

**SUCCESSOR AGENCY OF THE REDEVELOPMENT AGENCY  
OF THE CITY OF MOORPARK  
AGENDA REPORT**

**TO:** Honorable Successor Agency Members

**FROM:** Ron Ahlers, Finance Director

**DATE:** June 25, 2014 (City Council Meeting of July 2, 2014)

**SUBJECT:** Consider Underwriting Services from Jefferies, LLC for the Issuance of 2014 Tax Allocation Refunding Bonds to Refund Certain Outstanding Obligations of the Former Redevelopment Agency of the City of Moorpark

**BACKGROUND**

The Successor Agency of the Redevelopment Agency of the City of Moorpark (Successor Agency) is considering issuing 2014 Tax Allocation Refunding Bonds (2014 Bonds) to refund two bond series issued by the Redevelopment Agency of the City of Moorpark (Prior Agency). The Successor Agency has enlisted the services of Jefferies LLC to provide underwriting services for the 2014 bonds.

**DISCUSSION**

Jefferies has sent three letters that adhere to the latest Municipal Securities Rulemaking Board (MSRB) rules. In brief, Jefferies is disclosing their role and responsibility dealing with the 2014 bonds.

The first letter, "Disclosures by Sole Underwriter Pursuant to MSRB Rule G-17 Successor Agency to the Redevelopment Agency of the City of Moorpark 2014 Tax Allocation Refunding Bonds" deals with their role as the underwriter on this issue.

The second letter, "Underwriting Services Relating to The Successor Agency to the Redevelopment Agency of the City of Moorpark 2014 Tax Allocation Refunding Bonds" is an agreement with Jefferies to provide the underwriting services. It details the scope of services provided by Jefferies.

The third letter, "The Successor Agency to the Redevelopment Agency of the City of Moorpark 2014 Tax Allocation Refunding Bonds – Preparing for the New SEC Municipal

Advisor Rule”, states that the Successor Agency has an independent Municipal Advisor, Urban Futures. The Successor Agency is required to sign a certificate stating that fact.

### **FISCAL IMPACT**

The proposed 2014 Bonds will generate an estimated total debt service savings of approximately \$2.25 million net of all costs of issuance, and the term of the 2014 Bonds will not exceed the term of the 1999 and 2001 Bonds being refunded. The annual savings is estimated to be approximately \$128,000. The Successor Agency may retain the savings amount to the extent it has enforceable obligations in a corresponding amount; otherwise the savings will be split among all of the affected taxing entities (including the City’s general fund). The source of repayment of the 2014 Bonds would be limited to tax increment revenues generated in the redevelopment project area, and the 2014 Bonds would not be a debt of the City.

### **STAFF RECOMMENDATION**

Authorize the Executive Director to sign the attached letters from Jefferies, subject to the final language approval by the Executive Director and Agency Counsel.

#### Attachments:

1. Jefferies letter, “Disclosures by Sole Underwriter Pursuant to MSRB Rule G-17 Successor Agency to the Redevelopment Agency of the City of Moorpark 2014 Tax Allocation Refunding Bonds”
2. Jefferies letter, “Underwriting Services Relating to The Successor Agency to the Redevelopment Agency of the City of Moorpark 2014 Tax Allocation Refunding Bonds”
3. Jefferies letter, “The Successor Agency to the Redevelopment Agency of the City of Moorpark 2014 Tax Allocation Refunding Bonds – Preparing for the New SEC Municipal Advisor Rule”

Mr. Steven Kueny  
Executive Director  
Successor Agency to the Redevelopment Agency of the City of Moorpark  
799 Moorpark Avenue  
Moorpark, CA 93021

June 26, 2014

**Re: Disclosures by Sole Underwriter Pursuant to MSRB Rule G-17 Successor Agency to the Redevelopment Agency of the City of Moorpark 2014 Tax Allocation Refunding Bonds**

Dear Mr. Kueny:

We are writing to provide you, as the Executive Director of the Successor Agency to the Redevelopment Agency of the City of Moorpark (the "Agency"), with certain disclosures relating to the captioned bond issue (the "Bonds"), as required by the Municipal Securities Rulemaking Board (MSRB) Rule G-17 in accordance with MSRB Notice 2012-25 (May 7, 2012).<sup>1</sup> Jefferies proposes to serve as an underwriter, and not as a financial advisor or municipal advisor, in connection with the issuance by the Issuer of bonds ("Bonds"). As part of our services as underwriter, Jefferies may provide advice concerning the structure, timing, terms, and other similar matters concerning the issuance of the Bonds.

I. Disclosures Concerning the Underwriter's Role

- (i) MSRB Rule G-17 requires an underwriter to deal fairly at all times with both municipal issuers and investors.
- (ii) The underwriter's primary role is to purchase the Bonds with a view to distribution in an arm's-length commercial transaction with the Issuer. The underwriter has financial and other interests that differ from those of the Issuer.
- (iii) Unlike a municipal advisor, the underwriter does not have a fiduciary duty to the Issuer under the federal securities laws and is, therefore, not required by federal law to act in the best interests of the Issuer without regard to its own financial or other interests.

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<sup>1</sup> MSRB Interpretive Notice Concerning the Application of MSRB Rule G-17 to Underwriters of Municipal Securities (August 2, 2012).

- (iv) The underwriter has a duty to purchase the Bonds from the Issuer at a fair and reasonable price, but must balance that duty with its duty to sell the Bonds to investors at prices that are fair and reasonable.
- (v) The underwriter will review the official statement for the Bonds in accordance with, and as part of, its responsibilities to investors under the federal securities laws, as applied to the facts and circumstances of this transaction.<sup>2</sup>

## II. Disclosures Concerning the Underwriter's Compensation

The underwriter will be compensated either by a fee or an underwriting discount that will be set forth in the bond purchase agreement to be negotiated and entered into in connection with the issuance of the Bonds. Payment or receipt of the underwriting fee or discount will be contingent on the closing of the transaction; the amount of the fee or discount may be based, in whole or in part, on a percentage of the principal amount of the Bonds. While this form of compensation is customary in the municipal securities market, it presents a conflict of interest since the underwriter may have an incentive to recommend a transaction that is larger than necessary and/or recommend a transaction that is unnecessary.

## III. Additional Conflicts Disclosure

Jefferies has not identified any additional potential or actual material conflicts concerning Jefferies' participation in this transaction that require disclosure.

If you or any other officials of the Issuer have any questions or concerns about these disclosures, please make those questions or concerns known immediately to the undersigned. In addition, the Issuer should consult with its own financial and/or municipal, legal, accounting, tax and other advisors, as applicable, to the extent it deems appropriate.

It is our understanding that you have the authority to bind the Issuer by contract with us, and that you are not a party to any conflict of interest relating to the subject transaction. If our understanding is incorrect, please notify the undersigned immediately. Under MSRB rules, we are required to seek your acknowledgement that you have received this letter. Accordingly, please send me an e-mail to that effect, or sign and return the enclosed copy of this letter to me at the address set forth above.

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<sup>2</sup> Under federal securities law, an issuer of securities has the primary responsibility for disclosure for investors. The review of the official statement by the underwriter is solely for purposes of satisfying the underwriter's obligations under the federal securities laws and such review should not be construed by the Issuer as a guarantee of the accuracy or completeness of the information in the official statement.

We look forward to working with you and the Issuer in connection with the issuance of the Bonds. Thank you.

Sincerely,



Matt Challis  
Senior Vice President

Acknowledgement:

\_\_\_\_\_  
Steven Kueny, Executive Director

Date: \_\_\_\_\_

cc: Karen Page, Senior Administrative Assistant

June 26, 2014

Mr. Steven Kueny  
Executive Director  
Successor Agency to the Redevelopment Agency of the City of Moorpark  
799 Moorpark Avenue  
Moorpark, CA 93021

**RE: Underwriting Services Relating to the Successor Agency to the Redevelopment Agency of the City of Moorpark 2014 Tax Allocation Refunding Bonds**

Dear Mr. Kueny:

The purpose of this letter of agreement (the "Agreement") is to establish a straight forward agreement between the Successor Agency to the Redevelopment Agency of the City of Moorpark (the "Agency") and Jefferies, pursuant to which the Agency will retain Jefferies and Jefferies will have the right to act as sole manager in connection with the structuring, issuance, sale of tax-exempt Tax Allocation Refunding Bonds for the purpose of interest rate savings in connection with refinancing the outstanding Redevelopment Agency of the City of Moorpark, Moorpark Redevelopment Project 1999 Tax Allocation Refunding Bonds and Moorpark Redevelopment Project 2001 Tax Allocation Bonds. The Bonds are intended to be arranged on terms comparable to the then prevailing market for similar transactions made in similar circumstances and shall be made pursuant to a purchase agreement and indenture, in such form, and containing such terms or conditions, as are customary for similar financings and acceptable to the Agency in its sole discretion.

By execution of this Agreement, The Agency agrees to retain Jefferies for the period between June of 2014 through July of 2015 or the closing of the Bonds whichever is sooner. The Agency further agrees that for such a period as this Agreement remains in force, it will not initiate any alternative form of financing nor respond to unsolicited proposals for the Bonds except with the consent of Jefferies or as provided below. Jefferies agrees to use its best efforts to assist The Agency in securing financing, consistent with Jefferies' reasonable business judgment and subject to market conditions. However, Jefferies will not provide any legal, tax or accounting advice. As is industry standard, In consideration for the services rendered by Jefferies the Agency agrees to pay Jefferies, upon closing, a fee equal to the amount of 1.00% of the par amount of the Bonds (plus cost of our counsel, as appropriate). Jefferies is working on a completely contingent basis for this proposed refinancing and will only be paid from the successful sale of the bonds. The Agency will have no liability whatsoever for payment of any fee to Jefferies unless the bonds

are successfully marketed and closed. Jefferies will be paid via the underwriter's discount that is a part of the bond financing. Jefferies will not be a municipal advisor to the Agency.

**Scope of Assignment as Underwriter:**

*Work with the Agency and its financial advisor to:*

1. Provide advice as to the overall financial structure
2. Coordinate the processing of the financing
3. Prepare financing cash-flows and savings analysis based on current market conditions
4. Provide input and comment regarding the preparation of the bond indenture
5. Present the financing to qualified bond purchasers
6. Solicit orders for the bonds via a broad-based national marketing effort
7. Enter into a bond purchase agreement with the Agency for the Bonds
8. Coordinate the closing of the financing
9. Fund the bond purchase at closing

In connection with the sale of the Bonds in which Jefferies and the Agency elect to participate, the Agency shall enter into a bond purchase agreement (the "BPA") with Jefferies, which agreement shall be based on Jefferies' customary form for this transaction (a "Definitive Agreement") and contain terms reasonably acceptable to the Agency. Jefferies shall have no obligation thereunder to act as underwriter with respect to the sale of the Bonds unless and until Jefferies has executed the BPA.

The terms of this Agreement constitute the entire agreement between the parties concerning the matters addressed herein and may be amended, modified or waived only by a separate writing signed by each party expressly so amending, modifying or waiving such terms. It is understood and agreed that no failure or delay by either party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege hereunder. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect. Each of the parties agrees and consents to personal jurisdiction and venue in any federal or state court within the State of California having subject matter jurisdiction, for the purpose of any action, suit or proceeding arising out of or relating to this Agreement. This Agreement shall be governed by and construed in accordance with the laws of the State of California applicable to contracts made and to be fully performed in such state.

Please sign and return one copy of this letter which will constitute our agreement with respect to the matters set forth herein. This Agreement may be executed in separate counterparts, either of which, when so executed, shall be deemed to be an original and both of which, when taken together, shall constitute but one and the same agreement.

We appreciate the opportunity to work with the Agency and the financing team. Please call me (415) 229 1489 if you have any questions regarding this letter.

Sincerely,



Matt Challis  
Senior Vice President

Agreed to and Accepted this \_\_\_ day of \_\_\_\_\_, 2014

SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF MOORPARK

By \_\_\_\_\_

Steven Kueny  
Executive Director

June 26, 2014

Mr. Steven Kueny  
Executive Director  
Successor Agency to the Redevelopment Agency of the City of Moorpark  
799 Moorpark Avenue  
Moorpark, CA 93021

Re: The Successor Agency to the Redevelopment Agency of the City of Moorpark  
2014 Tax Allocation Refunding Bonds – Preparing for the New SEC Municipal  
Advisor Rule

Dear Mr. Kueny:

Jefferies (“we”) has been pleased to serve as your investment banker and hope that you agree that we have brought you creative financing ideas. We hope to continue to be able to do so and wish to inform you of steps that you may want to take to continue the free flow of ideas between us beginning July 1, 2014 when the new SEC municipal advisor rule (MA Rule) takes effect.

As you may be aware, under the MA rule, we may only provide you with tailored recommendations on the issuance of municipal securities and certain municipal financial products, including investments of your bond proceeds and escrows, if we qualify for at least one of three exemptions: (1) the “RFP exemption,” (2) the “independent municipal advisor (MA) exemption,” or (3) the “underwriter exemption.” Unfortunately, according to SEC staff, if we provide you with tailored recommendations on a financing and do not qualify for an exemption, we may not subsequently underwrite the recommended financing even if you would prefer that we do so. It is our obligation to make sure that an exemption applies to our recommendations to you. In this case, the exemption which applies is the “independent municipal advisor (MA) exemption.” The following provides an overview of this exemption and a certification that you have hired Urban Futures Inc. as your Financial Advisor for the above referenced transaction. We note that, for your convenience, Jefferies uses the SIFMA model exemption language, which has been adopted by most dealer firms.

The Independent Registered MA Exemption

The independent MA exemption applies when you represent in writing to us that you have an independent registered municipal advisor to evaluate financing proposals such as ours and that you will rely on that municipal advisor for advice. We, in turn, would provide you and your municipal advisor with written disclosure that we are not a municipal advisor and are, therefore, not subject to a fiduciary duty to you under the Securities Exchange Act. We would also disclose any material incentives and conflicts of interest. This is much the same disclosure as you are already receiving in the form of MSRB Rule G-17 letters.

Next Steps

Once again, the MA Rule is effective July 1, 2014, even for transactions already in progress at that time. In order to continue to provide ideas and advice to the City's financing team we request that you review this letter with your counsel and financial advisor, and then return the Attachment A certification.

Best regards,

A handwritten signature in black ink, appearing to read "Matt Challis". The signature is written in a cursive, flowing style.

Matt Challis  
Senior Vice President  
Jefferies Municipal Finance Group

## Attachment A

## Independent Municipal Advisor Exemption Certificate

June 26, 2014

The Successor Agency to the Redevelopment Agency of the City of Moorpark (the "Agency") has retained an independent registered municipal advisor. The Agency is represented by and will rely on its municipal advisor, Urban Futures Inc., to provide advice on proposals from financial services firms concerning the issuance of municipal securities and municipal financial products (including investments of bond proceeds and escrow investments).<sup>1</sup> This certificate may be relied upon until July 1, 2015. If the proposal received will be seriously considered by the Agency, the Agency will share the document with its municipal advisor. Please note, that aside from regulatorily mandated correspondence between an underwriter and municipal advisor, the underwriter should not speak directly with or send documents directly to the municipal advisor unless specifically directed to by the Agency.

Best regards,



Matt Challis  
Senior Vice President  
Jefferies Municipal Finance Group

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Mr. Steven Kueny  
Executive Director  
Successor Agency to the Redevelopment Agency of the City of Moorpark

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<sup>1</sup> If applicable.