



Roll Call Number

Agenda Item Number

21-1340

31

Date August 9, 2021

ACCEPTING PUBLIC FINANCIAL ADVISORS, LLC, (PFM) PROPOSAL FOR THE PROVISION OF PROFESSIONAL MUNICIPAL ADVISOR FOR FINANCIAL SERVICES AND APPROVING AWARD OF CONTRACT TO PFM AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN AGREEMENT FOR THE PROVISION OF SAME

WHEREAS, on May 24, 2021, the Finance Department Procurement Division issued an RFP to solicit proposals for Professional Municipal Advisor for Financial Services (No. N21-88) (“the RFP”) and received two timely proposals; and

WHEREAS, an Evaluation and Selection Committee reviewed the proposals and recommended the selection of Public Financial Advisors, LLC (“PFM”), 801 Grand Avenue, Des Moines, IA, as the highest scorer based on the weighting criteria described in the RFP; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa that the proposal submitted by Public Financial Advisors, LLC, for Professional Municipal Advisor for Financial Services is hereby accepted and approved and the City Manager is authorized to negotiate an agreement with Public Financial Advisors, LLC, to provide such services for a period of three years with a possible three-year renewal by mutual agreement, subject to the review and approval as to form by the Legal Department, the City Manager is authorized and directed to execute said agreement for and on behalf of the City, and the City Clerk is authorized to attest to his signature, and the City Manager is directed to administer the terms of the agreement on behalf of the City and, if deemed appropriate, approve the renewal to the agreement on terms beneficial to the City.

(Council Communication No. 21-367)

Moved by Gatto to adopt.

Approved as to Form:

/s/ Lawrence R. McDowell

Lawrence R. McDowell
Deputy City Attorney

| COUNCIL ACTION | YEAS | NAYS | PASS | ABSENT |
|----------------|----------|------|------|--------|
| COWNIE | ✓ | | | |
| BOESEN | ✓ | | | |
| GATTO | ✓ | | | |
| GRAY | ✓ | | | |
| MANDELBAUM | ✓ | | | |
| VOSS | ✓ | | | |
| WESTERGAARD | ✓ | | | |
| TOTAL | 7 | | | |
| MOTION CARRIED | APPROVED | | | |

J. M. Franklin Cownie
Mayor

CERTIFICATE

I, P. Kay Cmelik, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

P. Kay Cmelik

City Clerk

AGREEMENT FOR MUNICIPAL ADVISOR FOR FINANCIAL SERVICES

THIS AGREEMENT is made as of the 23rd day of August 2021, by and between the City of Des Moines, Iowa (hereinafter called "City") and Public Financial Advisors, LLC (hereinafter called "Municipal Advisor").

WHEREAS, the City wishes to retain the services of the Municipal Advisor on the terms and conditions set forth herein, and the Municipal Advisor wishes to provide such services; and

WHEREAS, in response to the City's Request for Proposals, N21-88, Professional Municipal Advisor for Financial Services ("RFP"), Municipal Advisor has submitted a proposal dated June 14, 2021 ("Proposal"), and Municipal Financial Advisor has represented that it is an able, experienced and qualified financial advisor that can offer comprehensive consulting services focused on the issuance and management of debt, financial operations, and productivity and is fully capable of providing quality services for the City.

WHEREAS, the City Council, by Roll Call No. _____ on August 23, 2021, approved the selection of Municipal Advisor to perform financial advisory services.

NOW, THEREFORE, for and in consideration of the respective agreements, undertakings, and mutual covenants herein contained, the City and Municipal Advisor do mutually agree as follows:

I. Services

Municipal Advisor shall perform the tasks and services set forth below and as further set forth in the Proposal at the request of the City Finance Director in a professional and timely matter. Jon Burmeister, Managing Director, will serve as principal contact and engagement manager for the services to be performed on behalf of the City. Support for services will also be provided by the Municipal Advisor's Des Moines senior project managers, management and quantitative support, analytical and technical support, and research, continuing disclosure and administrative support services staff identified in the Proposal.

Tasks and services will include, but are not limited to, those listed below:

- Task 1: Financial Planning and Debt Management
- Task 2: Debt Issue Development and Oversight
- Task 3: Investment Program/Arbitrage Rebate Management

Any outlined task(s) requiring periodic updates and monitoring by the City and/or the Municipal Advisor, for which working documents and/or computer models are necessary, shall be formatted to be compatible with the City's current computer software depending on the task being performed. City software upgrades may occur during the term of this Agreement, in which case, the Municipal Advisor must accommodate the changes. Such working documents and/or computer models shall become property of the City.

Task 1: Financial Planning and Debt Management

The Municipal Advisor will assist the City in financial planning and debt management activities. These services will include, but are not limited to:

- A. Assist and advise with the implementation of a long-range financial plan for the City. Development of the plan will include the following services:
 1. Determine and develop an understanding of the City's current financial condition and establish appropriate policies and procedures.
 2. Identify and evaluate financial objectives and develop comprehensive strategies to achieve the objectives.
 3. Review and analyze cost-effective alternatives for financing the City's operating and capital requirements.
 4. Review utility and enterprise fund(s) revenue requirements and determining the timing and feasibility of applicable revenue bond issues.
- B. Assist and advise the City in managing its short-term and long-term debt programs. Such services will include:
 1. Assist and advise on the development and monitoring of debt management policies, including total debt, levy and per capita levels, pay-back provisions, etc.
 2. Monitor markets for opportunities and provide advice to refinance existing City debt.
 3. Advise and assist the City on plans and policies for and determining the scope and implementation of new debt financing.
 4. Assist in communications with the financial community to promote the City's debt securities and improve bond ratings.
 5. Assist the City in meeting its secondary market disclosure requirements.

Task 2: Debt Issue Development and Oversight

The Municipal Advisor will be responsible for the oversight of the issuance of all competitive and negotiated bond transactions. This task will include: (A) Planning and Development; (B) Marketing; (C) Bond Closing; and (D) Work Products.

- A. Planning and Development

1. Research and advise on aspects of tax exemption and arbitrage in cooperation with Bond Counsel and the City Attorney.
2. Prepare and review preliminary feasibility studies in cooperation with the City, its officials and administrative staff, City Attorney and Deputy and Assistant City Attorneys, Bond Counsel, accountants, and engineers as requested by the City. These studies shall outline each project, its costs, funding alternatives and sources, existing debt and future debt service requirements, and cash flow and revenue needs.
3. Analyze each proposed financing including funding alternatives, maturity schedules and other debt structure alternatives to determine methods of strengthening marketability and recommend the best method of marketing consistent with current economic and market conditions, and rating agency criteria.
4. Consult and coordinate with established rating agencies with regard to each proposed financing and assist the City in obtaining the most favorable rating possible by directing preparation of appropriate information including development of credit strategies and comprehensive evaluation of credit strengths and weaknesses for the City and by accompanying City representatives and preparing the credit presentation and facilitating the credit rating call for meetings with rating agencies. These tasks include analysis of City credit ratings with reference to standards, national trends, etc., and advising on measures to be taken to improve ratings. In addition, develop and coordinate appropriate documentation for post-issuance credit surveillance by rating agencies.
5. Act as a liaison with Bond Counsel and coordinate the work of other professionals providing similar services.

B. Marketing

The Municipal Advisor will assist the City in the marketing of bond issues to include the following services and such other services as deemed reasonably necessary by the City:

1. Provide analysis and recommendations on optimal and appropriate bidding rules and advise on the appropriate terms and conditions of the sale, such as maturity schedule and other requirements including discount, par, premium, net interest cost, and true interest rate. Prepare bond sale details that clearly identify the responsibilities of each participant in the transaction and consult with City staff and Bond Counsel concerning the bond covenants, and advise on advantageous features such as parity provisions, reserve requirements, sinking fund payments and redemption provisions, and assist City in preparation of call provisions and notices.

2. Advise on the timing and prepare a schedule of the bond sale that allows for the orderly execution of each component of the transaction, taking into consideration such factors as changing economic conditions, tax law changes, volume of new issues coming to market, investor demand, interest rate movements, and other current and projected market trends.
3. Advise on credit enhancement options and attractiveness for various bond sales.
4. Assist and be actively involved in the development and preparation of completed drafts of the preliminary official statement and final official statement for each bond issue on behalf of the City with the close cooperation of City staff and Bond Counsel to ensure that the official statements are in full compliance with SEC guidelines and industry standards. Advise the City on primary and secondary market disclosure requirements applicable to each offering and conformance to suggested guidelines. Coordinate review and revision of the official statements with City staff, Bond Counsel and Underwriter all in conformance with the City's adopted Continuing Disclosure Policy, as may be amended, to ensure all information is accurate and not misleading in any material respect. The official statements shall be subject to final review by City staff and Bond Counsel.
5. Assist in distribution of the official statements to potential bidders and assist in marketing and publicizing the issue with notice of sale, bid forms and such other means necessary and advisable to develop regional public and institutional interest.
6. Advertise the bond sale in prominent financial publications as may be appropriate to the sale including utilizing the Bond Buyer municipal newspaper, Bloomberg financial data base system and Parity internet bidding system and, in addition, coordinate local publication requirements with Bond Counsel.

C. Bond Closing

The Municipal Advisor will assist the City in directing, coordinating, preparing a schedule of tasks, and supervising bond closing transactions. Such services will include:

1. Prepare closing documents and coordinate the compilation of bond transcript material.
2. Oversee all bond pricing, coordinate registration procedures with the underwriter, registrar and bond counsel and arrange for registration of the bonds.

3. Solicit bids and arrange for transfer of funds and investment of funds, if necessary. If the transaction is an advance refunding issue, assist in the purchase of U.S. Treasury securities for the escrow or other appropriate investments.
4. Complete other necessary closing arrangements to ensure that the transaction is completely and professionally brought to a close. Work with City staff and Bond Counsel to ensure that all legal filings are timely performed.
5. Post bond closing, provide advice and consultation at the request of the City on the requirements or desirability of filing for any listed events set out in the City's adopted Continuing Disclosure Policy, as may be amended.

D. Work Products

The Municipal Advisor will be expected to provide the following work products for each debt offering unless specific arrangements authorized by the City are made for one or more of these products to be supplied by others:

1. Pre-sale analysis and recommendations.
2. Official Statements.
3. Day-of-sale work products.
4. Post-sale analysis.
5. Closing documents.
6. Such other studies, including analysis of funding alternatives, cash flow projections, and materials that are necessary for effective City financial planning and bond sale purposes.

Task 3: Investment Program/Arbitrage Rebate Management

The Municipal Advisor will provide advice and assistance with the establishment of investment policies for the City and, through its affiliate PFM Asset Management LLC ("PFMAM") by separate agreement between PFMAM and the City, will assist the City and its arbitrage/rebate consultant in the development, design and maintenance of an investment policy and program as well as arbitrage/rebate management. These services will include, but are not limited to:

- A. Advice and development, design and maintenance of investment policies for the City.

- B. Provide bond proceeds management including performing cash flow projections based on construction draw schedules and/or fund activity.
- C. Solicit bids for investment of idle funds.
- D. Advise on arbitrage and/or rebate provisions.
- E. Monitor funds subject to arbitrage restrictions.

The services provided by Municipal Advisor, pursuant to this Agreement, shall not be considered the exclusive source of financial advisory services needed by City. As circumstances require, the City may, at its sole discretion, contract with other entities for the provision of specific financial advisory services during the term of this Agreement.

II. Compensation

Municipal Advisor shall be compensated for services rendered hereunder pursuant to the request of the City Finance Director under terms as follows:

| <u>Type of Bonds</u> | <u>Par Amount of Each Issue</u> | <u>Fee</u> |
|----------------------------------|----------------------------------|--|
| General Obligation | Under \$3.0 Million | \$11,000 |
| General Obligation | \$3.1 to \$5.0 Million | \$14,000 |
| General Obligation | \$5.1 to \$10.0 Million | \$16,000 |
| General Obligation | \$10.1 to \$20.0 Million | \$23,500 |
| General Obligation | \$20.1 to \$30.0 Million | \$28,500 |
| General Obligation | \$30.1 to \$40.0 Million | \$33,500 |
| General Obligation | Over \$40.0 Million | To be negotiated |
| Tax Increment | Same as General Obligation Bonds | Same as General Obligation Bonds |
| General Obligation Refunding | Same as General Obligation Bonds | Same as General Obligation Bonds |
| Revenue Bonds | Same as General Obligation Bonds | 135% of the Fee for General Obligation Bonds |
| State Revolving Fund (SRF) Loans | Same as General Obligation Bonds | 70% of the Fee for Revenue Bonds |

For consulting services specifically requested in writing by the City Finance Director for situations that do not include debt issuance, fees will be negotiated by the City Finance Director and Municipal Advisor based on the hourly rates set out in the Proposal with a maximum not to exceed total amount for completion of the services.

Municipal Advisor shall be reimbursed for its actual expenses incurred associated with production of the official statements including printing costs and posting fees. Further, Municipal Advisor shall be reimbursed only for air travel, food and lodging expenses for personnel not located in Iowa that are required and specifically requested in writing by the City Finance Director.

III. Term and Termination

- A. This Agreement shall extend for a term ending on September 31, 2024. The initial term of this Agreement may be extended for a three-year renewal term by mutual agreement of the City and Municipal Advisor which renewal term shall be documented by an amendment to this Agreement signed on behalf of both parties.
- B. If the City, in its sole discretion, determines that the services of Municipal Advisor are unsatisfactory, the City may terminate this Agreement upon thirty (30) days' written notice to the Municipal Advisor.

IV. Confidentiality, Disclosure of Information

A. Client Information, Client Reports

All information, files, records, memoranda, and other data of the City, which the City provides to Municipal Advisor, or which Municipal Advisor becomes aware of in the performance of its duties hereunder ("Client Information"), shall be deemed by the parties to be the property of the City. Municipal Advisor may disclose the Client Information to third parties in connection with the performance by it of its duties hereunder only upon the prior written consent of the City, unless required to disclose by law or judicial or regulatory process. Further, reports, information or data given to or prepared by the Municipal Advisor shall not be made available to any other person or entity without the prior written consent of the City.

B. Municipal Advisor Information

The Client acknowledges that, in connection with the performance by Municipal Advisor of its duties hereunder, the City may become aware of internal files, records, memoranda, and other data including, without limitation, computer programs of Municipal Advisor ("Municipal Advisor Information"). The City acknowledges that Municipal Advisor considers all Municipal Advisor information, except reports prepared by Municipal Advisor for the City, confidential and proprietary to Municipal Advisor, and the City agrees, to the extent that it may legally do so under the Code of Iowa, Chapter 22, that it will not intentionally disclose the same, or any part thereof, to any person or entity contrary to the terms of this Subsection B, except under the prior written consent of Municipal Advisor or by order of the Iowa District Court or the Iowa Public Information Board.

The City agrees that in the event of a public records request, it will notify Municipal Advisor in writing of the request and the records or information that the City proposes to disclose in response, giving Municipal Advisor at least ten (10) days within which to file suit in the Iowa District Court in Polk County, Iowa seeking the entry of a declaratory order and/or injunction to protect and keep confidential such records or information. Absent the filing of such an action by Municipal Advisor (and if an action is filed, no disclosure will occur until a final judgment ordering such release is entered),

or an agreement between the parties with respect to whether such records or information is properly deemed exempt under Code of Iowa, Chapter 22, the City may release the requested records or information.

V. No Underwriting Participation

Municipal Advisor shall not, during the term of this Agreement, directly or indirectly engage in the underwriting of any debt obligation.

VI. Delegation of Duties, Merger

Municipal Advisor shall not delegate its duties hereunder or otherwise assign or dispose of this Agreement or any of its contents, or of its right or interest therein to any other entity without the prior written consent from the City. In the event the Municipal Advisor is merged with or purchased by another firm, the City may in its sole discretion immediately terminate this Agreement.

VII. No Third-Party Beneficiary

No third party shall have any rights or remedies under this Agreement.

VIII. Entire Agreement, Amendment

This Agreement shall include and be composed of: (1) this Agreement document, (2) the RFP, and (3) the Proposal. In the event of any conflict or inconsistency between this Agreement document and the other documents comprising the Agreement, the hierarchy of precedent shall be as listed above. This Agreement may be amended in whole or in part by mutual consent of the parties, and this Agreement shall not preclude the City and Municipal Advisor from entering into separate agreements for other projects.

IX. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of Iowa and any action relating to this Contract shall be brought in the Iowa District Court in Polk County, Iowa or the United States District Court for the Southern District of Iowa.

X. Severability

To the extent any provision of this Agreement shall be determined invalid or unenforceable, the invalid or unenforceable portion shall be deleted from this Agreement, and the validity and enforceability of the remainder shall be unaffected.

XI. Notice

All notices required hereunder shall be in writing, and shall be deemed to have been given when delivered, transmitted by first class, registered, or certified mail, postage prepaid and addressed as follows:

If to the City:

Nikolaus Schaul
Finance Director
City of Des Moines
400 Robert D. Ray Drive
Des Moines, IA 50309-1891

If to Municipal Advisor:

Jon Burmeister
Managing Director
Public Financial Advisors, LLC
801 Grand Avenue, Suite 3300
Des Moines, IA, 50309

Each party shall promptly inform the other party of any address changes.

XII. Services Provided to Overlapping Jurisdictions

Without prior knowledge and written approval of the City, the Municipal Advisor shall not, except as identified in the Proposal, during the term of this Agreement enter into an agreement for financial advisory services with any local government, political subdivision or government-related agency whose geographic boundaries overlap with any part of the City of Des Moines. In the event a conflict arises with serving an overlapping jurisdiction, Municipal Advisor shall immediately contact the City Finance Director and resolve the conflict to the satisfaction of the City.

XIII. Engagement Staff

The Municipal Advisor will assign Jon Burmeister to provide financial advice to the City and manage all engagements. Jon Burmeister will coordinate all City financial advisory service responsibilities under this Agreement. Additional support personnel may be assigned as necessary. The Municipal Advisor may replace Jon Burmeister only with a qualified individual possessing comparable education and experience that is subject to the prior written permission of the City, which retains the right to approve or reject the replacement.

XIV. Insurance

The Municipal Advisor shall defend, pay on behalf of, indemnify and hold harmless the City as provided for in Attachment 1- Insurance and Indemnification Requirements. The Municipal Advisor shall adhere to all insurance requirements set forth as Attachment 1, and shall document to the City compliance with these requirements within ten (10) days of the date of this Agreement.

XV. Non-Discrimination

As prescribed in the General Terms and Conditions of the RFP, Municipal Advisor shall not discriminate or permit discrimination in its operations or employment practices against any person or group of persons on the grounds of age, race, religion, creed, color, sex, sexual orientation, gender identity, national origin, ancestry, familial status or disability.

XVI. Records

Municipal Advisor shall maintain such account records in connection with its performance of services for the City as may be reasonably required by the City. Such account records shall be kept for a period of three years following the termination of this Agreement.

The foregoing Agreement is hereby entered into on behalf of the respective parties by signature of the following persons, each of which is duly authorized to bind parties indicated.

CITY OF DES MOINES, IOWA

PUBLIC FINANCIAL ADVISORS, LLC



Scott E. Sanders, City Manager

Jon Burmeister  08/17/2021 11:48 AM EDT

Jon Burmeister, Managing Director



Kay Cmelik, City Clerk



Lawrence R. McDowell, Deputy City Attorney

STATE OF IOWA)
) ss:
COUNTY OF POLK)

On this 23rd day of August, 2021, before me, the undersigned, a Notary Public in the State of Iowa, personally appeared SCOTT E. SANDERS and KAY CMELIK, to me personally known, and who, being by me duly sworn did state that they are the City Manager and City Clerk, respectively, of the City of Des Moines, Iowa, a municipal corporation; that the instrument was signed on behalf of City of Des Moines, Iowa, by authority of its City Council, as contained in the Resolution adopted by City Council under Roll Call No. 21-1340 of the City Council on the 23rd day of August, 2021, and that SCOTT E. SANDERS and KAY CMELIK acknowledged the execution of the instrument to be the voluntary act and deed of City of Des Moines, Iowa, by it and by them voluntarily executed.

Catherine Lee Carr-Davis

Notary Public in the State of Iowa



