

RESOLUTION NO. 2007-509

Adopted by the Sacramento City Council

July 17, 2007

**APPROVING AGREEMENT FOR LEGAL SERVICES NATOMAS
MEADOWS COMMUNITY FACILITIES DISTRICT
NO. 2007-01, CITY OF SACRAMENTO
COUNTY OF SACRAMENTO, STATE OF CALIFORNIA**

BACKGROUND

- A. The City Council of the City of Sacramento is undertaking proceedings pursuant to the Mello-Roos Community Facilities Act of 1982 to consider the formation of a community facilities district to be known and designated as “Natomas Meadows Community Facilities District No. 2007-01, City of Sacramento, County of Sacramento, State of California” (the “CFD”); the authorization of a special tax within the CFD; and the authorization and issuance of bonds of the CFD.
- B. The City Council is fully advised in this matter.

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL
RESOLVES AS FOLLOWS:**

Section 1. The City Council finds that the statements in the Background are true.

Section 2. The City Council approves that certain Agreement for Legal Services, dated July 17, 2007, between the City and Orrick, Herrington & Sutcliffe LLP, marked Exhibit A and attached hereto and incorporated herein, for services of that firm as special bond counsel to the City in connection with the CFD. The City Attorney is authorized to sign the agreement on the City’s behalf, and the City Clerk is authorized to attest its execution.

Section 3. This resolution takes effect when adopted.

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Exhibit A: Agreement for Legal Services

Adopted by the City of Sacramento City Council on July 17, 2007 by the following vote:

Ayes: Councilmembers, Fong, Hammond, McCarty, Pannell, Sheedy,
Tretheway, Waters, and Mayor Fargo.

Noes: None.

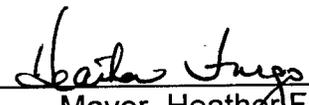
Abstain: None.

Absent: Councilmember Cohn.

Attest:



Shirley Concolino, City Clerk



Mayor, Heather Fargo

Exhibit A

AGREEMENT FOR LEGAL SERVICES
CITY OF SACRAMENTO

NATOMAS MEADOWS
COMMUNITY FACILITIES DISTRICT NO. 2007-01

This is an agreement for legal services between the City of Sacramento, a municipal corporation of the State of California (the "City"), and Orrick, Herrington & Sutcliffe LLP, San Francisco, California (the "Bond Counsel").

Section 1. City retains Bond Counsel as special counsel to perform the following legal services relating to the Natomas Meadows Community Facilities District No. 2007-01, City of Sacramento, County of Sacramento, State of California (the "CFD"):

- (a) Preparation of all forms of resolutions, notices, affidavits and other documents required by the laws governing the financing.
- (b) Preparation of written instructions to the City Clerk and other staff members concerning the performance of legally-required duties in connection with the financing.
- (c) Review of documents prepared by City's engineering staff, consulting engineers and tax rate consultants, including the method of allocation of the special tax; provided, that Bond Counsel shall not be required to express an opinion with respect to the plans, specifications, maps, financial report or other engineering or financial details of the proceedings, or upon the rate and method of apportionment of the Special Tax or the validity of the Special Tax levied upon any individual parcel in the CFD.
- (d) Attendance (if requested) at public hearings held in the furtherance of the financing, upon request of the City, after reasonable notice.
- (e) Attendance (if requested) at public meetings of City officials as requested by City, at which matters relating to the financing are considered, except routine matters.
- (f) Attendance at staff meetings or meetings of interested citizens, upon request of the City, after reasonable notice.
- (g) Telephone consultation with staff members and interested citizens to answer legal questions about the proceedings.
- (h) Coordination with the City Clerk's office in the scheduling and conduct of the election.

- (i) Arrangements for the preparation of the bonds.
- (j) Assistance with the sale of bonds by negotiation, including a review of disclosure documents in connection with the offering, and in this regard Bond Counsel will give an opinion that the descriptions of the bonds and of Bond Counsel's bond opinion (but not of the Mello-Roos Act itself) in the Official Statement are "accurate in all material respects"; provided, that Bond Counsel will require a statement in the Official Statement to the effect that Bond Counsel expresses no opinion regarding the accuracy, completeness or fairness of the information contained in the Official Statement.
- (k) Preparation of bond delivery documents and coordination of the closing.
- (l) Rendition of Bond Counsel's usual and customary legal opinion with respect to the validity of the bonds, and the tax exempt status thereof.
- (m) Preparation of the required reports to the California Debt and Investment Advisory Commission (pursuant to Section 8855 et seq. of the Government Code) and to the Internal Revenue Service (pursuant to Section 149 of the Internal Revenue Code of 1986).
- (n) Preparation of a transcript of the legal proceedings in loose-leaf and CD-ROM format for the use of the City.
- (o) After the issuance of any bonds, telephone consultation with City officials and staff to answer questions about the facts and circumstances of the bond financing.

Section 2. The services of Bond Counsel under this agreement shall not include the following:

- (a) Legal services in connection with the acquisition of interests in real property, either through negotiation or through exercise of the power of eminent domain.
- (b) Legal services in connection with litigation.
- (c) Legal services relating to compliance with environmental laws for the project.
- (d) Legal services relating to state blue sky laws or for title to or perfection of security interests in real or personal property or for any financial advice or analysis.

Also, Bond Counsel will not be responsible for the services performed or acts or omissions of any other participant, and Bond Counsel's services will not extend past the date of issuance of the bonds (except as otherwise provided in subsections

1(n) and 1(o)) and will not, for example, include services related to rebate compliance or continuing disclosure, although barring any conflict not otherwise waived or waivable, Bond Counsel would be willing to perform such excluded services on such terms as might be mutually agreed to at the time, and the performance by Bond Counsel of services excluded by this paragraph, if required by City, shall be under separate written agreement.

Section 3. In consideration of the services set forth in paragraph 1, City shall pay to Bond Counsel the following fee and costs:

- (a) The legal fee of Bond Counsel for the legal services rendered hereunder for the first series of the bonds shall be an amount equal to one per cent (1%) of that portion of the bonds issued for the first series of the bonds not exceeding \$5 million, plus three-quarters of one per cent (0.75%) of that portion thereof exceeding \$5 million but not exceeding \$10 million, plus one-half of one per cent (0.5%) of that portion exceeding \$10 million but not exceeding \$20 million, plus one-quarter of one per cent (0.25%) of that portion thereof exceeding \$20 million, except that the fee shall not be less than \$50,000 for the first series of the bonds, payable upon the successful closing for such series of the bonds; and for each subsequent series of the bonds, the fee shall be one-half of one per cent (0.5%) of that portion of the bonds not exceeding \$10 million, plus one-quarter of one per cent (0.25%) of that portion thereof exceeding \$10 million, except that the fee shall not be less than \$30,000 for each subsequent series of the bonds, payable upon the successful closing for such series of the bonds, provided, that if there is no bond issuance, then Bond Counsel shall be paid no such fee. The fee shall be due immediately following the bond closing.
- (b) In addition to the foregoing, Bond Counsel shall be paid \$3,000 for each change proceedings or annexation in which a 100% waiver of election requirements is obtained from the qualified electors, and \$6,000 for each change proceedings or annexation in which a 100% waiver of election requirements is not obtained from the qualified electors, except that if change or annexation proceedings are abandoned prior to completion, an appropriate portion of the fee shall be paid. This fee shall be due immediately following the recordation of the Amended Notice of Special Tax Lien, except that when the proceedings are abandoned, the fee shall be due within 30 days after Bond Counsel bills the City.
- (c) In addition to the fees provided in paragraphs (a) and (b) above, Bond Counsel shall be reimbursed on a timely basis for its expenses (copying, telephone, telecopy, word processing, legal research database charges, travel, postage, express delivery service, and the like), but not to exceed \$5,000 in total for each series of the bonds; provided, that the cost of some services for which Bond Counsel makes arrangements under this

agreement (such as bond printing costs, publication costs and filing fees) shall be billed to the City and shall be paid by City directly to the payee.

Section 4. Bond Counsel certifies that it has no interest, either direct or contingent, in any property or contract arising from or affected by the proposed financing, except as Bond Counsel under this agreement, and certifies that it does not represent any owner of property within the limits of the CFD, and has not received a fee from any source for services connected with the project.

Section 5. This Agreement and all legal services to be rendered under it may be terminated at any time by written notice from either party, with or without cause. In that event, all finished and unfinished documents prepared for adoption or execution by City, shall, at the option of City, become its property and shall be delivered to it or to any party it may designate; provided, that Bond Counsel shall have no liability whatsoever for any subsequent use of such documents. In the event of termination by City, Bond Counsel shall be paid for all satisfactory work, unless the termination is made for cause, in which event compensation, if any, shall be adjusted in the light of the particular facts and circumstances involved in the termination. If not sooner terminated as aforesaid, this Agreement and all legal services to be rendered under it shall terminate upon issuance of all of the bonds; provided, that City shall remain liable for any unpaid compensation or reimbursement due under Section 3 hereof. Upon termination, Bond Counsel shall have no future duty of any kind to or with respect to the bonds or the City under this Agreement.

Section 6. The role of bond counsel, generally, is to prepare or review the procedures for issuance of the bonds, notes or other evidence of indebtedness and to provide an expert legal opinion with respect to the validity thereof and other subjects addressed by the opinion. Consistent with the historical origin and unique role of bond counsel, and reliance thereon by the public finance market, Bond Counsel's role as bond counsel under this Agreement is to provide an opinion and related legal services that represent an objective judgment on the matters addressed rather than the partisan position of an advocate. Bond Counsel's function and responsibility under this Agreement, and as bond counsel with respect to the issuance of the bonds, terminates upon issuance of the bonds (unless terminated sooner as provided herein). Bond Counsel's services as bond counsel through bond issuance are limited to those contracted for explicitly in this Agreement, and any engagement of Bond Counsel with respect to rebate compliance, post-issuance disclosure or any other matter after bond issuance shall be separate and distinct from its engagement as bond counsel through bond issuance. However, unless otherwise provided, any such post-issuance engagement with respect to the bonds shall continue on the same basis set forth in this Section 6.

Section 7. Bond Counsel shall staff the financing project with the following attorneys: Daniel C. Bort. Bond Counsel may use other attorneys and paralegals on the project, who will always be under the direct supervision of Mr. Bort, to provide the most efficient delivery of services and expertise to the financing.

Section 8. City understands that Bond Counsel regularly performs legal services for many private and public entities in connection with a wide variety of matters. Some of these entities may have some direct or indirect relationship with City or City's other consultants or agents, as, for example, underwriters, financial advisors, fiscal agents, paying agents, trustees, insurers, suppliers, lenders, bankers, landlords, developers or owners of property within the jurisdiction of the City. Bond Counsel may represent or have represented or in the future may represent the underwriter, fiscal agent or other participants in the financing on other matters. With such varied client representation, there is always the possibility of other transactions between clients or disputes among them. Given the special, limited role of bond counsel described above, the City acknowledges that no conflict of interest exists or would exist, and waives any conflict of interest that might appear actually or potentially to exist, now or in the future, by virtue of this Agreement or any such other attorney-client relationship that Bond Counsel may have had, have or enter into, and the City specifically consents to any and all such relationships; provided, that Bond Counsel does not represent any participant other than the City in connection with the financing which is the subject of this Agreement.

Section 9. Nothing in this Agreement or in any of the documents contemplated hereby, expressed or implied, is intended or shall be construed to give any person other than the City and Bond Counsel any legal or equitable right or claim under or in respect of this Agreement, and this Agreement shall inure to the sole and exclusive benefit of the City and Bond Counsel.

Section 10. Bond Counsel may not assign its obligations under this Agreement without written consent of the City except to a successor partnership or corporation to which all or substantially all of the assets and operations of Bond Counsel are transferred. The City shall assign its rights and obligations under this Agreement to (but only to) any other public entity that issues the bonds (if not the City), in which case the City hereby acknowledges that any relationship or obligation of Bond Counsel to the City under or by virtue of this Agreement shall be deemed to be totally annulled ab initio. The City shall not otherwise assign its rights and obligations under this Agreement without written consent of Bond Counsel. All references to Bond Counsel and the City in this Agreement shall be deemed to refer to any such successor of Bond Counsel and to any such assignee of the City and shall bind and inure to the benefit of such successor and assignee whether so expressed or not.

Section 11. This Agreement may be executed in any number of counterparts and each counterpart shall for all purposes be deemed to be an original, and all such counterparts shall together constitute but one and the same Agreement.

Section 12. Any and all notices pertaining to this Agreement shall be sent by U.S. Postal Service, first class, postage prepaid to Bond Counsel at The Orrick Building, 405 Howard Street, San Francisco, CA 94105, Attention: Daniel C. Bort and

to the City at 915 "I" Street, Historic City Hall, Third Floor #0900, Sacramento, CA 95814-2704, Attention: City Treasurer.

The City and Bond Counsel have executed this Agreement by their duly authorized representatives as of the date provided below.

DATED: July 17, 2007

CITY OF SACRAMENTO,
a municipal corporation of the State of
California

By _____
City Attorney

ATTEST:

City Clerk

ORRICK HERRINGTON & SUTCLIFFE
LLP

By _____
Daniel C. Bort

APPROVED AS TO FORM:

Sacramento City Attorney