

Village of Bartlett
Finance Department Memo
2020-26

DATE: November 23, 2020

TO: Paula Schumacher, Village Administrator

FROM: Todd Dowden, Finance Director

SUBJECT: Municipal Advisory Services Agreement

Attached are a resolution and engagement agreement with Robert W. Baird & Co. to perform financial advisory work for the refinancing of the DuPage Water Commission loan and the 2012 GO Bonds. The Village's first agreement with Robert W. Baird & Co. began in June of 2014 and was for the issuance of the Police Station Bonds.

The terms include a fee of 0.165% of the principal amount issued with a minimum fee of \$18,250. This is the same fee structure that was charged to the Village for the previous bond issues. The refunding bonds would be combined for calculating the fee amount if the bonds are issued together as planned.

RESOLUTION 2020- -R

A RESOLUTION APPROVING ADVISORY SERVICES AGREEMENT WITH ROBERT W. BAIRD TO PERFORM FINANCIAL ADVISORY WORK FOR THE VILLAGE OF BARTLETT

BE IT RESOLVED by the President and Board of Trustees of the Village of Bartlett, Cook, DuPage and Kane Counties, Illinois, as follows:

SECTION ONE: The Municipal Advisory Services Agreement dated November 4, 2020, between the Village of Bartlett and Robert W. Baird and Co. Incorporated (the "Agreement"), a copy of which is appended hereto and expressly incorporated herein, is hereby approved.

SECTION TWO: That the Village President is hereby authorized and directed to sign the Agreement on behalf of the Village of Bartlett.

SECTION THREE: SEVERABILITY. The various provisions of this Resolution are to be considered as severable, and of any part or portion of this Resolution shall be held invalid by any Court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Resolution.

SECTION FOUR: REPEAL OF PRIOR RESOLUTIONS. All prior Ordinances and Resolutions in conflict or inconsistent herewith are hereby expressly repealed only to the extent of such conflict or inconsistency.

SECTION FIVE: EFFECTIVE DATE. This Resolution shall be in full force and effect upon passage and approval.

ROLL CALL VOTE:

AYES:

NAYS:

ABSENT:

PASSED: December 1, 2020

APPROVED: December 1, 2020

Kevin Wallace, Village President

ATTEST:

Lorna Gilles, Village Clerk

CERTIFICATION

I, the undersigned, do hereby certify that I am the Village Clerk of the Village of Bartlett, Cook, DuPage and Kane Counties, Illinois, and that the foregoing is a true, complete and exact copy of Resolution 2020- -R, enacted on December 1, 2020, and approved on December 1, 2020, as the same appears from the official records of the Village of Bartlett.

Lorna Gilles, Village Clerk

November 4, 2020

Mr. Todd Dowden
Finance Director
Village of Bartlett
228 S. Main Street
Bartlett, IL 60103

Re. Municipal Advisory Services Agreement

Mr. Dowden:

On behalf of Robert W. Baird & Co. Incorporated (“we” or “Baird”), we wish to thank you for the opportunity to serve as municipal advisor to the Village of Bartlett, Illinois (“you” or the “Client”) with respect to the proposed issuance of approximately \$18 million General Obligation Bonds in 2020 to refund a DuPage Water Commission Loan and approximately \$12 million in Taxable General Obligation Refunding Bonds in 2020 to advance refund Series 2012 (collectively, the “Securities”). Upon your acceptance, this engagement letter (“Agreement”) will establish the mutual terms and conditions under which Baird will provide municipal advisory services to the Client in connection with the proposed issuance(s) or other financing (the “Financing”), effective on the date this Agreement is executed by Client (the “Effective Date”).

1. Scope of Services.

(a) Municipal Advisory Services to be Provided by Baird. The Client hereby engages Baird to serve as municipal advisor with respect to the Financing, and in such capacity Baird agrees to provide advice as to the structure, timing, terms and other matters regarding the Financing, including the following services, if and as requested by the Client:

- Evaluate possible options, vehicles and structures or alternatives for the Financing
- Assist Client in establishing the structure, timing, terms and other similar matters concerning the Financing
- Advise the Client as to the methods and types of Financing that are available and appropriate to the Client
- Assist the Client in developing and designing the terms and features of the plan of Financing and prepare the financing schedule
- Provide assistance as to scheduling, coordinating and meeting procedural requirements relating to any required bond referendum, other than through cash or in-kind contributions with respect to such referendum
- Consult and meet with representatives of Client and its agents or consultants with respect to the Financing
- Review recommendations made by other parties to Client with respect to the Financing
- Review financial and other information regarding Client, the proposed Financing and any source of repayment of or security for the Financing
- Consult with and/or advise Client on actual or potential changes in market place practices, market conditions, regulatory requirements or other matters that may have an impact on Client and its financing plans
- Advise the Client as to strategies for obtaining the Financing, including, if applicable, provide information on the differences between a negotiated underwriting and a competitively bid offering
- Review financial and other information regarding the Client and the Financing

- Assist in the preparation and/or review and distribution of documents pertaining to the Financing, including, if applicable, the official statement and/or bid package
- Work with bond counsel and other transaction participants to prepare and/or review necessary authorizing documentation of Client and other documents necessary to finalize and close the Financing
- Respond to questions and requests from bidders, underwriters or potential investors and other possible Financing sources
- If applicable, in a negotiated sale assist in the selection of one or more underwriters for the Financing
- At the time of sale, provide Client with relevant data on comparable issues recently or currently being sold nationally and by comparable Clients
- In a negotiated sale, coordinate pre-pricing discussions, supervise the sale process, advise Client on matters relating to retail or other order periods and syndicate priorities, review the order book, advise on the acceptability of the underwriter's pricing and offer to purchase
- Advise Client with respect to recommendations made by the underwriters and other interactions between Client and the underwriters
- Review required underwriter disclosures to Client
- If applicable, arrange and facilitate visits to, and prepare materials for, credit ratings agencies and insurers and other liquidity providers
- Make arrangements for printing, advertising and other vendor services necessary or appropriate in connection with the Financing
- Advise Client with regard to any continuing disclosure undertaking required to be entered into in connection with the Financing, including advising on the selection of a dissemination agent
- Assist Client in selecting legal and other professionals (such as trustee, escrow agent, accountant, feasibility consultant, etc.) to work on the Financing
- Work with bond counsel and other transaction participants to prepare and/or review necessary authorizing documentation of Client and other documents necessary to finalize and close on the Financing
- Prepare a closing memorandum or settlement statement for, and otherwise coordinate or assist with, the closing and delivery of the Financing and transfer of funds
- Such other usual and customary financial advisory services as may be requested by the Client

- limitations:
- (b) Limitations on Scope of Services The Scope of Services is subject to the following
- i.) The Scope of Services is limited solely to the services described herein and is subject to any limitations set forth within the description of the Scope of Services.
 - ii.) Unless otherwise provided in the Scope of Services described herein, Baird is not responsible for preparing any preliminary or final official statement, or for certifying as to the accuracy or completeness of any preliminary or final official statement, other than with respect to any information about Baird provided by Baird for inclusion in such documents.
 - iii.) The Scope of Services does not include tax, legal, accounting or engineering advice with respect to the Financing or in connection with any opinion or certificate rendered by counsel or any other person at closing, and does not include review or advice on any feasibility study.

2. Regulatory Duties. Under MSRB Rule G-23, Baird will not be able to serve as underwriter or placement agent for any notes, bonds or other securities to be issued and sold as part of the Financing. Baird is registered as a municipal advisor with the Securities Exchange Commission and Municipal Securities Rulemaking Board. As financial advisor to the Client in connection with the proposed Financing, Baird will have fiduciary duties, including a duty of care and a duty of loyalty. Baird is required to act in the Client's best interests without regard to its own financial and other interests.

MSRB Rule G-42 requires that Baird make a reasonable inquiry as to the facts that are relevant to Client's determination whether to proceed with a course of action or that form the basis for and advice provided by Baird to Client. The rule also requires that Baird undertake a reasonable investigation to determine that it is not basing any recommendation on materially inaccurate or incomplete information. Baird is also required under the rule to use reasonable diligence to know the essential facts about Client and the authority of each person acting on Client's behalf.

Client agrees to cooperate, and to cause its agents to cooperate, with Baird in carrying out these regulatory duties, including providing to Baird accurate and complete information and reasonable access to relevant documents, other information and personnel needed to fulfill such duties. In addition, Client agrees that, to the extent Client seeks to have Baird provide advice with regard to any recommendation made by a third party, Client will provide to Baird written direction to do so as well as any information it has received from such third party relating to its recommendation.

3. Fees and Expenses. For its financial advisory services, Baird shall be entitled to a fee (the "Municipal Advisory Fee") to be paid by the Client equal to 0.165% of the principal amount or par value of the Financing with a minimum of \$18,250. The Municipal Advisory Fee shall be paid upon completion of the Financing. While this form of compensation is customary in the municipal securities market, it presents a conflict of interest because it may give Baird an incentive to recommend to the Client a Financing that is unnecessary or to recommend that the size of the transaction be larger than is necessary.

In addition to the Municipal Advisory Fee, the Client shall reimburse Baird for payment of I-Deal Prospectus (electronic sale notification and bidding system), if applicable. The Client shall also reimburse Baird for all out-of-pocket costs and expenses it reasonably incurs in connection with the services it provides hereunder. The Issuer shall be responsible for paying all other costs of issuance, including without limitation, bond counsel, disclosure counsel (if any), underwriter, underwriter's counsel (if any) and ratings agency fees and expenses, and all other expenses incident to the performance of the Issuer's obligations under the proposed Financing.

4. Term and Termination. The term of this engagement shall extend from the date of this Agreement to the closing of the Financing. Notwithstanding the forgoing, either party may terminate Baird's engagement at any time without liability or penalty upon at least 30 days' prior written notice to the other party. If Baird's engagement is terminated by the Client, the Client agrees to compensate Baird for the services provided and to reimburse Baird for its out-of-pocket expenses incurred until the date of termination and if within 12 months following such termination the Client completes the Financing the Client shall pay Baird the Financial Advisory Fee.

5. Required Disclosures. Accompanying this letter is a disclosure document describing the material conflicts of interest and information regarding certain legal events and disciplinary history related to the securities proposed to be sold in the Financing as required by MSRB Rule G-42.

6. Miscellaneous. This Agreement shall be governed and construed in accordance with the laws of the State of Illinois. This Agreement shall be binding upon and inure to the benefit of Client and Baird, their respective successors and permitted assigns; provided however, neither party may assign or transfer any of its rights or obligations hereunder without the prior written consent of the other party. This Agreement contains the entire agreement between the parties relating to the rights granted herein and obligations assumed herein. This Agreement and the Scope of Services provided hereunder may not be amended, supplemented or modified except by means of a written instrument executed by both parties hereto. This Agreement may be executed in counterparts, each of which shall be an original, but which taken together, shall constitute one and the same instrument.

If there is any aspect of this Agreement that you believe requires further clarification, please do not hesitate to contact us. If the foregoing is consistent with your understanding of our engagement, please sign and return the enclosed copy of this letter. The undersigned represents and warrants that (s)he has full legal authority to execute this Agreement on behalf of Client.

Again, we thank you for the opportunity to assist you with the Financing and the confidence you have placed in us.

Very truly yours,

ROBERT W. BAIRD & CO. INCORPORATED

By: Magdalena Welkner
Senior Vice President

Accepted this ___ day of _____, 2020

VILLAGE OF BARTLETT, ILLINOIS

By: _____

Title: _____

DISCLOSURES BY MUNICIPAL ADVISOR PURSUANT TO MSRB RULE G-42

On behalf of Robert W. Baird & Co. Incorporated, we wish to provide you with certain disclosures relating to the Securities, as required by Municipal Securities Rulemaking Board (“MSRB”) Rule G-42 as set forth in MSRB Notice 2016-03. All capitalized terms not otherwise defined herein shall have the meanings assigned to them in the Municipal Advisory Services Agreement (the “Agreement”).

I. **Services to be Provided by Baird.** Baird is delighted to be serving as municipal advisor to you, in connection with the Securities. Baird is a municipal advisor registered with the Securities and Exchange Commission and the MSRB.

II. **Required Disclosures.** MSRB Rule G-42 requires that Baird provide you with the following disclosures of material conflicts of interest and of information regarding certain legal events and disciplinary history.

Disclosures of Conflicts of Interest. MSRB Rule G-42 requires that municipal advisors provide to their clients disclosures relating to any actual or potential material conflicts of interest, including certain categories of potential conflicts of interest identified in Rule G-42, if applicable. If no such material conflicts of interest are known to exist based on the exercise of reasonable diligence by the municipal advisor, municipal advisors are required to provide a written statement to that effect.

Accordingly, Baird makes the following disclosures with respect to material conflicts of interest in connection with the Services under the Agreement, together with explanations of how Baird addresses or intends to manage or mitigate each conflict. To that end, with respect to all of the conflicts disclosed below in this Municipal Advisor Disclosure Statement, Baird mitigates such conflicts through its adherence to its fiduciary duty to Client, which includes a duty of loyalty to Client in performing all municipal advisory activities for Client. This duty of loyalty obligates Baird to deal honestly and with the utmost good faith with Client and to act in Client’s best interests without regard to Baird’s financial or other interests. In addition,] because Baird is a broker-dealer with significant capital due to the nature of its overall business, the success and profitability of Baird is not dependent on maximizing short-term revenue generated from individualized recommendations to its clients but instead is dependent on long-term profitably built on a foundation of integrity, quality of service and strict adherence to its fiduciary duty. Furthermore, Baird’s municipal advisory supervisory structure, leveraging our long-standing and comprehensive broker-dealer supervisory processes and practices, provides reasonable and industry standard safeguards against individual representatives of Baird potentially departing from their regulatory duties due to personal interests. The disclosures below describe, as applicable, any additional mitigations that may be relevant with respect to any specific conflict disclosed below.

Baird is a full service securities firm and as such Baird and its affiliates may from time to time provide advisory, brokerage, consulting and other services and products to its clients, including municipalities, other institutions, and individuals and the Client, certain Client officials or employees, and potential purchasers of the Securities for which Baird may receive customary compensation; however, such services are not related to the proposed offering. Such services may also include the buying and selling of new issue and outstanding securities and providing investment advice in connection with securities (including the Securities), may be undertaken on behalf of, or as counterparty to, Client, personnel of Client, and current or potential investors in the securities of Client. Baird has previously served as underwriter, placement agent or financial advisor on other bond offerings and financings for or for the benefit of Client and expects to serve in such capacities in the future. Baird may also be engaged from time to time by the Client to manage investments for the Client (including the proceeds from the proposed offering) through a separate contract that sets forth the fees to be paid to Baird. Baird manages various mutual funds, and from time to time those funds may own bonds and other securities issued by or for the benefit of Client (including the Securities). Additionally, clients of Baird may from time to time purchase, hold and sell bonds and other securities issued by or for the benefit of the Client (including the Securities). These other clients may, from time to time and depending on the specific circumstances, have interests in conflict with those of Client, such as when their buying or selling of Client’s securities may have an adverse effect on the market for Client’s securities, and the interests of such other clients could create the incentive for Baird to make recommendations to Client that could result in more advantageous pricing for the other clients. Furthermore, any potential conflict arising from Baird effecting or otherwise assisting such other clients in connection with such transactions is mitigated by means of such activities being engaged in on customary terms through departments of Baird that operate independently from Baird’s municipal advisory business, thereby reducing

the likelihood that the interests of such other clients would have an impact on the services provided by Baird to Client under this Agreement.

In the ordinary course of fixed income trading business, Baird may purchase, sell, or hold a broad array of investments and may actively trade securities and other financial instruments, including the Securities and other municipal bonds, for its own account and for the accounts of customers, with respect to which Baird may receive a mark-up or mark-down, commission or other remuneration, and therefore Baird could have interests in conflict with those of Client with respect to the value of Client's Securities while held in inventory. Such investment and trading activities may involve or relate to the [Financing][Offerings] or other assets, securities and/or instruments of the Client and/or persons and entities with relationships with the Client. In particular, Baird or its affiliates may submit orders for and acquire Client's securities issued in an Offering under the Agreement from members of the underwriting syndicate, either for its own account or for the accounts of its customers. This activity may result in a conflict of interest with Client in that it could create the incentive for Baird to make recommendations to Client that could result in more advantageous pricing of Client's bond in the marketplace. Any such conflict is mitigated by means of such activities being engaged in on customary terms through departments of Baird that operate independently from Baird's municipal advisory business, thereby reducing the likelihood that such investment activities would have an impact on the services provided by Baird to Client under the Agreement.

Baird serves a wide variety of other clients that may from time to time have interests that could have a direct or indirect impact on the interests of Client. For example, Baird serves as municipal advisor to other municipal advisory clients and, in such cases, owes a regulatory duty to such other clients just as it does to Client under the Agreement. These other clients may, from time to time and depending on the specific circumstances, have competing interests, such as accessing the new issue market with the most advantageous timing and with limited competition at the time of the offering. In acting in the interests of its various clients, Baird could potentially face a conflict of interest arising from these competing client interests. In other cases, as a broker-dealer that engages in underwritings of new issuances of municipal securities by other municipal entities, the interests of Baird to achieve a successful and profitable underwriting for its municipal entity underwriting clients could potentially constitute a conflict of interest if, as in the example above, the municipal entities that Baird serves as underwriter or municipal advisor have competing interests in seeking to access the new issue market with the most advantageous timing and with limited competition at the time of the offering. None of these other engagements or relationships would impair Baird's ability to fulfill its regulatory duties to Client.

Baird is registered with the Municipal Securities Rulemaking Board ("MSRB") and the SEC. The MSRB website is www.msrb.org. Two investor brochures, Information for Municipal Securities Investors and Information for Municipal Advisory Clients, describe the protections that may be provided by the MSRB's rules. The brochures are available on the MSRB website. The MSRB website also contains information about how to file a complaint with an appropriate regulatory authority.

While we do not believe that the following creates a conflict of interest on Baird's part, we note that spouses or other relatives of Baird Associates may serve as an officer, employee or official of Client. Client may wish to consider any impact such circumstances may have on how it conducts its activities with Baird under this Agreement.

Baird has not identified any additional potential or actual material conflicts that require disclosure. If potential or actual conflicts arise in the future, we will provide you with supplemental disclosures about them.

Disclosures of Information Regarding Legal Events and Disciplinary History. MSRB Rule G-42 requires that municipal advisors provide to their clients certain disclosures of legal or disciplinary events material to its client's evaluation of the municipal advisor or the integrity of the municipal advisor's management or advisory personnel.

Accordingly, Baird sets out below required disclosures and related information in connection with such disclosures. Baird discloses the following legal or disciplinary events that may be material to Client's evaluation of Baird or the integrity of Baird's management or advisory personnel:

- Baird was among numerous municipal securities underwriters and municipal issuers that voluntarily participated in the Municipal Continuing Disclosure Cooperation Initiative (MCDC) facilitated by the Securities and Exchange Commission (SEC) in March 2014. Under the MCDC, underwriters and issuers

were requested to submit reports to the SEC identifying municipal securities offerings for which the official statement did not accurately describe prior instances of the issuer's material non-compliance with its continuing disclosure requirements required by SEC Rule 15c2-12. By voluntarily participating in the MCDC, Baird and other underwriters and issuers agreed to accept standardized settlement terms. In June 2015, the SEC issued Orders to 36 participating municipal underwriters, including Baird, setting forth the agreed upon settlement terms. Subsequently, the SEC issued similar Orders to additional participating underwriters. Each Order, including the one applicable to Baird, contains a finding, which the underwriter neither admits nor denies, that Baird did not conduct adequate due diligence to ensure that the issuers' representations in the official statements about their past compliance with continuing disclosures were accurate and therefore violated Section 17(a)(2) of the Securities Act of 1933. Each Order requires the underwriter to cease and desist from committing or causing any violations or future violations of Section 17(a)(2), to pay a civil monetary penalty (which, in Baird's case, is \$500,000), to retain an independent consultant to review Baird's municipal underwriting due diligence policies and procedures, and to adopt the consultant's final recommendations for changes in or improvements to those policies and procedures. The details of this matter are available in item 11.C (2), 11.C (4) and 11.C (5) and the accompanying Regulatory Action DRP on Form ADV available at <http://www.adviserinfo.sec.gov>.

- In August 2013, Baird was involved in a regulatory matter with respect to Municipal Securities Rulemaking Board (MSRB) Rule G-14 involving trade reporting of municipal bond transactions executed by Baird for internal money managers on behalf of their clients. Baird reported the transactions on a bunched order quantity basis instead of individually by amount of allocation. Baird has since reviewed its municipal bond trade reporting methodology in this context and has revised its processes to more clearly reflect the requirements of the rule interpretations. The details of this matter are available in item 11.E (2) and the accompanying Regulatory Action DRP on Form ADV available at <http://www.adviserinfo.sec.gov>.
- In June 2013, Baird was involved in a regulatory matter involving a small number of transactions in comparison to Baird's total fixed income trading volume with respect to the purchase of municipal securities for its own account from customers and/or sold municipal securities for its own account to customers that was allegedly not fair and reasonable, taken into account all relevant factors related to MSRB Rules G-17 and G-30(A). Baird has taken steps to address this matter, including improving its systems to better monitor and document Baird's compliance with its best execution obligations; providing additional training to Baird's fixed income traders on their obligations to document the prices, quotations or indications received from counterparties to reflect for firm records the pricing in markets at the time of each transaction; and providing additional training to traders on their best execution obligations. The details of this matter are available in item 11.E (2) and the accompanying Regulatory Action DRP on Form ADV available at <http://www.adviserinfo.sec.gov>.
- In November 2011, Baird was involved in a regulatory matter involving late submissions to the MSRB and the Electronic Municipal Market Access (EMMA). In response, all personnel in the municipal underwriting and public finance departments responsible for the filings attended additional MSRB training on primary market and advance refunding MSRB G-32 submissions, and Baird has amended its MSRB G-32 procedures by publishing additional guidance to appropriate personnel and installing new mechanisms to monitor the required filing and closing dates. The details of this matter are available in item 11.E (2) and the accompanying Regulatory Action DRP on Form ADV available at <http://www.adviserinfo.sec.gov>.
- The SEC permits certain items of information required on Form MA or MA-I to be provided by reference to such required information already filed by Baird in its capacity as a broker-dealer on Form BD or Form U4 or as an investment adviser on Form ADV, as applicable. If any of the above DRPs provides that a DRP has been filed on Form ADV, BD, or U4 for the applicable event, information provided by Baird on Form BD or Form U4 is publicly accessible through reports generated by BrokerCheck at <http://brokercheck.finra.org>, and Baird's most recent Form ADV is publicly accessible at the Investment Adviser Public Disclosure website at <http://www.adviserinfo.sec.gov>. For purposes of accessing such BrokerCheck reports or Form ADV, Baird's CRD number is 8158.

How to Access Form MA and Form MA-I Filings. Baird's most recent Form MA and each most recent Form MA-I filed with the SEC are available on the SEC's EDGAR system at <https://www.sec.gov/cgi-bin/browse-edgar?CIK=0000009211>

Most Recent Change in Legal or Disciplinary Event Disclosure. The date of the last material change to a legal or disciplinary event disclosure on any Form MA or Form MA-I filed by Baird with the SEC is March 28, 2016, which change consists of the MCDC disclosure described above in Section 5(b)(i) in the annual filing.

Future Supplemental Disclosures. Baird has not identified any additional legal and disciplinary events that require disclosure. If material events arise in the future, we will provide you with supplemental disclosures about them.

If there is any aspect of the foregoing disclosures that requires further clarification, please do not hesitate to contact us. In addition, please consult your own financial and/or municipal, legal, accounting, tax and other advisors as you deem appropriate.