

RESOLUTION NO. R2021-57

**A RESOLUTION APPROVING AN AGREEMENT WITH
SPEER FINANCIAL, INC. FOR
MUNICIPAL ADVISORY AND BOND SALE CONSULTING SERVICES**

WHEREAS, the City is a home rule municipal corporation pursuant to Article VII, Section 6(a) of the Constitution of the State of Illinois of 1970; and

WHEREAS, the City desires to retain a consultant to provide municipal financial advisory and bond sale consulting services to the City (collectively, “**Services**”) as such Services are needed from time to time; and

WHEREAS, in accordance with Section 1-8-4.B.6(a)(1) of the Warrenville City Code, City staff has determined that the procurement of the Services is not adapted to award by competitive bidding because the Services require a high degree of professional skill and judgement; and

WHEREAS, Speer Financial, Inc. (“**Consultant**”) submitted a proposal to provide the Services to the City; and

WHEREAS, City staff has determined that the proposal from Consultant is best suited to meet the needs of the City; and

WHEREAS, the City staff recommends that the City enter into a three-year agreement (“**Agreement**”) with Consultant for the performance of the Services at the prices set forth in the Agreement attached to and, by this reference, made a part of this Resolution as **Exhibit A**; and

WHEREAS, the Mayor and the City Council have determined that it is in the best interest of the City and the public to approve the Agreement with Consultant;

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF WARRENVILLE, DUPAGE COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1: Recitals. The recitals listed above are incorporated in this Resolution as if fully set forth in this Resolution.

SECTION 2: Approval of Agreement. The Agreement with Consultant for the performance of the Services is hereby approved substantially in the form attached to this Resolution as Exhibit A, and in a final form to be approved by the City Administrator and the City Attorney.

SECTION 3: Execution. The City Council hereby authorizes and directs the City Administrator and the City Clerk to execute and seal, on behalf of the City, the final Agreement only after receipt by the City Clerk of at least two executed copies of the Agreement from Consultant; provided, however, that if the City Clerk does not receive such executed copies of the Agreement from the Consultant within 60 days after the date of adoption of this Resolution, then the authority to execute and seal the Agreement shall, at the option of the City Council, be null and void.

SECTION 4: Effective Date. This Resolution shall be in full force and effect following its passage and approval in the manner provided by law.

PASSED THIS ____ day of _____, 2021.

AYES:

NAYS:

ABSENT:

ABSTAIN:

APPROVED THIS ____ day of _____, 2021.

MAYOR

ATTEST:

CITY CLERK

EXHIBIT A
AGREEMENT

**CITY OF WARRENVILLE
PROFESSIONAL SERVICES AGREEMENT WITH SPEER FINANCIAL, INC.
FOR MUNICIPAL ADVISORY/BOND SALE CONSULTING SERVICES**

THIS AGREEMENT is dated as of the ___ day of _____, 2021 (“**Agreement**”) and is by and between the **CITY OF WARRENVILLE**, an Illinois municipal corporation (“**City**”) and the Consultant identified in Subsection 1A below.

IN CONSIDERATION OF the recitals and the mutual covenants and agreements set forth in the Agreement, and pursuant to the City’s home rule powers, the parties agree as follows:

SECTION 1. CONSULTANT.

A. Engagement of Consultant. The City desires to engage the Consultant identified below to provide all necessary professional consulting services and to perform the work in connection with the project identified below:

Speer Financial, Inc. (“**Consultant**”)
230 W Monroe Street, Suite 2630
Chicago, Illinois, 60606
Telephone: (312) 346-8833
Email: ***amiceli@speerfinancial.com***

B. Project Description. Consultant will provide City with financial advisory services including but not limited to, providing advice on all aspects of any proposed capital financing or refinancing any existing debt, developing innovative solutions to the City’s project funding requirements in order to achieve the most advantageous financing terms and providing recommendations on the timing, sizing, maturity schedules, call provisions and other details of bond issues.

C. Representations of Consultant.

1. The Consultant has submitted to the City a proposal (“**Proposal**”) describing the services to be provided by the Consultant, a copy of which is attached as **Exhibit A** to this Agreement (“**Services**”). The Consultant represents that it is financially solvent, has the necessary financial resources, and is sufficiently experienced and competent to perform and complete the professional consulting services set forth in Proposal in a manner consistent with the standards of professional practice by recognized consulting firms providing services of a similar nature.

2. The Consultant represents that it is a registered municipal advisor in good standing with both the SEC (#867-00043) and the MSRB (#K0162).

D. City Acknowledgements and Representations.

1. The City acknowledges that it has received the disclosures set forth in **Exhibit B** to this Agreement. The City further acknowledges that it has been given the opportunity to raise questions and discuss such disclosures with Consultant and independent counsel and that it fully appreciates the nature of such disclosures and any and all conflicts noted therein. From time to time, Consultant may provide additional

disclosures to the City. In this regard, the City hereby authorizes its Finance Director to acknowledge any such additional disclosures on behalf of the City.

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

As such, the City represents and warrants that it will cooperate, and cause its agents to cooperate, with Consultant in carrying out these regulatory duties, including providing to Consultant accurate and complete information and reasonable access to relevant documents, other information and personnel needed to fulfill such duties and to not intentionally omit any material information relevant to Consultant's provision of services. In addition, to the extent the City seeks to have Consultant provide advice with regard to any recommendation made by a third party, the City shall provide Consultant written direction to do so as well as any information it has received from such third party relating to its recommendation.

E. Agreement Amount. The Consultant shall bill the City the amounts set forth in the Fee Schedule attached to and, by this reference, made a part of this Agreement as **Exhibit C ("Fee Schedule")** unless amended pursuant to Subsection 8A of this Agreement.

SECTION 2. SCOPE OF SERVICES.

A. Retention of the Consultant. The City retains the Consultant to perform, and the Consultant agrees to perform, the Services.

B. Services. The Consultant shall provide the Services pursuant to the terms and conditions of this Agreement and an Engagement Letter as set forth in Paragraph E below.

C. Term. The Consultant shall commence the Services immediately upon receipt of written notice from the City that this Agreement has been fully executed by the Parties (the "**Commencement Date**"). The term of this Agreement shall be for three years commencing on the Commencement Date. This Agreement shall automatically renew for three additional one-year terms unless one party otherwise terminates this Agreement in accordance with this Agreement.

D. Reporting. The Consultant shall regularly report to the City Administrator, or his designee, regarding the progress of the Services during the term of this Agreement.

The Municipal Advisor Engagement.

1. Consultant may provide any or all of the Services set forth on the Proposal, or as otherwise may be requested by the City from time to time. Upon the receipt of a Project Request for Services, Consultant and the City shall determine a mutually agreed upon scope of Consultant'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 Services to be provided by Consultant in connection with such Project to the extent that the Services to be provided by Speer in connection with the Project shall differ from those contained within the Proposal. The City agrees and acknowledges that in no event shall this Agreement be construed as having authorized Consultant to commence a Municipal Advisor Engagement absent the parties’ acknowledgement of a corresponding Engagement Letter. All Municipal Advisor Engagements and Engagement Letters shall be subject to the terms of this Agreement unless otherwise agreed to by the Parties.

2. Once effective, a Municipal Advisor Engagement shall remain in effect until the earlier of (i) the Project is completed and Consultant has received compensation for its services, or (ii) the Municipal Advisor Engagement is terminated in accordance with this Agreement. In the event that any Municipal Advisor Engagement is terminated prior to the completion of the Project, Consultant reserves the right to assess fees for any work performed pursuant to any then outstanding Engagement Letter based upon the actual hours spent on the Project by Consultant.

SECTION 3. COMPENSATION AND METHOD OF PAYMENT.

A. Agreement Amount. The total amount billed for the Proposal during the term of this Agreement shall not exceed the amount identified as the Agreement Amount in Subsection 1D of this Agreement, without the prior express written authorization of the City.

B. Invoices and Payment. The Consultant shall be paid as provided in the Fee Schedule. The Consultant shall submit invoices to the City in an approved format for those portions of the Services performed and completed by the Consultant. The City shall pay to the Consultant the amount billed within 30 days after its receipt and approval of such an invoice. The City is be responsible for all out-of-pocket expenses incurred by Consultant 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 Consultant for verification, internet sale administration, and SLG-application services. Consultant 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).

C. Claim In Addition To Agreement Amount. If the Consultant wishes to make a claim for additional compensation as a result of action taken by the City, the Consultant shall provide written notice to the City of such claim within 7 days after occurrence of such action as provided by Subsection 8.D of this Agreement, and no claim for additional compensation shall be valid unless made in accordance with this Subsection. Any changes in the Agreement Amount shall be valid only upon written amendment pursuant to Subsection 8A of this Agreement. Regardless of the decision of the City relative to a claim submitted by the Consultant, the Consultant shall proceed with all of the Services required to complete the Services under this Agreement as determined by the City without interruption.

D. Taxes, Benefits and Royalties. The Agreement Amount includes all applicable federal, state, and local taxes of every kind and nature applicable to the Services as well as all taxes, contributions, and premiums for unemployment insurance, old age or retirement benefits, pensions, annuities, or similar benefits and all costs, royalties and fees arising from the use on, or the incorporation into, the Services, of patented or copyrighted equipment, materials, supplies, tools, appliances, devices, processes, or inventions. All claim or right to claim additional compensation by reason of the payment of any such tax, contribution, premium, costs, royalties, or fees is hereby waived and released by Consultant.

E. Final Acceptance. The Services, or, if the Services are to be performed in separate phases, each phase of the Services, shall be considered complete on the date of final written acceptance by the City of the Services or each phase of the Services, as the case may be, which acceptance shall not be unreasonably withheld or delayed.

SECTION 4. PERSONNEL; SUBCONTRACTORS.

A. Key Project Personnel. The Key Project Personnel identified in the Proposal shall be primarily responsible for carrying out the Services on behalf of the Consultant. The Key Project Personnel shall not be changed without the City's prior written approval.

B. Availability of Personnel. The Consultant shall provide all personnel necessary to complete the Services including, without limitation, any Key Project Personnel identified in this Agreement. The Consultant shall notify the City as soon as practicable prior to terminating the employment of, reassigning, or receiving notice of the resignation of, any Key Project Personnel. The Consultant shall have no claim for damages and shall not bill the City for additional time and materials charges as the result of any portion of the Services which must be duplicated or redone due to such termination or for any delay or extension of the Time of Performance as a result of any such termination, reassigning, or resignation.

C. Approval and Use of Subcontractors. The Consultant shall perform the Services with its own personnel and under the management, supervision, and control of its own organization unless otherwise approved by the City in writing. All subcontractors and subcontracts used by the Consultant shall be acceptable to, and approved in advance by, the City. The City's approval of any subcontractor or subcontract shall not relieve the Consultant of full responsibility and liability for the provision, performance, and completion of the Services as required by the Agreement. All Services performed under any subcontract shall be subject to all of the provisions of this Agreement in the same manner as if performed by employees of the Consultant. For purposes of this Agreement, the term "Consultant" shall be deemed also to refer to all subcontractors of the Consultant, and every subcontract shall include a provision binding the subcontractor to all provisions of this Agreement.

D. Removal of Personnel and Subcontractors. If any personnel or subcontractor fails to perform the Services in a manner satisfactory to the City, the Consultant shall immediately upon notice from the City remove and replace such personnel or subcontractor. The Consultant shall have no claim for damages, for compensation in excess of the amount contained in this Agreement or for a delay or extension of the Time of Performance as a result of any such removal or replacement.

SECTION 5. CONFIDENTIAL INFORMATION.

A. Confidential Information. The term “**Confidential Information**” shall mean information in the possession or under the control of the City relating to the technical, business or corporate affairs of the City; City property; user information, including, without limitation, any information pertaining to usage of the City's computer system, including and without limitation, any information obtained from server logs or other records of electronic or machine readable form; and the existence of, and terms and conditions of, this Agreement. City Confidential Information shall not include information that can be demonstrated: (i) to have been rightfully in the possession of the Consultant from a source other than the City prior to the time of disclosure of said information to the Consultant under this Agreement (“**Time of Disclosure**”); (ii) to have been in the public domain prior to the Time of Disclosure; (iii) to have become part of the public domain after the Time of Disclosure by a publication or by any other means except an unauthorized act or omission or breach of this Agreement on the part of the Consultant or the City; or (iv) to have been supplied to the Consultant after the Time of Disclosure without restriction by a third party who is under no obligation to the City to maintain such information in confidence.

B. No Disclosure of Confidential Information by the Consultant. The Consultant acknowledges that it shall, in performing the Services for the City under this Agreement, have access to or be directly or indirectly exposed to Confidential Information. The Consultant shall hold confidential all Confidential Information and shall not disclose or use such Confidential Information without express prior written consent of the City. The Consultant shall use reasonable measures at least as strict as those the Consultant uses to protect its own confidential information. Such measures shall include, without limitation, requiring employees and subcontractors of the Consultant to execute a non-disclosure agreement before obtaining access to Confidential Information.

SECTION 6. WARRANTY; INDEMNIFICATION; INSURANCE.

A. Warranty of Services. The Consultant warrants that the Services shall be performed in accordance with the highest standards of professional practice, care, and diligence practiced by recognized consulting firms in performing services of a similar nature in existence at the Time of Performance. The warranty expressed shall be in addition to any other warranties expressed in this Agreement, or expressed or implied by law, which are hereby reserved unto the City.

B. Indemnification. The Consultant shall, without regard to the availability or unavailability of any insurance, either of the City or the Consultant, indemnify, save harmless, and defend the City, and its officials, employees, agents, and attorneys against any and all lawsuits, claims, demands, damages, liabilities, losses, and expenses, including attorneys' fees and administrative expenses, that arise, or may be alleged to have arisen, out of or in connection with, the Consultant's performance of, or failure to perform, the Services or any part thereof, whether or not due or claimed to be due in whole or in part to the active, passive, or concurrent negligence or fault of the Consultant, except to the extent caused by the sole negligence of the City.

C. Insurance. Contemporaneous with the Consultant's execution of this Agreement, the Consultant shall provide certificates and policies of insurance, all with coverages and limits acceptable to the City, and evidencing at least the minimum insurance coverages and limits as set forth in **Exhibit D** to this Agreement. For good cause shown, the City Administrator may extend the time for submission of the required policies of insurance upon such terms, and with such assurances of complete and prompt performance, as the City

Manager may impose in the exercise of his sole discretion. Such certificates and policies shall be in a form acceptable to the City and from companies with a general rating of A minus, and a financial size category of Class X or better, in Best's Insurance Guide. Such insurance policies shall provide that no change, modification in, or cancellation of, any insurance shall become effective until the expiration of 30 days after written notice thereof shall have been given by the insurance company to the City. The Consultant shall, at all times during the term of this Agreement, maintain and keep in force, at the Consultant's expense, the insurance coverages provided above, including, without limitation, at all times while correcting any failure to meet the warranty requirements of Subsection 6.A, Warranty of Services, of this Agreement.

D. No Personal Liability. No elected or appointed official, or employee of the City shall be personally liable, in law or in contract, to the Consultant as the result of the execution of this Agreement.

SECTION 7. CONSULTANT AGREEMENT GENERAL PROVISIONS.

A. Relationship of the Parties. The Consultant shall act as an independent contractor in providing and performing the Services. Nothing in, nor done pursuant to, this Agreement shall be construed (i) to create the relationship of principal and agent, employer and employee, partners, or joint venturers between the City and Consultant; or (ii) to create any relationship between the City and any subcontractor of the Consultant.

B. Conflict of Interest. The Consultant represents and certifies that, to the best of its knowledge, (1) no City employee or agent is interested in the business of the Consultant or this Agreement; (2) as of the date of this Agreement neither the Consultant nor any person employed or associated with the Consultant has any interest that would conflict in any manner or degree with the performance of the obligations under this Agreement; and (3) neither the Consultant nor any person employed by or associated with the Consultant shall at any time during the term of this Agreement obtain or acquire any interest that would conflict in any manner or degree with the performance of the obligations under this Agreement.

C. No Collusion. The Consultant represents and certifies that the Consultant is not barred from contracting with a unit of state or local government as a result of (i) a delinquency in the payment of any tax administered by the Illinois Department of Revenue unless the Consultant is contesting, in accordance with the procedures established by the appropriate revenue act, its liability for the tax or the amount of the tax, as set forth in Section 11-42.1-1 *et seq.* of the Illinois Municipal Code, 65 ILCS 5/11-42.1-1 *et seq.*; or (ii) a violation of either Section 33E-3 or Section 33E-4 of Article 33E of the Criminal Code of 1961, 720 ILCS 5/33E-1 *et seq.* The Consultant represents that the only persons, firms, or corporations interested in this Agreement as principals are those disclosed to the City prior to the execution of this Agreement, and that this Agreement is made without collusion with any other person, firm, or corporation. If at any time it shall be found that the Consultant has, in procuring this Agreement, colluded with any other person, firm, or corporation, then the Consultant shall be liable to the City for all loss or damage that the City may suffer, and this Agreement shall, at the City's option, be null and void.

D. Sexual Harassment Policy. The Consultant certifies that it has a written sexual harassment policy in full compliance with Section 2-105(A)(4) of the Illinois Human Rights Act, 775 ILCS 5/2-105(A)(4).

E. Termination. Notwithstanding any other provision hereof, the City may terminate this Agreement at any time upon 15 days prior written notice to the Consultant. In the event that this Agreement is so terminated, the Consultant shall be paid for Services actually performed and reimbursable expenses actually incurred, if any, prior to termination, not exceeding the value of the Services completed as determined as provided in Exhibit B.

F. [Intentionally left blank]

G. Compliance with Laws and Grants. Consultant shall give all notices, pay all fees, and take all other action that may be necessary to ensure that the Services are provided, performed, and completed in accordance with all required governmental permits, licenses, or other approvals and authorizations that may be required in connection with providing, performing, and completing the Services, and with all applicable statutes, ordinances, rules, and regulations, including without limitation the Fair Labor Standards Act; any statutes regarding qualification to do business; any statutes prohibiting discrimination because of, or requiring affirmative action based on, race, creed, color, national origin, age, sex, or other prohibited classification, including, without limitation, the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 *et seq.*, and the Illinois Human Rights Act, 775 ILCS 5/1-101 *et seq.* Consultant shall also comply with all conditions of any federal, state, or local grant received by Owner or Consultant with respect to this Contract or the Services.

Consultant shall be solely liable for any fines or civil penalties that are imposed by any governmental or quasi-governmental agency or body that may arise, or be alleged to have arisen, out of or in connection with Consultant's, or its subcontractors', performance of, or failure to perform, the Services or any part thereof.

Every provision of law required by law to be inserted into this Contract shall be deemed to be inserted herein.

H. Default. If it should appear at any time that the Consultant has failed or refused to prosecute, or has delayed in the prosecution of, the Services with diligence at a rate that assures completion of the Services in full compliance with the requirements of this Agreement, or has otherwise failed, refused, or delayed to perform or satisfy the Services or any other requirement of this Agreement ("***Event of Default***"), and fails to cure any such Event of Default within ten business days after the Consultant's receipt of written notice of such Event of Default from the City, then the City shall have the right, without prejudice to any other remedies provided by law or equity, to pursue any one or more of the following remedies:

1. Cure by Consultant. The City may require the Consultant, within a reasonable time, to complete or correct all or any part of the Services that are the subject of the Event of Default; and to take any or all other action necessary to bring the Consultant and the Services into compliance with this Agreement.

2. Termination of Agreement by City. The City may terminate this Agreement without liability for further payment of amounts due or to become due under this Agreement.

3. Withholding of Payment by City. The City may withhold from any payment, whether or not previously approved, or may recover from the Consultant, any and all costs, including attorneys' fees and administrative expenses, incurred by the City

as the result of any Event of Default by the Consultant or as a result of actions taken by the City in response to any Event of Default by the Consultant.

I. No Additional Obligation. The Parties acknowledge and agree that the City is under no obligation under this Agreement or otherwise to negotiate or enter into any other or additional contracts or agreements with the Consultant, or with any vendor solicited or recommended by the Consultant.

J. City Council Authority. Notwithstanding any provision of this Agreement, any negotiations or agreements with, or representations by the Consultant to vendors shall be subject to the approval of the City Council. The City shall not be liable to any vendor or other third party for any agreements made by the Consultant, purportedly on behalf of the City, without the knowledge and approval of the City Council.

K. Mutual Cooperation. The City agrees to cooperate with the Consultant in the performance of the Services, including meeting with the Consultant and providing the Consultant with such non-confidential information that the City may have that may be relevant and helpful to the Consultant's performance of the Services. The Consultant agrees to cooperate with the City in the performance of the Services to complete the Work and with any other consultants engaged by the City.

L. News Releases. The Consultant shall not issue any news releases or other public statements regarding the Services without prior approval from the City Administrator.

M. Ownership. Designs, drawings, plans, specifications, photos, reports, information, observations, calculations, notes, and any other documents, data, or information, in any form, prepared, collected, or received by the Consultant in connection with any or all of the Services to be performed under this Agreement ("**Documents**") shall be and remain the exclusive property of the City. At the City's request, or upon termination of this Agreement, the Consultant shall cause the Documents to be promptly delivered to the City.

SECTION 8. GENERAL PROVISIONS.

A. Amendment. No amendment or modification to this Agreement shall be effective unless and until such amendment or modification is in writing, properly approved in accordance with applicable procedures, and executed.

B. Assignment. This Agreement may not be assigned by the City or by the Consultant without the prior written consent of the other party.

C. Binding Effect. The terms of this Agreement shall bind and inure to the benefit of the Parties hereto and their agents, successors, and assigns.

D. Notice. Any notice or communication required or permitted to be given under this Agreement shall be in writing and shall be delivered (i) personally, (ii) by a reputable overnight courier, (iii) by certified mail, return receipt requested, and deposited in the U.S. Mail, postage prepaid, (iv) by facsimile, or (v) by electronic internet mail ("e-mail"). Facsimile notices shall be deemed valid only to the extent that they are (a) actually received by the individual to whom addressed and (b) followed by delivery of actual notice in the manner described in either (i), (ii), or (iii) above within three business days thereafter at the appropriate address set forth below. E-mail notices shall be deemed valid and received by the addressee thereof when

delivered by e-mail and (a) opened by the recipient on a business day at the address set forth below, and (b) followed by delivery of actual notice in the manner described in either (i), (ii) or (iii) above within three business days thereafter at the appropriate address set forth below. Unless otherwise expressly provided in this Agreement, notices shall be deemed received upon the earlier of (a) actual receipt; (b) one business day after deposit with an overnight courier as evidenced by a receipt of deposit; or (c) three business days following deposit in the U.S. mail, as evidenced by a return receipt. By notice complying with the requirements of this Subsection, each Party shall have the right to change the address or the addressee, or both, for all future notices and communications to such party, but no notice of a change of addressee or address shall be effective until actually received.

Notices and communications to the City shall be addressed to, and delivered at, the following address:

City of Warrenville
3S258 Manning Avenue
Warrenville, Illinois 60555
Attention: Kevin Dahlstrand, Finance Director
E-mail: kdahlstrand@warrenville.il.us

With a copy to:

Elrod Friedman LLP
325 N. LaSalle Street, Suite 450
Chicago, Illinois 60654
Attention: Brooke Lenneman
E-mail: brooke.lenneman@elrodfriedman.com

Notices and communications to the Consultant shall be addressed to, and delivered at, the following address:

Speer Financial, Inc.
230 West Monroe Street, Suite 2630
Chicago, Illinois, 60606
Attention: **Anthony Miceli**
Facsimile: (312) 346-8833
Email: **amiceli@speerfinancial.com**

E. Third-Party Beneficiary. No claim as a third-party beneficiary under this Agreement by any person, firm, or corporation other than the Consultant shall be made or be valid against the City.

F. Provisions Severable. If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

G. Time. Time is of the essence in the performance of this Agreement.

H. Governing Laws. This Agreement shall be interpreted according to the internal laws, but not the conflict of laws rules, of the State of Illinois.

I. **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 on and the same instrument.

J. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties and supersedes any and all previous or contemporaneous oral or written agreements and negotiations between the City and the Consultant with respect to the Proposal and the Services.

K. **Waiver.** No waiver of any provision of this Agreement shall be deemed to or constitute a waiver of any other provision of this Agreement (whether or not similar) nor shall any such waiver be deemed to or constitute a continuing waiver unless otherwise expressly provided in this Agreement.

L. **Exhibits.** Exhibits A and B are attached hereto, and by this reference incorporated in and made a part of this Agreement. In the event of a conflict between the Exhibit and the text of this Agreement, the text of this Agreement shall control.

M. **Rights Cumulative.** Unless expressly provided to the contrary in this Agreement, each and every one of the rights, remedies, and benefits provided by this Agreement shall be cumulative and shall not be exclusive of any other such rights, remedies, and benefits allowed by law.

N. **Counterpart Execution.** This Agreement may be executed in several counterparts, each of which, when executed, shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

[SIGNATURES FOLLOW ON NEXT PAGE]

ATTEST:

CITY OF WARRENVILLE, an Illinois
municipal corporation

By: _____
City Clerk

By: _____
City Administrator

ATTEST:

SPEER FINANCIAL, INC., an Illinois
corporation

By: _____

By: _____

Title: _____

Its: _____

EXHIBIT A

PROPOSAL FOR 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.

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.

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.

C. Private Placement /Bank Loan Services

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

- (1) Authorizing Resolutions/Ordinances.** Assist the 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) Official Statement/Term Sheet or Limited Offering Memorandum & 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.
- (3) Advise on Financing Terms.** Advise the Client on the terms of the financing including the interest rate offered and the covenants required by the intended purchaser.
- (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 will always serve as municipal advisor to the Client and as such will not specifically identify investors/purchasers in a securities offering or negotiate specific terms with the investor/purchaser of the Client's securities. Speer will not negotiate terms to directly place an issuance of securities with an investor. Any investors contacted or solicited will be identified by the Client and contacted on behalf of the Client.

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.
- (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.

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:

Financial Advisory Services: \$7,000 plus 2/10 of 1% of the municipal securities issued in excess of \$4,000,000 and up to \$10,000,000 and 1/10 of 1% of the municipal securities issued above \$10,000,000.

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 (Continuing Disclosure) Services

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

Annual Preparation of Financial Information and Filing of Operating Data and Audit Financial Statements on EMMA: \$1,000.00 Annually (waived on the first year of service)

-or-

Only the Annual Filing of Audit Financial Statements on EMMA: \$150.00 Annually (waived on the first year of service)

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: \$150/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

REQUIRED DISCLOSURES

1. DISCLOSURE OF CONFLICTS OF INTEREST

A. 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.

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).

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.

B. 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 Representation Letter.

As of the date of this Municipal Advisory Relationship, Speer is unaware of any material conflicts of interest.

2. DISCLOSURE OF LEGAL EVENTS AND DISCIPLINARY ACTION

The MSRB requires us, as your municipal advisor, to provide written disclosure to you of any legal or disciplinary events material to your evaluation of Speer or the integrity of Speer's management or advisory personnel.

Material Legal or Disciplinary Event. There are no legal or disciplinary events that are material to the Client's evaluation of Speer or the integrity of Speer's management or advisory personnel disclosed, or that should be disclosed, on any Form MA or Form MA-I filed with the SEC.

How to Access Form MA and Form MA-I Filings. Speer'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:

<http://www.sec.gov/cgi-bin/browse-edgar?action=getcompany&CIK=0001606944>

Most Recent Change in Legal or Disciplinary Event Disclosure. Speer has not made any material legal or disciplinary event disclosures on Form MA or any form MA-I filed with the SEC.

3. G-10 DISCLOSURE

The Municipal Securities Rulemaking Board's (MSRB) webpage address is: www.msrb.org

Posted on the MSRB's webpage is a municipal advisory client brochure that describes the protections that may be provided by the MSRB rules and how to file a complaint with an appropriate regulatory authority.

4. FUTURE DISCLOSURES

As required by MSRB Rule G-42, the Required Disclosures found in this Exhibit B may be supplemented or amended, from time to time as needed, to reflect changed circumstances

resulting in new conflicts of interest or changes in conflicts of interest described above, or to provide updated information with regard to any legal or disciplinary events of Speer. Speer will provide the Client with any such supplemental or amended information as it becomes available through the term of the Municipal Advisory Relationship.

EXHIBIT D

INSURANCE COVERAGES

A. Worker's Compensation and Employer's Liability with limits not less than:

- (1) Worker's Compensation: Statutory;
- (2) Employer's Liability:
 - \$500,000 injury-per occurrence
 - \$500,000 disease-per employee
 - \$500,000 disease-policy limit

Such insurance shall evidence that coverage applies in the State of Illinois.

B. Comprehensive Motor Vehicle Liability with a combined single limit of liability for bodily injury and property damage of not less than \$1,000,000 for vehicles owned, non-owned, or rented.

All employees shall be included as insureds.

C. Comprehensive General Liability with coverage written on an "occurrence" basis and with limits no less than:

\$2,000,000 Bodily Injury and Property Damage Combined Single Limit

Coverage is to be written on an "occurrence" bases.

Coverages shall include:

- Broad Form Property Damage Endorsement
- Blanket Contractual Liability (must expressly cover the indemnity provisions of the Contract)

D. Professional Liability Insurance. With a limit of liability of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate and covering Consultant against all sums that Consultant may be obligated to pay on account of any liability arising out of the Contract.

E. Umbrella Policy. The required coverages may be in any combination of primary, excess, and umbrella policies. Any excess or umbrella policy must provide excess coverage over underlying insurance on a following-form basis such that when any loss covered by the primary policy exceeds the limits under the primary policy, the excess or umbrella policy becomes effective to cover such loss.

F. Owner as Additional Insured. Owner shall be named as an Additional Insured on all policies except for:

- Worker's Compensation
- Professional Liability

Each such additional Insured endorsement shall identify Owner as follows: City of Warrenville, including its City Council members and elected and appointed officials, its officers, employees, agents, attorneys, consultants, and representatives.

G. Other Parties as Additional Insureds. In addition to Owner, the following parties shall be named as additional insured on the following policies:

Additional Insured

Policy or Policies
