

## **FINANCIAL CONSULTING AGREEMENT**

This Agreement is made and entered into this 7th day of May, 2013, between the City of Lemoore (the "Borrower"), a California municipal corporation, and Cooperman Associates ("Financial Advisor").

### **RECITALS**

WHEREAS, the Borrower desire to hire a financial advisor to assist it in a program to issue approximately \$7 Million of tax-exempt or taxable term debt, or similar instruments to fund solar and related improvements for the Water Enterprise Fund of the Borrower, and

WHEREAS, the Financial Advisor has agreed to provide the required financial advisory services for the financing, to be completed in one transaction; and

WHEREAS, the Financial Advisor shall be a contractor independent of the Borrower;

NOW, THEREFORE, in consideration of their mutual covenants and conditions, the parties agree as follows:

### **DUTIES OF THE FINANCIAL ADVISOR**

1. Develop in conjunction with Borrower staff and prepare a comprehensive private placement financing plan for the financing of the Borrower's improvements.
2. Assist in preparation with Borrower staff, counsel, placement agent and other consultants a timetable and schedule of work for the financing plan, including dates of major financing activities.
3. Assist the Borrower in responding to inquiries regarding the financing.
4. Assist in controlling costs of issuance from all advisors and parties.
5. Assist in development of a transaction summary for use with the investor to outline the terms of the financing, including a description of the Borrower, the collateral pledged, the maturity and interest rates and certain other information on the structure of the financing
6. Perform financial analyses and other marketing advice regarding the financing.
7. Recommend timing of the issue.
8. Assist counsel in organizing the closing, the delivery of the indebtedness in return for payment, and recommend appropriate investments for the proceeds.
9. Negotiate on behalf of the Borrower with any credit enhancement providers, as and if needed.
10. Work cohesively with Borrower staff and other consultants to ensure completion of a successful financing.
11. Assist the Borrower in arranging investment of the proceeds of the issue.
12. Throughout the contract period make oral and/or written presentations, as needed.

### **DUTIES OF THE BORROWER**

1. The Borrower shall make payment to the Financial Advisor as provided for in this Agreement.
2. The Borrower shall assist the Financial Advisor in providing documents, studies, reports and other information necessary for provision of the financial advisory services.
3. The Borrower will place on the agenda for consideration by the City Council of the Borrower those authorizations needed to complete the financing.
4. The Borrower will implement measures to ensure proper security and liquidity for the investor and, if and as necessary, any credit enhancement party.

## **TERM AND TERMINATION**

This Agreement will commence upon its execution by the parties, and will continue until the Financial Advisor has fully rendered the services with respect to the initial financing and any subsequent financings, as and if needed, through the end of the Borrower's contemplated improvement program, and the Borrower has made payment unless sooner terminated. The Borrower may terminate or suspend this Agreement for cause at any time by giving written notice to the Financial Advisor of such termination or suspension and specifying the effective date thereof, at least ninety (90) days before the effective date of such termination or suspension. Notices of termination shall be delivered by certified mail return receipt requested. The Financial Advisor shall be given an opportunity for consultation with the Borrower and cure of any deficiencies prior to the effective date of such termination. In the event of termination, all finished or unfinished documents and other materials prepared pursuant to this Agreement shall, at the option of the Borrower, become its property, subject to Borrower submitting payment of all sums due Financial Advisor hereunder. Upon such termination, Financial Advisor shall meet with the Borrower's staff and provide it all information developed by Financial Advisor pursuant to this Agreement. The Financial Advisor shall be entitled to receive its hourly rate of \$350.00 and actual costs and expenses for work previously performed, set forth in "Duties of Financial Advisor", for such financing up to the agreed upon amount for such financing.

## **CONFIDENTIAL INFORMATION**

Any report, information or other data prepared or assembled by the Financial Advisor under this Agreement is confidential and shall not be made available to any individual or organization by the Financial Advisor without the prior written approval of the Borrower.

Borrower agrees to keep confidential specific details of the investor proposals covered by this Agreement, except to the extent required for disclosure by law.

## **PAYMENT**

The Borrower shall pay the Financial Advisor a fee on a per-issue basis of \$25,000 for its services, including all costs and charges. The fee shall be earned as services are performed. To the extent the financing is delayed or negotiations with the financing parties are prolonged or require more extensive discussions, or to the extent the anticipated scope of work changes or is increased, the Financial Advisor will notify the Borrower of any increase in fees due to such circumstances (based upon time already spent and the estimated time required through settlement), and the parties shall mutually in good faith determine the new fee to be paid.

## **TIME OF COMPLETION**

Time is of the essence in carrying out the terms of this Agreement.

## **HOLD HARMLESS**

To the extent permitted by law, the Borrower shall indemnify and hold the Financial Advisor harmless against any and all liability, causes of action, claims, costs, expenses (including reasonable attorney's fees) or damages resulting from or arising out of or in any way connected with the negligence or willful misconduct of the Borrower or its officers, employees, directors, agents, or independent contractors in performing its obligations hereunder or in providing the information relied upon by the Financial Advisor in structuring the financing.

The Financial Advisor shall indemnify and hold the Borrower harmless against any and all liability, causes of action, claims, costs, expenses (including reasonable attorney's fees) or damages

resulting from or arising out of or in any way connected with the negligence or willful misconduct of the Financial Advisor or its officers, employees, directors, agents, or independent contractors in performing its obligations hereunder or in providing the information relied upon by the Borrower in structuring the financing.

In the event either party brings action against the other to enforce any of the terms of this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees and costs whether such action is prosecuted or not. The remedies given to the parties in this paragraph shall be in addition and supplemental to all rights or remedies either may have under law.

#### **PROJECT MANAGEMENT**

The Financial Advisor designates Joshua Cooperman as its project manager. The Borrower designates Cheryl Silva (or her designee) as its project manager.

#### **NOTICES**

All notices hereunder shall be given in writing and mailed, postage prepaid, if to the Financial Advisor: Cooperman & Associates, 111 Anza Boulevard, Ste. 107, Burlingame, CA 94010, (650) 619-0007; (fax) 650-348-7684; email: [jgcooperma@aol.com](mailto:jgcooperma@aol.com); and if to the City of Lemoore: 119 Fox Street, Lemoore, CA 93245, Attn: Finance Director, (559) 924-6707, (fax) 559-924-9003, email: [csilva@lemoore.com](mailto:csilva@lemoore.com).

IN WITNESS WHEREOF, the Borrower and Financial Advisor have each caused this Agreement to be executed on their respective behalf by their respective duly authorized officers as of the date first written above.

CITY OF LEMOORE, CALIFORNIA

COOPERMAN ASSOCIATES

By: \_\_\_\_\_  
[Cheryl Silva]  
Its: [Finance Director]

\_\_\_\_\_  
Joshua Cooperman  
Its: President