies statewide as of February 1, 2012. These and other provisions of State law collectively are commonly referred to as the "Dissolution Act."

Pursuant to the Dissolution Act, the City made an election to act as the Successor Agency to the former Redevelopment Agency. Under the Dissolution Act, successor agencies are to expeditiously wind-down the affairs of the former redevelopment agencies. The Dissolution Act expressly affirms that the Successor Agency is a separate public and legal entity from the City, that the two entities shall not merge, and that the liabilities of the former Redevelopment Agency will not be transferred to the City nor will the assets of the former Redevelopment Agency become assets of the City. The City Council of the City serves as the governing board of the Successor Agency.

In January 2018, the Successor Agency executed an agreement with Jones Hall for bond counsel services in connection with the bond related obligations of the Successor Agency on an as-needed basis for a term expiring June 30, 2023 in an amount not to exceed \$40,000. On July 8, 2019, the IRS initiated audits on both the 1996 Redevelopment Agency Tax Allocation Bonds Series A and Series B (the "1996 Bonds") and the 1999 Redevelopment Agency Tax Allocation Bonds (the "1999 Bonds"). The IRS decided not to pursue any action with respect to the 1996 Bonds. The IRS proceeded with the audit on the 1999 Bonds and Jones Hall was hired to represent the Successor Agency for its bond counsel and tax specialty services.

## **ANALYSIS**

Jones Hall was selected to represent the Successor Agency for its experience as bond counsel in Redevelopment Agency bond issuances. In addition to Jones Hall's expertise related to bonds, the firm's attorneys also are familiar with State law requirements governing successor agencies (the "Dissolution Law").

In connection with this IRS audit, the agreement with Jones Hall was amended in December 2019 to increase the compensation from \$40,000 to \$110,000.

After the resolution of the IRS audit, the funds available for payment to Jones Hall under the amended agreement have been exhausted. Accordingly, this second amendment is being brought forward to increase the amount of compensation from \$110,000 to \$160,000. This increase in compensation and the purpose of the proposed second amendment is to allow Jones Hall to represent the Successor Agency before the IRS or other regulatory agency, like the SEC, should an issue arise or as otherwise required as determined by the Chief Financial Officer (the City's Director of Finance) in consultation with the City Attorney acting as General Counsel for the Successor Agency.

The approval and amendment process for the Successor Agency's Recognized Obligation Payment Schedule ("ROPS") by the Oversight Board and the California Department of Finance ("DOF") is lengthy, and does not facilitate the ability to quickly enter into contracts for service. The amended agreement with Jones Hall is required for the 2021-22 ROPS so the Successor Agency can provide the executed contract to DOF for proposed approval of expenditures on the 2021-22 ROPS, if necessary.

## **PUBLIC OUTREACH**

This memorandum will be posted on the City's website as part of the February 23, 2021 City Council/Successor Agency Agenda.

## **COORDINATION**

This memorandum has been coordinated with the Finance Department, the department overseeing the financial affairs and obligations of the Successor Agency.

## **COST SUMMARY/IMPLICATIONS**

In accordance with the requirements of the Dissolution Law, the proposed Second Amendment to the Agreement with Jones Hall, with a not to exceed payment of \$160,000, was added to the 2021-22 ROPS. It was approved by the Oversight Board

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on January 22, 2021 and was submitted to the DOF on February 1, 2021 for its review and approval.

**CEQA**

Not a Project; File No. PP17-003, Agreements/Contracts (New or Amended) resulting in no physical changes to the environment.

*/s/ Nora Frimann*

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NORA FRIMANN  
City Attorney

For questions please contact Karin M. Murabito, Senior Deputy City Attorney,  
at (408) 535-1900.