OCII
office of
COMMUNITY INVESTMENT
and INFRASTRUCTURE

107-0122021-002

Agenda Item **Nos. 5(c) through 5(e)**
Meeting of May 18, 2021

**MEMORANDUM**

**TO:** Community Investment and Infrastructure Commissioners

**FROM:** Sally Oerth, Interim Executive Director

**SUBJECT:** Authorizing a Personal Services Contract with KNN Public Finance, LLC, a California Limited Liability Company for financial advisory services in an amount not to exceed $57,000 related to the proposed issuance of Successor Agency to the Redevelopment Agency of the City and County of San Francisco new money tax allocation bonds to fund affordable housing obligations

Authorizing a Legal Services Contract with Jones Hall, a Professional Law Corporation, for bond counsel services in an amount not to exceed $105,000 related to the proposed issuance of Successor Agency to the Redevelopment Agency of the City and County of San Francisco new money tax allocation bonds to fund affordable housing obligations

Authorizing a Legal Services Contract with the Law Offices of Alexis S. M. Chiu for disclosure counsel services in an amount not to exceed $56,000 related to the proposed issuance of Successor Agency to the Redevelopment Agency of the City and County of San Francisco new money tax allocation bonds to fund affordable housing obligations

## EXECUTIVE SUMMARY

OCII plans to issue approximately $130 million in new money tax allocation bonds to fund affordable housing projects (“Bonds”). The first step in proceeding with this bond issuance is to hire a financing team. An OCII financing team typically consists of a financial advisor, co-financial advisor, bond counsel, disclosure counsel, and fiscal consultant. In the case of this issuance, only the contract amounts for financial advisor, bond counsel and disclosure counsel exceed $50,000 and therefore require Commission approval. The



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contracts for co-financial advisor and fiscal consultant are less than $50,000 and therefore do not require Commission approval. Information regarding these contracts is included in this memo for completeness and transparency.

Section IX.C.5 of OCII's Purchasing Policy authorizes OCII staff to select a Contractor from a City and County of San Francisco ("City") panel established using the City's competitive selection process. In the case of the proposed financing team, OCII reviewed all the firms listed in the appropriate City panel and selected the best qualified listed consultant. OCII selected KNN Public Finance, LLC ("KNN") as financial advisor, Kitahata & Company as co-financial advisor ("Kitahata"), Jones Hall, A Professional Law Corporation for bond counsel ("Jones Hall"), Law Offices of Alexis S. M. Chiu for disclosure counsel ("Alexis Chiu"), and Urban Analytics ("Urban Analytics") for fiscal consultant. The contract with KNN will not exceed $57,000; the contract with Jones Hall will not exceed $105,000; the contract with Alexis Chiu will not exceed $56,000. Each contract will be effective through May 31, 2023, unless extended at the discretion of the Executive Director.

*Staff recommends authorization of professional service contracts with KNN for financial advisory services in an amount not to exceed $57,000, with Jones Hall for bond counsel services in an amount not to exceed $105,000, and with Alexis Chiu for disclosure counsel services in an amount not to exceed $56,000.*

## DISCUSSION

In the Fall 2021, the Office of Community Investment and Infrastructure ("OCII") plans to issue approximately $130 million in new money tax allocation bonds secured from property tax revenues generated from certain former and current redevelopment project areas. Issuance of the bonds requires approval of the Oversight Board and the California Department of Finance. The proceeds of these bonds will be used to fund affordable housing projects that require funding in FY21-22. Detail on the proposed projects is provided below.

**Table One: Affordable Housing Project Detail**

| Name | Location | Units |
|---|---|---|
| HPS 52/54 | Hunters Pt. Shipyard | 112 |
| HPS 56 | Hunters Pt. Shipyard | 73 |
| MBS 9A | Mission Bay South | 148 |

OCII anticipates that the above listed projects will begin construction, and will therefore need construction loans, in FY 21-22. Should conditions change, the proceeds of the proposed bond issuance will be shifted to other eligible projects when they reach the appropriate funding stage. OCII's use of bonds to fund affordable housing, a long-term capital asset, is an appropriate use of long-term debt.

Issuing bonds is a technical process that requires specialized knowledge. As such, to issue bonds, OCII must procure the services of a financing team with the appropriate knowledge and skills. OCII tax allocation bond financing teams are typically composed of a municipal financial advisor, co-financial advisor, bond counsel, disclosure counsel, and fiscal consultant. The financial advisor is a specialist in public finance and advises the agency on the structure of the deal, ensuring that OCII issues bonds at the least possible cost with the lowest possible risk. Both Dissolution Law and SEC Rule 15 require that OCII hire a financial advisor when issuing bonds. The co-financial advisor supports the financial advisor and is generally responsible for scheduling and other administrative tasks. Bond counsel is responsible for drafting the bond documents, which are contracts between OCII, the investors, and the financial institutions involved in the bond issuance, ensuring the bond issuance is consistent with public finance and Dissolution Law, and providing legal opinions on those matters. The disclosure counsel is responsible for drafting the official statement, which is a summary of the terms of the bond issuance and presents investors with the relevant financial, project, and risk information. The fiscal consultant has specialized knowledge of property tax and prepares the property tax analysis that determines OCII's bonding capacity, which is the amount of bonds OCII has sufficient revenue to issue. The financing team will be assisted by OCII's disclosure counsel on retainer, Curls Bartling, LLC, who provides technical legal support for OCII's post issuance disclosure program. The disclosure counsel on retainer is already under contract with OCII and will review the bond documents to ensure they are consistent with OCII's post-issuance disclosure program.

This memo describes the solicitation process and relevant contract terms for each member of the proposed financing team described below.

**Table Two: Proposed Financing Team**

| Consultant | Role |
|---|---|
| KNN | Financial Advisor |
| Kitahata | Co-Financial Advisor |
| Jones Hall | Bond Counsel |
| Alexis Chiu | Disclosure Counsel |
| Urban Analytics | Fiscal Consultant |

## Solicitation Process

Section IX.C.5 of OCII's Purchasing Policy authorizes OCII staff to select a Contractor from a City and County of San Francisco ("City") panel established using the City's competitive selection process. In the case of the proposed financing team, OCII reviewed all the firms listed in the appropriate City panel and selected the best qualified listed consultant.

City panels are created when the City runs a competitive selection process known as a Request for Proposals ("RFP"). In an RFP process, the issuer describes a scope of services and applicants respond with a proposal that demonstrates their ability to provide the service. A team of reviewers with subject matter expertise scores the proposals. Based on these scores, the City places all qualified applicants in the City pool. The table below describes the selection process for each member of the proposed financing team.

**Table Three: Selection Process for Proposed Financing Team**

| Consultant | Role | Selection Method/ Panel Establishment Date | Justification |
|---|---|---|---|
| KNN | Financial Advisor | City Panel<br>May 18, 2020 | Experience<br>Staff Depth<br>Post-Dissolution Experience |
| Kitahata | Co-Financial Advisor | City Panel<br>May 18, 2020 | Experience<br>SBE Status<br>Post-Dissolution Experience<br>Past Performance |
| Jones Hall | Bond Counsel | City Panel<br>October 25, 2019 | Experience<br>Knowledge of OCII Portfolio<br>Past Performance |
| Alexis Chiu | Disclosure Counsel | City Panel<br>October 25, 2019 | Experience<br>Knowledge of OCII Portfolio<br>Past Performance |
| Urban Analytics | Fiscal Consultant | City Panel<br>March 1, 2020 | Experience<br>LBE Status<br>Knowledge of OCII Tax Base<br>Past Performance |

## Scope of Services

As described above, each member of the proposed financing team provides specialized knowledge and skills that will support the proposed bond issuance. The financial advisor advises the agency on the structure of the deal. The co-financial advisor is responsible for scheduling and other administrative tasks. Bond counsel drafts the bond documents. Disclosure counsel drafts the preliminary and official statements. The fiscal consultant prepares analysis of historical pledged revenue. The table below describes these scopes of services in greater detail.

**Table 4: Proposed Scope of Service**

| Contractor | Role | Scope of Service |
|---|---|---|
| KNN | Financial Advisor | Financial modelling, advising on structure, ensuring fair and competitive pricing, preparing of post-sale analysis |
| Kitahata | Co-Financial Advisor | Maintaining schedule and distribution list, providing as needed support to the financial advisor |
| Jones Hall | Bond Counsel | Drafting bond indenture, drafting bond resolutions, determining and opining on legal compliance of bond issuance |
| Alexis Chiu | Disclosure Counsel | Drafting the preliminary and final official statement, ensuring credit and risk disclosures are complete and accurate |
| Urban Analytics | Fiscal Consultant | Analyzing tax base, presenting pledged revenue history for the official statement, and writing Fiscal Consultant's Report to describe legal framework and historic data for revenue source. |

**Proposed Contract Terms**

OCII has negotiated the terms of the contracts with members of the proposed financing team. The terms of these contracts are summarized below. All contract amounts are based on a flat fee negotiated based on the size and complexity of the proposed bond issuance. As is typical in the industry, payment of the financial advisor, co-financial advisor, bond counsel, and disclosure counsel fees are contingent on the closing of the bonds and will be paid from proceeds of the bond issuance. The fiscal consultant fees are not contingent on closing. If the planned issuance occurs, the fiscal consultant fees will be paid from the proceeds of the bond issuance. If the planned issuance does not occur, OCII will pay fiscal consulting fees with operating funds. Historically, all financing team fees retained by the Redevelopment Agency and OCII have been paid with bond proceeds. All proposed contracts expire on May 31, 2023, unless extended at the discretion of the Executive Director. This discretion allows the Executive Director to extend the terms of the proposed contracts should the planned bond issuance be delayed due to project slowdowns or market conditions.

| Consultant | Role | Contract Not-To-Exceed Amount | Funding Source | Contingent on Bond Closing | Term |
|---|---|---|---|---|---|
| KNN | Financial Advisor | $57,000 | Bond Proceeds | Yes | Execution Date to May 31, 2023, unless extended by Executive Director |
| Kitahata | Co-Financial Advisor | $26,000 | Bond Proceeds | Yes | Execution Date to May 31, 2023, unless extended by Executive Director |
| Jones Hall | Bond Counsel | $105,000 | Bond Proceeds | Yes | Execution Date to May 31, 2023, unless extended by Executive Director |
| Alexis Chiu | Disclosure Counsel | $56,000 | Bond Proceeds | Yes | Execution Date to May 31, 2023, unless extended by Executive Director |
| Urban Analytics | Fiscal Consultant | $27,000 | Bond Proceeds / Operating Funds | No | Execution Date to May 31, 2023, unless extended by Executive Director |

In the case of this issuance, only the contract amounts for financial advisor, bond counsel, and disclosure counsel exceed $50,000 and therefore require Commission approval. The contracts for co-financial advisor and fiscal consultant are less than $50,000 and therefore do not include Commission approval. Information regarding these contracts is included in this memo for completeness and transparency.

## Enabling Law

Redevelopment Dissolution Law generally limits the authority of successor agencies to issue new bonds to projects with an enforceable obligation requiring the issuance of bonds and with an irrevocable pledge of property tax revenues securing those bonds. Health & Safety Code § 34177.5. In 2015, however, the state legislature adopted special legislation for San Francisco expanding OCII's bonding authority: Senate Bill No. 107 (stats. 2015, ch. 325, §§ 9 & 27) (codified at Health & Safety Code § 34177.7). SB 107 authorizes OCII to issue bonds t for funding the construction of affordable housing in the Mission Bay, Transbay, and Candlestick Point-Hunters Point Shipyard project areas and the construction of infrastructure in the Transbay project area. SB 107 requires OCII to receive the approval of the Oversight Board of the City and County of San Francisco and the California Department of Finance to issue bonds. OCII has previously issued bonds under this authority for affordable housing and Transbay infrastructure in 2017.

**California Environmental Quality Act**

Authorizations of the contracts with KNN, Jones Hall, and Alexis Chiu are not “projects” as defined by the California Environmental Quality Act (“CEQA”), pursuant to CEQA Guidelines Section 15378(b)(5), because they are administrative activities of government that will not result in direct or indirect physical changes in the environment and, therefore, are not subject to environmental review under CEQA.

**NEXT STEPS**

Once the financing team is under contract, and the necessary analysis and modelling has been completed, the bond issuance will be brought to the Oversight Board for consideration. Subject to the Board’s approval, the required information will be submitted to DOF for review. Subject to DOF approval, bond documents, including the preliminary official statement, will be submitted to Commission for its final approval. This action will authorize staff to proceed with the bond issuance. It is expected that the bonds will be sold in mid-November and funds will be available at the end of November.

*(Originated by John Daigle, Debt Manager)*

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Sally Oerth

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Sally Oerth
Interim Executive Director