

RESOLUTION #12-1-2014A

A Resolution approving Supplemental Financial Services Agreement with Speer Financial.

Motion made by _____, seconded by _____ to _____
Resolution #12-1-2014A

Resolution #12-1-2014A _____ on December 1, 2014, by the following roll call vote:

YES:

NO:

ABSTAIN:

ABSENT:

MOUNT VERNON CITY COUNCIL
MOUNT VERNON, IOWA

James L. Moore, Mayor

ATTEST:

Sue Ripke
Assistant City Administrator/Clerk

SPEER FINANCIAL, INC.

SUPPLEMENTAL FINANCIAL SERVICES AGREEMENT

THIS SUPPLEMENTAL FINANCIAL SERVICES AGREEMENT (the "Agreement") between the City of Mount Vernon, Linn County, Iowa, ("Client") and Speer Financial, Inc., Chicago, Illinois ("Speer") is entered into as of the date of execution (the "Effective Date").

WHEREAS, Speer is a consulting firm specializing in municipal finance related matters (the "Business");

WHEREAS, the parties entered into that certain agreement dated February 10, 1989 (the "Prior Agreement") pursuant to the professional services proposal submitted by Speer to Client in connection therewith;

WHEREAS, the Agreement supplements the Prior Agreement.

WHEREAS, Client desires to retain the services of Speer to provide certain services relative to the Business and Speer wishes to provide such services to Client;

WHEREAS, Client is a Municipal Entity and Speer is a Municipal Advisor as such terms are defined within the Securities Exchange Act of 1934, as amended; and

NOW THEREFOR, the parties agree as follows:

1. Services.

(a) Municipal Advisor Services. Speer agrees to provide certain services to Client as a Municipal Advisor ("Municipal Advisor Services") upon receipt of a request from Client for such services ("Project Request"). Speer may provide any or all of the Municipal Advisor Services set forth on **Exhibit A** hereto, or as otherwise may be requested by Client from time to time. Upon the receipt of a Project Request for Municipal Advisor Services, Speer and Client shall determine a mutually agreed upon scope of Speer's engagement to provide such services ("Municipal Advisor Engagement"). Any agreement related to the Municipal Advisor Engagement shall be memorialized by way of an engagement letter issued by Speer to Client ("Engagement Letter"). Any such Engagement Letter shall contain a description of the subject matter of the financing to be completed (the "Project") as well as the list of Municipal Advisor Services to be provided by Speer in connection with such Project to the extent that the Municipal Advisor Services to be provided by Speer in connection with the Project shall differ from those contained with **Exhibit A** hereto. Client agrees and acknowledges that in no event shall this Agreement be construed as having authorized Speer to commence a Municipal Advisor Engagement absent the parties' acknowledgement of a corresponding Engagement Letter.

(b) Authorization. Client hereby authorizes its CITY ADMINISTRATOR/CITY CLERK to discuss with Speer the terms of any Engagement Letter, and authorizes CITY ADMINISTRATOR/CITY CLERK to acknowledge any such Engagement Letter on behalf of Client, as well as any additional disclosures of Speer that may be contained therein.

2. Term and Termination.

(a) The Agreement. This Agreement shall be effective as of the Effective Date and shall remain in effect until terminated by either party upon thirty (30) days written notice to the other party. Notwithstanding anything to the contrary contained herein, termination of this Agreement shall automatically terminate any Municipal Advisor Engagement then in effect.

SPEER FINANCIAL, INC.

(b) **The Municipal Advisor Engagement.** Once effective, a Municipal Advisor Engagement shall remain in effect until the earlier of (i) the Project is completed and Speer has received compensation for its services, or (ii) the Municipal Advisor Engagement is terminated by either party upon (30) days prior written notice to the other party. In the event that any Municipal Advisor Engagement is terminated prior to the completion of the Project, Speer reserves the right to assess fees for any work performed pursuant to any then outstanding Engagement Letter based upon the product of actual hours spent on the Project by Speer *multiplied* by a rate for Municipal Advisor Services of \$250.00 per hour.

3. **Compensation.** As compensation for Speer's provision of Municipal Advisor Services, Speer shall receive a fee in accordance with Exhibit B attached hereto and incorporated herein by reference, unless otherwise agreed to by the parties in writing. Client shall be responsible for all out-of-pocket expenses incurred by Speer relative to any Municipal Advisor Engagement, including, but not limited to, internet bidding fees, good faith deposit bank fees, delivery charges (postage, express mail, fax services), publication/printing fees (printing of official statements, notices of sale, bid forms, report duplication, and securities) CUSIP fees, registration/paying agent fees, and other transaction costs. Out-of-pocket expenses may include payments to Speer for verification, internet sale administration, and SLG-application services. Speer shall not be liable for professional fees or other securities related costs, including, but not limited to, professional services (attorney, bond counsel, architect, verification agent, engineer and auditor services), and credit enhancements (e.g., rating, insurance and letters of credit).

4. **Billing Statement.** Client will receive an invoice from Speer for the Municipal Advisor Services provided in connection with any Municipal Advisor Engagement and upon the terms and conditions contained within the corresponding Engagement Letter. Any invoice received by Client shall be due and payable within thirty (30) days of the invoice date. Any balance that remains outstanding in excess of ninety (90) days shall be subject to a financing charge to be computed at a rate of 12% per annum, or the maximum rate allowable under Iowa law.

5. **Representations of Client.** Client represents and warrants that any information provided to Speer in connection with any Municipal Advisor Engagement shall be factual and not misleading, including, but not limited to, any information contained within any financial statements, budgets, or other relevant documents. Client further agrees to not intentionally omit any material information relevant to Speer's provision of services.

6. **Integration and Amendment.** This Agreement constitutes and expresses the entire agreement of the parties with respect to the subject matter hereof, and all promises, undertakings, representations, agreements, understandings and arrangements, whether oral or written, with reference thereto are merged herein. No amendments to or alterations or variations of this Agreement shall be valid unless made in writing and signed by the parties.

7. **Governing Law.** This Agreement shall be governed by the laws of the State of Iowa without regard to its choice of law principles. Any suit or legal proceeding brought pursuant to or otherwise arising out of this Agreement or the performance thereof will be brought solely in the County of Black Hawk, Iowa.

8. **Dodd-Frank Compliance.** Speer is a registered municipal advisor in good standing with both the SEC (#866-00353-00) and the MSRB (#K0162).

SPEER FINANCIAL, INC.

9. **Disclosure of Conflicts of Interest.** Client acknowledges that it has received the disclosures set forth on **Exhibit C** attached hereto and incorporated herein by reference. Client further acknowledges that it has been given the opportunity to raise questions and discuss such disclosures with Speer and independent counsel and that it fully appreciates the nature of such disclosures and any and all conflicts noted therein. Client hereby waives all such conflicts and authorizes Speer to provide services pursuant to any Municipal Advisor Engagement and in accordance with this Agreement. From time to time, Speer may provide additional disclosures to Client. In this regard, Client hereby authorizes its CITY ADMINISTRATOR/CITY CLERK to acknowledge any such additional disclosures on behalf of Client.

10. **Counterparts.** This Agreement may be executed in any number of counterparts via facsimile or other electronic transmission, each of which will be deemed an original, and all of which together will constitute one and the same instrument.

11. **Headings.** All headings or captions used herein are for the convenience of reference only and shall not affect the meaning, construction or interpretation of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective representatives as of the date first written above.

**CITY OF MOUNT VERNON, LINN
COUNTY, IOWA**

By: _____

Name: Michael R. Beimer

Title: City Administrator/Clerk

Date: _____

SPEER FINANCIAL, INC.

By: 

Name: Larry Burger

Title: Vice President

Date: 11/12/14

EXHIBIT A
MUNICIPAL ADVISOR SERVICES

Speer provides a wide range of Municipal Advisory Services to its Clients, which will depend upon the scope of Speer's engagement, and the type of securities issuance and/or project to be completed.

PRE-ISSUANCE & ISSUANCE SERVICES

A. Financial Planning Services

In preparation of an issuance of securities, Speer's services may consist of some or all of the following:

- (1) **Orientation.** Reviewing our Clients' current financial position, statutory authority, and financing capabilities, including whether a refunding or defeasance of any outstanding debt is appropriate.
- (2) **Coordination.** Coordinating financial planning and issuance details with our Clients' staff, bond counsel, printers, rating agencies and other transaction participants.
- (3) **Consultation.** Consulting with the elected and key appointed officials and staff regarding the various phases of the development and implementation of a financing plan.
- (4) **Public Relations.** Responding to inquiries from the general public or news media relating to municipal issuance related matters.
- (5) **Planning.** Developing a debt financing plan that includes all or some of the following:
 - a. **Maturity Schedules.** Alternative maturity schedules relating to the financing. These schedules may "wrap" around existing debt to provide stable tax rates, level debt services payments, or meet other policy or cash flow requirements as may be requested by our Clients.
 - b. **Market Receptivity.** An evaluation of potential market receptivity for each debt issuance and recommend the most suitable sale option.
 - c. **Tax Law.** An evaluation of the ramifications of Federal tax law, or as set forth by bond counsel, on the financing plan to maximize any cost savings that may be available to the Client.
 - d. **Security Registrar and Paying Agent.** A comparison of security registrar and/or paying agent fees and make recommendations for the selection of such parties based upon our Clients' selection criteria.
 - e. **Credit Rating and/or Insurance.** A costs and benefits analysis regarding whether to obtain any available credit enhancements and/or a credit rating(s). Speer shall recommend a course of action based upon its evaluation of such analysis.
 - f. **Competitive and Negotiated Sale of Debt Securities.** An analysis and corresponding recommendation regarding the method of sale to be used in connection with the financing plan.
 - g. **Financing Timeline.** A tentative financing timeline to guide officials regarding the timing of various aspects of the financing plan.

SPEER FINANCIAL, INC.

B. Competitive Sale Services

To facilitate the competitive sale of the Client's securities issuance, Speer's services may include any or all of the following:

- (1) **Authorizing Resolutions/Ordinances.** Assist our Client's attorney and/or bond counsel with regard to the financial provisions to be included within the Client's authorizing resolutions/ordinances relative to the securities issuance.
- (2) **Credit Rating and/or Insurance.** When applying for a credit rating and/or bond issuance, Speer will submit the necessary data and documents to the appropriate entities, and arrange for the presentation of materials to the selected credit rating agency and/or insurance company(ies).
- (3) **Official Statement, Notice of Sale and Bid Form.**
 - a. Preparation of Documents. Prepare a preliminary Official Statement, Term Sheet, Statement of Facts or Limited Offering Memorandum (each a, "Disclosure Document"), Notice of Sale and Bid Form. Following the award of the securities, Speer shall prepare the final Disclosure Document corresponding to the Project. The Disclosure Document will describe the securities being issued and will contain detailed information provided by the Client and bond counsel as is necessary to permit prospective purchasers to make intelligent judgments.
 - b. Notice of Sale Publication. Notify prospective purchasers of the sale without cost to the Client and prepare, as necessary, a Notice of Sale.
 - c. Encouragement to Bidders. Circulate the preliminary Disclosure Document to our appropriate list of potential purchasers, including, investment institutions, banks and underwriters, to solicit bids from such firms for the Clients' securities. Make contact with underwriters to induce formation of bidding groups and, generally, undertake these activities in order to generate bids. Provide copies of the preliminary Disclosure Document and Official Bid Forms, as applicable, for each sale to our Clients for distribution to local banks and elected officials.
 - d. Bid Opening, Analysis and Recommendations. Conduct each sale, examine the bids submitted for completeness and compliance with the applicable bidding requirements, evaluate the bids for accuracy, and recommend a proposed course of action relative thereto.
- (4) **Preparation, Registration and Delivery of Securities.** Conduct all necessary undertakings in order to complete the financing, including, monitoring the preparation, registration and delivery of the securities being issued.
- (5) **Debt Service Schedule.** Provide the Client with a final debt service schedule and other materials pertinent to the securities sale.

SPEER FINANCIAL, INC.

C. Negotiated Sale Services

To facilitate the sale of the Client's securities issuance, Speer's services may include any or all of the following:

- (1) **Authorizing Resolutions/Ordinances.** Assist our Client's attorney and/or bond counsel with regard to the financial provisions to be included within the Client's authorizing resolutions/ordinances relative to the securities issuance.
- (2) **Credit Rating and/or Insurance.** When applying for a credit rating and/or bond insurance, Speer will submit the necessary data and documents to the appropriate entities, and arrange for the presentation of materials to the selected credit rating agency(ies) and/or insurance company(ies).
- (3) **Official Statement & Proposals.**
 - a. **Preparation of Documents.** Prepare or assist in the preparation of a preliminary Disclosure Document, Request for Proposals (RFP) or Request for Qualifications (RFQ), and, following the award of the securities, the final Disclosure Document.
 - b. **Proposal Analysis and Recommendations.** Review and examine the proposals submitted for completeness and compliance with the applicable RFP/RFQ requirements, evaluate the proposals for accuracy, and recommend a proposed course of action relative to the proposals received.
- (4) **Negotiation of Terms.** Negotiate with the selected underwriter(s)/purchaser(s) relative to interest rates, terms and conditions of the securities issuance.
- (5) **Preparation, Registration and Delivery of Securities.** Conduct all necessary undertakings in order to complete the financing, including, monitoring the preparation, registration and delivery of the securities being issued.
- (6) **Debt Service Schedule.** Provide the Client with a final debt service schedule and other materials pertinent to the securities sale.

POST-ISSUANCE AND NON-ISSUANCE RELATED SERVICES

A. Continuing Disclosure Services

Following most securities issuances, municipal entities will have certain continuing disclosure obligations, which require issuers to prepare and file an "Annual Financial Update". Information contained in any such Annual Financial Update shall be the type required in subsection (b)(5)(i)(A) of Securities and Exchange Commission Rule 15c2-12 (Rule 15c2-12). In connection with any such Annual Financial Update, Speer is available to provide any or all of the following services:

- (1) **Annual Financial Update.** Compile necessary information relative to and from the Client and, thereafter, prepare the Annual Financial Update for filing with the Municipal Securities Rulemaking Board's Electronic Municipal Market Access (EMMA) data repository.
- (2) **Dissemination Agent.** File with EMMA the Annual Financial Update on behalf of our Clients.

SPEER FINANCIAL, INC.

- (3) Material Events Notice.** Upon receiving notice and direction from Client with respect to any events that may be considered a material event for purposes of Rule 15c2-12, prepare and file with EMMA a Material Events Notice.
- (4) Disclosure Review.** Review prior disclosures to ensure compliance with any then applicable rules and regulations. Following any such review in which potential disclosure violations are discovered, Speer will provide the Client with a recommendation relative to remedying any such violations, and, upon request of the Client, prepare and file any necessary supplementary disclosures with EMMA in order to remedy any such violation.

B. Non-Issuance Consulting Services

Certain Municipal Advisory Services which may not result in the issuance of indebtedness are occasionally needed by the Client. Speer is available to provide such services, which may include any or all of the following:

- (1) Rate Studies;
- (2) Tables and schedules for Client's audit;
- (3) Client internal financial analyses unrelated to municipal securities;
- (4) Referendum consulting services;
- (5) Parity or Coverage Certificates;
- (6) Tax Increment Financing (TIF) Analysis/Reporting; and
- (7) State Revolving Fund (SRF) Consulting.

SPEER FINANCIAL, INC.

EXHIBIT B FEE SCHEDULE

A. Pre-Issuance & Issuance Services

Fees in connection with any Pre-Issuance and Issuance Services rendered, regardless of sale method, shall be based upon the par amount of the securities issued, calculated as follows:

Municipal Advisory Fee: \$5,200 for the first \$1,000,000, plus 3/10 of 1% (or \$3 per \$1,000) of Municipal Securities issued in excess of \$1,000,000.

Municipal Advisory Fee: \$5,900 for the first \$1,000,000, plus 3/10 of 1% (or \$3 per \$1,000) of Revenue or Refunding Municipal Securities issued in excess of \$1,000,000.

Except as otherwise provided in this Agreement, Pre-Issuance and Issuance Services fees shall be contingent on the sale of the Client's securities.

B. Post-Issuance Services

Fees in connection with any Post-Issuance Municipal Advisor Services rendered shall be provided at the following hourly rates:

Municipal Advisor Personnel: \$85/hour
Administrative Personnel: \$45/hour

Speer will also charge \$100 for each filing made by it in accordance with SEC Rule 15c2-12, including any filing made with the Municipal Securities Rulemaking Board's Electronic Municipal Market Access (EMMA) system. Notwithstanding the foregoing, fees incurred by Client for Post-Issuance Municipal Advisor Services shall be capped at \$1,000 per calendar year.

C. Non-Issuance Services

Fees in connection with any Non-Issuance Services rendered shall be provided at the following not to exceed hourly rates:

Municipal Advisor Personnel: \$95/hour
Administrative Personnel: \$45/hour

* * *

Notwithstanding anything to the contrary contained in this Exhibit B, fees for any services provided pursuant to this Agreement shall not include out-of-pocket expenditures as described more fully under Section 3 of this Agreement.

EXHIBIT C
DISCLOSURE OF CONFLICTS OF INTEREST

VARIOUS FORMS OF COMPENSATION

The Municipal Securities Rulemaking Board (MSRB) requires us, as your municipal advisor, to provide written disclosure to you about the actual or potential conflicts of interest presented by various forms of compensation. We must provide this disclosure unless you have required that a particular form of compensation be used. You should select a form of compensation that best meets your needs and the agreed upon scope of services.

Forms of compensation; potential conflicts. The forms of compensation for municipal advisors vary according to the nature of the engagement and requirements of the Client, among other factors. Various forms of compensation present actual or potential conflicts of interest because they may create an incentive for an advisor to recommend one course of action over another if it is more beneficial to the advisor to do so. This document discusses various forms of compensation and the timing of payments to the advisor.

Fixed fee. Under a fixed fee form of compensation, the municipal advisor is paid a fixed amount established at the outset of the transaction. The amount is usually based upon an analysis by the Client and the advisor of, among other things, the expected duration and complexity of the transaction and the agreed-upon scope of work that the advisor will perform. This form of compensation presents a potential conflict of interest because, if the transaction requires more work than originally contemplated, the advisor may suffer a loss. Thus, the advisor may recommend less time-consuming alternatives, or fail to do a thorough analysis of alternatives. There may be additional conflicts of interest if the municipal advisor's fee is contingent upon the successful completion of a financing, as described below.

Hourly fee. Under an hourly fee form of compensation, the municipal advisor is paid an amount equal to the number of hours worked by the advisor times an agreed-upon hourly billing rate. This form of compensation presents a potential conflict of interest if the Client and the advisor do not agree on a reasonable maximum amount at the outset of the engagement, because the advisor does not have a financial incentive to recommend alternatives that would result in fewer hours worked. In some cases, an hourly fee may be applied against a retainer (e.g., a retainer payable monthly), in which case it is payable whether or not a financing closes. Alternatively, it may be contingent upon the successful completion of a financing, in which case there may be additional conflicts of interest, as described below.

Fee contingent upon the completion of a financing or other transaction. Under a contingent fee form of compensation, payment of an advisor's fee is dependent upon the successful completion of a financing or other transaction. Although this form of compensation may be customary for the Client, it presents a conflict because the advisor may have an incentive to recommend unnecessary financings or financings that are disadvantageous to the Client. For example, when facts or circumstances arise that could cause the financing or other transaction to be delayed or fail to close, an advisor 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.

Fee paid under a retainer agreement. Under a retainer agreement, fees are paid to a municipal advisor periodically (e.g., monthly) and are not contingent upon the completion of a financing or other transaction. Fees paid under a retainer agreement may be calculated on a fixed fee basis (e.g., a fixed fee per month regardless of the number of hours worked) or an hourly basis (e.g., a minimum monthly payment, with additional amounts payable if a certain number of hours worked is exceeded). A retainer agreement does not present the conflicts associated with a contingent fee arrangement (described above).

SPEER FINANCIAL, INC.

Fee based upon principal or notional amount and term of transaction. Under this form of compensation, the municipal advisor's fee is based upon a percentage of the principal amount of an issue of securities (e.g., bonds) or, in the case of a derivative, the present value of or notional amount and term of the derivative. This form of compensation presents a conflict of interest because the advisor may have an incentive to advise the Client to increase the size of the securities issue or modify the derivative for the purpose of increasing the advisor's compensation.

OTHER MATERIAL CONFLICTS OF INTEREST

The MSRB requires us, as your municipal advisor, to provide written disclosure to you about material conflicts of interest. The following represent Speer material conflicts of interest known to Speer as of the date of this Agreement.

As of the date of this agreement, Speer is unaware of any material conflicts of interest.