

RESOLUTION OBSA-035

A RESOLUTION OF THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY FOR THE SOLANA BEACH REDEVELOPMENT AGENCY APPROVING, AND AUTHORIZING AND DIRECTING THE SUCCESSOR AGENCY EXECUTIVE DIRECTOR TO EXECUTE, A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE SUCCESSOR AGENCY AND BRANDIS TALLMAN, LLC FOR PLACEMENT AGENT SERVICES FOR THE POTENTIAL REFUNDING OF THE SERIES 2006 TAX ALLOCATION BONDS AND AUTHORIZING THE SUCCESSOR AGENCY TO RECOVER ITS COSTS THEREFOR

WHEREAS, the Solana Beach Redevelopment Agency ("Redevelopment Agency") was a redevelopment agency in the City of Solana Beach ("City"), duly created pursuant to the California Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the California Health and Safety Code) ("Redevelopment Law"); and

WHEREAS, the Redevelopment Agency was responsible for the administration of redevelopment activities within the City; and

WHEREAS, Assembly Bill No. X1 26 (2011-2012 1st Ex. Sess.) ("AB 26") was signed by the Governor of California on June 28, 2011, making certain changes to the Redevelopment Law and to the California Health and Safety Code ("Health and Safety Code"), including adding Part 1.8 (commencing with Section 34161) ("Part 1.8") and Part 1.85 (commencing with Section 34170) ("Part 1.85") to Division 24 of the Health and Safety Code; and

WHEREAS, pursuant to AB 26, as modified by the California Supreme Court on December 29, 2011 by its decision in *California Redevelopment Association v. Matosantos*, all California redevelopment agencies, including the Redevelopment Agency, were dissolved on February 1, 2012, and successor agencies were designated and vested with the responsibility of paying, performing and enforcing the enforceable obligations of the former redevelopment agencies and expeditiously winding down the business and fiscal affairs of the former redevelopment agencies; and

WHEREAS, on January 11, 2012, the City Council of the City adopted Resolution 2012-011, pursuant to Part 1.85 of AB 26, electing for the City to serve as the successor agency to the Redevelopment Agency upon the dissolution of the Redevelopment Agency under AB 26 ("Successor Agency"); and

WHEREAS, on February 1, 2012, the Redevelopment Agency was dissolved by operation of law and the Successor Agency was established pursuant to AB 26; and

WHEREAS, AB 26 has since been amended by various California assembly and senate bills enacted and signed by the Governor. AB 26 as amended is hereinafter referred to as the "Dissolution Law"; and

WHEREAS, Health and Safety Code Section 34179 of the Dissolution Law establishes a seven (7) member local entity with respect to each successor agency and such entity is titled the "oversight board." The oversight board has been established for the Successor Agency (hereinafter referred to as the "Oversight Board") and all seven (7) members have been appointed to the Oversight Board pursuant to Health and Safety Code Section 34179 of the Dissolution Law. The duties and responsibilities of the Oversight Board are primarily set forth in Health and Safety Code Sections 34179 through 34181 of the Dissolution Law; and

WHEREAS, pursuant to Health and Safety Code Section 34179.7 of the Dissolution Law, the California Department of Finance ("Department of Finance") issued a Finding of Completion to the Successor Agency; and

WHEREAS, on June 8, 2006, the Redevelopment Agency issued Tax Allocation Bonds, Series 2006, in the principal amount of \$3,555,000 ("2006 Bonds") for the purpose of financing various redevelopment projects, including infrastructure projects, within the redevelopment project area ("Project Area"); and

WHEREAS, debt service on the 2006 Bonds has been and is repaid solely with tax increment revenues generated within the Project Area. After June 1, 2017, the 2006 Bonds will be outstanding in the amount of \$2,820,000, with annual principal maturities ranging from June 1, 2018 through June 1, 2036. These principal bond maturities were eligible to be prepaid on June 1, 2011, and on any subsequent date thereafter, without a prepayment penalty. The 2006 Bonds have interest rates ranging from 4.6% to 5.1%; and

WHEREAS, pursuant to the Dissolution Law, and specifically at Health and Safety Code Section 34177.5(f), the Oversight Board may direct the Successor Agency to commence the refinancing or refunding of the 2006 Bonds, among other actions authorized by Health and Safety Code Section 34177.5(a) of the Dissolution Law, for cost savings so long as the Successor Agency is able to recover its related costs in connection with the transaction; and

WHEREAS, upon the direction of the Oversight Board, the Successor Agency may cause the refinancing or refunding of the 2006 Bonds for cost savings by issuing, or causing the issuance, of Property Tax Refunding Bonds ("Refunding Bonds") in accordance with the Dissolution Law including, without limitation, Health and Safety Code Sections 34177.5 and 34180(a); and

WHEREAS, prior to the Oversight Board's consideration of this Resolution but at the same public meeting of the Oversight Board, the Oversight Board will consider (i) directing the Successor Agency to commence the refunding of the 2006 Bonds with the

Refunding Bonds for cost savings pursuant to and in accordance with the terms and conditions set forth in Health and Safety Code Section 34177.5 of the Dissolution Law and to take such actions required therefor including, without limitation, retaining necessary consultants, preparing the requisite documents, and performing the requisite analysis for such transaction, and (ii) authorizing the Successor Agency to recover its costs therefor as an Enforceable Obligation (as defined in the Dissolution Law) on the Recognized Obligation Payment Schedule (ROPS) and/or, to the extent permitted, as a cost of issuance of the Refunding Bonds; and

WHEREAS, pursuant to Health and Safety Code Section 34177.5(h) of the Dissolution Law, the Successor Agency shall make use of an independent financial advisor in developing financing proposals and shall make the work products of the financial advisor available to the Department of Finance at its request; and

WHEREAS, in furtherance of Health and Safety Code Section 34177.5 of the Dissolution Law and in anticipation of the Oversight Board's approval of Resolution No. OB-033 thereby directing the Successor Agency to commence the refunding of the 2006 Bonds, the Successor Agency, at its public meeting held on May 24, 2017, approved Resolution No. SA-014, among other actions, approving the Professional Services Agreement ("Agreement") with Brandis Tallman, LLC for placement agent services for the refunding of the 2006 Bonds with the Refunding Bonds and approving related actions, subject to the Oversight Board's approval of the Agreement and the Department of Finance's review of the Agreement as required by the Dissolution Law or desired by the Successor Agency Executive Director; and

WHEREAS, the Agreement between the Successor Agency and Brandis Tallman, LLC is now presented to the Oversight Board for consideration of approval; and

WHEREAS, according to the Successor Agency's municipal advisor Del Rio Advisors, LLC, based on market conditions as of May 2017, refunding the 2006 Bonds by issuing the Refunding Bonds is estimated to result in total savings of \$338,882 (over \$19,720 per year), for a net present value (NPV) savings of approximately \$262,639 which equates to 9.31% in NPV savings. Actual savings will be dependent on the final interest rate applicable to the Refunding Bonds; and

WHEREAS, the Oversight Board desires to take advantage of the current market conditions in order to reduce the Successor Agency's total costs on outstanding debt by directing the Successor Agency to commence the process of refunding the 2006 Bonds with the Refunding Bonds. In order to effectuate the refunding of the 2006 Bonds with the Refunding Bonds, and pursuant to this Resolution, the Oversight Board would authorize and direct the Successor Agency to retain the services of Brandis Tallman, LLC for placement agent services by approving the Agreement and authorizing and directing the Successor Agency Executive Director or his/her designee to execute said Agreement; and

WHEREAS, pursuant to the Agreement, Brandis Tallman, LLC would provide placement agent services including, without limitation, to monitor and comply with the bond transaction process, to compute sizing and design structure of the bond financing, to compile/draft disclosure reports for private placement distribution, to draft, distribute, and evaluate requests for proposals for investors, to provide market commentary, to review financing documents, and to provide pre-closing assistance; and

WHEREAS, Brandis Tallman, LLC is a placement agent firm registered with the Securities and Exchange Commission (SEC) and with the Municipal Securities Rulemaking Board (MSRB) and has represented to the Successor Agency that it possesses the necessary qualifications to provide the services required by the Successor Agency for the refunding of the 2006 Bonds with the Refunding bonds; and

WHEREAS, pursuant to the Agreement as negotiated by the Successor Agency, and subject to the conditions therein, Brandis Tallman, LLC shall be compensated for work completed in the amount of \$22,500 for basic services rendered under the Agreement and all accrued expenses. Brandis Tallman, LLC would be compensated for additional services only upon prior written approval of the Successor Agency. According to the Agreement, payment to Brandis Tallman, LLC for compensation and accrued expenses under the Agreement in the not-to-exceed amount of \$22,500 is contingent on the closing and issuance of the Refunding Bonds and will be made by the Successor Agency from the costs of issuance of the Refunding Bonds and within thirty (30) calendar days of receipt of the invoice therefor; and

WHEREAS, all of the prerequisites with respect to the approval of this Resolution have been met; and

WHEREAS, the activity proposed for approval by this Resolution has been reviewed with respect to applicability of the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines (California Code of Regulations, Title 14, Sections 15000 *et seq.*, hereafter the "Guidelines"), and the City's environmental guidelines; and

WHEREAS, the activity proposed for approval by this Resolution is not a "project" for purposes of CEQA, as that term is defined by Guidelines Section 15378, because such activity is a government fiscal activity that does not involve any commitment to any specific project, per Section 15378(b)(4) of the Guidelines.

NOW, THEREFORE, BE IT RESOLVED that the Oversight Board of the Successor Agency for the Solana Beach Redevelopment Agency hereby resolves and determines as follows:

SECTION 1. The foregoing recitals are true and correct to the best of the Oversight Board's knowledge, and, together with information provided by the Successor Agency and the public, form the basis for the approvals, resolutions, and determinations set forth below.

SECTION 2. The Oversight Board approves the Professional Services Agreement (“Agreement”) between the Successor Agency and Brandis Tallman, LLC, in substantial form as the Agreement attached as Exhibit “A”, for placement agent services relating to the 2006 Bonds and the Refunding Bonds, with payment of compensation for services and accrued expenses in a total not-to-exceed amount of \$22,500 contingent on the successful issuance of the Refunding Bonds; payment to Brandis Tallman, LLC will be made by the Successor Agency from the proceeds of the Refunding Bonds. Brandis Tallman, LLC would be compensated for additional services only upon prior written approval of the Successor Agency.

SECTION 3. The Oversight Board authorizes and directs the Executive Director, or designee, of the Successor Agency to execute the Agreement in substantial form as the Agreement attached as Exhibit “A”, upon the effectiveness of the Oversight Board’s actions approved by this Resolution pursuant to the Dissolution Law.

SECTION 4. The Oversight Board authorizes and directs the Executive Director, or designee, of the Successor Agency to make non-substantive changes and amendments to the Agreement deemed necessary and as approved by the Executive Director of the Successor Agency and its legal counsel and to take such other actions and execute such other documents as are necessary to effectuate the intent of this Resolution on behalf of the Oversight Board.

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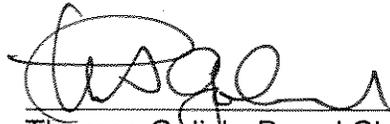
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SECTION 5. The Oversight Board determines that the activity approved by this Resolution is not a "project" for purposes of CEQA, as that term is defined by Guidelines Section 15378, because the activity approved by this Resolution is a government fiscal activity that does not involve any commitment to any specific project, per Section 15378(b)(4) of the Guidelines.

SECTION 6. This Resolution shall take effect at the time and in the manner prescribed in Health and Safety Code Section 34179(h)(1) of the Dissolution Law.

PASSED AND ADOPTED this 1st day of June 2017, at a special meeting of the Oversight Board of the Successor Agency for the Solana Beach Redevelopment Agency by the following vote:

AYES: Golich, Clemmons, Ng, Deaver, Sammak
NOES: None
ABSENT: Davis
ABSTAIN: None


Thomas Golich, Board Chair

APPROVED AS TO FORM:


KENDALL D. LEVAN, General Counsel

ATTEST:

VAIDA PAVOLAS for ANGELA IVEY,
Successor Agency Secretary

**Successor Agency for the Solana Beach Redevelopment Agency
PROFESSIONAL SERVICES AGREEMENT
FOR PLACEMENT AGENT SERVICES**

THIS Professional Services Agreement ("AGREEMENT") is made and entered into this 10th day of MAY, 2017 by and between the SUCCESSOR AGENCY FOR THE SOLANA BEACH REDEVELOPMENT AGENCY ("SA"), and, BRANDIS TALLMAN, LLC an independent contractor, ("CONSULTANT") (collectively "PARTIES").

WHEREAS, the SA desires to employ a CONSULTANT to furnish PLACEMENT AGENT SERVICES ("PROFESSIONAL SERVICES") for REFINANCING TAX ALLOCATION BONDS, SERIES 2006; and

WHEREAS, the SA has determined that CONSULTANT is qualified by experience and ability to perform the services desired by the SA, and CONSULTANT is willing to perform such services; and

WHEREAS, CONSULTANT will conduct all the work as described and detailed in this AGREEMENT to be provided to the SA.

NOW, THEREFORE, the PARTIES hereto mutually covenant and agree with each other as follows:

I. PROFESSIONAL SERVICES

- A. **Scope of Services.** The CONSULTANT shall perform the PROFESSIONAL SERVICES as set forth in the written Scope of Services, attached as Exhibit "A" Scope of Services and Fee, at the direction of the SA. SA shall provide CONSULTANT access to appropriate staff and resources for the coordination and completion of the projects under this AGREEMENT.
- B. **Project Coordinator.** The Finance Manager is hereby designated as the Project Coordinator for SA and will monitor the progress and execution of this AGREEMENT. CONSULTANT shall assign a single Project Director to provide supervision and have overall responsibility for the progress and execution of this AGREEMENT for CONSULTANT. Nicki Tallman is hereby designated as the Project Director for CONSULTANT.
- C. **SA Modification of Scope of Services.** SA may order changes to the Scope of Services within the general scope of this AGREEMENT consisting of additions, deletions, or other revisions. If such changes cause a change in the CONSULTANT's cost of, or time required for, completion of the Scope of Services, an equitable adjustment to CONSULTANT's compensation and/or contract time shall be made, subject to the SA'S approval. All such changes shall be authorized in writing, executed by CONSULTANT and SA.

II. DURATION OF AGREEMENT

- A. **Term.** The term of this AGREEMENT shall be for a period of one (1) year beginning from the date of execution of the AGREEMENT. Time is of the essence in the performance of work under this AGREEMENT, unless otherwise specified.
- B. **Extensions.** If marked, the SA shall have the option to extend the AGREEMENT for four (4) additional one (1) year periods or parts thereof for an amount not to exceed. Extensions shall be in the sole discretion of the SA Executive Director and shall be based upon

CONSULTANT's satisfactory past performance, SA needs, and appropriation of funds by the SA Board. The SA shall give written notice to CONSULTANT prior to exercising the option.

- C. **Delay.** Any delay occasioned by causes beyond the control of CONSULTANT may merit an extension of time for the completion of the Scope of Services. When such delay occurs, CONSULTANT shall immediately notify the Project Coordinator in writing of the cause and the extent of the delay, whereupon the Project Coordinator shall ascertain the facts and the extent of the delay and grant an extension of time for the completion of the PROFESSIONAL SERVICES when justified by the circumstances.
- D. **SA's Right to Terminate for Default.** Should CONSULTANT be in default of any covenant or condition hereof, SA may immediately terminate this AGREEMENT for cause if CONSULTANT fails to cure the default within ten (10) calendar days of receiving written notice of the default.
- E. **SA's Right to Terminate without Cause.** Without limiting its rights in the event of CONSULTANT's default, SA may terminate this AGREEMENT, without cause, by giving written notice to CONSULTANT. Such termination shall be effective upon receipt of the written notice. CONSULTANT shall be compensated for all effort and material expended on behalf of SA under the terms of this AGREEMENT, up to the effective date of termination. All personal property remaining in SA facilities or on SA property thirty (30) days after the expiration or termination of this AGREEMENT shall be, at SA's election, considered the property of SA.

III. COMPENSATION

- A. **Total Amount.** The total cost for all work described in the Scope of Services and Fee (Exhibit "A") shall not exceed twenty two thousand five hundred dollars (\$22,500) without prior written authorization from SA and is contingent on the closing of the bond issuance and will be made by the Successor Agency from the costs of issuance of the bonds and will be made available within thirty (30) calendar days of receipt of the invoice.
- B. **Additional Services.** SA may, as the need arises or in the event of an emergency, request additional services of CONSULTANT. Should such additional services be required, SA and CONSULTANT shall agree to the cost prior to commencement of these services.
- C. **Costs.** Any costs billed to the SA shall be in accordance with any terms negotiated and incorporated herein as part of Exhibit "A" Scope of Services and Fee.

IV. INDEPENDENT CONTRACTOR

- A. CONSULTANT is, for all purposes arising out of this AGREEMENT, an independent contractor. The CONSULTANT has and shall retain the right to exercise full control and supervision of all persons assisting the CONSULTANT in the performance of said services hereunder, the SA only being concerned with the finished results of the work being performed. Neither CONSULTANT nor CONSULTANT's employees shall in any event be entitled to any benefits to which SA employees are entitled, including, but not limited to, overtime, retirement benefits, workers' compensation benefits, injury leave or other leave benefits. CONSULTANT is solely responsible for all such matters, as well as compliance with social security and income tax withholding and all other regulations and laws governing such matters.

V. STANDARD OF PERFORMANCE

- A. While performing the PROFESSIONAL SERVICES, CONSULTANT shall exercise the reasonable professional care and skill customarily exercised by reputable members of CONSULTANT's profession practicing in the metropolitan Southern California Area, and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

VI. WARRANTY OF CONSULTANT'S LICENSE

- A. CONSULTANT warrants that CONSULTANT is properly licensed with the applicable government agency(ies) for any PROFESSIONAL SERVICES that require a license. If the CONSULTANT lacks such license, this AGREEMENT is void and of no effect.

VII. AUDIT OF RECORDS

- A. At any time during normal business hours and as often as may be deemed necessary the CONSULTANT shall make available to a representative of SA for examination all of its records with respect to all matters covered by this AGREEMENT and shall permit SA to audit, examine and/or reproduce such records. CONSULTANT shall retain such financial and program service records for at least four (4) years after termination or final payment under this AGREEMENT.
- B. The Consultant shall include the SA's right under this section in any and all of their subcontracts, and shall ensure that these sections are binding upon all subcontractors.

VIII. CONFIDENTIALITY

- A. All professional services performed by CONSULTANT, including but not limited to all drafts, data, correspondence, proposals, reports, research and estimates compiled or composed by CONSULTANT, pursuant to this AGREEMENT, are for the sole use of the SA, its agents and employees. Neither the documents nor their contents shall be released to any third party without the prior written consent of the SA. This provision does not apply to information that (a) was publicly known, or otherwise known to CONSULTANT, at the time that it was disclosed to CONSULTANT by the SA, (b) subsequently becomes publicly known through no act or omission of CONSULTANT or (c) otherwise becomes known to CONSULTANT other than through disclosure by the SA. Except for any subcontractors that may be allowed upon prior agreement, neither the documents nor their contents shall be released to any third party without the prior written consent of the SA. The sole purpose of this section is to prevent disclosure of SA's confidential and proprietary information by CONSULTANT or subcontractors.

IX. CONFLICTS OF INTEREST

- A. CONSULTANT shall at all times comply with all federal, state and local conflict of interest laws, regulations, and policies applicable to public contracts and procurement practices, including but not limited to California Government Code Section 81000 *et seq.* (Political Reform Act) and Section 1090 *et seq.* CONSULTANT shall immediately disqualify itself and shall not use its official position to influence in any way any matter coming before the SA in which the CONSULTANT has a financial interest as defined in Government Code Section 87103. CONSULTANT represents that it has no knowledge of any financial interests which would require it to disqualify itself from any matter on which it might perform services for the SA.

- B. If, in performing the PROFESSIONAL SERVICES set forth in this AGREEMENT, the CONSULTANT makes, or participates in, a "governmental decision" as described in Title 2, Section 18701(a)(2) of the California Code of Regulations, or performs the same or substantially all the same duties for the SA that would otherwise be performed by a SA employee holding a position specified in the department's conflict of interest code, the CONSULTANT shall be subject to a conflict of interest code requiring the completion of one or more statements of economic interests disclosing the CONSULTANT's relevant financial interests.
- C. If checked, the CONSULTANT shall comply with all of the reporting requirements of the Political Reform Act. Specifically, the CONSULTANT shall file a Fair Political Practices Commission Form 700 (Assuming Office Statement) within thirty (30) calendar days of the SA's determination that the CONSULTANT is subject to a conflict of interest code. The CONSULTANT shall also file a Form 700 (Annual Statement) on or before April 1 of each year of the AGREEMENT, disclosing any financial interests held during the previous calendar year for which the CONSULTANT was subject to a conflict of interest code.
- D. SA represents that pursuant to California Government Code Section 1090 *et seq.*, none of its elected officials, officers, or employees has an interest in this AGREEMENT.

X. DISPOSITION AND OWNERSHIP OF DOCUMENTS

- A. All documents, data, studies, drawings, maps, models, photographs and reports prepared by CONSULTANT under this AGREEMENT, whether paper or electronic, shall become the property of SA for use with respect to this PROJECT, and shall be turned over to the SA upon completion of the PROJECT or any phase thereof, as contemplated by this AGREEMENT.
- B. Contemporaneously with the transfer of documents, the CONSULTANT hereby assigns to the SA and CONSULTANT thereby expressly waives and disclaims, any copyright in, and the right to reproduce, all written material, drawings, plans, specifications or other work prepared under this AGREEMENT, except upon the SA's prior authorization regarding reproduction, which authorization shall not be unreasonably withheld. The CONSULTANT shall, upon request of the SA, execute any further document(s) necessary to further effectuate this waiver and disclaimer.

XI. INSURANCE

- A. CONSULTANT shall procure and maintain for the duration of the AGREEMENT insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONSULTANT, their agents, representatives, employees or subcontractors. Insurance shall be placed with insurers with a current A.M. Best's rating of no less than "A" and "VII" unless otherwise approved in writing by the SA's Risk Manager.
- B. CONSULTANT's liabilities, including but not limited to CONSULTANT's indemnity obligations, under this AGREEMENT, shall not be deemed limited in any way to the insurance coverage required herein. All policies of insurance required hereunder must provide that the SA is entitled to thirty (30) days prior written notice of cancellation or non-renewal of the policy or policies, or ten (10) days prior written notice for cancellation due to non-payment of premium. Maintenance of specified insurance coverage is a material element of this AGREEMENT.

C. **Types and Amounts Required.** CONSULTANT shall maintain, at minimum, the following insurance coverage for the duration of this AGREEMENT:

1. **Commercial General Liability (CGL).** If checked the CONSULTANT shall maintain CGL Insurance written on an ISO Occurrence form or equivalent providing coverage at least as broad which shall cover liability arising from any and all personal injury or property damage in the amount of \$2,000,000 per occurrence and subject to an annual aggregate of \$4,000,000. There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. insured claims or contractual liability. All defense costs shall be outside the limits of the policy.
2. **Commercial Automobile Liability.** If checked the CONSULTANT shall maintain Commercial Automobile Liability Insurance for all of the CONSULTANT's automobiles including owned, hired and non-owned automobiles, automobile insurance written on an ISO form CA 00 01 12 90 or a later version of this form or an equivalent form providing coverage at least as broad for bodily injury and property damage for a combined single limit of \$1,000,000.00 per occurrence. Insurance certificate shall reflect coverage for any automobile (any auto).
3. **Workers' Compensation.** If checked the CONSULTANT shall maintain Worker's Compensation insurance for all of the CONSULTANT's employees who are subject to this AGREEMENT and to the extent required by applicable state or federal law, a Workers' Compensation policy providing at minimum \$1,000,000.00 employers' liability coverage. The CONSULTANT shall provide an endorsement that the insurer waives the right of subrogation against the SA and its respective elected officials, officers, employees, agents and representatives.
4. **Professional Liability.** If checked the CONSULTANT shall also maintain Professional Liability (errors and omissions) coverage with a limit of \$1,000,000.00 per claim and \$2,000,000.00 annual aggregate. The CONSULTANT shall ensure both that (1) the policy retroactive date is on or before the date of commencement of the Scope of Services; and (2) the policy will be maintained in force for a period of three years after substantial completion of the Scope of Services or termination of this AGREEMENT whichever occurs last. The CONSULTANT agrees that for the time period defined above, there will be no changes or endorsements to the policy that increase the SA's exposure to loss. All defense costs shall be outside the limits of the policy.

D. **Deductibles and Self-Insured Retentions.** Any deductibles or self-insured retentions are the responsibility of the CONSULTANT and must be declared to and approved by the SA. At the option of the SA, either (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the SA, its officers, officials, employees and volunteers, or (2) the CONSULTANT shall provide a financial guarantee satisfactory to the SA guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

E. **Additional Required Provisions.** The commercial general liability and automobile liability policies shall contain, or be endorsed to contain, the following provisions:

1. The SA, its officers, officials, employees, and representatives shall be named as additional insureds. The SA's additional insured status must be reflected on additional insured endorsement form (20 10 1185 or 20 10 1001 and 20 37 1001) which shall be submitted to the SA.

2. The policies are primary and non-contributory to any insurance that may be carried by the SA, as reflected in an endorsement which shall be submitted to the SA.

F. **Verification of Coverage.** CONSULTANT shall furnish the SA with original certificates and amendatory endorsements effecting coverage required by this Section 11. The endorsement should be on forms provided by the SA or on other than the SA's forms provided those endorsements conform to SA requirements. All certificates and endorsements are to be received and approved by the SA before work commences. The SA reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

XII. INDEMNIFICATION

A. CONSULTANT agrees to indemnify, defend, and hold harmless the SA, and its officers, officials, agents and employees from any and all claims, demands, costs or liabilities that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of CONSULTANT, its employees, agents, and subcontractors in the performance of services under this AGREEMENT. CONSULTANT's duty to indemnify under this section shall not include liability for damages for death or bodily injury to persons, injury to property, or other loss, damage or expense arising from the sole negligence or willful misconduct by the SA or its elected officials, officers, agents, and employees. CONSULTANT's indemnification obligations shall not be limited by the insurance provisions of this AGREEMENT. The PARTIES expressly agree that any payment, attorney's fees, costs or expense SA incurs or makes to or on behalf of an injured employee under the SA's self-administered workers' compensation is included as a loss, expense, or cost for the purposes of this section, and that this section will survive the expiration or early termination of this AGREEMENT.

XIII. SUBCONTRACTORS

- A. The CONSULTANT's hiring or retaining of third parties (i.e. subcontractors) to perform services related to the PROJECT is subject to prior approval by the SA.
- B. All contracts entered into between the CONSULTANT and its subcontractor shall also provide that each subcontractor shall obtain insurance policies which shall be kept in full force and effect during any and all work on this PROJECT and for the duration of this AGREEMENT. The CONSULTANT shall require the subcontractor to obtain, all policies described in Section 11 in the amounts required by the SA, which shall not be greater than the amounts required of the CONSULTANT.
- C. In any dispute between the CONSULTANT and its subcontractor, the SA shall not be made a party to any judicial or administrative proceeding to resolve the dispute. The CONSULTANT agrees to defend and indemnify the SA as described in Section 12 of this AGREEMENT should the SA be made a party to any judicial or administrative proceeding to resolve any such dispute.

XIV. NON-DISCRIMINATION

A. CONSULTANT shall not discriminate against any employee or applicant for employment because of sex, race, color, age, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, or sexual orientation. CONSULTANT shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their sex, race, color, age, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, or sexual orientation and shall

make reasonable accommodation to qualified individuals with disabilities or medical conditions. Such action shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. CONSULTANT agrees to post in conspicuous places available to employees and applicants for employment any notices provided by SA setting forth the provisions of this non-discrimination clause.

XV. NOTICES

- A. All communications to either party by the other party shall be delivered to the persons listed below. Any such written communications by mail shall be conclusively deemed to have been received by the addressee five (5) calendar days after the deposit thereof in the United States mail, postage prepaid and properly addressed as noted below.

Marie Marron Berkuti, Finance Manager

SA of Solana Beach

635 S. Highway 101

Solana Beach, CA 92075

Nicki Tallman, CEO

Brandis Tallman, LLC

22 Battery Street #500

San Francisco, CA 94111

XVI. ASSIGNABILITY

- A. This AGREEMENT and any portion thereof shall not be assigned or transferred, nor shall any of the CONSULTANT's duties be delegated or sub-contracted, without the express written consent of the SA.

XVII. RESPONSIBILITY FOR EQUIPMENT

- A. SA shall not be responsible nor held liable for any damage to persons or property consequent upon the use, misuse, or failure of any equipment used by CONSULTANT or any of CONSULTANT's employees or subcontractors, even if such equipment has been furnished, rented, or loaned to CONSULTANT by SA. The acceptance or use of any such equipment by CONSULTANT, CONSULTANT's employees, or subcontractors shall be construed to mean that CONSULTANT accepts full responsibility for and agrees to exonerate, indemnify and hold harmless SA from and against any and all claims for any damage whatsoever resulting from the use, misuse, or failure of such equipment.

XVIII. CALIFORNIA LAW; VENUE

- A. This AGREEMENT shall be construed and interpreted according to the laws of the State of California. Any action brought to enforce or interpret any portion of this AGREEMENT shall be brought in the county of San Diego, California. CONSULTANT hereby waives any and all rights it might have pursuant to California Code of Civil Procedure Section 394.

XIX. COMPLIANCE WITH LAWS

- A. The CONSULTANT shall comply with all laws, ordinances, regulations, and policies of the federal, state, and local governments applicable to this AGREEMENT whether now in force or subsequently enacted. This includes maintaining a SA of Solana Beach Business Certificate.

XX. ENTIRE AGREEMENT

- A. This AGREEMENT sets forth the entire understanding of the PARTIES with respect to the subject matters herein. There are no other understandings, terms or other agreements expressed or implied, oral or written, except as set forth herein. No change, alteration, or modification of the terms or conditions of this AGREEMENT, and no verbal understanding of the PARTIES, their officers, agents, or employees shall be valid unless agreed to in writing by both PARTIES.

XXI. NO WAIVER

- A. No failure of either the SA or the CONSULTANT to insist upon the strict performance by the other of any covenant, term or condition of this AGREEMENT, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this AGREEMENT shall constitute a waiver of any such breach of such covenant, term or condition.

XXII. SEVERABILITY

- A. The unenforceability, invalidity, or illegality of any provision of this AGREEMENT shall not render any other provision unenforceable, invalid, or illegal.

XXIII. DRAFTING AMBIGUITIES

- A. The PARTIES agree that they are aware that they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this AGREEMENT, and the decision of whether or not to seek advice of counsel with respect to this AGREEMENT is a decision which is the sole responsibility of each Party. This AGREEMENT shall not be construed in favor of or against either Party by reason of the extent to which each Party participated in the drafting of the AGREEMENT.

XXIV. CONFLICTS BETWEEN TERMS

- A. If an apparent conflict or inconsistency exists between the main body of this AGREEMENT and the Exhibits, the main body of this AGREEMENT shall control. If a conflict exists between an applicable federal, state, or local law, rule, regulation, order, or code and this AGREEMENT, the law, rule, regulation, order, or code shall control. Varying degrees of stringency among the main body of this AGREEMENT, the Exhibits, and laws, rules, regulations, orders, or codes are not deemed conflicts, and the most stringent requirement shall control. Each Party shall notify the other immediately upon the identification of any apparent conflict or inconsistency concerning this AGREEMENT.

XXV. EXHIBITS INCORPORATED

- A. All Exhibits referenced in this AGREEMENT are incorporated into the AGREEMENT by this reference.

XXVI. SIGNING AUTHORITY

- A. The representative for each Party signing on behalf of a corporation, partnership, joint venture, association, or governmental entity hereby declares that authority has been obtained to sign on behalf of the corporation, partnership, joint venture, association, or entity and agrees to hold the other Party or PARTIES hereto harmless if it is later determined that such authority does not exist.

B. If checked, a proper notary acknowledgement of execution by CONSULTANT must be attached.

IN WITNESS WHEREOF, the PARTIES hereto have executed this AGREEMENT the day and year first hereinabove written.

CONSULTANT, an independent contractor

SA OF SOLANA BEACH, a municipal corporation of the State of California,

By:

By:

Consultant Signature

Gregory Wade,
Executive Director

Nicki Tallman, CEO

ATTEST:

Angela Ivey,
SA Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Johanna N. Canlas,
SA Attorney

Marie Marron Berkuti,
Finance Manager/Treasurer

EXHIBIT A


BRANDIS TALLMAN LLC


22 Battery Street
Suite 500
San Francisco, CA 94111

Phone: 415-912-5630
Fax: 415-912-5636
www.brandistallman.com

May 4, 2017

Successor Agency to the Solana Beach Redevelopment Agency
635 South Highway 101
Solana Beach, CA 92075

Attention: Marie Berkuti, Finance Manager/ Treasurer

Re: Disclosures by Brandis Tallman LLC
Pursuant to MSRB Rule G-17 in connection with
Tax Allocation Revenue Bonds, Series 2017
(Solana Beach Redevelopment Project)

Dear Ms. Berkuti:

We are writing to provide you, as an authorized officer of the Successor Agency to the Solana Beach Redevelopment Agency (the "Issuer"), with certain disclosures relating to the captioned financing (the "Financing"), as required by the Municipal Securities Rulemaking Board (MSRB) Rule G-17 as set forth in MSRB Notice 2012-25 (May 7, 2012) (the "Notice").

The Issuer has engaged Brandis Tallman LLC to serve as placement agent, and not as a financial advisor or municipal advisor, in connection with the Financing. Pursuant to the Notice, we are required by the MSRB to advise you that:

- MSRB Rule G-17 requires a placement agent to deal fairly at all times with both municipal issuers and investors.
- The placement agent's primary role is to place the Financing in an arm's-length, commercial transaction with the Issuer. As such, we have financial and other interests that differ from those of the Issuer.
- Unlike a municipal advisor, we do not have a fiduciary duty to the Issuer under the federal securities laws and are, therefore, not required by federal law to act in the best interests of the Issuer without regard to our own financial and other interests.

Successor Agency to the Solana Beach Redevelopment Agency

May 4, 2017

Page Two

- We have a duty to place the Financing at a fair and reasonable price, but must balance that duty with our duty to investors at prices that are fair and reasonable.

We will be compensated by a not to exceed fee (including all expenses) of \$22,500 in connection with the Financing. Payment of the fee will be contingent on the closing of the Financing and paid out of costs of issuance. If the Financing does not close, the fee is not payable.

If you or any other Issuer representatives have any questions or concerns about these disclosures, please make those questions or concerns known immediately to the undersigned. In addition, the Issuer should consult with its own financial, municipal, legal, accounting, tax and other advisors, as applicable, to the extent it deems appropriate.

It is our understanding that you have the authority to bind the Issuer by contract with us, and that you are not a party to any conflict of interest relating to the subject transaction. If our understanding is incorrect, please notify the undersigned immediately.

The MSRB requires that we seek your acknowledgment that you have received this letter. Accordingly, please send me an email to that effect, or sign and return the enclosed copy of this letter to me within five (5) business days of the date of this letter.

We look forward to working with you and the Agency in connection with the Financing, and we appreciate the opportunity to assist with your financing needs. Thank you.

Very truly yours,

BRANDIS TALLMAN LLC



Nicki Tallman, CEO

ACKNOWLEDGMENT OF RECEIPT:

Marie Berkuti, Finance Manager/ Treasurer

Dated: _____, 2017



DOCUMENT CERTIFICATION

STATE OF CALIFORNIA }
COUNTY OF SAN DIEGO } §
CITY OF SOLANA BEACH }

I, ANGELA IVEY, City Clerk of the City of Solana Beach, California, and Secretary of the Oversight Board of the Successor Agency for the Solana Beach Redevelopment Agency, DO HEREBY CERTIFY that the foregoing is a full, true and correct copy of **Resolution OBSA-035** *approving, and authorizing and directing the Successor Agency executive director to execute, a professional services agreement between the Successor Agency and Brandis Tallman, LLC for placement agent services for the potential refunding of the Series 2006 Tax Allocation Bonds and authorizing the Successor Agency to recover its costs therefor* as duly passed and adopted at a Special Meeting of the Oversight Board of the Successor Agency for the Solana Beach Redevelopment Agency held on the 1st day of June, 2017 and the original is on file in the City Clerk's Office.

VAIDA PAVOLAS, DEPUTY CITY CLERK FOR
ANGELA IVEY, CITY CLERK, AGENCY SECRETARY

Date of this Certification:

June 1, 2017