

Date: October 2, 2017

To: Mayor and Commissioners

From: Suzette Sibble, Assistant City Manager 

Via: Greg Harrison, City Manager

Re: Proposed Engagement of Greenspoon Marder Law Firm for Bond Counsel Services

As the City Commission is aware, staff through a concentrated effort has identified a total of 25 projects encompassing approximately \$174 million in project costs, to be financed with a proposed General Obligation (GO) Bond Issue or series of bond issues. The City Manager held one on one meetings with each Commissioner to discuss the proposed project list, which outlines a number of needed community projects across the City, encompassing all Commission Districts. Based on these discussions, staff is moving forward with action steps beginning with asking the City Commission to approve a GO Bond Referendum Resolution on October 10, 2017 to ask the City's voters to authorize the GO Bond issue(s) via a March 13, 2018 Special City Election. This date will coincide with the Municipal General Election conducted by Broward County Supervisor of Elections.

It should be noted that Greenspoon Marder was previously engaged by the City to assist with pre-referendum services. Pre-referendum services included:

- Consultation concerning proposed projects and descriptions, as it relates to Florida Constitutional and statutory provisions and internal revenue service guidelines governing tax exempt issues
- Drafting of ballot questions conforming to Florida Constitutional and statutory requirements
- Drafting of the Bond Referendum Resolution

It is also necessary to engage the assistance of bond counsel to provide specialized services (Post-Referendum services) relative to the preparation of financing documents should the Referendum proposed for March 13, 2018 result in the Pompano voters' approval of the bond issue(s). Staff is recommending engaging the services of Greenspoon Marder (the "Firm") to serve as bond counsel & disclosure counsel for post referendum services, should the March 13, 2018 referendum result in the voters approving the issuance of the GO Bonds. All proposed fees would be contingent on a successful referendum. Legal matters governing GO Bond issue(s) is a specialized field and warrants this specialized assistance. The City Attorney would still perform a review of all items prepared by bond and disclosure counsel. The fee quoted is \$40,000 (discounted to \$30,000 for any future series bonds issued) for bond counsel (and tax counsel expertise) and \$30,000 (discounted to \$25,000 for any future series bonds issued) for disclosure counsel services. Bond Counsel services would be inclusive of general consulting services governing the proposed bond issue(s), bond resolutions and related financing documents, reviewing applicable laws (Charter, Fl. Statute, Fl. Constitution etc.) for conformity with legal requirements, performing due diligence relative to required disclosures and review of projects as to tax exempt status (guidance on all related tax matters). Disclosure counsel provides advice on issuer disclosure obligations as it relates to Securities and Exchange Commission guidelines and is responsible for drafting the preliminary and final offering statements necessary to market the bonds, which would incorporate operating and financial information about the City, as well as the projects to be financed.

There is also a proposed fee of \$12,000-\$15,000 for bond validation services, a process by which generally, any governmental entity in the State of Florida that plans to issue debt has the option of validating its bonds in the circuit court in the county where the entity is located. The validation of debt in Florida is voluntary under state statutes, but customary, with the result being having a court determine or validate the issuer's authority to incur bonded debt and the legality of all related proceedings, including the taxes or revenues to be pledged, as security for the indebtedness. This process is typical practice in the current environment.

The firm is very experienced in these matters and it is prudent to have the same firm who provided pre-referendum services to proceed with the provision of post-referendum services as well. Denise Ganz, key personnel assigned to the City, has almost thirty (30) years of experience working on various public finance initiatives (See **Attachment A** for engagement letter and **Attachment A-1** for qualifications). She is committed to the City of Pompano Beach and is intimately familiar with the City's processes and requirements. Ms. Ganz, in between debt financings, has provided research assistance to the City and guidance on ongoing initiatives being explored by the City at no charge (the firm is not paid an annual retainer). Ms. Ganz can be counted on to go above and beyond her required scope of duties, which has been evidenced on past transactions where there has been a quick turnaround required on items and document preparation, and she has worked after hours and weekends to ensure the City successfully meets financing milestones. I fully stand behind Ms. Ganz as the most qualified and committed representative to assist the City in navigating the GO Bond process, a process which the City has not engaged in since 1993. Other staff to be assigned to the engagement include Skip Miller (Disclosure Counsel) and Jeanette Bond (with McCarter & English, LLP, serving as Tax Counsel. Both have over 30 years of experience in the public finance arena.

I have taken the liberty of performing some due diligence, with the assistance of the City's Financial Advisor (PFM) to compare the proposed fees to current market conditions (**Attachment B**) for similar deals from within the past 3 years. Based on these comparisons, the proposed fees are very competitive and fall below the average of the spectrum of market rates.