

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is made and entered into on this 6th day of October, 2020, by and between the City of Manhattan Beach, a California municipal corporation ("City") and KNN Public Finance, Inc. a limited liability company ("Contractor") (collectively, the "Parties").

RECITALS

A. City desires to obtain financial advisory services for the purpose of financing capital improvements.

B. Contractor represents that it is qualified and able to perform the services ("Services") required by this Agreement.

NOW, THEREFORE, in consideration of the Parties' performance of the promises, covenants, and conditions stated herein, the Parties hereto agree as follows:

Section 1. Contractor's Services. Contractor shall perform the services described in **Exhibit A** ("Services") in a manner satisfactory to City and consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions.

Section 2. Term of Agreement. This Agreement shall apply to services rendered on or after October 6, 2020, and shall terminate when the work is completed, unless sooner terminated by City.

Section 3. Time of Performance. Contractor shall commence its services under this Agreement upon receipt of a written notice to proceed from City. Contractor shall complete the services in conformance with the timeline to be agreed upon between Contractor and City's representative.

Section 4. Compensation.

Compensation for Contractor's Services is outlined in **Exhibit B**.

Section 5. Method of Payment. The method of payment for compensation contractor shall be as set forth in Exhibit B.

Section 6. Independent Contractor. The Parties agree, understand, and acknowledge that Contractor is not an employee of City, but is solely an independent contractor. Contractor expressly acknowledges and agrees that City has no obligation to pay or withhold state or federal taxes or to provide workers' compensation or unemployment insurance or other employee

benefits and that any person employed by Contractor shall not be in any way an employee of City. Contractor shall have the sole legal responsibility to remit all federal and state income and social security taxes and to provide for his/her own workers' compensation and unemployment insurance and that of his/her employees or subcontractors. Neither City nor any of its agents shall have control over the conduct of Contractor or any of Contractor's employees. Contractor shall not, at any time, or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of City. Contractor shall indemnify and hold harmless City and its elected officials, officers and employees, servants, designated volunteers, and agents serving as independent contractors in the role of City officials, from any and all liability, damages, claims, costs and expenses of any nature to the extent arising from Contractor's personnel practices. City shall have the right to offset against the amount of any fees due to Contractor under this Agreement any amount due to City from Contractor as a result of Contractor's failure to promptly pay to City any reimbursement or indemnification arising under this Section 6.

Section 7. Assignment. This Agreement shall not be assigned, in whole or in part, by Contractor without the prior written approval of City. Any attempt by Contractor to so assign this Agreement or any rights, duties, or obligations arising hereunder shall be void and of no effect.

Section 8. Responsible Principals.

(a) Contractor's responsible principal, Mark T. Young, shall be principally responsible for Contractor's obligations under this Agreement and shall serve as principal liaison between City and Contractor. Designation of another Responsible Principal by Contractor shall not be made without prior written consent of City.

(b) City's Responsible Principal shall be the City Manager or designee, who shall administer the terms of the Agreement on behalf of City.

Section 9. Personnel. Contractor represents that it has, or shall secure at its own expense, all personnel required to perform the Services under this Agreement. All personnel engaged in the work shall be qualified to perform such Services.

Section 10. Permits and Licenses. Contractor shall obtain and maintain during the term of this Agreement all necessary licenses, permits, and certificates required by law for the provision of the Services.

Section 11. Interests of Contractor.

(a) Contractor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which may be affected by the Services, or which would conflict in any manner with the performance of the Services. Contractor further covenants that, in performance of this Agreement, no person having any such interest shall be employed by it. Furthermore, Contractor shall avoid the appearance of having any interest, which would conflict in any manner with the performance of the Services. Contractor shall not accept any employment or

representation during the term of this Agreement which is or may likely make Contractor “financially interested” (as provided in California Government Code §§ 1090 and 87100) in any decision made by City on any matter in connection with which Contractor has been retained.

(b) Contractor further warrants and maintains that it has not employed or retained any person or entity, other than a bona fide employee working exclusively for Contractor, to solicit or obtain this Agreement. Nor has Contractor paid or agreed to pay any person or entity, other than a bona fide employee working exclusively for Contractor, any fee, commission, gift, percentage, or any other consideration contingent upon the execution of this Agreement. Upon any breach or violation of this warranty, City shall have the right, at its sole and absolute discretion, to terminate this Agreement without further liability, or to deduct from any sums payable to Contractor hereunder the full amount or value of any such fee, commission, percentage or gift.

(c) Contractor warrants and maintains that it has no knowledge that any officer or employee of City has any interest, whether contractual, non-contractual, financial, proprietary, or otherwise, in this transaction or in the business of Contractor, and that if any such interest comes to the knowledge of Contractor at any time during the term of this Agreement, Contractor shall immediately make a complete, written disclosure of such interest to City, even if such interest would not be deemed a prohibited “conflict of interest” under applicable laws as described in this subsection.

Section 12. Insurance.

(a) Minimum Scope and Limits of Insurance. Consultant shall procure and at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

1. Commercial General Liability Insurance with a minimum limit of \$2,000,000.00 per occurrence for bodily injury, personal injury and property damage and a general aggregate limit of \$2,000,000.00 per project or location. If Consultant is a limited liability company, the commercial general liability coverage shall be amended so that Consultant and its managers, affiliates, employees, agents and other persons necessary or incidental to its operation are insureds.

2. Automobile Liability Insurance for any owned, non-owned or hired vehicle used in connection with the performance of this Agreement with a combined single limit of \$2,000,000.00 per accident for bodily injury and property damage. If Consultant does not use any owned, non-owned or hired vehicles in the performance of Services under this Agreement, Consultant shall obtain a non-owned auto endorsement to the Commercial General Liability policy required under subparagraph A.1) of this Section.

3. Workers’ Compensation Insurance as required by the State of California and Employer’s Liability Insurance with a minimum limit of \$1,000,000.00 per accident for bodily injury or disease. If Consultant has no employees while performing Services under this Agreement, workers’ compensation policy is not required, but Consultant shall execute a declaration that it has no employees.

4. Professional Liability/Errors and Omissions Insurance with minimum limits of \$2,000,000.00 per claim and in aggregate.

(b) Acceptability of Insurers. The insurance policies required under this Section shall be issued by an insurer admitted to write insurance in the State of California with a rating of A:VII or better in the latest edition of the A.M. Best Insurance Rating Guide. Self-insurance shall not be considered to comply with the insurance requirements under this Section.

(c) Additional Insured. The commercial general and automobile liability policies shall contain an endorsement naming City and its elected and appointed officials, officers, employees, agents and volunteers as additional insureds. This provision shall also apply to any excess/umbrella liability policies.

(d) Primary and Non-Contributing. The insurance policies required under this Section shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance available to City. Any insurance or self-insurance maintained by City, its elected and appointed officials, officers, employees, agents or volunteers, shall be in excess of Consultant's insurance and shall not contribute with it.

(e) Consultant's Waiver of Subrogation. The insurance policies required under this Section shall not prohibit Consultant and Consultant's employees, agents or subcontractors from waiving the right of subrogation prior to a loss. Consultant hereby waives all rights of subrogation against City.

(f) Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by City. At City's option, Consultant shall either reduce or eliminate the deductibles or self-insured retentions with respect to City, or Consultant shall procure a bond guaranteeing payment of losses and expenses.

(g) Cancellations or Modifications to Coverage. Consultant shall not cancel, reduce or otherwise modify the insurance policies required by this Section during the term of this Agreement. The commercial general and automobile liability policies required under this Agreement shall be endorsed to state that should the issuing insurer cancel the policy before the expiration date, the issuing insurer will endeavor to mail 30 days' prior written notice to City. If any insurance policy required under this Section is canceled or reduced in coverage or limits, Consultant shall, within two Business Days of notice from the insurer, phone, fax or notify City via certified mail, return receipt requested, of the cancellation of or changes to the policy.

(h) City Remedy for Noncompliance. If Consultant does not maintain the policies of insurance required under this Section in full force and effect during the term of this Agreement, or in the event any of Consultant's policies do not comply with the requirements under this Section, City may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, City may, but has no duty to, take out the necessary insurance and pay, at Consultant's expense, the premium thereon. Consultant shall promptly reimburse City for any premium paid by City or City may withhold amounts sufficient to pay the premiums from payments due to Consultant.

(i) Evidence of Insurance. Prior to the performance of Services under this Agreement, Consultant shall furnish City's Risk Manager with a certificate or certificates of insurance and all original endorsements evidencing and effecting the coverages required under this Section. The endorsements are subject to City's approval. Consultant may provide complete,

certified copies of all required insurance policies to City. Consultant shall maintain current endorsements on file with City's Risk Manager. Consultant shall provide proof to City's Risk Manager that insurance policies expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Consultant shall furnish such proof at least two weeks prior to the expiration of the coverages.

(j) Indemnity Requirements not Limiting. Procurement of insurance by Consultant shall not be construed as a limitation of Consultant's liability or as full performance of Consultant's duty to indemnify City under Section 8 of this Agreement.

(k) Broader Coverage/Higher Limits. If Consultant maintains broader coverage and/or higher limits than the minimums required above, City requires and shall be entitled to the broader coverage and/or the higher limits maintained by Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to City.

(l) Subcontractor Insurance Requirements. Consultant shall require each of its subcontractors that perform Services under this Agreement to maintain insurance coverage that meets all of the requirements of this Section.

Section 13. Indemnification. Contractor shall defend, indemnify, and hold harmless City, its officials, and every officer, employee and agent of City (collectively "City") from any claim, liability or financial loss (including, without limitation, attorneys' fees and costs) , injuries to property or persons (including without limitation, attorneys' fees and costs) arising out of any acts or omissions of Contractor, its officials, officers, employees or agents in connection with the performance of this Agreement, except for such claim, liability or financial loss or damage arising from the sole negligence or willful misconduct of City, as determined by court decision or by the agreement of the Parties. Contractor shall defend City, with counsel of City's choice, at Contractor's own cost, expense, and risk, and shall pay and satisfy any judgment, award, or decree that may be rendered against City. Contractor shall reimburse City for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Contractor's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Contractor or City. All duties of Contractor under this Section shall survive termination of this Agreement.

Section 14. Termination.

(a) City shall have the right to terminate this Agreement for any reason or for no reason upon five calendar days' written notice to Contractor. Contractor agrees to cease all work under this Agreement on or before the effective date of such notice.

(b) City may at any time, for any reason, with or without cause, suspend -this Agreement, or any portion hereof, by serving upon the Contractor written notice. Upon receipt of said notice, the Contractor shall immediately cease all work under this Agreement, unless the notice provides otherwise. If City suspends only a portion of this Agreement, such suspension shall not make void or invalidate the remainder of this Agreement.

(c) In the event of termination or cancellation of this Agreement by City, Contractor

shall have no other claim against City by reason of such termination, including any claim for compensation.

Section 15. City's Responsibility. City shall provide Contractor with all pertinent data, documents, and other requested information as is available for the proper performance of Contractor's Services.

Section 16. Information and Documents.

(a) Contractor covenants that all data, documents, discussion, or other information (collectively "Data") developed or received by Contractor or provided for performance of this Agreement are deemed confidential and shall not be disclosed or released by Contractor without prior written authorization by City. City shall grant such authorization if applicable law requires disclosure. Contractor, its officers, employees, agents, or subcontractors, shall not without written authorization from the City Manager or unless requested in writing by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement or relating to any project or property located within City. Response to a subpoena or court order shall not be considered "voluntary," provided Contractor gives City notice of such court order or subpoena.

(b) Contractor shall promptly notify City should Contractor, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder or with respect to any project or property located within the City. City retains the right, but has no obligation, to represent Contractor and/or be present at any deposition, hearing or similar proceeding. Contractor agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Contractor. However, City's right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

(c) All Data required to be furnished to City in connection with this Agreement shall become the property of City, and City may use all or any portion of the Data submitted by Contractor as City deems appropriate. Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files containing data generated for the work, surveys, notes, and other documents prepared in the course of providing the Services shall become the sole property of City and may be used, reused or otherwise disposed of by City without Contractor's permission.

(d) Contractor shall maintain complete and accurate records with respect to sales, costs, expenses, receipts and other such information required by City that relate to the performance of the Services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Contractor shall provide free access to City, its designees and representatives at reasonable times, and shall

allow City to examine and audit said books and records, to make transcripts therefrom as necessary, and to inspect all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of 3 years after receipt of final payment.

(e) Contractor's covenants under this Section shall survive the termination of this Agreement.

Section 17. Default.

(a) Contractor's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Contractor is in default under the terms of this Agreement, City shall have no obligation or duty to continue compensating Contractor for any work performed after the date of default and can terminate this Agreement immediately by written notice to Contractor. If such failure by Contractor to make progress in the performance of work hereunder arises out of causes beyond Contractor's control, and without fault or negligence of Contractor, it shall not be considered a default.

(b) If the City Manager or his delegate determines that the Contractor is in default in the performance of any of the terms or conditions of this Agreement, City shall serve the Contractor with written notice of the default. The Contractor shall have ten (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that the Contractor fails to cure its default within such period of time, City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

Section 18. Changes in the Services. City shall have the right to order, in writing, changes in the Services or the services to be performed. Any changes in the Services requested by Contractor must be made in writing and approved by both Parties.

Section 19. Notice. Any notices, bills, invoices, etc. required by this Agreement shall be deemed received on (a) the day of delivery if delivered by hand during the receiving party's regular business hours or by facsimile before or during the receiving party's regular business hours; or (b) on the second business day following deposit in the United States mail, postage prepaid, to the addresses set forth below, or to such other addresses as the Parties may, from time to time, designate in writing pursuant to this section.

If to City:	City of Manhattan Beach 1400 Highland Avenue Manhattan Beach, California 90266 Attn: Steve Charelian
-------------	---

If to Contractor:	KNN Public Finance
-------------------	--------------------

5901 W. Century Blvd.- Suite 750
Los Angeles, California 90045
Attn: Mark Young

Section 20. Attorneys' Fees. If a party commences any legal, administrative, or other action against the other party arising out of or in connection with this Agreement, the prevailing party in such action shall be entitled to have and recover from the losing party all of its attorneys' fees and other costs incurred in connection therewith, in addition to such other relief as may be sought and awarded.

Section 21. Entire Agreement. This Agreement represents the entire integrated agreement between City and Contractor, and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by a written instrument signed by both City and Contractor.

Section 22. Governing Law. The interpretation and implementation of this Agreement shall be governed by the domestic law of the State of California.

Section 23. Venue. Any litigation concerning this Agreement shall take place in the superior court with geographic jurisdiction over the City of Manhattan Beach.

Section 24. City Not Obligated to Third Parties. City shall not be obligated or liable under this Agreement to any party other than Contractor.

Section 25. Exhibits; Precedence. All documents referenced as exhibits in this Agreement are hereby incorporated in this Agreement. In the event of any discrepancy between the express provisions of this Agreement and the provisions of any document incorporated herein by reference, the provisions of this Agreement shall prevail.

Section 26. Corporate Authority. The persons executing this Agreement on behalf of the Parties warrant that they are duly authorized to execute this Agreement on behalf of said Parties and that by their execution, the Parties are formally bound to the provision of this Agreement.

Section 27. Severability. Invalidation of any provision contained herein or the application thereof to any person or entity by judgment or court order shall in no way affect any of the other covenants, conditions, restrictions, or provisions hereof, or the application thereof to any other person or entity, and the same shall remain in full force and effect.

EXECUTED on the date first written above at Manhattan Beach, California

CITY:

City of Manhattan Beach,
a California municipal corporation

CONSULTANT:

KNN Public Finance
a limited liability company

By: _____
Name: Bruce Moe
Title: City Manager

DocuSigned by:
Mark Young 9/30/2020
4AC5B4E3924F4D1...
Name: _____
Title: _____

ATTEST:

By: _____
Name: _____
Title: _____

By: _____
Name: Liza Tamura
Title: City Clerk

APPROVED AS TO FORM:

DocuSigned by:
City Attorney, Quinn Barrow 9/30/2020
C6CC9C5685B24EB...
Name: Quinn M. Barrow
Title: City Attorney

APPROVED AS TO FISCAL IMPACT:

DocuSigned by:
Steve S. Chareljian 9/30/2020
E6C7B3D8337748F...
Name: Steve S. Chareljian
Title: Finance Director

APPROVED AS TO CONTENT:

DocuSigned by:
Steve S. Chareljian 9/30/2020
E6C7B3D8337748F...
Name: Steve S. Chareljian
Title: Finance Director

EXHIBIT A: SCOPE OF SERVICES

Scope of Services

The scope of work to be performed under this agreement includes any and all services customarily provided by a Financial Advisor to a public agency in the course of analyzing and issuing debt for public purposes. This includes, but is not limited to:

- General Financial Advisory Services may include the following tasks:
- Develop and recommend strategies to maintain credit ratings.
- Assist in evaluating financial proposals and/or economic influences and/or governmental actions affecting financial objectives of the City.
- Assist in preparing materials for rating agencies presentations and other members of the financial community.
- Evaluate existing financial plans, cash flows and their fundamental objectives, recommending timing and financial requirements.
- Provide advice as to the effect of current and proposed state legislation, assist in the identification of financing alternatives and recommend adjustments where appropriate.
- Evaluate bond proceeds reinvestment procedures to help ensure optimal yields and funding needs.
- Provide advice as to the effect of federal tax legislation on the City.
- Provide advice and expertise in liability management.
- Provide advice and expertise in the analysis of existing and prospective joint ventures. Evaluate the transactions of these organizations with respect to the effect on the City.
- Provide an assessment of the relevant bond market trends, develop appropriate timetables and work schedules for the successful marketing, sale, and issuance of bonds.
- Analyze costs, financial impacts and risks of financing or investment structures.
- Assist bond counsel and staff in all aspects of the bond issuance process.

- Helping to provide and interpret current information on financial trends in the municipal debt markets.
- Act as an expert witness or spokesperson before governmental bodies, organizations or public forums.
- Provide financial advice as needed and requested by the City.
- Review of revenue structure, capital plans, and revenue enhancement mechanisms as directed.

EXHIBIT B: COMPENSATION

KNN's standard approach to billing is to charge transaction services (i.e. financings) on a fixed/capped fee basis and on-call advisory or pre-transaction work (i.e. modelling/planning) on an hourly basis.

On-Call Advisory / Pre-Transaction Fees (Hourly)

Title	Hourly Fee
Managing Director	\$325
Director	\$300
Vice President	\$275
Assistant Vice President	\$245
Associate	\$215
Analyst	\$190

For on-call financial advisory (e.g. policy development, new project analysis, debt capacity studies, etc.) and pre-transaction services (e.g. development of cash-flow model, preparation of a plan of finance, analysis of alternative financing approaches, presentations to staff and Council, etc.), we customarily propose billing based on hourly rates. Our standard hourly fees are provided in the table above.

Transaction Fees (Fixed)

Transaction Type	Fee Range
Pension Obligation Bonds	\$50,000 - \$80,000
General Obligation Bonds	\$35,000 - \$60,000
Lease Revenue Bonds or COPs	\$35,000 - \$60,000
Enterprise Revenue Bonds	\$35,000 - \$60,000
Special Assessment Bonds	\$40,000*
*shall not exceed \$7,000 per additional district in the same assessment district financing	
Mello-Roos Bonds	\$45,000 - \$70,000

For advisory services related to debt offerings, KNN typically negotiates fixed fees at the time the plan of finance is known, based on factors that impact complexity and time commitments, such as bond structure, credit structure, financing vehicle, interest rate mode, and the method of sale. The above table provides a range of fees we would expect to negotiate from.

For each issue of bonds, KNN and City shall negotiate the fee as soon as possible after the plan of finance is known.

To the extent that bonds are successfully issued, the fee and expenses due to KNN will be paid

from sale proceeds of the bonds, after KNN's submission of one or more invoices (which are determined by the City's Finance Director to be acceptable). In that event, the method and timing of payment shall be as set forth in the relevant bond documents.

If after the proceedings for a bond issue (a "Transaction") has commenced, the City notifies KNN in writing that the City has determined to terminate the Transaction proceedings and not issue such bonds, or the Agreement is terminated pursuant to Section 14 before the issuance of such bonds, then KNN may submit its invoice to the City's Finance Director within 30 days after receiving the City's notice of such termination. The invoice shall specify the fee for services rendered (based on the number of hours worked, at the hourly rate indicated above for on-call services), and the reimbursable out-of-pocket expenses incurred by KNN, for the Transaction; provided that the aggregate of the fee and expenses due under such invoice shall in no event exceed the amount otherwise payable for such Transaction if the bonds had been issued. Upon receipt, the City's Finance Director shall make a determination on whether the invoice is acceptable based on the work performed to the City's satisfaction and the expenses incurred, and may request KNN to submit a revised invoice based on such determination. Once the Finance Director determines that the invoice is acceptable, the City will make payment within 30 days.

Reimbursable Expenses

KNN seeks reimbursement for a limited number of out-of-pocket expenses, such as conference call services, color copying and statistical data obtained from outside sources. We would also seek reimbursement for air travel and hotels. Such costs should be minimal and would be capped at \$1,500 for each transaction. KNN shall be entitled to reimbursement for expenses only to the extent that are approved by City in advance. Any expenses incurred by KNN that are not expressly authorized by the Agreement will not be reimbursed by City.