

## MEMORANDUM

## Staff Summary No. 4

**Date:** November 12, 2020

**To:** Members of the California School Finance Authority

**From:** Katrina M. Johantgen, Executive Director

**Subject:** Resolution 20-36, Authorizing the Approval of Agreements for Financial and Legal Services to Support the California School Finance Authority's K-14 and Charter School ASAP Programs

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**Background:** The State's 2020-21 adopted budget includes deferrals of up to \$12.9 billion in state aid to school districts, community colleges, county offices of education and charter schools ("Local Education Agencies" or "LEAs"). These LEAs are expected to receive between 64% - 70% of their State apportionment payments for the 2020-21 school year, with deferrals starting in February 2021 through June 2021, and deferral repayment expected from July 2021 through November 2021. Unless the LEA has sufficient cash reserves, it's likely it will need to borrow from external sources such as its county, or access funding through the capital markets. To assist LEAs with a cost-effective external borrowing option, the California School Finance Authority (Authority) and the State Treasurer's Office (STO) created two separate Tax and Revenue Anticipation Note (TRAN) Programs to help manage the financial impacts of these deferrals, the State Aid Intercept Note Program which is for school districts, community colleges, and county offices of education, and the Charter School ASAP Program (Advances on State Aid Payments) which is for charter schools.

The Authority and our STO colleagues have been working in earnest for the last five months to develop the two TRAN programs. Leveraging the Authority's broad statutory mandate, its intercept mechanism and other key provisions, we developed a program that is low-cost, streamlined, and secure. Working with our Public Finance Division colleagues in the STO, we have assembled capital market participants to perform an array of tasks and duties to launch the two TRAN Programs. To date, over 150 K-14 districts have applied seeking \$2.4 billion in funding, and 200 charter schools have applied requesting approximately \$280 million in working capital. *Please note that applicants have no obligation to issue notes through the Programs. We anticipate the number of actual borrowers to be less than the number of applications.* The targeted funding date for the Authority's TRAN programs is early March 2021.

**Issue:** The Executive Director has contracting authority of up to \$300,000 pursuant to Resolution No. 15-08, dated March 11, 2015. As the financing team does not have final commitments from LEA's, and as the fee structure is based on the number of borrowers and amounts borrowed, the final amount of these contracts is unknown at this time. Out of an abundance of caution, the Authority is bringing these contracts for approval in anticipation of a large financing, resulting in higher fees to these vendors. At this time, the Authority is seeking approval to allow the Executive Director to enter into the following contracts that are

Resolution 20-36  
Approval of Agreements for Financial and Legal Services

expected to exceed the \$300,000 cap: 1) Montague DeRose & Associates, LLP serving as Municipal Advisor; 2) Nixon Peabody LLP serving as Disclosure Counsel; 3) Norton Rose Fulbright LLP serving as Bond Counsel for the State Aid Intercept Note Program; and 4) Orrick, Herrington & Sutcliffe LLP serving as Bond Counsel for the Charter School ASAP Program. The table on the following page sets forth the contract information for your consideration.

*In order to reduce borrowing costs for LEA's, the Authority has agreed to pay certain program development costs and other upfront fees from existing resources. All other costs (outside of program set up costs) will be paid from Program cost of issuance. As this program may be needed as a financial tool in the coming years for LEA's, the Authority deems these up front program development costs an investment in the Authority's long-term program portfolio.*

**Recommendation:** Staff recommends board approval for Resolution 20-36, Authorizing the Approval of Agreements for Municipal Advisory and Legal Services to Support the California School Finance Authority's State Aid Intercept Note Program and Charter School ASAP Program.

Firm / Role	Contract Number	Primary Scope of Work	Payment Agreement for K-14 TRAN	Payment Agreement for ASAP
<p>Montague DeRose &amp; Associates, LLC</p> <p>Municipal Advisor</p>	<p>CSFA 02-20</p>	<p>The firm will be expected to provide the full range of municipal advisory services required in connection with (a) the development of the K-14 Districts TRAN Pool program and the Charter Schools TRAN Pool program (the "Programs"); (b) the successful issuance and delivery of bonds by CSFA for the two programs; and (c) additional services as mutually agreed between the parties.</p>	<p><u>State Credit Structure:</u> The Firm will be paid a variable rate fee schedule, up to a cap, based on the amount borrowed by each K-14 District set forth in Schedule 1.a.<sup>1</sup>, less the amount of \$4,000 to be paid to Eide Bailly for each borrowing assigned to Eide Bailly.</p> <p><u>District Credit Structure:</u> 2) The Firm will be paid a variable rate fee schedule, up to a cap, based on the amount borrowed by each K-14 District set forth in Schedule 2.a.<sup>2</sup>, See less the amount of \$4,000 to be paid to Eide Bailly for each borrowing assigned to Eide Bailly.</p>	<p>The Firm will be paid a fixed fee of \$1,000 per borrower, plus a variable fee of 0.30%, with a fee cap of \$30,000 per borrower.</p>
<p>Nixon Peabody LLP</p> <p>Disclosure Counsel</p>	<p>CSFA 04-20</p>	<p>The Firm will prepare and maintain, the preliminary and final official statement (Offering Documents) and related certificates including providing a "10b-5" letter on the preliminary official statement and the official</p>	<p><u>State Credit Structure:</u> For an Offering Document with a total par size up to \$400 million, the Firm will be paid a flat fee of \$75,000. For an Offering Document with a total par size of more than \$400</p>	<p>The Firm will be paid a fixed fee of \$1,000 per borrower, plus a variable fee of 0.15%, with a fee cap of \$20,000 per borrower.</p>

<sup>1</sup> See Exhibit A

<sup>2</sup> See Exhibit B

Resolution 20-36  
Approval of Agreements for Financial and Legal Services

Firm / Role	Contract Number	Primary Scope of Work	Payment Agreement for K-14 TRAN	Payment Agreement for ASAP
		statement (excluding tax matters) for the Programs. The Firm will work with the STO, CSFA, bond counsel, municipal advisor and program participants in preparing and maintaining the Offering Documents and related certificates.	million, the Firm will be reimbursed for the actual time incurred based on an single, blended rate of \$525 per hour for all attorneys of the Firm, subject to a cap of \$125,000.  <u>District Credit Structure:</u> The Firm will be paid a fixed fee of \$1,500 per borrower, plus a variable fee of 0.015%, with a fee cap of \$6,000 per borrower.	
Norton Rose Fulbright  Bond Counsel (K-14 Program)	CSFA 05-20	The Firm will provide the full range of bond counsel services required with (a) development of the K-14 Districts TRAN Pool Program; (b) the successful issuance and delivery of bonds by CSFA for the Program; and (c) additional services as mutually agreed between the parties.	Program Setup: The Firm will be reimbursed for time incurred, up to a maximum of \$100,000, at a Blended Hourly Rate of \$595 for attorneys and \$250 Paralegals and Legal Assistants; not contingent on closing of transaction(s). Bond Counsel: The Firm will be paid a Fixed Fee of \$6,000 per aggregate bond sale, and a Variable Fee of 0.080% of the amount of each participant's borrowing, with a cap of \$6,000 per borrower. These bond counsel fees are contingent on and payable	

Resolution 20-36  
 Approval of Agreements for Financial and Legal Services

Firm / Role	Contract Number	Primary Scope of Work	Payment Agreement for K-14 TRAN	Payment Agreement for ASAP
			at the closing of each transaction.	
<p>Orrick, Herrington &amp; Sutcliffe LLP</p> <p>Bond Counsel (Charter School ASAP Program)</p>	<p>CSFA 06-20</p>	<p>The Firm will provide the full range of bond counsel services required with (a) development of the Charter Schools TRAN Program (the "Program"); (b) the successful issuance and delivery of bonds or notes by CSFA for the Program; and (c) additional services as mutually agreed between the parties.</p>		<p>Program Setup: The Firm will be reimbursed for time incurred, up to a maximum of \$100,000, at a Blended Hourly Rate of \$595 for attorneys and \$290 for Paralegals and Legal Assistants; not contingent on closing of transaction(s).          Bond Counsel: The Firm will be paid a fixed fee of \$2,500 per borrower, plus a Variable Fee of 0.10% of the amount of each participant's borrowing, with a fee cap of \$20,000 per borrower. These bond counsel fees are contingent on and payable at the closing of each transaction.</p>

Exhibit A

<b>Schedule 1.a.</b>				
<b>Min. Range</b>	<b>Max. Range</b>	<b>Fixed Fee</b>	<b>Variable Fee</b>	<b>Fee Cap</b>
\$0	\$299,999	\$0	0.35%	n/a
300,000	1,599,999	0	0.40%	n/a
1,600,000	1,899,999	0	0.36%	n/a
1,900,000	2,749,999	0	0.28%	n/a
2,750,000	4,999,999	0	0.25%	n/a
5,000,000	6,499,999	0	0.18%	n/a
6,500,000	12,499,999	0	0.12%	n/a
12,500,000	19,999,999	0	0.07%	n/a
20,000,000	24,999,999	0	0.06%	n/a
25,000,000	100,000,000	0	0.06%	\$20,000

Exhibit B

<b>Schedule 2.b.</b>				
<b>Min. Range</b>	<b>Max. Range</b>	<b>Fixed Fee</b>	<b>Variable Fee</b>	<b>Fee Cap</b>
\$0	\$299,999	\$0	0.35%	n/a
300,000	1,599,999	0	0.40%	n/a
1,600,000	1,899,999	0	0.36%	n/a
1,900,000	2,749,999	0	0.28%	n/a
2,750,000	4,999,999	0	0.25%	n/a
5,000,000	6,499,999	0	0.18%	n/a
6,500,000	12,499,999	0	0.12%	n/a
12,500,000	19,999,999	0	0.07%	n/a
20,000,000	24,999,999	0	0.06%	n/a
25,000,000	100,000,000	0	0.06%	\$30,000