



Item No. 14 Town of Atherton

CITY COUNCIL STAFF REPORT – CONSENT AGENDA

TO: HONORABLE MAYOR AND CITY COUNCIL

**FROM: GEORGE RODERICKS, CITY MANAGER
ROBERT BARRON III, FINANCE DIRECTOR**

DATE: JANUARY 15, 2020

**SUBJECT: APPROVE SELECTION OF UNDERWRITER AND BOND AND
DISCLOSURE COUNSEL FOR THE ISSUANCE OF
CERTIFICATES OF PARTICIPATION**

RECOMMENDATION

Authorize staff to engage services with (1) Jones Hall to serve as Bond and Disclosure Counsel and (2) Stifel, Nicolaus & Company to serve as Underwriter/Placement Agent.

BACKGROUND

At its November 20, 2019 City Council Meeting, the City Council reviewed and discussed additional funding scenarios prepared by staff and Urban Futures, the Town's Municipal Advisor, for funding a portion of the Town Center project. After discussion of funding alternatives inclusive of a Certificate of Participation, Line of Credit, and Tax Revenue Anticipation Note, Council directed staff to initiate the financing process for the issuance of Certificates of Participation (COP).

Council was advised that the financing process requires 12-16 weeks and that the Town did not need to commit to a borrowing amount at this time. If additional project donations are received before financed funds are required, the Town can reduce any projected amount to be borrowed via a COP.

Staff advised that Urban Futures would conduct a request for proposal and recommend engagement of an Underwriter and Bond and Disclosure Counsel.

ANALYSIS

On December 9, 2019, Urban Futures, with Town approval, solicited proposals and fee quotes from three underwriting firms to provide investment banking and underwriting/placement agent services and three bond counsel firms to provide bond counsel and disclosure counsel services for the Town's COP issuance. Responses were received from two of the underwriting firms and all

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three of the bond counsel firms.

The following bids were provided by Underwriting firms:

| <i>Firm</i> | <i>Takedown (\$/bond)</i> | <i>Expenses (\$/bond)</i> | <i>Total Gross Spread (\$/bond)</i> | <i>Private Placement Fee</i> |
|---------------------------------------|-------------------------------|-------------------------------|---|----------------------------------|
| Stifel, Nicolaus & Company | \$4.50 | \$1.92 | \$6.42 | \$18,500 |
| Raymond James | \$6.55 | \$1.75 | \$8.30 | \$25,000 |

The proposals received for Underwriter/Placement Agent were reviewed by Urban Futures and staff. Firms were evaluated based on firm and team experience with General Fund lease financings, issuer knowledge, pricing/placement execution, credit analysis, and marketing and distribution capabilities. The process concluded with unanimous concurrence of the evaluation team that Stifel, Nicolaus & Company was the firm that would best serve the Town on this financing. Both firms provided very thorough analysis and good ideas in their responses, and both ranked highly on the evaluation criteria. Stifel ultimately provided a materially lower bid, and the main banker covering the Town is based out of San Francisco as opposed to Southern California. Additionally, Stifel has provided the Town with some market input for prior financing scenarios brought to Council.

The following bids were provided by the Bond Counsel and Disclosure Counsel (BC/DC) firms:

| <i>Firm</i> | <i>Private Placement - BC</i> | <i>Public Offering - BC/DC</i> | <i>Expenses</i> |
|--|-----------------------------------|------------------------------------|-----------------|
| Jones Hall | \$35,000 | \$60,000 | \$3,000 |
| Schiff Hardin¹ | \$55,000 | \$75,000 | Misc. |
| Stradling Yocca Carlson & Rauth² | \$40,000 | \$65,000 | \$2,500 |

1. Fee of \$75,000 if a private placement memo is required; NTE expenses of \$900 for a placement; NTE expenses of \$3,000 for a public sale
2. \$45,000 BC only; \$30,000 DC only for a public sale; \$65,000 if serving as both BC and DC.

The proposals received for Bond and Disclosure Counsel were reviewed by Urban Futures and staff. Firms were again evaluated based on firm and team experience, General Fund lease financing experience, issuer knowledge, and overall responsiveness to the RFP. The process concluded with unanimous concurrence of the evaluation team that Jones Hall was the firm that would best serve the Town on this financing. Jones Hall was ranked highest due to experience with California lease financing transactions, input regarding fair rental value for the financing, issuer knowledge, proximity to the Town, and its competitive fee.

POLICY ISSUES

The Town does not have a history of debt. However, most agencies will enter into short- or long-term debt for large structural capital projects that exceed their budget constraints. Typical facilities

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financed via COPs include administration buildings, water and sewer systems, public safety facilities, schools, parking garages, etc. While the Town is fortunate to have cash on hand, donations, and projected revenues to complete its most significant capital infrastructure project, that cash will not be fully realized until the project is complete. This creates a cash flow burden on the Town's General Fund and triggers the need for a COP.

In order to proceed with a COP, the Town is required to engage an Underwriter and Bond Counsel/Disclosure Counsel. They are a key part of the financing component. The underwriter functions as the placement agent for the COPs. They structure the financing, sets prices and sells certificates to investors. The Bond Counsel provides the legal advice to the issuer on financing, drafts primary bond documents, and also prepares the official statement describing the security and its risks for investors. Once the team is appointed, we would begin the preparation of the formal documents, credit rating, and background documentation for the issuance of COP's.

The financing team will return to Council at a future date for authorization to issue the COP and for approval of the form of financing documents.

FISCAL IMPACT

Staff is recommending the Council approve the recommended Underwriter and Bond and Disclosure Counsel. Fees and expenses of the financing team members are contingent upon successful closing of the financing and will be paid out of the proceeds of the financing. In summary, the fee structures are detailed below depending on whether the financing will be a public offering or private placement.

Public Offering

| Role | Firm Name | Fee | Expenses | Total |
|-----------------------------|------------------|-------------|-----------------|--------------|
| Bond and Disclosure Counsel | Jones Hall | \$60,000 | \$3,000 | \$63,000 |
| Underwriter | Stifel | \$4.50/bond | \$1.92/bond | \$6.42/bond |

Private Placement

| Role | Firm Name | Fee | Expenses | Total |
|-----------------|------------------|------------|-----------------|--------------|
| Bond Counsel | Jones Hall | \$35,000 | \$3,000 | \$38,000 |
| Placement Agent | Stifel | \$18,500 | | \$18,500 |

Staff will run cash flow scenarios monthly to keep current a projection of when the authorization for COP is needed and will begin the process in advance of that date. The issuance process takes approximately 10-12 weeks.

PUBLIC NOTICE

Public notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting in print and electronically. Information about the project is also disseminated via the Town's electronic News Flash and Atherton Online. There are approximately 1,200 subscribers to the Town's electronic News Flash publications. Subscribers include residents as well as stakeholders – to include, but be not limited to, media outlets, school districts, Menlo

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Park Fire District, service provides (water, power, and sewer), and regional elected officials. The Town maintains an active and up to date Project Website at <http://ca-atherton.civicplus.com/index.aspx?NID=290>.