OCII
office of
COMMUNITY INVESTMENT
and INFRASTRUCTURE

107-0662021-002

Agenda Item **No. 5(b)**
Meeting of December 7, 2021

MEMORANDUM

TO: Community Investment and Infrastructure Commissioners

FROM: Sally Oerth, Interim Executive Director

SUBJECT: Authorizing a First Amendment to the Personal Services Contract with BLX Group, LLC, for arbitrage rebate consultant services to extend the term of the contract by three years to December 31, 2024 and to increase the not-to-exceed amount by $17,995 from $116,390 to $134,345

EXECUTIVE SUMMARY

On April 2, 2019, the Commission approved Resolution 05-2019 authorizing the Executive Director to enter into a Personal Services Contract with BLX Group, LLC to provide professional services related to arbitrage rebate compliance in an amount not-to-exceed $116,390 for a term ending December 31, 2021. OCII now seeks to amend its contract with BLX Group to extend the term of the contract by three years from January 1, 2022 to December 31, 2024 and to increase the not-to-exceed amount by $17,955 from $116,390 to $134,345. This amendment would increase the budget available for arbitrage rebate consulting services and would enable OCII to maintain continuity in its mandated bond arbitrage reporting.

Staff recommend authorization of a first amendment to the personal services contract with BLX Group, LLC for arbitrage rebate services extending the term by three years from January 1, 2022 to December 31, 2024 and increasing the not-to-exceed amount by $17,955 from $116,390 to a total amount not-to-exceed $134,345.

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DISCUSSION

The Office of Community Investment and Infrastructure ("OCII") administers a debt portfolio that includes tax-exempt Mello Roos and Tax Allocation bonds. Debt service for Mello Roos bonds is paid by special tax. Debt service for Tax Allocation bonds is paid by property tax. Administration of the debt portfolio is governed by OCII's debt policy, which was last approved by the Commission on October 5, 2021 by Resolution 32-2021. The debt policy identifies OCII's debt management objectives, issuance criteria and limitations, and post-issuance debt administration practices.

Administration of the debt portfolio requires that OCII comply with Internal Revenue Service Code ("IRS") Section 148 and related Treasury Regulations regarding the reporting and remittance of bond arbitrage, which occurs when the proceeds of a tax-exempt bond are invested at an interest rate higher than the borrowing rate on the bonds. For example, if the overall bond interest rate is three percent and the bond proceeds earn five percent, arbitrage earnings are two percent. Consultants identify and translate this two percent into a dollar amount. Issuers must report and rebate these earnings to the IRS on every five-year anniversary of their issuance. Calculations are also required when bonds are refunded, reach their final maturity, or reach their early redemption date if the bonds were refunded or paid off early.

The regulations regarding calculation, reporting, and rebate of bond arbitrage are complex. Due to this complexity, issuers typically hire specialized arbitrage rebate consultants to perform the calculations and file the necessary reports. OCII entered into a contract with BLX Group, LLC ("BLX Group") on April 2, 2019 by Resolution 05-2019 for bond arbitrage services in an amount not-to-exceed $116,390 and a term ending December 31, 2021. As the term of the current contract will soon expire, OCII seeks to amend the existing contract with BLX Group to increase the contract not-to-exceed amount to accommodate three additional years of arbitrage rebate analysis and reporting. Bond arbitrage calculations are technical and require extensive knowledge of prior calculations. OCII seeks to amend the current contract with BLX to leverage the knowledge BLX acquired during the term of the original contract.

The proposed contract amendment would extend the contract term by three years from January 1, 2022 to December 31, 2024 and would include reports for all bonds requiring bond arbitrage calculations during the term of the contract. The contract budget, as amended, is illustrated below.

Proposed Amendment Budget

Type	Series	Report as of Date	FY 21-22 Jan-June	FY 22-23	FY 23-24	FY 24-25	Total
Mello Roos - CFD #6	2013ABC	8/1/2022		$ 2,565			$ 2,565
Tax Allocation	2017E	8/1/2022		$ 2,565			$ 2,565
Tax Allocation	1998A&C	3/10/2023		$ 2,565			$ 2,565
Tax Allocation	2014A	8/1/2023			$ 2,565		$ 2,565
Mello Roos - CFD #7	2014	8/1/2023			$ 2,565		$ 2,565
Tax Allocation	1998D	8/1/2024				$ 2,565	$ 2,565
Tax Allocation	2014C	8/1/2024				$ 2,565	$ 2,565
Total			**$ -**	**$ 7,695**	**$ 5,130**	**$ 5,130**	**$ 17,955**
Original Contract Amount							$ 116,390
Amended Contract Amount							$ 134,345

The original contract not-to-exceed amount included a $20,000 contingency allowance. The remaining balance of this contingency allowance is $11,375 and remains available under the proposed amendment. This allowance can be used to address unforeseen circumstances, including additional reporting requirements related to refunding bonds or other matters.

The work performed under this contract, as amended, will be paid from special tax for Mello Roos bonds and property tax for tax allocation bonds, as a cost of debt administration.

Solicitation Process

Section IX.C.5 of OCII's Purchasing Policy authorizes OCII to select a Contractor from a City panel established using a competitive selection process. On May 11, 2018, pursuant to a competitive selection process, the City's Office of Public Finance ("OPF") established a panel of arbitrage rebate consultants. BLX remains on this City panel.

Recommended Action

Staff recommend authorization of a first amendment to the personal services contract with BLX Group for bond arbitrage services, extending the term by three years from January 1, 2022 to December 31, 2024 and increasing the not-to-exceed amount by $17,955 from $116,390 to a total amount not-to-exceed $134,345.

California Environmental Quality Act

Authorization of the contract with BLX Group is not a "project," as defined by the California Environmental Quality Act ("CEQA") in CEQA Guidelines Section 15378(b)(5), because the action is an administrative activity of government that will not result in a direct or indirect physical change in the environment and, therefore, is not subject to environmental review under CEQA.

(Originated by John Daigle, Debt Manager)

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Sally Oerth
Interim Executive Director