



**CITY COUNCIL
MEETING AGENDA
September 16, 2021**

**Marc D. Tall, Mayor
Peggy O'Connell, Mayor Pro Tem
Ralph B. Blasier, Council Member
Tyler D. DuBord, Council Member
Karen S. Moore, Council Member**

**Patrick S. Jordan, City Manager
Phil DeMay, City Clerk
John Bergman, City Attorney**

City Council Chambers located at: City Hall – 410 Ludington Street – Room C101 – Escanaba, MI 49829

The Council has adopted a policy to use a Consent Agenda, when appropriate. All items with an asterisk (*) are considered routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council Member or citizen so requests, in which event, the item will be removed from the General Order of Business and considered in its normal sequence on the Agenda.

Regular Meeting

Thursday, September 16, 2021, at 7:00 p.m.

CALL TO ORDER

ROLL CALL

INVOCATION/PLEDGE OF ALLEGIANCE

APPROVAL/CORRECTION(S) TO MINUTES – Regular Meeting – September 2, 2021

APPROVAL/ADJUSTMENTS TO THE AGENDA

CONFLICT OF INTEREST DECLARATION(S)

BRIEF PUBLIC COMMENT(S)

PUBLIC HEARINGS – None

UNFINISHED BUSINESS

1. Follow Up – Grant Writing Services - Administration.

Explanation: Follow up on previous discussion on gaining grant writing services with CUPPAD or by direct hire of a part-time grant writer.

NEW BUSINESS

1. Approval – Hiring Financial Advisor for the 2022 DWRP Project - Wastewater.

Explanation: Administration is requesting authorization to hire Baker Tilly Municipal Advisors, LLC, of East Lansing, MI to conduct the work associated with portions of the DWRP project requirements for the Financial Advisor's work as outlined in the Engagement Letter in Attachment A, at a cost not to exceed \$18,500.00.

2. Approval – Hiring Bond Counsel for the DWRP Project – Water.

Explanation: Administration is requesting authorization to hire Miller Canfield, of Detroit, MI to conduct the work associated with portions of the SRF loan requirements for the Bond Counsel fee work as outlined in the attached engagement Letter, at a cost not to exceed \$46,000.00

APPOINTMENTS

BOARD, COMMISSION, AND COMMITTEE REPORTS

GENERAL PUBLIC COMMENT

ANNOUNCEMENTS

ADJOURNMENT

Respectfully Submitted

A handwritten signature in blue ink that reads "Patrick S. Jordan".

**Patrick S. Jordan
City Manager**

**OFFICIAL PROCEEDINGS
CITY COUNCIL
CITY OF ESCANABA, MICHIGAN
Regular Council Meeting
Thursday, September 2, 2021**

The meeting was called to order by the Honorable Mayor Marc D. Tall at 7:00 p.m. in the Council Chambers of City Hall located at 410 Ludington Street.

Present: Mayor Marc D. Tall, Council Members, Ralph B. Blasier, Tyler D. DuBord, Karen S. Moore, and Peggy O'Connell

Absent: None

Also Present: City Manager Patrick S. Jordan, City Clerk Phil DeMay, Department Heads, media, and members of the public.

City Clerk DeMay led Council in the Pledge of Allegiance.

O'Connell moved, Blasier seconded, **CARRIED UNANIMOUSLY**, to approve Regular Meeting minutes from August 19, 2021, as submitted.

ADJUSTMENTS TO THE AGENDA

Blasier moved, Moore seconded, **CARRIED UNANIMOUSLY**, to approve the City Council Agenda as submitted.

CONFLICT OF INTEREST DECLARATION – None

BRIEF PUBLIC COMMENT – None

PUBLIC HEARINGS

PH-1 Second Reading, Public Hearing and Adoption of Ordinance No. 1253, An Ordinance to Amend Chapter XVII of Appendix A as Codified Under the Code of Ordinances.

Administration requested the City Council to consider approval and adoption of Ordinance No. 1253, An Ordinance to Amend Chapter XVII of Appendix A as Codified under the Code of Ordinances – Chapter 17 - Parking & Circulation Requirements.

This being a public hearing, Mayor Tall asked for public comment.

Hearing no public comment, Mayor Tall then closed the public hearing.

PH-1 “By Council Member Blasier, seconded by Council Member Moore;

Resolved, That Ordinance No. 1253, An Ordinance to Amend Chapter XVII of

Appendix A as Codified under the Code of Ordinances – Chapter 17 - Parking & Circulation Requirements, given its public hearing at this meeting, be and is hereby adopted and that it be published in accordance with the requirements of the City Charter."

Herewith Ordinance No. 1253 adopted by title:

"AN ORDINANCE TO AMEND CHAPTER XVII OF APPENDIX A AS CODIFIED UNDER THE CODE OF ORDINANCES"

Full text in Ordinance Record "L".

Upon a call of the roll, the vote was as follows:

Ayes: Blasier, Moore, DuBord, O'Connell, Mayor Tall
Nays: None

RESOLUTION DECLARED ADOPTED."

UNFINISHED BUSINESS – None

NEW BUSINESS

NB-1 Approval – UP Engineers & Architects – Environmental Review – Water.

Administration requested Council's approval to hire and retain the services of U.P. Engineers and Architects of Houghton, MI, to assist the City in conducting the environmental review of the Escanaba Water Treatment Plant (WTP) as per their proposal dated August 18, 2021, in an amount not to exceed \$5,500.00.

NB-1 DuBord moved, O'Connell seconded, to approve to hire and retain the services of U.P. Engineers and Architects of Houghton, MI, to assist the City in conducting the environmental review of the Escanaba Water Treatment Plant (WTP) as per their proposal dated August 18, 2021, in an amount not to exceed \$5,500.00.

Upon a call of the roll, the vote was as follows:

Ayes: DuBord, O'Connell, Moore, Blasier, Mayor Tall
Nays: None

MOTION CARRIED.

NB-2 Approval – CGA – Water Treatment Plant Clearwell Project – Water.

Administration requested Council's approval to hire and retain the services of CUPPAD to assist the City in CDBG grant management and administrative services

for the purpose of modifying the Clearwell at the Water Treatment Plant in the amount not to exceed \$17,000.00.

NB-2 DuBord moved, O’Connell seconded, to approve to hire and retain the services of CUPPAD to assist the City in CDBG grant management and administrative services for the purpose of modifying the Clearwell at the Water Treatment Plant in the amount not to exceed \$17,000.00.

Upon a call of the roll, the vote was as follows:

Ayes: DuBord, O’Connell, Moore, Blasier, Mayor Tall

Nays: None

MOTION CARRIED.

NB-3 Approval – Hiring Financial Advisor for the DWRP Water Plant Project – Water.

Administration requested authorization to hire Utility Financial Solutions, LLC, of Leland, MI to conduct the work associated with portions of the DWRP loan requirements for the Financial Advisors work as outlined in the attached proposal, at a cost not to exceed \$18,000.00.

NB-3 O’Connell moved, Blasier seconded, to approve to hire Utility Financial Solutions, LLC, of Leland, MI to conduct the work associated with portions of the DWRP loan requirements for the Financial Advisors work as outlined in the attached proposal, at a cost not to exceed \$18,000.00.

Upon a call of the roll, the vote was as follows:

Ayes: O’Connell, Blasier, Moore, DuBord, Mayor Tall

Nays: None

MOTION CARRIED.

NB-4 Closed Session – Closed Session at the Attorney’s Request – Administration.

Administration sought Council to go into closed session, at the advice of the City Attorney, to discuss the Attorney’s opinion on a development agreement.

The time being 7:16 p.m. DuBord moved, Blasier seconded, **CARRIED UNANIMOUSLY**, the Council recessed.

Blasier moved, DuBord seconded, to go into Closed Session.

Upon a call of the roll, the vote was as follows:

Ayes: Blasier, DuBord, Moore, O’Connell, Mayor Tall
Nays: None

MOTION CARRIED.

The time was 7:20 p.m.

Blasier moved, O’Connell seconded, to come back into Open Session.

Upon a call of the roll, the vote was as follows:

Ayes: Blasier, O’Connell, Moore, DuBord, Mayor Tall
Nays: None

MOTION CARRIED.

The time was 7:30 p.m.

No Council actions were taken during the closed session.

NB-4 Blasier moved, DuBord seconded, City Attorney is to prepare a letter for review by City Council. Once approved by Council, Mayor Tall and City Manager Patrick Jordan sign the official letter and send it to Proxima Group via certified mail. If the letter is not ready by Friday, the council agrees that the Mayor’s signature with council consensus will be sufficient, due to the City Manager being out of town.

Upon a call of the roll, the vote was as follows:

Ayes: Blasier, DuBord, Moore, O’Connell, Mayor Tall
Nays: None

MOTION CARRIED.

APPOINTMENT(S) TO CITY BOARDS, COMMISSIONS, AND COMMITTEES

Mayor Tall, with Council Consensus made the following appointment:

David Mason appointed to the Planning Commission, expiring June 01, 2024.

BOARD, COMMISSION, AND COMMITTEE REPORTS

Council Members reviewed City Board and Commission meetings each attended since the last City Council Meeting.

GENERAL PUBLIC COMMENT

Dale Gartland – Discussed a code ordinance issue.

ANNOUNCEMENTS – None

Hearing no further public comment O’Connell moved, DuBord seconded, the Council adjourned at 7:38 p.m.

Respectfully submitted

Phil DeMay
City Clerk

Approved: _____
Marc D. Tall, Mayor

Agenda Item: UR-1
Date: 09-16-2021

City Council Agenda Item Request

Date: September 9, 2021

Name: Patrick Jordan

Department: Administration

Item: Follow up on grant-writing services

Meeting date requested: September 16, 2021

Explanation for request:

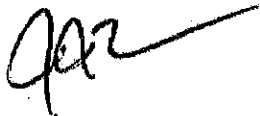
Follow up on previous discussion on gaining grant-writing services either through contracting with CUPPAD or by direct hire of a part-time grant writer.

Agenda Item: NB-1
Date: 09-16-2021

City Council Agenda Item Request

Date: 9/9/2021

Name: Jeff Lampi



Department: Wastewater

Item: Hiring Financial Advisor for the 2022 DWRP Project

Meeting date requested: 9/16/2021

Explanation for request:

Administration is requesting authorization to hire Baker Tilly Municipal Advisors, LLC, of East Lansing, MI to conduct the work associated with portions of the DWRP project requirements for the Financial Advisor's work as outlined in the Engagement Letter in Attachment A, at a cost not to exceed \$18,500.00.

This money should be reimbursed and is part of the DWRP loan process.



MUNICIPAL ADVISORS

Baker Tilly Municipal Advisors, LLC
2852 Eyde Pkwy, Ste 150
East Lansing, MI 48823
United States of America

T: +1 (517) 321 0110
bakertilly.com

September 8, 2021

City of Escanaba

This letter agreement (the "Engagement Letter") is to confirm our understanding of the basis upon which Baker Tilly Municipal Advisors, LLC ("Baker Tilly") and its affiliates are being engaged by City of Escanaba, Michigan (the "Client") to assist the Client with advisory services.

Scope, Objectives and Approach

It is anticipated that projects undertaken in accordance with this Engagement Letter will be at the request of the Client. The scope of services, additional terms and associated fee for individual engagements will be contained in the Scope Appendix to this Engagement Letter. Authorization to provide services will commence upon execution and return of this Engagement Letter.

Management's Responsibilities

It is understood that Baker Tilly will serve in an advisory capacity with the Client. The Client is responsible for management decisions and functions, and for designating an individual with suitable skill, knowledge or experience to oversee the services we provide. The Client is responsible for evaluating the adequacy and results of the services performed and accepting responsibility for decisions regarding implementation of the advice or recommendations included in such services. The Client is responsible for establishing and maintaining internal controls, including monitoring ongoing activities.

The procedures we perform in our engagement will be heavily influenced by the representations that we receive from Client personnel. Accordingly, false representations could cause material errors to go undetected. The Client, therefore, agrees that Baker Tilly will have no liability in connection with claims based upon our failure to detect material errors resulting from false representations made to us by any Client personnel and our failure to provide an acceptable level of service due to those false representations unless the failure to detect such material errors is within the scope of the applicable engagement and/or Baker Tilly knew or should have known of such material error, subject to Baker Tilly's applicable professional standard of care.

The ability to provide service according to timelines established and at fees indicated will rely in part on receiving timely responses from the Client.

The responsibility for auditing the records of the Client rests with the Client's separately retained auditor and the work performed by Baker Tilly shall not include an audit or review of the records or the expression of an opinion on financial data.

Ownership of IP

Unless otherwise stated the Scope Appendix, subject to Baker Tilly's rights in Baker Tilly's Knowledge (as defined below), Client shall own all intellectual property rights in the deliverables developed under the applicable Scope Appendix or Appendices ("Deliverables"). Notwithstanding the foregoing, Baker Tilly will maintain all ownership right, title and interest to all Baker Tilly's Knowledge. For purposes of this Agreement "Baker Tilly's Knowledge" means Baker Tilly's proprietary programs, modules, products, inventions, designs, data, or other information, including all copyright, patent, trademark and other intellectual property rights related thereto, that are (1) owned or developed by Bakery Tilly prior to the Effective Date of this Agreement or the applicable Scope Appendix or Appendices ("Baker Tilly's Preexisting Knowledge") (2) developed or obtained by Baker Tilly after the Effective Date, that are reusable from client to client and project to project, where Client has not paid for such development; and (3) extensions, enhancements, or modifications of Baker Tilly's Preexisting Knowledge which do not include or incorporate Client's confidential information. To the extent that any Baker Tilly Knowledge is incorporated into the Deliverables, Baker Tilly grants to Client a non-exclusive, paid up, perpetual royalty-free worldwide license to use such Baker Tilly Knowledge in connection with the Deliverables, and for no other purpose without the prior written consent of Baker Tilly. Additionally, Baker Tilly may maintain copies of its work papers for a period of time and for use in a manner sufficient to satisfy any applicable legal or regulatory requirements for records retention.

The supporting documentation for this engagement, including, but not limited to work papers, is the property of Baker Tilly and constitutes confidential information. We may have a responsibility to retain the documentation for a period of time sufficient to satisfy any applicable legal or regulatory requirements for records retention. If we are required by law, regulation or professional standards to make certain documentation available to required third parties, the Client hereby authorizes us to do so.

Timing and Fees

Specific services will commence upon execution and return of this Engagement Letter and our professional fees will be based on the rates outlined in the Scope Appendix.

Dispute Resolution

Except for disputes related to confidentiality or intellectual property rights, all disputes and controversies between the parties hereto of every kind and nature arising out of or in connection with this Engagement Letter or the applicable Scope Appendix or Appendices as to the existence, construction, validity, interpretation or meaning, performance, nonperformance, enforcement, operation, breach, continuation, or termination of this Agreement or the applicable Scope Appendix or Appendices as shall be resolved as set forth in this section using the following procedure: In the unlikely event that differences concerning the services or fees provided by Baker Tilly should arise that are not resolved by mutual agreement, both parties agree to attempt in good faith to settle the dispute by engaging in mediation administered by the American Arbitration Association under its mediation rules for professional accounting and related services disputes before resorting to litigation or any other dispute resolution procedure. Each party shall bear their own expenses from mediation and the fees and expenses of the mediator shall be shared equally by the parties. If the dispute is not resolved by mediation, then the parties may pursue any legal or equitable remedies available to them.

Because a breach of any the provisions of this Engagement Letter or the applicable Scope Appendix or Appendices as concerning confidentiality or intellectual property rights will irreparably harm the non-breaching party, Client and Baker Tilly agree that if a party breaches any of its obligations thereunder, the non-breaching party shall, without limiting its other rights or remedies, be entitled to seek equitable relief (including, but not limited to, injunctive relief) to enforce its rights thereunder, including without limitation protection of its proprietary rights. The parties agree that the parties need not invoke the mediation procedures set forth in this section in order to seek injunctive or declaratory relief.

Limitation on Damages

To the extent allowed under applicable law, the aggregate liability (including attorney's fees and all other costs) of either party and its present or former partners, principals, agents or employees to the other party related to the services performed under an applicable Scope Appendix or Appendices shall not exceed (i) if Client is the at-fault party, then the fees paid to Baker Tilly under the applicable Scope Appendix or Appendices to which the claim relates, or (ii) if Baker Tilly is the at-fault party, then a multiple of three times (3x) fees paid to Baker Tilly under the applicable Scope Appendix except to the extent finally determined to have resulted from the legally determined negligence, willful misconduct or fraudulent behavior of the at-fault party. Additionally, to the extent permitted by law, in no event shall either party be liable to the other for any lost profits, lost business opportunity, lost data, consequential, special, exemplary or punitive damages arising out of or related to this Engagement Letter or the applicable Scope Appendix or Appendices even if the other party has been advised of the possibility of such damages.

Each party recognizes and agrees that the warranty disclaimers and liability and remedy limitations in this Engagement Letter are material bargained for bases of this Engagement Letter and that they have been taken into account and reflected in determining the consideration to be given by each party under this Engagement Letter and in the decision by each party to enter into this Engagement Letter.

The terms of this section shall apply regardless of the nature of any claim asserted (including, but not limited to, contract, tort or any form of negligence, whether of you, Baker Tilly or others), but these terms shall not apply to the extent finally determined to be contrary to the applicable law or regulation. These terms shall also continue to apply after any termination of this Engagement Letter.

You accept and acknowledge that any legal proceedings arising from or in conjunction with the services provided under this Engagement Letter must be commenced within the applicable statute of limitations.

Other Matters

In the event Baker Tilly is requested by the Client to produce its personnel as witnesses with respect to its Services rendered for the Client, so long as Baker Tilly is neither a party to the proceeding in which the information is sought nor Baker Tilly's Services are at issue, Client will reimburse Baker Tilly for its professional time and expenses, as well as the fees and legal expenses incurred in responding to such a request.

Neither this Engagement Letter, any claim, nor any rights or licenses granted hereunder may be assigned, delegated, or subcontracted by either party without the written consent of the other party. Either party may assign and transfer this Engagement Letter to any successor that acquires all or substantially all of the business or assets of such party by way of merger, consolidation, other business reorganization, or the sale of interest or assets, provided that the party notifies the other party in writing of such assignment and the successor agrees in writing to be bound by the terms and conditions of this Engagement Letter.

In the event that any provision of this Engagement Letter or statement of work contained in a Scope Appendix hereto is held by a court of competent jurisdiction to be unenforceable because it is invalid or in conflict with any law of any relevant jurisdiction, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Engagement Letter or statement of work did not contain the particular provisions held to be unenforceable. The unenforceable provisions shall be replaced by mutually acceptable provisions which, being valid, legal and enforceable, come closest to the intention of the parties underlying the invalid or unenforceable provision. If the Services should become subject to the independence rules of the U.S. Securities and Exchange Commission with respect to Client, such that any provision of this Engagement Letter would impair Baker Tilly's independence under its rules, such provision(s) shall be of no effect.

Termination

Both the Client and the Baker Tilly have the right to terminate this Engagement Letter or any work being done under the Scope Appendix at any time after reasonable advance written notice. On termination, all fees and charges incurred prior to termination shall be paid promptly. Unless otherwise agreed to by the Client and Baker Tilly, the scope of services provided in a Scope Appendix will terminate 60 days after completion of the services in such Appendix.

Important Disclosures

Incorporated as Attachment A and part of this Engagement Letter are important disclosures. These include disclosures that apply generally and those that are applicable in the event Baker Tilly is engaged to provide municipal advisory services.

This Engagement Letter, including the attached Disclosures as updated from time to time, comprises the complete and exclusive statement of the agreement between the parties, superseding all proposals, oral or written, and all other communications between the parties. Both parties acknowledge that work performed pursuant to the Engagement Letter will be done through Scope Appendices executed and made a part of this document.

Any rights and duties of the parties that by their nature extend beyond the expiration or termination of this Engagement Letter shall survive the expiration or termination of this Engagement Letter or any statement of work contained in a Scope Appendix hereto.

If this Engagement Letter is in agreement with your understanding, please sign below and return one copy to us for our files. We look forward to working with you on this important project.

Sincerely,

Thomas Traciak, Director

Signature Section:

The services and terms as set forth in this Engagement Letter are agreed to on behalf of the Client by:

Name: _____

Title: _____

Date: _____

Attachment A

Important Disclosures

Non-Exclusive Services

Client acknowledges and agrees that Baker Tilly, including but not limited to Baker Tilly US, LLP, Baker Tilly Municipal Advisors, LLC, Baker Tilly Capital, LLC, and Baker Tilly Investment Services, LLC, are free to render municipal advisory and other services to others and that Baker Tilly does not make its services available exclusively to the Client.

Affiliated Entities

Baker Tilly US, LLP is an independent member of Baker Tilly International. Baker Tilly International Limited is an English company. Baker Tilly International provides no professional services to clients. Each member firm is a separate and independent legal entity and each describes itself as such. Baker Tilly US, LLP is not Baker Tilly International's agent and does not have the authority to bind Baker Tilly International or act on Baker Tilly International's behalf. None of Baker Tilly International, Baker Tilly US, LLP, nor any of the other member firms of Baker Tilly International has any liability for each other's acts or omissions. The name Baker Tilly and its associated logo is used under license from Baker Tilly International Limited.

Baker Tilly Investment Services, LLC ("BTIS"), a U.S. Securities and Exchange Commission ("SEC") registered investment adviser, may provide services to the Client in connection with the investment of proceeds from an issuance of securities. In such instances, services will be provided under a separate engagement, for an additional fee. Notwithstanding the foregoing, Baker Tilly may act as solicitor for and recommend the use of BTIS, but the Client shall be under no obligation to retain BTIS or to otherwise utilize BTIS relative to Client's investments. The fees paid with respect to investment services are typically based in part on the size of the issuance proceeds and Baker Tilly may have incentive to recommend larger financings than would be in the Client's best interest. Baker Tilly will manage and mitigate this potential conflict of interest by this disclosure of the affiliated entity's relationship, a Solicitation Disclosure Statement when Client retains BTIS's services and adherence to Baker Tilly's fiduciary duty and/or fair dealing obligations to the Client.

Baker Tilly Capital, LLC ("BTC") Baker Tilly Capital, LLC ("BTC") is a limited service broker-dealer specializing in merger and acquisition, capital sourcing, project finance and corporate finance advisory services. BTC does not participate in any municipal offerings advised on by its affiliate Baker Tilly Municipal Advisors. Any services provided to Client by BTC would be done so under a separate engagement for an additional fee.

Baker Tilly Municipal Advisors ("BTMA") is registered as a "municipal advisor" pursuant to Section 15B of the Securities Exchange Act and rules and regulations adopted by the SEC) and the Municipal Securities Rulemaking Board ("MSRB"). As such, BTMA may provide certain specific municipal advisory services to the Client. BTMA is neither a placement agent to the Client nor a broker/dealer. The offer and sale of any Bonds is made by the Client, in the sole discretion of the Client, and under its control and supervision. The Client acknowledges that BTMA does not undertake to sell or attempt to sell bonds or other debt obligations, and will not take part in the sale thereof.

Baker Tilly, may provide services to the Client in connection with human resources consulting, including, but not limited to, executive recruitment, talent management and community survey services. In such instances, services will be provided under a separate scope of work for an additional fee. Certain executives of the Client may have been hired after the services of Baker Tilly were utilized and may make decisions about whether to engage other services of Baker Tilly or its subsidiaries. Notwithstanding the foregoing, Baker Tilly may recommend the use of Baker Tilly or a subsidiary, but the Client shall be under no obligation to retain Baker Tilly or a subsidiary or to otherwise utilize either relative to the Client's activities.

Conflict Disclosure Applicable to Municipal Advisory Services Provided by BTMA.

Legal or Disciplinary Disclosure. BTMA is required to disclose to the SEC information regarding criminal actions, regulatory actions, investigations, terminations, judgments, liens, civil judicial actions, customer complaints, arbitrations and civil litigation involving BTMA. Pursuant to MSRB Rule G-42, BTMA is required to disclose any legal or disciplinary event that is material to the Client's evaluation of BTMA or the integrity of its management or advisory personnel.

There are no criminal actions, regulatory actions, investigations, terminations, judgments, liens, civil judicial actions, customer complaints, arbitrations or civil litigation involving BTMA. Copies of BTMA filings with the SEC can currently be found by accessing the SEC's EDGAR system Company Search Page which is currently available at <https://www.sec.gov/edgar/searchedgar/companysearch.html> and searching for either Baker Tilly Municipal Advisors, LLC or for our CIK number which is 0001616995. The MSRB has made available on its website (www.msrb.org) a municipal advisory client brochure that describes the protections that may be provided by MSRB rules and how to file a complaint with the appropriate regulatory authority.

Contingent Fee. The fees to be paid by the Client to BTMA are or may be based on the size of the transaction and partially contingent on the successful closing of the transaction. Although this form of compensation may be customary in the municipal securities market, it presents a conflict because BTMA may have an incentive to recommend unnecessary financings, larger financings or financings that are disadvantageous to the Client. For example, when facts or circumstances arise that could cause a financing or other transaction to be delayed or fail to close, BTMA may have an incentive to discourage a full consideration of such facts and circumstances, or to discourage consideration of alternatives that may result in the cancellation of the financing or other transaction.

Hourly Fee Arrangements. Under an hourly fee form of compensation, BTMA will be paid an amount equal to the number of hours worked multiplied by an agreed upon billing rate. This form of compensation presents a potential conflict of interest if BTMA and the Client do not agree on a maximum fee under the applicable Appendix to this Engagement Letter because BTMA will not have a financial incentive to recommend alternatives that would result in fewer hours worked. In addition, hourly fees are typically payable by the Client whether or not the financing transaction closes.

Fixed Fee Arrangements. The fees to be paid by the Client to BTMA may be in a fixed amount established at the outset of the service. The amount is usually based upon an analysis by Client and BTMA of, among other things, the expected duration and complexity of the transaction and the work documented in the Scope Appendix to be performed by Baker Tilly. This form of compensation presents a potential conflict of interest because, if the transaction requires more work than originally contemplated, Baker Tilly may suffer a loss. Thus, Baker Tilly may recommend less time-consuming alternatives, or fail to do a thorough analysis of alternatives.

BTMA manages and mitigates conflicts related to fees and/or other services provided primarily through clarity in the fee to be charged and scope of work to be undertaken and by adherence to MSRB Rules including, but not limited to, the fiduciary duty which it owes to the Client requiring BMTA to put the interests of the Client ahead of its own and BTMA's duty to deal fairly with all persons in its municipal advisory activities.

To the extent any additional material conflicts of interest have been identified specific to a scope of work the conflict will be identified in the respective Scope Appendix. Material conflicts of interest that arise after the date of a Scope Appendix will be provide to the Client in writing at that time.

Scope Appendix

The services offered, in relation to the 2022 DWRF project, by the Firm include preparation for financing:

- Revenue support consultation
- Debt structuring
- Outline of bonding options
- Managing the timetable

Specific assistance with the financing process includes:

- Bond specifications for the Bond Authorizing Resolution
- Part I application preparation
- Part II application guidance
- Municipal Finance Authority liaison
- Bond rating application
- Department of Treasury assistance
- Review and approval of the cash flow generated by the Finance Authority
- Closing assistance

The fee for financial advisory services will be \$18,500 and is payable from loan/bond proceeds after closing.

Agenda Item: NB-2
Date: 09-16-2021

City Council Agenda Item Request

Date: 9/10/21

Name: Jeff Lampi

Department: Water

Item: Hiring Bond Counsel for the DWRF Project

Meeting date requested: 9/16/21

Explanation for request:

Administration is requesting authorization to hire Miller Canfield, of Detroit, MI to conduct the work associated with portions of the SRF loan requirements for the Bond Counsel fee work as outlined in the attached engagement Letter, at a cost not to exceed \$46,000.00

This money should be reimbursed and is part of the DWRF loan process.

Founded in 1852
by Sidney Davy Miller

MILLER CANFIELD

MICHIGAN
ILLINOIS
NEW YORK
OHIO
WASHINGTON, D.C.
CANADA
CHINA
MEXICO
POLAND
QATAR

PATRICK F. MCGOW
TEL (313) 496-7684
FAX (313) 496-8450
E-MAIL mcgow@millercanfield.com

Miller, Canfield, Paddock and Stone, P.L.C.
150 West Jefferson, Suite 2500
Detroit, Michigan 48226
TEL (313) 963-6420
FAX (313) 496-7500
www.millercanfield.com

September 9, 2021

Mr. Patrick Jordan
City Manager
City of Escanaba
410 Ludington Street
Escanaba, MI 49829-0948

Re: City of Escanaba 2022 Water Supply System Revenue Bonds\
(Drinking Water Revolving Fund)

Dear Patrick:

We are delighted to serve the City of Escanaba (the “City”) as bond counsel in connection with the potential issuance of bonds (the “Bonds”) to finance water supply system improvements in the City. It is our understanding that the City’s water projects are expected to be financed through the FY 2022 Drinking Water Revolving Fund administered by the Michigan Department of Environment, Great Lakes and Energy and the Michigan Finance Authority (“MFA”). We value highly our past relationship with the City and you may be assured of our prompt and complete attention to this financing. It is our practice when beginning work on a new matter to send an engagement letter like this which sets forth the scope of our services as bond counsel and the nature of our compensation.

Bond Counsel’s Role

Bond Counsel is engaged as a recognized expert whose primary responsibility is to render an objective legal opinion with respect to the authorization and issuance of the Bonds. Our approving legal opinion with respect to the Bonds will be executed and delivered by us in written form on the date the Bonds are exchanged for their purchase price and will be based upon facts and law existing as of its date. In rendering the opinion, we will rely upon the certified proceedings and other certifications of public officials and by other persons furnished to us without undertaking independent verification of the information contained in the proceedings and certifications.

In performing our services as bond counsel, our client is the City and we will represent its interests. However, our representation of the City does not alter our responsibility to render an objective opinion as bond counsel. Upon delivery of the opinion our responsibilities as bond counsel will be concluded with respect to the Bonds.

Scope of Bond Counsel Services – What We Will Do

As bond counsel, we would provide the following services customarily performed by bond counsel respecting the authorization, sale, issuance and delivery of bonds:

1. Meet or consult with City officials, the City Council, if requested, and others to explain the legal nature of a proposed borrowing, the City's power to borrow and the limitations on that power and consult with City officials and the financial advisor in the design of the bonding program and timing schedules.

2. Prepare all of the necessary resolutions, notices, agreements, and other documents to authorize, issue and market the bonds. We also would assist your financial advisor in preparing applications to the Michigan Department of Treasury and in preparing the official statement respecting the bonds. We also will advise the City regarding relevant disclosure obligations under SEC Rule 15c2-12 in connection with the marketing and sale of municipal securities.

3. Examine the tax issues related to the bonds (done by an attorney specializing in the requirements of the Internal Revenue Code as they apply to municipal tax-exempt bonds) to assure that all requirements of the Internal Revenue Code are complied with and that any adverse tax consequences are minimized.

4. Assist as needed in arrangements for and participation in presentations to rating agencies or bond insurance providers, if applicable.

5. Prepare the bond form for printing definitive bonds for delivery to the purchaser. We will also participate in the sale and delivery of the bonds to the purchaser in order to handle legal matters that may arise at those times.

6. Give the approving opinion as to validity and enforceability of the bonds and their authorizing documents and as to the exemption of the interest on the bonds from federal and state income taxation.

Our professional responsibilities as attorneys in this matter will be limited to interpretations of law and other legal issues and the drafting of legal documents. In no event, of course, would we presume to assume the responsibilities of the City or the professional responsibilities of any other advisor with respect to such non-legal matters. We are not registered municipal advisors under the federal Dodd-Frank Act. We understand that the City has retained Baker Tilly to serve as its registered municipal advisor.

Additional Services

We believe that the above services encompass the normal scope of bond counsel activities.

Our services as bond counsel do not include activities outside of that norm, such as review of construction contracts, condemnation, title issues or recording deeds involved in land acquisition, representation of the City in litigation or administrative proceedings that might arise in connection with the Bonds. In the event that serious matters or matters outside the norm arise in these areas, we would provide you at that time with a fee quote for such additional services.

Our engagement does not include any obligation to monitor compliance with the federal tax requirements found in the Internal Revenue Code of 1986 (the "Code") and applicable to the Bonds, including the rebate requirements of Code Section 148(f), if applicable, as described in an exhibit attached to the Nonarbitrage and Tax Compliance Certificate that the City will execute in connection with the issuance of the Bonds, or in connection with any audit or examination of the Bonds by the Internal Revenue Service. However, we would be available to assist with rebate calculations or any audit or examination as a separate engagement.

Conflict of Interest Policy

Our firm is one of the largest in Michigan. In addition to having the largest public finance practice in the State, our attorneys represent a great many clients and our practice is in many different legal areas. We call your attention to the fact that our firm frequently represents MFA in a variety of State of Michigan financings. This firm may be asked to represent MFA in connection with the SRF program during the time the City is selling the Bonds to MFA. This representation would not involve the City, its project or its Bonds specifically and therefore we do not believe our firm's representation of MFA, should it occur, would interfere in any way with our representation of the City as bond counsel in connection with the Bonds. However, we wish to make you aware of the possibility of such representation and invite you to discuss with us this matter further if you have any questions or concerns.

Fees

It is our understanding that the City is considering the issuance of a two series of Bonds to be issued as Revenue Bonds in the DWRF 3rd Quarter and 4th Quarter financing pools, with current estimated par amounts of \$5,000,000 and \$5,650,000. Based on the terms, structure, size and schedule of financing, the time we anticipate devoting to the financing, and the responsibilities that we assume, our legal fees as bond counsel would be \$22,500 for the 3rd Quarter financing and \$23,500 for the 4th Quarter financing, depending on the final bond size, including all out-of-pocket expenses, including travel costs, document production, deliveries, long distance telephone charges, filing fees, and other necessary office disbursements. As you are aware, our customary practice is to submit our invoice for payment at the time of the delivery of the Bonds to be paid from the proceeds of the Bonds.

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

Mr. Patrick Jordan

-4-

September 9, 2021

We welcome this opportunity to be of service to the City and look forward to working with you. If you have any questions regarding this letter, please give me a call.

Very truly yours,

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.



By:

Patrick F. McGow

Cc: Jeff Lampi
Melissa Becotte

38119223.1/088888.01672