

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Chief Executive Office

BOARD AGENDA # *B-4

Urgent ☐

Routine ☒

AGENDA DATE July 10, 2012

CEO Concurs with Recommendation YES ☒ NO ☐
(Information Attached)

4/5 Vote Required YES ☐ NO ☒

SUBJECT:

Approval to Proceed with the Necessary Financing Actions to Refinance and Privately Place the 1998 Series A Certificate of Participation; and to Cause all the Necessary Agreements to be Executed with the County's Financial Advisor and Special Bond/Tax Counsel; and Related Actions

STAFF RECOMMENDATIONS:

1. Authorize the Chief Executive Officer to proceed with the necessary financing actions to refund and privately place the 1998 Series A Certificate of Participation (COP).
2. Authorize the Chief Executive Officer to cause all the necessary agreements to be executed with the County's Financial Advisor KNN Public Finance, and Special Bond/Tax Counsel Stradling, Yocca, Carlson, & Rauth.
3. Authorize staff to proceed with the necessary financial analysis for the potential public or private refunding of the 2004 Series A and 2004 Series B Certificates of Participation.

FISCAL IMPACT:

On February 10, 1998, the Board of Supervisors sitting as the Capital Improvement Financing Authority, authorized the issuance and approved the financing plan and related agreements for the 1998 Series A Certificate of Participation (1998A COP) which were issued to finance the acquisition and the construction of the 10th Street Public Administration Center and related "Downtown Center" capital facilities projects. The financing was approved to be structured in the form of a Certificate of Participation. (Continued on Page 2)

BOARD ACTION AS FOLLOWS:

No. 2012-353

On motion of Supervisor Withrow, Seconded by Supervisor Monteith
and approved by the following vote,
Ayes: Supervisors: Chiesa, Withrow, Monteith, De Martini, and Chairman O'Brien
Noes: Supervisors: None
Excused or Absent: Supervisors: None
Abstaining: Supervisor: None

1) X Approved as recommended

2) Denied

3) Approved as amended

4) Other:

MOTION:



ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

Approval to Proceed with the Necessary Financing Actions to Refinance and Privately Place the 1998 Series A Certificate of Participation; and to Cause all the Necessary Agreements to be Executed with the County's Financial Advisor and Special Bond/Tax Counsel; and Related Actions

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FISCAL IMPACT: Continued

The total par amount financed was \$22,160,000, with a fixed interest rate through its maturity date of September 1, 2018.

As of Fiscal Year 2012 – 2013 the total estimated par outstanding on the 1998 Series A COP is \$10,365,000 including principal and interest. The Adopted Proposed Budget for Fiscal Year 2012-2013 included estimated revenue of \$839,644, of which \$748,040 is from Public Facility Fees, and \$91,604 in miscellaneous rents, appropriations of \$1,659,856, with a net county cost contribution of \$820,212 to service the debt for the 1998 Series A COP.

Recently, the County's Financial Advisor, KNN Public Finance, through its review of refinancing options, identified a private placement option that could reduce the County's annual General Fund debt service contribution ranging from \$50,000 to \$60,000 annually through the remaining life of the financing without extending the date of maturity over current terms.

At this time, the Board of Supervisors is requested to authorize the Chief Executive Officer to proceed with the necessary financing actions to refinance and privately place the 1998 Series A COP. Staff will return to the Board of Supervisors on July 24, 2012 with a refinancing plan for consideration and approval. Any refinancing plan brought back to the Board of Supervisors shall generate at least 3% present value savings on the \$10,365,000 refinanced.

DISCUSSION:

On June 18, 2012, consistent with the County's debt policy, the Chief Executive Officer convened the Debt Advisory Committee (DAC) to review three refinancing scenarios with KNN Public Finance. The DAC provides advice on the issuance and management of the County's debt. Members of the Committee include the Chief Executive Officer, Auditor-Controller, Treasurer-Tax Collector, County Counsel, Director of Planning and Community Development, and the Public Works Director.

Based on the different refinancing scenarios that were outlined by KNN Public Finance, the DAC unanimously recommended to obtain Board of Supervisors approval to contract for financial consulting services and special bond/tax counsel to pursue refinancing the 1998 Series A COP. The 1998 Series A COP is callable on any interest payment date of either September 1st or March 1st of each fiscal year. In order for the

Approval to Proceed with the Necessary Financing Actions to Refinance and Privately Place the 1998 Series A Certificate of Participation; and to Cause all the Necessary Agreements to be Executed with the County's Financial Advisor and Special Bond/Tax Counsel; and Related Actions

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DISCUSSION: Continued

County to exercise its call right it must notify the Trustee at least 30 days in advance of the call date. If the County is to be successful in refinancing the 1998 Series A COP, it must notify the Trustee of its intent to call no later than July 31, 2012.

NEXT RECOMMENDED ACTIONS:

The Board of Supervisors is requested to authorize two additional recommended actions associated with refinancing of the County's Certificates of Participation as outlined below:

2. Authorize the Chief Executive Officer to cause all the necessary agreements to be executed with the County's Financial Advisor KNN Public Finance, and special Bond/Tax Counsel Stradling, Yocca, Carlson, & Rauth.

This action will authorize the Chief Executive Officer to execute agreements for financial consulting and legal services associated with the refinancing of the 1998 Series A COP. With Board of Supervisors approval of this action, KNN Public Finance will provide financial consulting services for the proposed private placement refinancing of the County's outstanding 1998 Series A COP, including but not limited to, assisting in reviewing and negotiating terms with the private placement, preparing debt service schedules and debt service savings analyses, assisting the County with the credit review process, and closing the transaction. KNN will be paid a fixed fee, excluding expenses, of \$65,000, and expenses not exceed \$2,500, contingent on the successful closing of the transaction. (Attachment A)

Stradling, Yocca, Carlson & Rauth will provide legal services and advise the County as to the best legal method of accomplishing the refinancing of the 1998 Series A COP, including but not limited to, drafting resolutions, notices, and agreements, reviewing credit agreements, consulting with the lender for the refinancing and its legal counsel, consulting with counsel to County concerning any legislation or litigation during the course of the refinancing, delivering a defeasance opinion regarding the 1998 Series A COP and termination agreement for the leases related to the COPS. This legal firm has provided their expertise to the majority of the County's financings over the years. Special Counsel will be paid a fee, excluding expenses, of \$35,000, and expenses not to exceed \$2,000, contingent on the successful closing of the transaction. (Attachment B)

Approval to Proceed with the Necessary Financing Actions to Refinance and Privately Place the 1998 Series A Certificate of Participation; and to Cause all the Necessary Agreements to be Executed with the County's Financial Advisor and Special Bond/Tax Counsel; and Related Actions

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NEXT RECOMMENDED ACTION: Continued

3. Authorize staff to proceed with the necessary financial analysis for the potential public or private refinancing of the 2004 Series A and 2004 Series B Certificates of Participation.

The Board of Supervisors is requested to authorize the Chief Executive Officer working in collaboration with the DAC and the County's Financial Advisor to perform the necessary financial analysis for the potential public or private refinancing of the 2004 Series A and 2004 Series B Certificates of Participation. Staff believes that refinancing opportunities may exist to reduce the annual General Fund debt service contribution without extending the date of maturity over current terms.

Staff will return to the Board of Supervisors for approval of the professional and legal services agreements if the refinancing is a viable option.

POLICY ISSUES:

The Board of Supervisors should consider that if refinancing and reducing the annual debt service payments for its COPs is consistent with the Board's Priority of Efficient Delivery of Public Services.

STAFFING IMPACTS:

Debt Advisory Committee members will continue to evaluate refinancing options for the 1998 Series A and 2004 Series A and 2004 Series B COPs.

CONTACT PERSON:

Monica Nino, Chief Executive Officer – 525-6333

**AGREEMENT
FOR
PROFESSIONAL SERVICES**

This Agreement for Professional Services is made and entered into by and between the County of Stanislaus ("County") and KNN Public Finance, a Division of Zions First National Bank("Consultant"), as of July 10th, 2012 (the "Agreement").

Introduction

WHEREAS, the County has a need for financial consulting services for the proposed private placement/direct purchase lease refunding of the County's outstanding 1998 Series A Certificate of Participation;

WHEREAS, the County desires independent municipal financing consulting services to provide financing analysis and to facilitate the transaction, and

WHEREAS, Consultant has represented that it is qualified by training and experience to perform the services contemplated by this Agreement; and

WHEREAS, Consultant is specially trained, experienced and competent to perform and has agreed to provide such services; and

WHEREAS, pursuant to Section 31000 of the California Government Code, County is authorized to enter into contracts for professional services;

NOW, THEREFORE, in consideration of the mutual promises, covenants, terms and conditions hereinafter contained, the parties hereby agree as follows:

Terms and Conditions

1. Scope of Work

1.1 The Consultant shall furnish to the County upon execution of this Agreement or receipt of the County's written authorization to proceed, those services and work set forth in **Exhibit A**, which is attached hereto and, by this reference, made a part hereof.

1.2 All documents, drawings and written work product prepared or produced by the Consultant under this Agreement, including without limitation electronic data files, are the property of the Consultant; provided, however, the County shall have the right to reproduce, publish and use all such work, or any part thereof, in any manner and for any purposes whatsoever and to authorize others to do so. If any such work is copyrightable, the Consultant may copyright the same, except that, as to any work which is copyrighted by the Consultant, the County reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, and use such work, or any part thereof, and to authorize others to do so. The County shall defend, indemnify and hold harmless the Consultant and its officers, employees, agents, representatives, subcontractors and consultants from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, arising out of or resulting from the County's reuse of the documents and drawings prepared by the Consultant under this Agreement.

1.3 Services and work provided by the Consultant under this Agreement will be performed in a timely manner in accordance with a schedule of work set forth in Exhibit A. If there is no schedule, the hours and times for completion of said services and work are to be set by the Consultant; provided, however, that such schedule is subject to review by and concurrence of the County.

1.4 The Consultant shall provide services and work under this Agreement consistent with the requirements and standards established by applicable federal, state and County laws, ordinances, regulations and resolutions. The Consultant represents and warrants that it will perform its work in accordance with generally accepted industry standards and practices for the profession or professions that are used in performance of this Agreement and that are in effect at the time of performance of this Agreement. Except for that representation and any representations made or contained in any proposal submitted by the Consultant and any reports or opinions prepared or issued as part of the work performed by the Consultant under this Agreement, Consultant makes no other warranties, either express or implied, as part of this Agreement.

1.5 If the Consultant deems it appropriate to employ a consultant, expert or investigator in connection with the performance of the services under this Agreement, the Consultant will so advise the County and seek the County's prior approval of such employment. Any consultant, expert or investigator employed by the Consultant will be the agent of the Consultant not the County.

2. Consideration

2.1 The Consultant shall be compensated on either a time and materials basis or a lump sum basis, as provided in Exhibit A attached hereto.

2.2 Except as expressly provided in this Agreement, Consultant shall not be entitled to nor receive from County any additional consideration, compensation, salary, wages or other type of remuneration for services rendered under this Agreement, including, but not limited to, meals, lodging, transportation, drawings, renderings or mockups. Specifically, Consultant shall not be entitled by virtue of this Agreement to consideration in the form of overtime, health insurance benefits, retirement benefits, disability retirement benefits, sick leave, vacation time, paid holidays or other paid leaves of absence of any type or kind whatsoever.

2.3 The Consultant shall provide the County with a monthly or a quarterly statement, as services warrant, of fees earned and costs incurred for services provided during the billing period, which the County shall pay in full within 30 days of the date each invoice is approved by the County. The statement will generally describe the services performed, the applicable rate or rates, the basis for the calculation of fees, and a reasonable itemization of costs. All invoices for services provided shall be forwarded in the same manner and to the same person and address that is provided for service of notices herein.

2.4 County will not withhold any Federal or State income taxes or Social Security tax from any payments made by County to Consultant under the terms and conditions of this Agreement. Payment of all taxes and other assessments on such sums is the sole responsibility of Consultant. County has no responsibility or liability for payment of Consultant's taxes or assessments.

3. Term

3.1 The term of this Agreement shall commence from the date of this Agreement, and shall be for the term concluding upon the earlier of: 1) Consultant's successful completion of the scope of services set forth in Exhibit A, Part A, or 2) June 30, 2013, unless otherwise extended by mutual written agreement between Consultant and County

3.2 Should either party default in the performance of this Agreement or materially breach any of its provisions, the other party, at that party's option, may terminate this Agreement by giving written notification to the other party.

3.3 The County may terminate this agreement upon 30 days prior written notice. Termination of this Agreement shall not affect the County's obligation to pay for all fees earned and reasonable costs necessarily incurred by the Consultant as provided in Paragraph 2 herein, subject to any applicable setoffs.

3.4 This Agreement shall terminate automatically on the occurrence of (a) bankruptcy or insolvency of either party, or (b) sale of Consultant's business.

4. Required Licenses, Certificates and Permits

Any licenses, certificates or permits required by the federal, state, county or municipal governments for Consultant to provide the services and work described in Exhibit A must be procured by Consultant and be valid at the time Consultant enters into this Agreement. Further, during the term of this Agreement, Consultant must maintain such licenses, certificates and permits in full force and effect. Licenses, certificates and permits may include but are not limited to driver's licenses, professional licenses or certificates and business licenses. Such licenses, certificates and permits will be procured and maintained in force by Consultant at no expense to the County.

5. Office Space, Supplies, Equipment, Etc.

Unless otherwise provided in this Agreement, Consultant shall provide such office space, supplies, equipment, vehicles, reference materials and telephone service as is necessary for Consultant to provide the services under this Agreement. The Consultant--not the County--has the sole responsibility for payment of the costs and expenses incurred by Consultant in providing and maintaining such items.

6. Insurance

6.1 Consultant shall take out, and maintain during the life of this Agreement, insurance policies with coverage at least as broad as follows:

6.1.1 General Liability. Commercial general liability insurance covering bodily injury, personal injury, property damage, products and completed operations with limits of no less than One Million Dollars (\$1,000,000) per incident or occurrence. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to any act or omission by Consultant under this Agreement or the general aggregate limit shall be twice the required occurrence limit.

6.1.2 Professional Liability Insurance. Professional errors and omissions (malpractice) liability insurance with limits of no less than One Million Dollars (\$1,000,000) aggregate. Such professional liability insurance shall be continued for a period of no less than one year following completion of the Consultant's work under this Agreement.

6.1.3 Automobile Liability Insurance. If the Consultant or the Consultant's officers, employees, agents or representatives utilize a motor vehicle in performing any of the work or services under this Agreement, owned/non-owned automobile liability insurance providing combined single limits covering bodily injury and property damage liability with limits of no less than One Million Dollars (\$1,000,000) per incident or occurrence.

6.1.4 Workers' Compensation Insurance. Workers' Compensation insurance as required by the California Labor Code. In signing this contract, the Consultant certifies under section 1861 of the Labor Code that the Consultant is aware of the provisions of section 3700 of the Labor Code which requires every employer to be insured against liability for workmen's compensation or to undertake self-insurance in accordance with the provisions of that code, and that the Consultant will comply with such provisions before commencing the performance of the work of this Agreement.

6.2 Any deductibles, self-insured retentions or named insureds must be declared in writing and approved by County. At the option of the County, either: (a) the insurer shall reduce or eliminate such deductibles, self-insured retentions or named insureds, or (b) the Consultant shall provide a bond, cash, letter of credit, guaranty or other security satisfactory to the County guaranteeing payment of the self-insured retention or deductible and payment of any and all costs, losses, related investigations, claim administration and defense expenses. The County, in its sole discretion, may waive the requirement to reduce or eliminate deductibles or self-insured retentions, in which case, the Consultant agrees that it will be responsible for and pay any self-insured retention or deductible and will pay any and all costs, losses, related investigations, claim administration and defense expenses related to or arising out of the Consultant's defense and indemnification obligations as set forth in this Agreement.

6.3 The Consultant shall obtain a specific endorsement to all required insurance policies, except Workers' Compensation insurance and Professional Liability insurance, naming the County and its officers, officials and employees as additional insureds regarding: (a) liability arising from or in connection with the performance or omission to perform any term or condition of this Agreement by or on behalf of the Consultant, including the insured's general supervision of its subcontractors; (b) services, products and completed operations of the Consultant; (c) premises owned, occupied or used by the Consultant; and (d) automobiles owned, leased, hired or borrowed by the Consultant. For Workers' Compensation insurance, the insurance carrier shall agree to waive all rights of subrogation against the County its officers, officials and employees for losses arising from the performance of or the omission to perform any term or condition of this Agreement by the Consultant.

6.4 The Consultant's insurance coverage shall be primary insurance regarding the County and County's officers, officials and employees. Any insurance or self-insurance maintained by the County or County's officers, officials and employees shall be excess of the Consultant's insurance and shall not contribute with Consultant's insurance.

6.5 Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the County or its officers, officials and employees.

6.6 The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

6.7 Each insurance policy required by this section shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party except after thirty (30) days' prior written notice has been given to County. The Consultant shall promptly notify, or cause the insurance carrier to promptly notify, the County of any change in the insurance policy or policies required under this Agreement, including, without limitation, any reduction in coverage or in limits of the required policy or policies.

6.8 Insurance shall be placed with California admitted insurers (licensed to do business in California) with a current rating by Best's Key Rating Guide of no less than A-:VII; provided, however, that if no California admitted insurance company provides the required insurance, it is acceptable to provide the required insurance through a United States domiciled carrier that meets the required Best's rating and that is listed on the current List of Eligible Surplus Line Insurers maintained by the California Department of Insurance.

6.9 Consultant shall require that all of its subcontractors are subject to the insurance and indemnity requirements stated herein, or shall include all subcontractors as additional insureds under its insurance policies.

6.10 At least ten (10) days prior to the date the Contractor begins performance of its obligations under this Agreement, Contractor shall furnish County with certificates of insurance, and with original endorsements, showing coverage required by this Agreement, including, without limitation, those that verify coverage for subcontractors of the Contractor. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements shall be received and, in County's sole and absolute discretion, approved by County. County reserves the right to require complete copies of all required insurance policies and endorsements, at any time.

6.11 The limits of insurance described herein shall not limit the liability of the Consultant and Consultant's officers, employees, agents, representatives or subcontractors.

7. Defense and Indemnification

7.1 To the fullest extent permitted by law, Consultant shall indemnify, hold harmless and defend the County and its agents, officers and employees from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorneys' fees, arising out of, resulting from, or in connection with the performance of this Agreement by the Consultant or Consultant's officers, employees, agents, representatives or subcontractors and resulting in or attributable to personal injury, death, or damage or destruction to tangible or intangible property, including the loss of use. Notwithstanding the foregoing, Consultant's obligation to indemnify the County and its agents, officers and employees for any judgment, decree or arbitration award shall extend only to the percentage of negligence or responsibility of the Consultant in contributing to such claim, damage, loss and expense.

7.2 Consultant's obligation to defend, indemnify and hold the County and its agents, officers and employees harmless under the provisions of this paragraph is not limited to or restricted by any requirement in this Agreement for Consultant to procure and maintain a policy of insurance.

7.3 To the fullest extent permitted by law, the County shall indemnify, hold harmless and defend the Consultant and its officers, employees, agents, representatives or subcontractors from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorney's fees, arising out of or resulting from the negligence or wrongful acts of County and its officers or employees.

7.4 Subject to the limitations in 42 United States Code section 9607 (e), and unless otherwise provided in a Scope of Services approved by the parties:

(a) Consultant shall not be responsible for liability caused by the presence or release of hazardous substances or contaminants at the site, unless the release results from the negligence of Consultant or its subcontractors;

(b) No provision of this Agreement shall be interpreted to permit or obligate Consultant to assume the status of "generator," "owner," "operator," "arranger," or "transporter" under state or federal law; and

(c) At no time, shall title to hazardous substances, solid wastes, petroleum contaminated soils or other regulated substances pass to Consultant.

8. Status of Consultant

8.1 All acts of Consultant and its officers, employees, agents, representatives, subcontractors and all others acting on behalf of Consultant relating to the performance of this Agreement, shall be performed as independent contractors and not as agents, officers or employees of County. Consultant, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of County. Except as expressly provided in Exhibit A, Consultant has no authority or responsibility to exercise any rights or power vested in the County. No agent, officer or employee of the County is to be considered an employee of Consultant. It is understood by both Consultant and County that this Agreement shall not be construed or considered under any circumstances to create an employer-employee relationship or a joint venture.

8.2 At all times during the term of this Agreement, the Consultant and its officers, employees, agents, representatives or subcontractors are, and shall represent and conduct themselves as, independent contractors and not employees of County.

8.3 Consultant shall determine the method, details and means of performing the work and services to be provided by Consultant under this Agreement. Consultant shall be responsible to County only for the requirements and results specified in this Agreement and, except as expressly provided in this Agreement, shall not be subjected to County's control with respect to the physical action or activities of Consultant in fulfillment of this Agreement. Consultant has control over the manner and means of performing the services under this Agreement. If necessary, Consultant has the responsibility for employing other persons or firms to assist Consultant in fulfilling the terms and obligations under this Agreement.

8.4 Consultant is permitted to provide services to others during the same period service is provided to County under this Agreement; provided, however, such services do not conflict directly or indirectly with the performance of the Consultant's obligations under this Agreement.

8.5 If in the performance of this Agreement any third persons are employed by Consultant, such persons shall be entirely and exclusively under the direction, supervision and control of Consultant. All terms of employment including hours, wages, working conditions, discipline, hiring and discharging or any other term of employment or requirements of law shall be determined by the Consultant.

8.6 It is understood and agreed that as an independent contractor and not an employee of County, the Consultant and the Consultant's officers, employees, agents, representatives or subcontractors do not have any entitlement as a County employee, and, except as expressly provided for in any Scope of Services made a part hereof, do not have the right to act on behalf of the County in any capacity whatsoever as an agent, or to bind the County to any obligation whatsoever.

8.7 It is further understood and agreed that Consultant must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of Consultant's assigned personnel under the terms and conditions of this Agreement.

8.8 As an independent contractor, Consultant hereby indemnifies and holds County harmless from any and all claims that may be made against County based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

9. Records and Audit

9.1 Consultant shall prepare and maintain all writings, documents and records prepared or compiled in connection with the performance of this Agreement for a minimum of four (4) years from the termination or completion of this Agreement. This includes any handwriting, typewriting, printing, photostatic, photographing and every other means of recording upon any tangible thing, any form of communication or representation including letters, words, pictures, sounds or symbols or any combination thereof.

9.2 Any authorized representative of County shall have access to any writings as defined above for the purposes of making audit, evaluation, examination, excerpts and transcripts during the period such records are to be maintained by Consultant. Further, County has the right at all reasonable times to audit, inspect or otherwise evaluate the work performed or being performed under this Agreement.

10. Confidentiality

The Consultant agrees to keep confidential all information obtained or learned during the course of furnishing services under this Agreement and to not disclose or reveal such information for any purpose not directly connected with the matter for which services are provided.

11. Nondiscrimination

During the performance of this Agreement, Consultant and its officers, employees, agents, representatives or subcontractors shall not unlawfully discriminate in violation of any federal, state or local law, rule or regulation against any employee, applicant for employment or person receiving services under this Agreement because of race, religion, color, national origin, ancestry, physical or mental disability, medical condition (including genetic characteristics), marital status, age, political affiliation, sex or sexual orientation. Consultant and its officers, employees, agents, representatives or subcontractors shall comply with all applicable Federal, State and local laws and regulations related to non-discrimination and equal opportunity, including without limitation the County's nondiscrimination policy; the Fair Employment and Housing Act (Government Code sections 12900 et seq.); California Labor Code sections 1101, 1102 and 1102.1; the Federal Civil Rights Act of 1964 (P.L. 88-352), as amended; and all applicable regulations promulgated in the California Code of Regulations or the Code of Federal Regulations.

12. Assignment

This is an agreement for the services of Consultant. County has relied upon the skills, knowledge, experience and training of Consultant and the Consultant's firm, associates and employees as an inducement to enter into this Agreement. Consultant shall not assign or subcontract this Agreement without the express written consent of County. Further, Consultant shall not assign any monies due or to become due under this Agreement without the prior written consent of County.

13. Waiver of Default

Waiver of any default by either party to this Agreement shall not be deemed to be waiver of any subsequent default. Waiver or breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach, and shall not be construed to be a modification of the terms of this Agreement unless this Agreement is modified as provided below.

14. Notice

Any notice, communication, amendment, addition or deletion to this Agreement, including change of address of either party during the term of this Agreement, which Consultant or County shall be required or may desire to make shall be in writing and may be personally served or, alternatively, sent by prepaid first class mail to the respective parties as follows:

To County: Stanislaus County Purchasing Agent
1010 10th Street, Suite 5400
Modesto, CA 95354

To Consultant: KNN Public Finance
1333 Broadway, Suite 1000
Oakland, CA 94612

15. Conflicts

Consultant agrees that it has no interest and shall not acquire any interest direct or indirect which would conflict in any manner or degree with the performance of the work and services under this Agreement.

16. Severability

If any portion of this Agreement or application thereof to any person or circumstance shall be declared invalid by a court of competent jurisdiction or if it is found in contravention of any federal, state or county statute, ordinance or regulation the remaining provisions of this Agreement or the application thereof shall not be invalidated thereby and shall remain in full force and effect to the extent that the provisions of this Agreement are severable.

17. Amendment

This Agreement may be modified, amended, changed, added to or subtracted from by the mutual consent of the parties hereto if such amendment or change is in written form and executed with the same formalities as this Agreement and attached to the original Agreement to maintain continuity.

18. Entire Agreement

This Agreement supersedes any and all other agreements, either oral or in writing, between any of the parties herein with respect to the subject matter hereof and contains all the agreements between the parties with respect to such matter. Each party acknowledges that no representations, inducements, promises or agreements, oral or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding.

19. Advice of Attorney

Each party warrants and represents that in executing this Agreement, it has received independent legal advice from its attorneys or the opportunity to seek such advice.

20. Construction

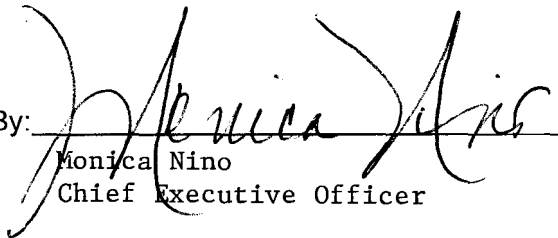
Headings or captions to the provisions of this Agreement are solely for the convenience of the parties, are not part of this Agreement, and shall not be used to interpret or determine the validity of this Agreement. Any ambiguity in this Agreement shall not be construed against the drafter, but rather the terms and provisions hereof shall be given a reasonable interpretation as if both parties had in fact drafted this Agreement.

21. Governing Law and Venue

This Agreement shall be deemed to be made under, and shall be governed by and construed in accordance with, the laws of the State of California. Any action brought to enforce the terms or provisions of this Agreement shall have venue in the County of Stanislaus, State of California.

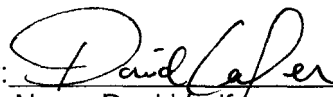
IN WITNESS WHEREOF, the parties or their duly authorized representatives have executed this Agreement on the day and year first hereinabove written.

COUNTY OF STANISLAUS

By: 
Monica Nino
Chief Executive Officer

"County"

**KNN PUBLIC FINANCE, A DIVISION OF
ZIONS FIRST NATIONAL BANK**

By: 
Name David Leifer
Managing Director

"Consultant"

APPROVED AS TO FORM:
Dean Wright, Deputy County Counsel

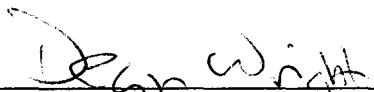
By: 
Dean Wright, Deputy County Counsel

EXHIBIT A

A. SCOPE OF WORK

The Consultant shall provide the following services under this Agreement:

1. Evaluate approaches to refinancing the County's 1998 Series A Certificate of Participation, such as public bond offering (Negotiated and Competitive) and private placement/direct purchase lease financing.
2. Conduct request for proposal processes for the selection of the private placement loan provider and other consultants/services as needed.
3. Assist in reviewing and negotiating terms with the private placement loan provider.
4. Prepare debt service schedules and debt services savings analyses.
5. Prepare a presentation for the County's Debt Advisory Committee.
6. Develop a financing schedule, manage the completion of tasks, and schedule meetings/conference calls in a timely manner.
7. Design financing structure tailored to meet the County's main objective, which is to generate the highest level of net present value savings possible with the understanding that the transaction must generate at least 3% savings as a percent of refunded par.
8. Assist in the Review of Legal Documents pertaining to Item A.1..
9. Assist the County with the credit review process that typically occurs as part of the private placement lender's due diligence.
10. Close transaction and fund refunding escrow in order to defease the County's 1998 Series A Certificate of Participation.

B. COMPENSATION

The Consultant shall be compensated for the services provided under this Agreement as follows:

1. For the Scope of Services to be provided by Consultant under Exhibit A, County agrees to pay Consultant and Consultant agrees to accept as full compensation therefore a fixed fee of \$65,000 not including expenses outlined in Section C below. The fees shall be fully contingent on the successful closing of the transaction.
2. Consultant shall submit one invoice upon completion of services to County at Stanislaus County Chief Executive Office, 1010 10th Street, Suite 6800, Modesto, CA 95354.

C. Expenses

Consultant's compensation provided above does not include, and Consultant shall be reimbursed by County for, expenses related to Consultant's performance of services under this Agreement. Such expenses are to be reimbursed upon presentation of an invoice, in arrears, upon proof of incurrence satisfactory to County. Reimbursable expenses shall not exceed \$2,500 and shall include, but not be limited to the following:

1. Travel cost, including meals, the use of personal automobiles at 55.5 cents per mile, rental vehicles, and hotel costs.
2. Courier and delivery services, postage, laser, color, photographic offset printing and reproduction costs, use of company materials and supplies, document production, copying and binding, facsimile transmission, telephone, conference call, \$550 for data information services which includes Bloomberg and TM3, and computer/graphics usage.
3. Otherwise reasonable expenses directly related to the satisfactory performance of requested work.
4. Consultant's expenses to be reimbursed by the County are subject to approval by County, as shall be deemed reasonable for carrying out the Scope of Work herein contained in the Agreement.

AGREEMENT FOR LEGAL SERVICES

RE REFINANCING OF COUNTY ADMINISTRATION BUILDING

THIS AGREEMENT, made as of this 10th day of July, 2012, by and between STANISLAUS COUNTY, a body politic and corporate of the State of California (herein the "County"), and STRADLING, YOCCA, CARLSON & RAUTH, a Professional Corporation (herein "Special Counsel"):

R E C I T A L S :

A. The County desires to retain Special Counsel to do legal work hereinafter outlined, upon the terms and conditions hereinafter set forth, related to refinancing of the County's Certificates of Participation Series A of 1998 (Downtown Center) (the "1998 Certificates") which were issued to finance the acquisition and construction of the County's administrative facilities commonly referred to as the "City-County Administration Building Project"); and

B. The County acknowledges, notwithstanding the date this Agreement is entered into, that Special Counsel has been performing work related to this Agreement prior to its date; and

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

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

1. The County retains Special Counsel to provide, and Special Counsel will provide, legal services in connection with the refinancing of the 1998 Certificates which is expected to be accomplished through a direct lease arrangement with Bank of the West (the "Refinancing"). Special Counsel agrees to consult with and advise County officials as to the best legal method of accomplishing the Refinancing. Such services shall include, but not be limited to, the drafting of resolutions, notices, agreements and other documents required for the Refinancing and the rendering of a legal opinion (hereinafter called "the opinion") pertaining to Refinancing to the effect that:

- a. The leases related to the Refinancing have been properly authorized, executed and delivered and are valid and binding obligations; and
- b. The interest component of the lease payments from the County under the lease is exempt from California personal income taxation and is excluded from gross income for purposes of federal income taxes.

Special Counsel's services will also include compiling a sufficient record justifying the opinion by:

- i. Researching applicable laws and ordinances relating to the Refinancing;
- ii. Attending conferences and consulting with County staff and counsel regarding such laws, and the need for amendments thereto, or additional legislation;
- iii. Participating with any financial advisors, underwriters or other experts retained by the County in structuring the Refinancing;
- iv. Supervising and preparing documentation of certain steps to be taken through the Refinancing including:
 - a. Drafting all resolutions, notices, rules and regulations, and other legal documents relating to the Refinancing, in consultation with County, its counsel, financial advisors, underwriters and other experts;
 - b. Preparing the record of proceedings for the authorization and execution and delivery of the documents required to accomplish the Refinancing;
 - c. Reviewing any credit agreement between the County and the Bank of the West and participating in the related negotiations;
 - d. Attending informational meetings and other conferences scheduled by the County, the financial advisors or the underwriters;
 - e. Consulting with the lender for the Refinancing and its legal counsel;
 - f. Consulting with counsel to County concerning any legislation or litigation during the course of the Refinancing;

- g. Delivering a defeasance opinion regarding the 1998 Certificates and a Termination Agreement for the leases related to the 1998 Certificates;
- i. Rendering any necessary collateral legal opinions as to the applicability of the registration requirements of federal securities laws.

2. This contract shall be administered by the Chief Executive Officer, or her designee. The Chief Executive Officer, or her designee, will provide overall coordination and guidance of the services to be performed hereunder and will address policy issues as necessary and appropriate.

3. The County agrees to accept, and Special Counsel agrees to provide, the services to be performed hereunder primarily through Robert J. Whalen and Carol L. Lew, who will be assisted by Joy Otsuki. The County reserves the right to review and approve all staff changes proposed by Special Counsel which will affect key personnel and positions assigned to provide services to the County under this Agreement. The County's approval of such staff changes shall not be unreasonably withheld.

4. For services rendered under paragraph 1 of this Agreement, the County agrees to pay Special Counsel a fee of \$35,000. Payment of such fee is contingent upon the completion of the Refinancing. It is agreed that Special Counsel's representation of the County with respect to matters related to the Refinancing will terminate on the date that the Refinancing is funded.

5. In the event that the County desires to engage Special Counsel to perform additional work outside of that described in paragraph 1, such as work related to the registration of the Refinancing in States other than California, litigation, work on legislation, work with the Internal Revenue Service related to proposed regulations, letter rulings or other matters, post-closing work related to the Refinancing, or other studies or analyses requested by the County related to the County's lease and debt financings, Special Counsel will be paid additional compensation therefor at the customary hourly rate of the attorney performing such services, which rate in no event will exceed \$490 per hour. Legal services to be rendered by Special Counsel under this paragraph shall be undertaken only at the written direction of the Chief Executive Officer, or her written designee.

Fees for legal services rendered pursuant to this paragraph 5 will be billed monthly and shall be payable by the County within thirty (30) days following the receipt of each invoice.

6. In addition to the fees set forth in paragraphs 4 and 5, Special Counsel shall be reimbursed by the County for the actual cost of any out-of-pocket expenses reasonably incurred by Special Counsel in the course of its employment, such as document reproduction, overnight delivery and messenger charges, telecommunications charges, printing costs, filing fees, long distance telephone calls, travel at the request of the County, and similar items of expense incurred by Special Counsel with respect to third parties who are not parties to this Agreement.

Reasonable and necessary travel and lodging expenses will be paid only as incurred and at the actual cost incurred. Such costs are subject to County approval and shall not exceed \$2,000. The County shall reimburse Special Counsel for travel, lodging and meals within 30 days of submission of an actual receipt for travel and lodging expenses, or submission of an itemized invoice for reimbursement of the cost of meals.

Reimbursement of travel, lodging and meals shall be made in accordance with the following requirements:

Lodging: Lodging charges shall be limited to reasonable and necessary costs for moderate accommodations. Actual receipt is required for reimbursement.

Air Travel: Air travel charges will be limited to coach or corporate rates; first class air fare will not be reimbursed. Reservations must be made as early as possible for cost savings. Actual receipt is required for reimbursement.

Meals: Reimbursement for meals shall not exceed \$50.00 per day. The County will reimburse for the actual cost of meals, not to exceed \$50.00 per day. No receipt is required, but the invoice requesting reimbursement shall provide information concerning the reimbursement requested, including the name of the person, the date and the location where the meals were purchased.

The County will not reimburse for personal expenses, laundering, tips, alcoholic beverages, pay TV, faxes or phone calls not related to the work for Stanislaus County.

7. The fee schedule set forth in paragraph 4 hereof assumes that the Refinancing will be completed by December 31, 2012.. If the Refinancing is not completed within that time, Special Counsel reserves the right to make such modifications to the fee set forth in paragraph 4 as the County and Special Counsel agree, as justified by reason of increased costs to Special Counsel, if any, and the then prevailing fee schedule for Refinancings of this type.

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

9. During the performance of this Agreement, Special Counsel agrees as follows:

(a) In connection with the execution of this Agreement, Special Counsel shall not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin. Such actions shall include, but not be limited to, the following: employment, promotion, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for employment.

(b) Special Counsel will comply with all federal regulations relative to nondiscrimination in federally-assisted programs.

(c) Special Counsel will comply with all applicable statutes and regulations relating to the Fair Political Practice Commission and further agrees to report to the County any and all benefits received by Special Counsel from other participants in the borrowing.

10. Special Counsel agrees to keep adequate documentation of each transaction to permit the determination of allowability of expenditures to be reimbursed by the County. If the allowability of expenditures cannot be determined because records of Special Counsel are inadequate, Special Counsel agrees that the questionable cost shall be disallowed by the County; provided, however, Special Counsel shall have the right to appeal findings of disallowed costs.

11. All invoices for payment, progress reports and other official communications relating to this Agreement shall be mailed to:

Stanislaus County
Attention: Chief Executive Officer
1010 10th Street, Suite 6800
Modesto, California 95354

12. Special Counsel and the employees of Special Counsel, in performance of the Agreement, shall act in an independent capacity and not as officers or agents of the County.

13. Without the written consent of the County, this Agreement is not assignable by Special Counsel in whole or in part.

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

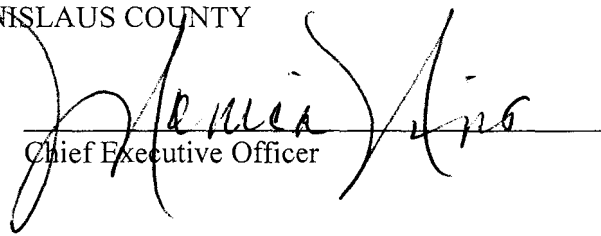
15. Special Counsel shall make staff available to the County for meetings which the County may find necessary.

16. Special Counsel shall maintain, during the term of this Agreement, professional liability insurance covering negligent acts, errors or omissions of Special Counsel, the limits of which shall not be less than \$1,000,000 combined single limit per occurrence and annual aggregate. Upon request, Special Counsel will deposit with the County certificates of insurance necessary to satisfy the County that such professional liability insurance provisions have been complied with, and shall keep such insurance in effect during the term of this Agreement. Special Counsel shall provide County thirty (30) days' written notice of any reduction in the amount of such insurance.

IN WITNESS WHEREOF, as of the date first hereinabove written, the County has caused this instrument to be executed by its Chief Executive Officer; and Special Counsel has caused this instrument to be executed on its behalf and in its name by an authorized officer of Special Counsel.

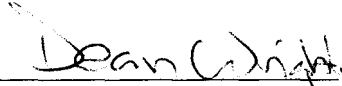
STANISLAUS COUNTY

By:


Chief Executive Officer

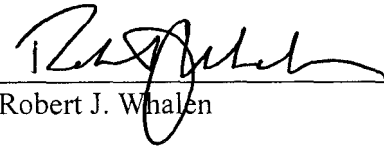
APPROVED AS TO FORM:

By:


Deputy County Counsel

STRADLING, YOCCA, CARLSON & RAUTH,
a Professional Corporation

By:


Robert J. Whalen