

BOND COUNSEL AGREEMENT

NAPA SANITATION DISTRICT

REVENUE CERTIFICATES OF PARTICIPATION, SERIES 2021

THIS AGREEMENT, made as of this __ day of _____, 2020, by and between the NAPA SANITATION DISTRICT, a county sanitation district organized and existing under the laws of the State of California (herein “District”) and STRADLING YOCCA CARLSON & RAUTH, a Professional Corporation (herein “Bond Counsel”):

RECITALS:

A. The District desires to execute and deliver Certificates of Participation (the “Certificates”) to finance a trunk line replacement project and to finance certain other improvements to the District’s Wastewater System; and

B. The District desires to retain Bond Counsel to do the necessary legal work hereinafter outlined, upon the terms and conditions hereinafter set forth, for accomplishing the execution and delivery of the Certificates in one or more series; and

C. Bond Counsel represents that it is ready, willing and able to perform said legal work;

NOW, THEREFORE, in consideration of the premises, and the mutual covenants, terms and conditions herein contained, the parties agree as follows:

1. SCOPE OF SERVICES

A. **BOND COUNSEL SERVICES**

The District retains Bond Counsel to provide, and Bond Counsel agrees to provide, legal services in connection with the execution and delivery of the Certificates. Such services shall include the rendering of legal opinions (hereinafter called the “opinions”) pertaining to the Certificates to the effect that:

1. The Certificates have been properly executed and delivered and are valid and binding obligations; and
2. The essential sources of security for the Certificates have been legally provided; and
3. Interest with respect to the Certificates is exempt from California personal income taxation and is excluded from gross income for purposes of federal income taxes.

Bond Counsel's services will also include:

- i. Researching applicable laws and ordinances relating to the proposed Certificates;
- ii. Attending conferences and consulting with District staff and counsel regarding such laws, and the need for amendments thereto, or additional legislation;
- iii. Participating in meetings, conferences or discussions with any financial advisors, underwriters or other experts retained by the District with respect to the execution and delivery of the Certificates;
- iv. Supervising and preparing documentation of the steps to be taken through the execution and delivery of the Certificates, including:
 - a. Drafting all resolutions, notices, rules and regulations and other legal documents required for the execution and delivery of the Certificates, and all other documents relating to the security of the Certificates, in consultation with the District, General Counsel, the District's financial advisor, underwriter and other experts;
 - b. Preparing the record of proceedings for the authorization, sale, execution and delivery of the Certificates;
 - c. Assisting in the preparation of the portions of the official statement and any updated official statement or placement memorandum for the sale of the Certificates which relate to the terms of the Certificates and the firm's legal opinion delivered with respect to the Certificates;
 - d. Reviewing the purchase contract or the bidding documents relating to the sale of the Certificates and participating in the related negotiations;
 - e. Participating in meetings and other conferences scheduled by the District, the District's financial advisor or the underwriter;
 - f. Consulting with prospective purchasers, their legal counsel and rating agencies;
 - g. Consulting with counsel to the District concerning any legislation or litigation which may affect the Certificates, the security for the Certificates, or any other matter related to the execution and delivery of the Certificates;
 - h. Consulting with any trustee or fiscal agent for the Certificates and their counsel;

- i. Preparing the form of the Certificates, and supervising their production or printing, signing, authentication and delivery;
- j. Rendering the final approving opinion as to the validity of the Certificates for use and distribution upon their execution and delivery; and
- k. Rendering a legal opinion to the underwriter or purchaser of the Certificates as to the applicability of the registration requirements of federal securities laws and a statement as to the fair and accurate nature of those portions of the Official Statement described in (c) above.

B. DISCLOSURE COUNSEL SERVICES

In addition to the services set forth in Section A above, Bond Counsel agrees to prepare the Official Statement to be delivered at the time of pricing of the Certificates and will provide a letter addressed to the underwriter or purchaser of the Certificates to the effect that, to the best knowledge of Bond Counsel, the offering document does not misstate a material fact or omit a material fact required to be stated therein.

C. SPECIAL SERVICES

“Special Services” are defined for purposes of this Agreement as services in addition to the services outlined in Sections A and B above. Special Services will include, but not be limited to, any work after the closing of the Certificates related to amendments to the financing documents or agreements and special studies or analyses. Special Services must be authorized in writing by the General Manager, or his designee.

2. COMPENSATION

The District agrees to pay Bond Counsel the following amounts as compensation for services rendered by Bond Counsel under this Agreement:

A. For the services to be rendered under Sections 1.A and 1.B above, Bond Counsel will be paid a fee of \$75,000 which shall be payable solely from the proceeds of the Certificates and will be contingent upon the execution and delivery of the Certificates.

The fees referenced in this Section 2.A assume that the Certificates will be executed and delivered within six months from the date of this Agreement. In the event the Certificates are not executed and delivered within that time, Bond Counsel reserves the right to make such modifications to the foregoing fees as the District and Bond Counsel agree, as justified by reason of increased cost to Bond Counsel and the then prevailing fees for disclosure counsel and bond counsel services for Certificates such as the Certificates.

B. In the event Bond Counsel is requested to perform Special Services as set forth in Section 1.C above, Bond Counsel will be paid fees at the hourly rates set forth in Exhibit A, or in such other manner as is mutually acceptable to the District and Bond Counsel. Such fees will be billed monthly and shall be payable within thirty (30) days following the receipt of each invoice. Bond Counsel shall not be paid fees for traveling time.

C. In addition to the fees set forth in paragraphs A and B above, Bond Counsel shall be reimbursed for the actual cost of any out-of-pocket expenses reasonably incurred by Bond Counsel in the course of its employment, such as document reproduction, telecommunications charges, printing costs, filing fees, long-distance telephone calls, messenger services, overnight delivery services, travel and similar items of expense, not to exceed \$2,000. All expenses incurred in connection with services rendered will be billed upon the execution and delivery of the series of the Certificates to which they relate, and may include an estimate of costs to be incurred subsequent to the issuance date.

3. PERSONNEL AND CONTRACT ADMINISTRATION

The District agrees to accept and Bond Counsel agrees to provide the aforementioned services primarily through Brian Forbath, Cyrus Torabi and Carol L. Lew. If any one of the above attorneys is unable to provide such services due to death, disability or similar event, Bond Counsel reserves the right to substitute another of its attorneys, upon approval by the General Manager, or his designee, to provide such services; and such substitution shall not alter or affect in any way Bond Counsel's or the District's other obligations under this Agreement.

This Agreement will be administered by the General Manager, or his designee.

4. CONFLICTS OF INTEREST

Bond Counsel represents many of the underwriting firms active in the issuance of certificates of participation and other municipal financings. The District hereby provides its informed written consent to Bond Counsel's representation of such underwriting firms on matters unrelated to the Certificates.

5. TERMINATION

A. This Agreement may be terminated without cause by the District or Bond Counsel upon thirty (30) days' advance written notice to the other party. Such notification shall state the effective date of the termination of this Agreement.

B. Bond Counsel reserves the absolute right to withdraw from representing the District if, among other things, the District fails to honor the terms of this Agreement, the District fails to cooperate fully or follow Bond Counsel's advice on a material matter, or any fact or circumstance occurs that would, in Bond Counsel's view, render its continuing representation unlawful or unethical. If Bond Counsel elects to withdraw, the District will take all steps necessary to free Bond Counsel of any obligation to perform further services, including the execution of any documents necessary to complete such withdrawal, and Bond Counsel will be entitled to be paid at the time of withdrawal for all services rendered and costs and expenses paid or incurred on the District's behalf in accordance with the payment terms set forth in Section 2 above. If necessary in connection with litigation, Bond Counsel would request leave of court to withdraw.

C. Bond Counsel's representation of the District will be considered terminated at the earlier of (i) the District's termination of its representation, (ii) Bond Counsel's withdrawal from its representation of the District, or (iii) the substantial completion by Bond Counsel of its substantive work for the District. Unless Bond Counsel has been specifically engaged to perform Special Services

related to the Certificates after their execution and delivery, Bond Counsel's representation of District shall terminate on the date of execution and delivery of the Certificates.

6. DISPUTE RESOLUTION

IN THE EVENT OF A DISPUTE REGARDING FEES, COSTS, OR ANY OTHER MATTER ARISING OUT OF OR RELATED IN ANY WAY WHATSOEVER TO BOND COUNSEL'S RELATIONSHIP WITH THE DISTRICT, OR BOND COUNSEL'S OR THE DISTRICT'S PERFORMANCE OF THIS AGREEMENT, INCLUDING THE QUALITY OF THE SERVICES WHICH BOND COUNSEL RENDERS, SUCH DISPUTE SHALL BE FIRST SUBMITTED TO MEDIATION, THE COST OF WHICH SHALL BE BORNE EQUALLY BY THE PARTIES, AND RESOLVED BY CONFIDENTIAL ARBITRATION IN THE COUNTY OF SAN FRANCISCO, CALIFORNIA.

7. INDEMNIFICATION AND INSURANCE

The Firm agrees to defend, indemnify and hold the District and its officers, agents, and employees harmless from any and all claims which arise from or are directly connected with the Bond Counsel's negligence or failure to perform the work or other obligations under this Agreement, and all expenses of investigating and defending against same; provided, however, that this duty to defend, indemnify, and hold harmless shall not include any claim based upon the alleged errors or omissions of Bond Counsel related to the rendering of or the failure to render professional services hereunder so long as Bond Counsel maintains in effect errors and omissions insurance as required by this paragraph, or arising from the sole negligence or willful misconduct of the District, its officers, agents or employees. Bond Counsel agrees to maintain errors and omissions insurance in an amount not less than twenty-five million dollars (\$25,000,000) per claim period throughout the term of this Agreement.

8. MISCELLANEOUS

A. Bond Counsel and the employees of Bond Counsel, in performance of the Agreement, shall act in an independent capacity and not as officers or agents of the District.

B. Without the written consent of the District, this Agreement is not assignable by Bond Counsel in whole or in part.

C. No alteration or variation of the terms of this Agreement shall be valid unless in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.

D. In accordance with the requirements of California Business and Professions Code § 6148, Bond Counsel advises you that the firm maintains professional errors and omissions insurance coverage applicable to the services to be rendered to the District.

NAPA SANITATION DISTRICT

By: _____
General Manager

APPROVED AS TO FORM:

By: _____
General Counsel

STRADLING YOCCA CARLSON & RAUTH
a Professional Corporation

By: _____
Brian Forbath

EXHIBIT A

Shareholders	\$600
Associates	\$350
Paralegals	\$150