

RESOLUTION NO. 1433

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DAYTON, WASHINGTON,
AUTHORIZING EXECUTION OF AN ENGAGEMENT LETTER WITH FOSTER HARVEY
P.C. TO PROVIDE PROFESSIONAL BOND COUNSEL SERVICES**

^{2w}**WHEREAS**, the City of Dayton ("City") wishes to enter into an agreement with Foster ^{2w}~~Harvey~~^G, P.C., concerning professional bond counsel services in the issuance of Water and Sewer Revenue Refunding Bonds, 2020 ; and

WHEREAS, the City has received an Engagement Letter from Foster ^{2w}~~Harvey~~^G, P.C., concerning the professional bond counsel services in the issuance of Water and Sewer Revenue Refunding Bonds, 2020, attached hereto as Exhibit A, and incorporated herein by reference.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DAYTON,
WASHINGTON, DO RESOLVE AS FOLLOWS:**

SECTION 1. AUTHORIZATION OF AGREEMENT. The City Council hereby authorizes the execution of the Engagement Letter with Foster ^{2w}~~Harvey~~^G, P.C., to provide professional bond counsel services in the issuance of Water and Sewer Revenue Refunding Bonds, 2020, as attached hereto as Exhibit "A", and incorporated herein by reference..

SECTION 2. EXECUTION OF AGREEMENT. The Mayor is hereby authorized to execute the Engagement Letter with Foster ^{2w}~~Harvey~~^G P.C. on behalf of the City of Dayton.

SECTION 3. The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directions of this legislation.

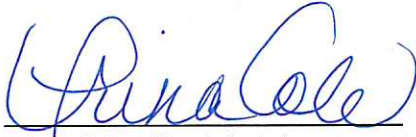
SECTION 4. EFFECTIVE DATE. That this resolution shall take effect and be in full force upon passage and signatures hereon.

PASSED by the City Council of the City of Dayton, Washington on this ^{31ST} day of August, 2020.

City of Dayton

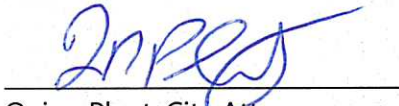

Zac Weatherford, Mayor

Attested/Authenticated by:



Trina Cole, City Administrator

Approved as to form:



Quinn Plant, City Attorney



CITY OF DAYTON

AUG 24 2020

REC'D BY

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August 19, 2020

Mayor Zac Weatherford
City of Dayton
111 South 1st Street
Dayton, Washington 99328

Re: Issuance of Water and Sewer Revenue Refunding Bonds, 2020

Dear Mayor Weatherford:

We are pleased to have the opportunity to work again with the City of Dayton (the "City"). The purpose of this letter is to describe the services we will perform as bond counsel to the City and the terms of our engagement in connection with the issuance of the above-referenced bonds (the "Bonds"). We understand that the Bonds will be issued in the approximate aggregate principal amount of \$3.5 million, the proceeds of which will be used to refund outstanding revenue obligations of the City. We further understand that the Bonds will be purchased by North Cascades Bank (the "Purchaser").

SCOPE OF ENGAGEMENT

In this engagement, we expect to perform the following duties: (i) review legal issues relating to the structure of the Bonds; (ii) prepare and review documents necessary or appropriate to the authorization, issuance, and delivery of the Bonds, and coordinate the authorization and execution of such documents; and (iii) subject to the completion of proceedings to our satisfaction, render a legal opinion regarding the validity of the Bonds and the treatment of interest on the Bonds for federal income tax purposes (the "Bond Opinion"). Our Bond Opinion will be addressed to the City and will be delivered by us on the date the Bonds are exchanged for their purchase price (the "Closing"). The Bond Opinion will be based on facts and law existing as of their date. In rendering the Bond Opinion, we will rely upon the certified proceedings and other certifications of City officials and other persons furnished to us without undertaking to verify the same by independent investigation, and we will assume continuing compliance by the City after the Bonds are issued with applicable laws relating to the Bonds. During the course of this engagement, we will rely on the City to provide us with complete and timely factual information to support our analysis of the relevant laws relating to the issuance of the Bonds. We understand that officials and employees of the City will cooperate with us in this regard.

ATTORNEY-CLIENT RELATIONSHIP

Upon execution of this engagement letter, the City will be our client and an attorney-client relationship will exist between us. In this transaction we represent only the City, we are not counsel to any other party, and we are not acting as an intermediary among the parties. Our services regarding the Bonds are limited to those contracted for in this letter. The City's execution of this engagement letter will constitute an acknowledgment of those limitations. Our representation of the City regarding the Bonds will be concluded upon issuance of the Bonds. Nevertheless, subsequent to the Closing, we will mail the appropriate Internal Revenue Service Form 8038, and prepare and distribute to the participants in the transaction a transcript of the proceedings pertaining to the Bonds.

CONFLICTS

Our firm represents many political subdivisions, companies and individuals. It is possible that during the time that we are representing the City, one or more of our present or future clients will have transactions with the City. It is also possible that we may be asked to represent, in an unrelated matter, one or more of those types of clients. For example, from time to time we represent bond purchasers, underwriters, neighboring governments, or we assist developers in land use or environmental matters. We do not foresee, however, that any such prior or future representation will adversely affect our ability to represent the City as provided in this letter, either because such matters were or will be sufficiently different from the issuance of the Bond so as to make such representations not adverse to our representation of the City, or because the potential for such adversity is remote or minor and outweighed by the consideration that it is unlikely that advice given to the other client will be relevant to any aspect of the issuance of the Bond. Execution of this letter will signify the City's consent to our representation of others consistent with the circumstances described in this paragraph. To the extent we believe such future representation may adversely affect our representation of the City, we will disclose such representation to the City and, if required by ethical rules, seek the appropriate City consent. However, the City's consent to our representation of other clients as described in this paragraph does not extend to our firm's lawyers representing a client in any litigation or similar dispute adverse to the City before any court or similar forum. A separate waiver would need to be sought, based on the facts of the relevant dispute.

RECORDS

Upon request, papers and property furnished by you will be returned promptly. Our own files, including lawyer work product, pertaining to the transaction will be retained by us. For various reasons, including the minimization of unnecessary storage expenses, we reserve the right to dispose of any documents or other materials retained by us after the termination of this engagement.

FEE

Based upon: (i) our current understanding of the terms, structure, size, schedule, and character of the financing represented by the Bonds; (ii) the duties we will undertake pursuant to this engagement letter; and (iii) the responsibilities we will assume in connection therewith, our

fee for bond counsel services (including the rendering of the Bond Opinion) will be \$25,000. We will not separately invoice the City for out-of-pocket expenses. Our fees may increase if there are material changes in the structure (e.g. a change from fixed rate to variable rate bonds), if the principal amount of the Bonds increases by more than \$1 million, or if unforeseen circumstances arise (e.g. a casualty event to the proposed project, or a change in law) that require a significant increase in our time or responsibility. If, at any time, we believe that circumstances require an adjustment of our fees, we will advise you in writing. Our fees will be due at Closing. The City hereby authorizes the Purchaser to pay our fees directly to us, *via* wire transfer, from Bond proceeds at Closing. Payment of our fees is contingent on a successful Closing; however, if, for any reason, the financing represented by the Bonds is completed without the delivery of our Bond Opinion, or our services are otherwise terminated, we will expect to be compensated at our normal hourly rates for time actually spent on your behalf; provided that, (1) we submit a billing statement to the City that describes the time, legal services and expenses incurred on your behalf, and (2) such compensation shall not exceed the amount of the fee that would have been paid had the Bonds closed with our Bond Opinion.

If the foregoing terms are acceptable, we ask that you sign and date two copies. Please return one copy to me and the remaining copy should be retained in the City's files. We look forward to working with you again.

Very truly yours,

FOSTER GARVEY P.C.



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Accepted and approved this 31ST day of August, 2020.

CITY OF DAYTON, WASHINGTON



Zac Weatherford, Mayor