

VILLAGE OF TOLONO,
COUNTY OF CHAMPAIGN,
STATE OF ILLINOIS

ORDINANCE NO. 2020-O-20

AN ORDINANCE APPROVING A LETTER OF ENGAGEMENT
FOR ENGAGING AN UNDERWRITER

by and between

THE VILLAGE OF TOLONO, ILLINOIS

and

D.A. DAVIDSON

ADOPTED BY THE PRESIDENT AND VILLAGE BOARD OF THE
VILLAGE OF TOLONO, CHAMPAIGN COUNTY, ILLINOIS
ON THE 1ST DAY OF SEPTEMBER, 2020.

ORDINANCE NO. 2020-O-20

**AN ORDINANCE APPROVING A LETTER OF ENGAGEMENT
FOR ENGAGING AN UNDERWRITER
BY AND BETWEEN THE VILLAGE OF TOLONO, ILLINOIS
AND
D.A. DAVIDSON**

**BE IT ORDAINED BY THE PRESIDENT AND VILLAGE BOARD OF THE
VILLAGE OF TOLONO, CHAMPAIGN COUNTY, ILLINOIS, THAT:**

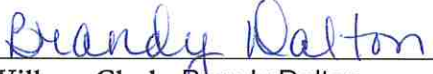
1. The Village of Tolono desires to engage an Underwriter for the issuance of the proposed *2020 General Obligation Refinancing Bonds*; and
2. The Village President and Village Board of Trustees of the Village of Tolono have evaluated and recommended that the Village engage D.A. Davidson as Underwriter for the issuance of the proposed *2020 General Obligation Refinancing Bonds*; and
3. The Village President is hereby authorized and directed to enter into and execute on behalf of the Village said Letter of Engagement attached hereto as *Exhibit A*, and the Village Clerk of the Village of Tolono is hereby authorized and directed to attest such execution; and
4. The Engagement Letter attached hereto as *Exhibit A* shall be effective on the date set forth and executed by the President in said Engagement Letter; and
5. This Ordinance shall be in full force and effect from and after its passage and approval as required by law.

PASSED, APPROVED AND ADOPTED by the Corporate Authorities of the Village of Tolono, Illinois, on the 1st day of September, A.D., 2020, and deposited and filed in the Office of the City Clerk of said City on that date.

PRESIDENT & TRUSTEES	AYE VOTE	NAY VOTE	ABSTAIN/ABSENT
Vicki Buffo	✓		
Ryan Perry			✓
Jared Robbins	✓		
XXXXXXXXXX			
Jared Ping	✓		
Terrence Stuber	✓		
Robert Murphy, President	✓		
TOTAL VOTES:	5		1

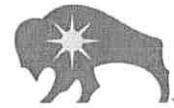
APPROVED: 
Village President, Robert Murphy

Date: 9/1/2020

ATTEST: 
Village Clerk, Brandy Dalton

Date: 9/1/2020

Exhibit (A) attached: Engagement Letter of D.A. Davidson



D | A | DAVIDSON
FIXED INCOME CAPITAL MARKETS

515 East Locust Street, Suite 200
Des Moines, IA, 50309
515-471-2700
800-642-5082
515-471-2702
www.davidson.com/ficm
D.A. Davidson & Co. member SIPC

08/26/2020

Village of Tolono, Illinois
PO Box 667
Tolono, Illinois 61880

Re: Underwriting / Placement Agent Engagement Letter

Ladies and Gentlemen:

On behalf of D.A. Davidson & Co. (“we” or “Davidson”), thank you for the opportunity to serve as underwriter or placement agent (“underwriter”) for the Village of Tolono, Illinois (the “Issuer”) on the Issuer’s proposed offering and issuance of General Obligation Refunding Bonds, (the “Bonds/Notes”). This letter will confirm the terms of our engagement; however, it is anticipated that this letter will be replaced and superseded by a bond purchase agreement to be entered into by the parties (the “Purchase Agreement”) if and when the Bonds/Notes are priced following successful completion of the offering process.

1. Services to be Provided by Davidson. The Issuer hereby engages Davidson to serve as underwriter of the proposed offering and issuance of the Bonds/Notes, and in such capacity Davidson agrees to provide the following services:

- Review and evaluate the proposed terms of the offering and the Bonds/Notes
- Develop a marketing plan for the offering, including identification of potential investors
- Assist in the preparation of the official statement and/or other offering documents
- Contact potential investors, provide them with offering-related information, respond to their inquiries and, if requested, coordinate their due diligence sessions
- If the Bonds/Notes are to be rated, assist in preparing materials to be provided to securities ratings agencies and in developing strategies for meetings with the ratings agencies

- Consult with counsel and other service providers with respect to the offering and the terms of the Bonds/Notes
- Inform the Issuer of the marketing and offering process
- Negotiate the pricing, including the interest rate, and other terms of the Bonds/Notes
- Obtain CUSIP number(s) for the Bonds/Notes and arrange for their DTC book-entry eligibility
- Plan and arrange for the closing and settlement of the issuance and the delivery of the Bonds/Notes
- Perform such other usual and customary underwriting services as may be requested by the Issuer

As underwriter, Davidson will not be required to purchase the Bonds/Notes except pursuant to the terms of the Purchase Agreement, which will not be signed until successful completion of the pre-sale offering period. This letter does not obligate Davidson to purchase any of the Bonds/Notes.

2. No Advisory or Fiduciary Role. The Issuer acknowledges and agrees: (i) the primary role of Davidson, as an underwriter, is to purchase securities, for resale to investors, in an arm's-length commercial transaction between the Issuer and Davidson and that Davidson has financial and other interests that may differ from those of the Issuer.; (ii) Davidson is not acting as a municipal advisor, financial advisor, or fiduciary to the Issuer and Davidson has not assumed any advisory or fiduciary responsibility to the Issuer with respect to the transaction contemplated hereby and the discussions, undertakings and procedures leading thereto (irrespective of whether Davidson has provided other services or is currently providing other services to the Issuer on other matters or transactions); (iii) the only obligations Davidson has to the Issuer with respect to the transaction contemplated hereby expressly are set forth in this agreement; and (iv) the Issuer has consulted its own financial and/or municipal, legal, accounting, tax and other advisors, as applicable, to the extent it deems appropriate. If the Issuer desires to consult with and hire a municipal advisor for this transaction that has legal fiduciary duties to the Issuer the Issuer should separately engage a municipal advisor to serve in that capacity.

In addition, the Issuer acknowledges receipt of a letter outlining certain regulatory disclosures as required by the Municipal Securities Rulemaking Board and attached to this agreement as Exhibit A. The Issuer further acknowledges Davidson may be required to supplement or make additional disclosures as may be necessary as the specific terms of the transaction progress.

3. Fees and Expenses. Davidson's proposed underwriting fee/spread is not to exceed 1% of the principal amount of the Securities issued. The underwriting fee/spread will represent the difference between the price that Davidson pays for the Securities and the public offering price stated on the cover of the final official statement. The Issuer shall be responsible for paying or reimbursing Davidson for all other costs of issuance, including without limitation, bond counsel, disclosure counsel, municipal advisor, bond insurance and ratings agency fees and expenses, and all other expenses incident to the performance of the Issuer's obligations under the proposed offering.

4. Term and Termination. The term of this engagement shall extend from the date of this letter to the closing of the offering of the Bonds/Notes except as may be superseded pursuant to a Purchase Agreement. Notwithstanding the foregoing, either party may terminate Davidson's engagement at any time without liability of penalty upon at least 1 days' prior written notice to the other party. If Davidson's engagement is terminated by the Issuer, the Issuer agrees to compensate Davidson for the services provided and to reimburse Davidson for its out-of-pocket fees and expenses incurred to the date of termination.

5. Limitation of Liability. The Issuer agrees neither Davidson nor its employees, officers, agents or affiliates shall have any liability to the Issuer for the services provided hereunder.

6. Miscellaneous. This letter shall be governed and construed in accordance with the laws of the State of Illinois. This Agreement may not be amended or modified except by means of a written instrument executed by both parties hereto. This Agreement may not be assigned by either party without the prior written consent of the other party.

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.

Again, we thank you for the opportunity to assist you with your proposed financing and the confidence you have placed in Davidson.

Very truly yours,

D.A.DAVIDSON & CO.

By: Scott M. Stevenson

Title: Managing Director

Accepted this 1st day of September, 2020

VILLAGE OF TOLONO, ILLINOIS

By: [Signature]

Title: Village President

EXHIBIT A

We are writing to provide you, the Village of Tolono, Illinois (“Issuer”), with certain disclosures required by the Municipal Securities Rulemaking Board (MSRB) Rule G-17 that relate to the proposed offering and issuance of GO Bonds (the “Bonds” or “Notes”).

The Issuer has engaged D.A. Davidson & Co. (“Davidson”) to serve as an underwriter, and not as a Municipal Advisor, in connection with the issuance of the Bonds. As part of our services as underwriter, Davidson may provide advice concerning the structure, timing, terms, and other similar matters concerning the issuance of the Bonds. The specific terms of our engagement will be as set forth in a bond purchase agreement to be entered into by the parties if and when the Bonds are priced following successful completion of the offering process.

1. Disclosures Concerning the Underwriter’s Role, Compensation, Regulation and Educational Materials.

- (i) MSRB Rule G-17 requires an underwriter to deal fairly at all times with both municipal issuers and investors.
- (ii) An underwriter’s primary role is to purchase the Bonds with a view to distribution in an arm’s-length commercial transaction with the Issuer. The underwriter has financial and other interests that differ from those of the Issuer.
- (iii) Unlike a municipal advisor, the underwriter does not have a fiduciary duty to the Issuer under the federal securities laws and is, therefore, not required by federal law to act in the best interests of the Issuer without regard to its own financial or other interests.
- (iv) The underwriter has a duty to purchase the Bonds from the Issuer at a fair and reasonable price, but must balance that duty with its duty to sell the Bonds to investors at prices that are fair and reasonable.
- (v) The underwriter will review the official statement for the Bonds in accordance with, and as part of, its respective responsibilities to investors under the federal securities laws, as applied to the facts and circumstances of this transaction.¹
- (vi) The underwriter will be compensated by a fee and/or an underwriting discount that will be set forth in the bond purchase agreement to be negotiated and entered into in connection with the issuance of the Bonds. Payment or receipt of the underwriting fee or discount will be contingent on the closing of the transaction and the amount of the fee or discount may be based, in whole or in part, on a percentage of the principal amount of the Bonds. While this form of compensation is customary in the municipal securities market, it presents a conflict of interest since the underwriter may have an incentive to recommend to the Issuer a

¹ Under federal securities law, an issuer of securities has the primary responsibility for disclosure to investors. The review of the official statement by the underwriter is solely for purposes of satisfying the underwriter’s obligations under the federal securities laws and such review should not be construed by an issuer as a guarantee of the accuracy or completeness of the information in the official statement.

transaction that is unnecessary or to recommend that the size of the transaction be larger than is necessary.

- (vii) Davidson is registered as a broker-dealer with the U.S. Securities and Exchange Commission (“SEC”) and the MSRB, and is subject to the regulations and rules on municipal securities activities established by the SEC and MSRB. The website address for the MSRB is www.msrb.org. The MSRB website includes educational material about the municipal securities market, as well as an investor brochure that describes the protections that may be provided by the MSRB rules and how to file a complaint with an appropriate regulatory authority.

2. Disclosures Concerning Additional Conflicts.

Davidson has not identified any additional potential or actual material conflicts that require disclosure.

3. Disclosures Concerning Complex Municipal Securities Financing

Since Davidson has not recommended a “complex municipal securities financing” to the Issuer, additional disclosures regarding the financing structure for the Bonds are not required under MSRB Rule G-17. In accordance with the requirements of MSRB Rule G-17, if Davidson recommends a “complex municipal securities financing” to the Issuer, this letter will be supplemented to provide disclosure of the material financial characteristics of that financing structure as well as the material financial risks of the financing that are known to us and reasonably foreseeable at that time.

4. Questions and Acknowledgment.

If you or any other Issuer officials have any questions or concerns about these disclosures, please make those questions or concerns known immediately to Davidson. In addition, you should consult with the Issuer’s own financial and/or municipal, legal, accounting, tax and other advisors, as applicable, to the extent you deem appropriate.

It is our understanding that you have the authority to bind the Issuer by contract with us, and that you are not a party to any conflict of interest relating to the subject transaction. If our understanding is incorrect, please notify Davidson immediately.

Depending on the structure of the transaction that the Issuer decides to pursue, or if additional potential or actual material conflicts are identified, we may be required to send you additional disclosures regarding the material financial characteristics and risks of such transaction and/or describing those conflicts. At that time, we also will seek your acknowledgement of receipt of any such additional disclosures.