

City of Emeryville
CALIFORNIA

PROFESSIONAL SERVICES CONTRACT

THIS PROFESSIONAL SERVICES CONTRACT ("Contract") is effective as of _____ (the "Effective Date"), by and between **THE CITY OF EMERYVILLE AS SUCCESSOR AGENCY TO THE EMERYVILLE REDEVELOPMENT AGENCY**, a municipal corporation, ("Successor Agency") and **KNN PUBLIC FINANCE, LLC** ("Contractor"), individually referred to as a "Party" and collectively as the "Parties".

WITNESSETH THAT

WHEREAS, the Successor Agency desires to engage Contractor for Financial Advisory Services For The Tax Allocation Refunding Bonds, Series 2014A and 2014B; and

WHEREAS, the Successor Agency finds that specialized knowledge, skills, and training are necessary to render the services necessary to do the work contemplated under this Contract; and

WHEREAS, the Successor Agency has determined that the Contractor is qualified by training and experience to render such services; and

WHEREAS, the Contractor desires to provide such services; and,

WHEREAS, the public interest will be served by this Contract; and

NOW, THEREFORE, the Parties hereto do mutually agree as follows:

1. SCOPE OF SERVICES AND TERMINATION DATE

1.1 *Project Description*

A complete project description is set forth in the Scope of Work, attached hereto as **Exhibit A** and incorporated herein by this reference.

1.2 *Services*

The services to be completed under this Contract ("Services") are described in the Scope of Work set forth in **Exhibit A**. The Services shall be performed in accordance with terms, conditions, and specifications set forth herein. To the extent there is a conflict between the Scope of Work, and the terms, conditions, and specifications set forth herein, the terms, conditions, and specifications set forth herein shall govern.

FOR CITY USE ONLY

Contract No.		CIP No.	
Resolution No.		Project No.	

1.3 Schedule and Completion Date

The Services to be provided by Contractor under this Contract shall commence on the Effective Date and terminate on **AUGUST 31, 2025**. The Parties may, by mutual, written consent, extend the term of this Contract.

2. WORK CHANGES

2.1 City Rights to Change

The Successor Agency reserves the right to order changes in the Services to be performed under this Contract by altering, adding to or deducting from the Scope of Work. All such changes shall be incorporated in amendments executed by the Contractor and the Successor Agency. Such amendments shall specify the changes ordered and any necessary adjustment of compensation and completion time.

2.2 Additional Work Changes

Any work added to the Scope of Work by an amendment shall be executed under all the applicable conditions of this Contract. No claim for additional compensation or extension of time shall be recognized unless contained in an amendment duly executed on behalf of the Successor Agency and the Contractor.

2.3 Executive Director Execution

The Executive Director has authority to execute without further action of the Emeryville Successor Agency, any number of amendments so long as their total effect does not materially alter the terms of this Contract or increase the total amount to be paid under this Contract, as set forth in Section 3.2 below.

3. COMPENSATION AND METHOD OF PAYMENT

3.1 Compensation for Services Performed

Successor Agency agrees to pay the Contractor for the Services performed and costs incurred by Contractor upon certification by the Successor Agency that the Services were actually performed and costs actually incurred in accordance with the Contract. Compensation for Services performed and reimbursement for costs incurred shall be paid to the Contractor upon receipt and approval by the Successor Agency of invoices setting forth in detail the Services performed and costs incurred. The Successor Agency shall pay the Contractor within forty-five (45) days after approval of the invoice by Successor Agency staff.

3.2 Total Compensation Amount

The total amount paid under this Contract as compensation for Services performed and reimbursement for costs incurred shall not, in any case, exceed **FIFTY-SIX THOUSAND DOLLARS AND NO CENTS (\$56,000.00)**, except as outlined in Section 2.3 above.

The compensation for Services performed shall be as set forth in **Exhibit A**.

Reimbursement for costs incurred shall be limited as follows. Long distance telephone

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and telecommunications, facsimile transmission, normal postage and express mail charges, photocopying and microcomputer time shall be at cost. Supplies and outside services, transportation, lodging, meals and authorized subcontracts shall be at cost plus no more than a 10% administrative burden. Automobile mileage shall be no more than the current deductible rate set by the Internal Revenue Service.

4. COVENANTS OF CONTRACTOR

4.1 *Assignment of Contract*

The Contractor covenants and agrees not to assign or transfer any interest in, nor delegate any duties of this Contract, without the prior express written consent of the Successor Agency. As to any approved subcontractors, the Contractor shall be solely responsible for reimbursing them and the Successor Agency shall have no obligation to them.

4.2 *Responsibility of Contractor and Indemnification of Successor Agency*

To the fullest extent permitted by law, Contractor shall indemnify, defend, and hold harmless Successor Agency and Successor Agency's members, officers, agents, employees and volunteers, from and against any and all claims, losses, liabilities of every kind, nature and description, damages, injury (including without limitation injury to or death of an employee of Contractor or subcontractors as well as any claim by any employee, agent, Contractor or independent contractor hired or employed by Contractor that such persons or individuals are entitled to any benefit otherwise provided to employees of the Successor Agency, including coverage under the California Public Employee Retirement System), costs and expenses of any kind, whether actual, alleged or threatened, including, without limitation, incidental and consequential damages, court costs, reasonable attorneys' fees, litigation expenses, and fees of expert contractors or expert witnesses incurred in connection therewith and the costs of investigation, arising out of, pertaining to, or relating to, directly or indirectly, in whole or in part, the negligence, recklessness, or willful misconduct of Contractor, any subcontractor, anyone directly or indirectly employed by them or anyone that they control. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for Contractor. This obligation to indemnify and defend the Successor Agency, its members, officers, agents, employees and volunteers shall survive termination of this Contract.

If Contractor's obligation to defend, indemnify, and/or hold harmless arises out of Contractor's performance of "design professional" services (as that term is defined under Civil Code section 2782.8), then, and only to the extent required by Civil Code section 2782.8, which is fully incorporated herein, Contractor's indemnification obligation shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Contractor, and, upon Contractor obtaining a final adjudication by a court of competent jurisdiction, Contractor's liability for such claim, including the cost to defend, shall not exceed the Contractor's proportionate percentage of fault.

4.3 Independent Contractor

The Contractor hereby covenants and declares that it is engaged in an independent business and agrees to perform the Services as an independent contractor and not as the agent or employee of the Successor Agency. The Contractor agrees to be solely responsible for its own matters relating to the time and place the Services are performed; the instrumentalities, tools, supplies and/or materials necessary to complete the Services; hiring of contractors, agents or employees to complete the Services; and the payment of employees, including compliance with Social Security, withholding and all other regulations governing such matters. The Contractor agrees to be solely responsible for its own acts and those of its subordinates and employees during the term of this Contract.

4.4 Insurance

Contractor shall not commence Services under this Contract until it has provided evidence satisfactory to the Successor Agency that it has secured all insurance required under **Exhibit B**, attached hereto and incorporated herein by this reference. In addition, Contractor shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to the Successor Agency that the subcontractor has secured all insurance required under **Exhibit B**. Failure to provide and maintain all required insurance shall be grounds for the Successor Agency to terminate this Contract for cause.

4.5 Records, Reports and Audits

4.5.1 Records

- A. Records shall be established and maintained by the Contractor in accordance with requirements prescribed by the Successor Agency with respect to all matters covered by this Contract. Except as otherwise authorized, such records shall be maintained for a period of three years from the date that final payment is made under this Contract. Furthermore, records that are the subject of audit findings shall be retained for three years or until such audit findings have been resolved, whichever is later.
- B. All costs shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this Contract shall be clearly identified and readily accessible.

4.5.2 Reports and Information

Upon request, the Contractor shall furnish to the Successor Agency any and all statements, records, reports, data and information related to matters covered by this Contract in the form requested by the Successor Agency.

4.5.3 Audits and Inspections

At any time during normal business hours and as often as the Successor Agency may deem necessary, there shall be made available to the Successor Agency for examination all records with respect to all matters covered by this Contract. The Contractor will permit the Successor Agency to audit, examine, and make excerpts or transcripts from such records, and to audit all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and or data relating to all matters covered by this Contract.

4.6 *Conflicts of Interest*

The Contractor covenants and declares that, other than this Contract, it has no holdings or interests within the City of Emeryville, nor business holdings, contracts or agreements with any official, employee or other representative of the Successor Agency. For the duration of this Contract, in the event the Contractor or its principals, agents or employees acquire such a holding, interest, contract, or agreement within the City of Emeryville or with any official, employee or representative of the Successor Agency in the future, the Contractor will immediately notify the Successor Agency of such holding, interest, contract, or agreement in writing.

4.7 *Confidentiality*

The Contractor agrees that such reports, information, opinions or conclusions shall not be made available to or discussed with any individual or organization, including the news media, without prior written approval of the Successor Agency. The Contractor shall exercise reasonable precautions to prevent the unauthorized disclosure and use of Successor Agency information whether deemed confidential or not.

4.8 *Discrimination Prohibited*

The Contractor covenants and agrees that in performing the Services required under this Contract, the Contractor shall not discriminate against any person on the basis of race, color, religion, sex, sexual orientation, gender identity, marital status, national origin or ancestry, age or disability, except as provided in section 12940 of the Government Code.

4.9 *Licenses, Certifications and Permits*

The Contractor covenants and declares that it has obtained all diplomas, certificates, licenses, permits or the like required of the Contractor by any and all national, state, regional, county, city or local boards, agencies, commissions, committees or other regulatory bodies in order to perform the Services contracted for under this Contract. All work performed by Contractor under this Contract shall be in accordance with applicable legal requirements and shall meet the standard of quality ordinarily expected of competent professionals.

4.10 *Key Personnel*

The Project Manager is necessary for the successful prosecution of the Services due to their unique expertise and depth and breadth of experience. There shall be no change

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in Contractor's Project Manager or members of the project team without the Successor Agency's approval. Contractor recognizes that the composition of this team was instrumental in the Successor Agency's decision to award the work to Contractor and that compelling reasons for substituting these individuals must be demonstrated for the Successor Agency's consent to be granted. Any substitutes shall be persons of comparable or superior expertise and experience. Failure to comply with the provisions of this section shall constitute a material breach of Contractor's obligations under this Contract and shall be grounds for termination.

4.11 Authority to Contract

The Contractor covenants and declares that it has obtained all necessary approvals of its board of directors, stockholders, general partners, limited partners or similar authorities to simultaneously execute and bind Contractor to the terms of this Contract, if applicable.

4.12 Ownership of Work

All reports, designs, drawings, plans, specifications, schedules, work product and other materials prepared or in the process of being prepared for the Services to be performed by the Contractor ("Materials") shall be and are the property of the Successor Agency and the Successor Agency shall be entitled to full access and copies of all such Materials. Any such Materials remaining in the hands of the Contractor or subcontractor upon completion or termination of the work shall be delivered immediately to the Successor Agency. The Contractor assumes all risk of loss, damage or destruction of or to such Materials. If any Materials are lost, damaged or destroyed before final delivery to the Successor Agency, the Contractor shall replace them at its own expense. Any and all copyrightable subject matter in all materials is hereby assigned to the Successor Agency and the Contractor agrees to execute any additional documents that may be necessary to evidence such assignment.

4.13 City Labor Requirements**4.13.1 Compliance**

At the Effective Date, compliance with the City of Emeryville's living wage ordinance is ☒ **required** / ☐ **not required** for this Contract. If this Contract provides for compensation to Contractor of \$25,000 or more within a single fiscal year for providing Services to the Successor Agency, then Contractor shall comply with the requirements of the City's Living Wage Ordinance set forth in [Chapter 31 of Title 5 of the Emeryville Municipal Code](#), unless (i) Contractor is a governmental entity, (ii) this Contract is subject to a higher prevailing wage rate as defined in the California Labor Code, or (iii) this Contract is subject to federal or state laws or regulations that would preclude the application of the City's laws.

4.13.2 Applicability

Compliance with the Living Wage Ordinance, if applicable, shall be required during the term of the Contract for all employees of Contractor who perform at least twenty-five

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percent (25%) of the work arising from this Contract, unless said employees are otherwise exempt from the application of the Living Wage Ordinance pursuant to [Section 5-31.08 of the Emeryville Municipal Code](#). Contractor shall promptly provide to the Successor Agency documents and information verifying compliance with the requirements of the Living Wage Ordinance within ten (10) working days following a written request for such documentation and information from the Successor Agency.

4.13.3 Non-Compliance

Failure to comply with the Living Wage Ordinance provides that a person claiming a violation thereof may bring an action against Contractor for back pay, reinstatement and compensatory damages, as well as a penalty up to three times the amount of damages for a willful violation, plus reasonable attorney's fees and costs. In addition, the Successor Agency may terminate the Contract and pursue any other remedies available to the Successor Agency, including debarment, for violations of the Living Wage Ordinance.

4.13.4 Living Wage

Contractor shall notify each of its affected employees with regards to wages that are required to be paid pursuant to this Contract. "Living Wage" means no less than **\$18.00 PER HOUR** (which is [subject to increase annually on July 1st](#) to reflect the twelve-month average increase to the Consumer Price Index for all urban consumers in the San Francisco-Oakland-San Jose Metropolitan Statistical Area for the preceding year from May to April, not to exceed three percent (3%) in any one year) including wages and health benefits. If employer contributions for health benefits are not paid on an hourly basis, the employer must demonstrate to the Successor Agency the hourly value of such benefits in order to receive credit for such payments to covered employees.

4.13.5 Minimum Wage and Paid Sick Leave

In addition to the Living Wage Ordinance, the Contractor may be required to comply with the [City's Minimum Wage, Paid Sick Leave, and Other Employment Standards Ordinance](#), as set forth in [Chapter 37 of Title 5 of the Emeryville Municipal Code](#), to the extent it is applicable.

4.14 *California Labor Requirements***4.14.1 Prevailing Wage Requirements**

Contractor is aware of the requirements of [California Labor Code](#) Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects ("Prevailing Wage Laws"). If the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and if the total compensation is \$1,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. Contractor shall defend, indemnify and hold the Successor Agency, its officials, officers, employees and agents free and harmless from any claims,

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liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon the Contractor and all subcontractors to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Section 1777.1). The requirement to submit certified payroll records directly to the Labor Commissioner under Labor Code section 1771.4 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Section 1771.4.

4.14.2 Registration

If the Services are being performed as part of an applicable “public works” or “maintenance” project, then pursuant to Labor Code Sections 1725.5 and 1771.1, the Contractor and all subcontractors performing such Services must be registered with the Department of Industrial Relations. Contractor shall maintain registration for the duration of the Contract and require the same of any subcontractors, as applicable. Notwithstanding the foregoing, the contractor registration requirements mandated by Labor Code Sections 1725.5 and 1771.1 shall not apply to work performed on a public works project that is exempt pursuant to the small project exemption specified in Labor Code Sections 1725.5 and 1771.1.

4.14.3 Labor Compliance Oversight

This Contract may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Contractor’s sole responsibility to comply with all applicable registration and labor compliance requirements. Any stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor that affect Contractor’s performance of Services, including any delay, shall be Contractor’s sole responsibility. Any delay arising out of or resulting from such stop orders shall be considered Contractor caused delay and shall not be compensable by the Successor Agency. Contractor shall defend, indemnify and hold the Successor Agency, its officials, officers, employees and agents free and harmless from any claim or liability arising out of stop orders issued by the Department of Industrial Relations against Contractor or any subcontractor.

4.14.4 Workers’ Compensation

Pursuant to the requirements of section 1860 of the [California Labor Code](#), Contractor will be required to secure the payment of workers’ compensation to his employees in accordance with the provisions of section 3700 of the Labor Code. By signing this Contract, Contractor certifies the following:

“I am aware of the provisions of section 3700 of the California Labor Code which require every employer to be insured against liability for workers’ compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.”

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4.14.5 Event of Default

Failure by Contractor to comply with any provision of this Section shall constitute a default of this Contract and shall be grounds for termination as provided in this Contract.

5. TERMINATION

- A. The Successor Agency shall have the right to terminate this Contract for any reason whatsoever by providing written notice thereof at least five (5) calendar days in advance of the termination date.
- B. All termination notice periods triggered pursuant to written notice shall begin to run from the date of the United States Postal Service postmark.
- C. Upon termination, Successor Agency shall provide for payment to the Contractor for Services rendered and expenses incurred prior to the termination date.
- D. Upon receipt of a termination notice the Contractor shall: (1) promptly discontinue all Services affected, unless the notice directs otherwise; and (2) promptly deliver to the Successor Agency all data, drawings, reports, summaries, and such other information and materials as may have been generated or used by the Contractor in performing this Contract, whether completed or in process, in the form specified by the Successor Agency.
- E. Notwithstanding anything to the contrary, this Contract is subject to immediate termination in the event the Successor Agency does not appropriate sufficient funds for this Contract.
- F. The rights and remedies of the Successor Agency and the Contractor provided in this Section are in addition to any other rights and remedies provided under this Contract or at law or in equity.

6. NO PERSONAL LIABILITY

No member, official or employee of the Successor Agency shall be personally liable to the Contractor or any successor in interest in the event of any default or breach by the Successor Agency or for any amount which may become due to the Contractor or successor or on any obligation under the terms of this Contract.

7. ENTIRE AGREEMENT

This Contract constitutes the complete agreement between the Parties and supersedes any and all other agreements, either oral or in writing, between the Parties with respect to the subject matter of this Agreement. No other agreement, statement or promise relating to the subject matter of this Contract not contained in this Contract shall be valid or binding. This Contract may be modified or amended only by a written document signed by representatives of both Parties with appropriate authorization.

8. SUCCESSORS AND ASSIGNS

Subject to the provisions of this Contract regarding assignment, this Contract shall be binding on the heirs, executors, administrators, successors and assigns of the respective Parties.

9. APPLICABLE LAW AND ATTORNEY'S FEES; VENUE

If any action at law or in equity is brought to enforce or interpret the provisions of this Contract, the rules, regulations, statutes and laws of the State of California will control. The prevailing party shall be entitled to reasonable attorney's fees in addition to any other relief to which said party may be entitled. The exclusive venue for any legal action taken pursuant to this Contract shall be the State of California Superior Court for the County of Alameda or the United States District Court for the Northern District of California.

10. SEVERABILITY

The caption or headnote on articles or sections of this Contract are intended for convenience and reference purposes only and in no way define, limit or describe the scope or intent thereof, or of this Contract nor in any way affect this Contract. Should any article(s) or section(s), or any part thereof, later be deemed unenforceable by a court of competent jurisdiction, the remainder of this Contract shall remain in full force and effect to the extent possible.

11. BUSINESS TAX CERTIFICATE

Prior to commencement of the Services to be provided hereunder, Contractor shall apply to the City of Emeryville Finance Department for a business tax certificate, pay the applicable business tax and maintain said business tax certificate during the term of this Contract, as provided in Article 1 of Chapter 1 of Title 3 of the Emeryville Municipal Code.

12. NOTICES

12.1 *Communications Relating to Daily Activities*

All communications relating to the day-to-day activities of the work and invoices shall be exchanged between **Lawrence Chiu** for the Successor Agency and **Melissa Shick** for the Contractor:

SUCCESSOR AGENCY	CONTRACTOR
Lawrence Chiu, Finance Director Phone No: 510-596-4300 E-Mail : Lawrence.chiu@emeryville.org	Melissa Shick Phone No: 510-208-8226 E-Mail : mshick@knninc.com

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12.2 Official Notices

All other notices, writings or correspondence as required by this Contract shall be directed to the Successor Agency and the Contractor, respectively, as follows:

SUCCESSOR AGENCY	CONTRACTOR
<p>Paul Buddenhagen, Executive Director 1333 Park Avenue Emeryville, California 94608 Phone No: 510-596-4300 E-Mail : paul.buddenhagen@emeryville.org</p> <p><i>with a copy to:</i> City Clerk Office 1333 Park Avenue Emeryville, California 94608 Phone No: 510-596-4300 E-Mail : clerk@emeryville.org</p>	<p>Melissa Shick, Director 2054 University Avenue, Suite 300 Berkeley, CA 94704 Phone No: 510-208-8226 E-Mail : mshick@knninc.com</p>

13. COUNTERPARTS

This Contract may be signed in counterparts, each of which shall constitute an original. It is expressly agreed that each Party to this Contract shall be bound by its own telecopied, scanned, electronic or digital signature and shall accept the telecopied, scanned, electronic or digital signature of the other Party to this Contract.

14. NO THIRD-PARTY BENEFICIARIES

Except to the extent expressly provided for herein, there are no intended third-party beneficiaries of any right or obligation assumed by the Parties.

15. NON-EXCLUSIVITY

Successor Agency reserves right to employ other contractors in connection with the Services covered under this Contract.

16. ASSIGNMENT OR TRANSFER

Contractor shall not assign, hypothecate or transfer, either directly or by operation of law, this Contract or any interest herein without the prior written consent of the Successor Agency. Any attempt to do so shall be null and void, and any assignees, hypothecates or transferees shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer.

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17. WAIVER

The Successor Agency's failure to enforce any provision of this Contract or the waiver in a particular instance shall not be construed as a general waiver of any future breach or default.

18. OTHER REQUIREMENTS

Compliance with terms and conditions set forth in **Exhibit C** is ☒ **required** / ☐ **not required** for this Contract. Contractor shall also fully and adequately comply with the provisions included in **Exhibit C** ("Other Requirements") when attached hereto and incorporated herein by reference ("Other Requirements"). With respect to any conflict between such Other Requirements and the terms of this Contract and/or the provisions of state law, **Exhibit C** shall control.

SIGNATURES ON FOLLOWING PAGE

19. SIGNATURE PAGE TO PROFESSIONAL SERVICES CONTRACT

IN WITNESS WHEREOF the Successor Agency and the Contractor have executed this Contract, which shall become effective as of the date first written above.

Approved As To Form:

DocuSigned by:
John Kennedy
2C034D03DB55467...
General Counsel

Dated: CITY OF EMERYVILLE AS SUCCESSOR AGENCY TO
THE EMERYVILLE REDEVELOPMENT AGENCY

Paul Buddenhagen, Executive Director

Dated: KNN PUBLIC FINANCE, LLC

06/21/2024
DocuSigned by:
Melissa Shick
CA74D1930C0B4E1...
Melissa Shick, Director (Signature)

Attach: W-9 Form	Attach: Business License Certificate
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EXHIBIT A

Municipal Advisory Services

\$37 Million Tax Allocation Refunding Bonds, Series 2024

(Refunding of Series 2014A (Tax Exempt) and Series 2014B (Taxable))

SCOPE OF SERVICES

Contractor will provide the following municipal advisory services related to the proposed refunding of the City's outstanding Tax Allocation Refunding Bonds, Series 2014A (Tax Exempt) and Series 2014B (Taxable) as requested. Such services may include, but are not limited to assisting the City to:

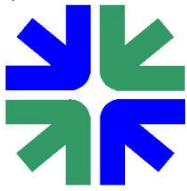
- a. Provide advice regarding market conditions and trends, debt structure, financing components, and execution timing unique to the transaction.
- b. Present alternative strategies for managing the City's current or future debt to achieve the best value for taxpayers.
- c. Develop and recommend financing structuring options, including the preparation of financial plans and analysis.
- d. Manage the implementation of City-approved financing efforts. This will involve advising and supporting the City in selecting members of the financing team (such as bond counsel consultants and underwriter); negotiating contracts with firms on the financing team; and defining the tasks, schedule, and deliverables of the members of the financing team. The municipal advisor will be responsible for the performance of the entire financing team, and arranging for any needed future reporting and maintenance.
- e. Conduct independent analysis of financing alternatives, reviewing all aspects of negotiated pricings, monitoring performance of underwriting teams, post-issuance analyses, and all tasks during the process.
- f. Serve as pricing agent on the City's behalf in the pricing of bonds for negotiated bond sales and facilitate and/or coordinate with all entities necessary to assist the City in the execution of competitive bond sales.
- g. Assist with the preparation for and participate in presentations, discussions, meetings, and conference calls with credit rating agencies for the issuance of debt.
- h. Assist with the preparation for and participate in information meetings and conference calls with prospective investors and others, as appropriate, prior to the issuance of debt.
- i. Provide other municipal advisory services to the City as needed and serve as liaison with various stakeholders, including rating agencies. This includes, as required, participating in community engagement.
- j. Provide all services in compliance with applicable State, Federal, and local laws, and requirements.
- k. Assist in the review of legal and disclosure documents as may be required for the marketing and issuance of securities and the execution of related financing transactions.
- l. Assist in the preparation for and the execution of the closing of financing transactions.

- m. Assist with preparing City Council staff reports and presentations.
- n. Make presentations to City Council, City Management, and budget committees.
- o. Be available for consultations with City staff.

FEES

Total costs are not to exceed \$56,000 and include:

- Transaction Fees: A fixed transaction fee not to exceed \$55,000 contingent on the successful closing of the proposed offering.
- Reimbursable Expenses: Reimbursement of direct expenses not to exceed \$1,000 including overhead data charges for access to Bloomberg and TM3.



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EXHIBIT B

Contract Insurance Requirements

As used in this Exhibit B, Contractor refers to **KNN PUBLIC FINANCE, LLC**.

1. MINIMUM REQUIREMENTS

Contractor shall, at its expense, procure and maintain for the duration of the Contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Work or Services required by the Contract hereunder by Contractor, its agents, representatives, employees or subcontractors. Contractor shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Contract. Such insurance shall meet at least the following minimum levels of coverage, as checked below:

1.1 *Minimum Scope of Insurance*

Coverage shall be at least as broad as the latest version of the following:

- ☒ **General Liability**
Insurance Services Office Commercial General Liability coverage (occurrence form CG 00 01).
- ☒ **Automobile Liability**
Insurance Services Office Business Auto Coverage form number CA 00 01, code 1 (any auto) or if Contractor owns no vehicles, this requirement may be met through a non-owned auto endorsement to the General Liability Policy.
- ☒ **Professional Liability / Errors and Omissions**
Written on a policy form specifically designed to protect against acts, errors or omissions of the Contractor wherein "Covered Professional Services" as designated in the policy must specifically include Services performed under this Contract.
- ☒ **Workers' Compensation and Employer's Liability**
Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance. Policies shall not contain exclusions contrary to this Contract.
- ☐ **Pollution Liability Insurance**
Pollution Liability insurance for claims arising from the discharge, dispersal release or escape or any irritant or contaminant into or upon land, any structure, the atmosphere, watercourse or body of water, including groundwater. This shall

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include on and off-site clean up and emergency response costs and claims arising from above ground and below ground storage tanks.

1.2 Minimum Limits of Insurance

Contractor shall maintain limits no less than:

☒ **General Liability**

☒ **All Contract Types**

\$1,000,000.00 per occurrence and **\$2,000,000.00** aggregate for bodily injury, personal injury and property damage, including without limitation, blanket contractual liability.

OR

☐ **Construction Specific**

\$2,000,000.00 per occurrence and **\$4,000,000.00** aggregate for bodily injury, personal injury and property damage, including without limitation, blanket contractual liability, and coverage for explosion, collapse and underground property damage hazards.

☒ **Automobile Liability**

\$1,000,000 per accident for bodily injury and property damage.

☒ **Professional Liability / Errors and Omissions**

\$2,000,000.00 per claim and aggregate.

☒ **Workers' Compensation and Employer's Liability**

Workers' compensation limits as required by the Labor Code of the State of California. Employer's Liability limits of **\$1,000,000.00** each accident, policy limit bodily injury or disease, and each employee bodily injury or disease.

☐ **Pollution Liability Insurance**

\$2,000,000.00 per occurrence and **\$2,000,000.00** aggregate.

Except for the professional liability / errors and omissions policy, defense costs shall be available in addition to the limits. Notwithstanding the minimum limits specified herein, any available coverage shall be provided to the Parties required to be named as additional insureds pursuant to this Contract.

2. INSURANCE ENDORSEMENTS

The insurance policies shall contain the following provisions, if checked, or Contractor shall provide endorsements (amendments) on forms supplied or approved by the City to add the following provisions, if checked, to the insurance policies:

City of Emeryville | Contract Insurance Requirements (Exhibit B)
REV 08/2020☒ **General Liability**

(1) Such policy shall provide the City, its officials, employees, agents and authorized volunteers additional insured status using ISO endorsements CG20 10 or CG20 37, or endorsements providing the exact same coverage, with respect to the work or operations performed by or on behalf of Contractor, including materials, parts or equipment furnished in connection with such work; (2) all policies shall waive or shall permit Contractor to waive all rights of subrogation which may be obtained by the Contractor or any insurer by virtue of payment of any loss or any coverage provided to any person named as an additional insured pursuant to this Contract, and Contractor agrees to waive all such rights of subrogation; (3) the insurance coverage shall be primary insurance as respects the City, its officials, employees, agents and authorized volunteers, or if excess, shall stand in an unbroken chain of coverage excess of Contractor's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its officials, employees, agents and authorized volunteers shall be excess of Contractor's insurance and shall not be called upon to contribute with it; and (4) the insurance coverage shall contain standard separation of insureds provisions.

☒ **Automobile Liability**

(1) Such policy shall provide the City, its officials, employees, agents and authorized volunteers additional insured status with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by Contractor or for which Contractor is responsible; (2) all policies shall waive or shall permit Contractor to waive all rights of subrogation which may be obtained by the Contractor or any insurer by virtue of payment of any loss or any coverage provided to any person named as an additional insured pursuant to this Contract, and Contractor agrees to waive all such rights of subrogation; and (3) the insurance coverage shall be primary insurance as respects the City, its officials, employees, agents and authorized volunteers, or if excess, shall stand in an unbroken chain of coverage excess of Contractor's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its officials, employees, agents and authorized volunteers shall be excess of Contractor's insurance and shall not be called upon to contribute with it in any way.

☒ **Professional Liability Coverage**

Any policy inception date, continuity date, or retroactive date must be before the effective date of this Contract and Contractor agrees to maintain continuous coverage through a period no less than three years after termination of the Contract.

City of Emeryville | Contract Insurance Requirements (Exhibit B)
REV 08/2020

☒ **Workers' Compensation and Employer's Liability Coverage**

The insurer shall agree to waive all rights of subrogation against the City, its officials, employees, agents and authorized volunteers for losses paid under the terms of the insurance policy which arise from work performed by Contractor.

☐ **Pollution Liability Coverage**

(1) Such policy shall give the City, its officials, employees, agents and authorized volunteers additional insured status with respect to claims arising from the discharge, dispersal release or escape or any irritant or contaminant into or upon land, any structure, the atmosphere, watercourse or body of water, including groundwater; (2) all policies shall waive or shall permit Contractor to waive all rights of subrogation which may be obtained by the Contractor or any insurer by virtue of payment of any loss or any coverage provided to any person named as an additional insured pursuant to this Contract, and Contractor agrees to waive all such rights of subrogation; and (3) the insurance coverage shall be primary insurance as respects the City, its officials, employees, agents and authorized volunteers, or if excess, shall stand in an unbroken chain of coverage excess of Contractor's scheduled underlying coverage. Any insurance or self-insurance maintained by the City, its officials, employees, agents and authorized volunteers shall be excess of Contractor's insurance and shall not be called upon to contribute with it in any way.

ALL COVERAGES

Each insurance policy required by this Contract shall be endorsed to state that: (1) coverage shall not be suspended, voided, reduced or canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City; and (2) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to the City, its officials, employees, agents and authorized volunteers.

3. NO SPECIAL LIMITATIONS

The required insurance shall not contain any special limitations on the scope of protection afforded to the City, its officials, employees, agents and authorized volunteers.

4. DEDUCTIBLES AND SELF-INSURANCE RETENTIONS

Any deductibles or self-insured retentions must be declared to and approved by the City. Contractor shall guarantee that, at the option of the City, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officials, employees, agents and authorized volunteers; or (2) the Contractor shall procure a bond or other financial guarantee acceptable to the City guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

City of Emeryville | Contract Insurance Requirements (Exhibit B)
REV 08/2020

5. ACCEPTABILITY OF INSURERS

Insurance is to be placed with insurers with a current A.M. Best's rating no less than A-:VII, licensed to do business in California, and satisfactory to the City. Exception may be made for the State Compensation Insurance Fund when not specifically rated.

6. VERIFICATION OF COVERAGE

Contractor shall furnish City with original certificates of insurance and endorsements effecting coverage required by this Contract on forms satisfactory to the City. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms supplied or approved by the City. All certificates and endorsements must be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.

7. SUBCONTRACTORS

All subcontractors shall meet the requirements of this Section before commencing any work. Contractor shall furnish separate certificates and endorsements for each subcontractor. Subcontractor policies of General Liability insurance shall name the City, its officials, employees, agents and authorized volunteers as additional insureds using form ISO 20 38 04 13 or endorsements providing the exact same coverage. All coverages for subcontractors shall be subject to all of the requirements stated herein except as otherwise agreed to by the City in writing.

8. REPORTING OF CLAIMS

Contractor shall report to the City, in addition to Contractor's insurer, any and all insurance claims submitted by Contractor in connection with the work performed under this Contract.



<p><i>Attach:</i> <i>Insurance Certificate and Endorsements</i></p> <div></div>

Exhibit C

Disclosure Statement of Municipal Advisor

Part A - Conflicts of Interest and Other Matters Requiring Disclosures

Pursuant to Municipal Securities Rulemaking Board ("MSRB") Rule G-42, on Duties of Non-Solicitor Municipal Advisors, Municipal Advisors are required to make certain written disclosures to clients, which include, amongst other things, Conflicts of Interest and any Legal or Disciplinary events of KNN Public Finance, LLC (KNN) and its associated persons.

The following are potential conflicts of interest to be considered.

- KNN represents that in connection with the issuance of municipal securities, KNN may receive compensation from an Issuer or Obligated Person for services rendered, which compensation is contingent upon the successful closing of a transaction and/or is based on the size of a transaction. Consistent with the requirements of MSRB Rule G-42, KNN hereby discloses that such contingent and/or transactional compensation may present a potential conflict of interest regarding KNN's ability to provide unbiased advice to undertake such transaction. The contingent fee arrangement creates an incentive for KNN to recommend unnecessary financings or financings that are disadvantageous to the Client, or to advise the Client to increase the size of the issue. This potential conflict of interest will not impair KNN's ability to render unbiased and competent advice or to fulfill its fiduciary duty to the Client.
- KNN's fees under this agreement may be based on hourly fees of KNN's personnel, with the aggregate amount equaling the number of hours worked by such personnel times an agreed-upon hourly billing rate. This form of compensation presents a potential conflict of interest because it could create an incentive for KNN to recommend alternatives that would result in more hours worked. This potential conflict of interest will not impair KNN's ability to render unbiased and competent advice or to fulfill its fiduciary duty to the Client.
- KNN's fees under this agreement may be a fixed amount established at the outset of the Agreement. The amount is usually based upon an analysis by the Client and Municipal Advisor of, among other things, the expected duration and complexity of the transaction and the Scope of Services to be performed by the Municipal Advisor. This form of compensation presents a potential conflict of interest because, if the transaction requires more work than originally contemplated, Municipal Advisor may suffer a loss. Thus, KNN may recommend less time-consuming alternatives, or fail to do a thorough analysis of alternatives. This potential conflict of interest will not impair KNN's ability to render unbiased and competent advice or to fulfill its fiduciary duty to the Client.
- The fee paid to KNN increases the cost of investment to the Client. The increased cost occurs from compensating KNN for municipal advisory services provided.
- KNN serves a wide variety of other clients that may, from time to time, have interests that could have a direct or indirect impact on the interests of another KNN client. For example, KNN serves as municipal advisor to other municipal advisory clients and, in such cases, owes a regulatory duty to such other clients just as it does to the Client. These other clients may, from time to time and depending on the specific circumstances, have competing interests. In acting in the interests of its various clients, KNN could potentially face a

conflict of interest arising from these competing client interests. KNN fulfills its regulatory duty and mitigates such conflicts by dealing honestly and with the utmost good faith with its clients.

- KNN does not have an affiliate that provides any advice, service, or product to or on behalf of the client that is directly or indirectly related to the municipal advisory activities to be performed by KNN.
- KNN has not made any payments directly or indirectly to obtain or retain the Client's municipal advisory business.
- KNN has not received any payments from third parties to enlist KNN's recommendation to the Client of its services, any municipal securities transaction, or any municipal finance product.
- KNN has not engaged in any fee-splitting arrangements involving KNN and any provider of investments or services to the Client.
- KNN does not act as principal in any of the transaction(s) related to this Agreement.

Part B - Legal Events and Disciplinary History

KNN Public Finance, LLC, has never been subject to any legal, disciplinary, or regulatory actions, nor was it ever subject to any legal, disciplinary, or regulatory actions previously when it was a division of Zions First National Bank or Zions Public Finance, Inc.

A regulatory action disclosure has been made on Form MA-I for one of KNN Public Finance's municipal advisory personnel relating to a 1998 U.S. Securities and Exchange Commission ("SEC") order that was filed while the municipal advisor was employed with a prior firm, (not KNN Public Finance). The details of which are available in Item 9; C(1), C(2), C(4), C(5) and the corresponding regulatory action DRP section on Form MA and Item 6C; (1), (2), (4), (5) and the corresponding regulatory action DRP section on Form MA-I. Issuers may electronically access KNN Public Finance's most recent Form MA and each most recent Form MA-I filed with the Commission at the following website: www.sec.gov/edgar/searchedgar/companysearch.html. For the purpose of accessing regulatory filings, KNN's CIK number is 0001664477, and SEC File number is 867-01996.

The SEC permits certain items of information required on Form MA and Form MA-I to be provided by reference to such required information already filed on a regulatory system (e.g., FINRA CRD). The above noted regulatory action has been referenced on both Form MA and MA-I due to the information already filed on FINRA's CRD system and is publicly accessible through BrokerCheck at <http://brokercheck.finra.org>. For purposes of accessing such BrokerCheck information, the Municipal Advisor's CRD number is 4457537.

PART C - Future Supplemental Disclosures

As required by MSRB Rule G-42, this Municipal Advisor Disclosure Statement may be supplemented or amended, from time to time as needed, to reflect changed circumstances resulting in new conflicts of interest or changes in the conflicts of interest described above, or to provide updated information with regard to any legal or disciplinary events of the Municipal

Advisor. KNN will provide Client with any such supplement or amendment as it becomes available throughout the term of the Agreement.

Part D – Municipal Securities Rulemaking Board Rule G-10 Disclosure

Pursuant to Municipal Securities Rulemaking Board Rule G-10, on Investor and Municipal Advisory Client Education and Protection, Municipal Advisors are required to provide certain written information to their municipal entity and obligated person clients, which include the following:

- KNN is currently registered as a Municipal Advisor with the U.S. Securities and Exchange Commission and the Municipal Securities Rulemaking Board.
- Within the Municipal Securities Rulemaking Board (“MSRB”) website at www.msrb.org, the Client may obtain the Municipal Advisory client brochure that is posted on the MSRB website. The brochure describes the protections that may be provided by the MSRB Rules, along with how to file a complaint with financial regulatory authorities.