

Founded in 1852
by Sidney Davy Miller

MILLER CANFIELD

Miller, Canfield, Paddock and Stone, P.L.C.
150 West Jefferson, Suite 2500
Detroit, Michigan 48226
TEL (313) 963-6420
FAX (313) 496-7500
www.millercanfield.com

STEVEN D. MANN
TEL (313) 496-7509
FAX (313) 496-8451
E-MAIL mann@millercanfield.com

MICHIGAN: Ann Arbor
Detroit • Grand Rapids
Kalamazoo • Lansing • Troy

ILLINOIS: Chicago

NEW YORK: New York

OHIO: Cincinnati • Cleveland

CANADA: Windsor

CHINA: Shanghai

MEXICO: Monterrey

POLAND: Gdynia
Warsaw • Wrocław

March 18, 2019

Via email only

Hon. Board of Trustees
Township of Northfield
8350 Main St.
Whitmore Lake, MI 48189-0576

Re: Bond Financing Improvements to the Township's Sanitary Sewer System

Dear Honorable Board of Trustees:

This letter is to inform you of the general steps necessary to issue bonds to finance improvements to the Township of Northfield (the "Township") sanitary sewer system. We understand that two potential projects are being considered by the Township for possible implementation. One project consists of the construction of a sewage retention tank and the other project consists of construction of a sewer line. The process the issue bonds described in this letter would apply equally to either or both of these projects. If both projects were implemented, the financing could likely be accomplished through the issuance of a single series of bonds.

Resolution Declaring Intent to Issue Bonds

The first step in the bond issuance process would be for the Board of Trustees to adopt a resolution authorizing the publication of a notice of intent to issue bonds. As bond counsel, we would be responsible for preparing this notice. Enclosed with this letter is a sample resolution for information purposes only.

The first purpose of the resolution is to authorize publication of a notice of intent to issue capital improvement bonds¹ for the project. Under the Revised Municipal Finance Act, Act 34, Public Acts of Michigan, 2001, as amended ("Act 34"), the Township may not issue capital improvement bonds unless it first publishes a notice of intent to do so. If a valid petition for referendum election is filed by not less than 10% of the registered electors of the Township

¹ If the Township desired to issue revenue bonds, we would provide the appropriate resolution which would be very similar in content to the enclosed resolution, except that the authorizing statute would be the Revenue Bond Act, Act 94, Public Acts of Michigan, 1933, as amended, and the sole security pledged to repay the bonds would be revenues from the Township's sanitary sewer system. Otherwise, the process is the same as described in this letter.

14

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

Hon. Board of Trustees
Township of Northfield

-2-

March 18, 2019

within 45 days of publication of the notice, then the Township may not issue the bonds without voter approval. The enclosed sample resolution authorizes the publication of a notice of intent. The actual form of the notice to be published is set forth on Appendix A of the resolution. Only the notice (and not the entire resolution) would be published in a newspaper of general circulation in the Township. The notice is required to be published as a display advertisement of not less than one-quarter page in size. A fine print legal notice will not satisfy Michigan law as interpreted by the Michigan courts.

The second purpose of the resolution is to meet the requirements of the federal tax law regulations applicable to tax-exempt bonds. Treasury Regulation § 1.150-2 provides in effect that an issuer of municipal bonds may reimburse itself for expenditures (hard costs) made prior to the issuance of bonds only if it has declared its intention to do so in advance (soft costs such as engineering and legal fees can generally always be reimbursed). (There is a 60 day grace period in the regulation. That is, the resolution covers expenditures made up to 60 days prior to the date of the resolution.) The resolution makes this declaration in Section 4.

The language of the resolution is taken from the tax regulations and, not surprisingly, it therefore reads as tax jargon. The essential notion of the reimbursement declaration can be found in subparagraphs (a)-(c). Subparagraph (d) is a reminder of the need to keep a careful paper trail of expenditures and of reimbursements. Both the expenditure and the subsequent reimbursement must be specifically linked to the project.

Notice under the Township's Public Indebtedness Ordinance

Prior to the issuance of bonds exceeding \$250,000 which are secured by a pledge of the Township's full faith and credit, Township Ordinance No. 08-05 requires that the Township provide certain notice to Township taxpayers. Specifically, this public indebtedness ordinance requires that at least eight (8) days and not more than thirty (30) days before the Township takes action on the issuance of the bonds, it must (1) mail notice on a colored postcard to all township taxpayers announcing the intent to create public indebtedness, and (2) publish notice in a newspaper of general circulation in the Township announcing the intent to create public indebtedness. Both notices must include the amount of the proposed indebtedness, the date, time and location of the relevant meeting of the Township Board of Trustees, and the reason for which the proposed indebtedness is proposed to be incurred. These notices would be mailed and published at least eight (8) days and not more than thirty (30) days before the Township authorizes issuance of the bonds (described below). We would provide the necessary language for the notices as part of our services as Bond Counsel.

Authorization, Sale and Issuance of the Bonds

After project design is completed and construction bids have been received and verified, the total project cost will be determined by the engineer, taking into account construction bids,

15

MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.

Hon. Board of Trustees
Township of Northfield

-3-

March 18, 2019

engineering costs, a reasonable construction contingency and costs of issuing the bonds. The amount to be financed will then be determined by subtracting any Township contribution from the total project cost. Bendzinski & Co., the Township's registered municipal advisor, will then prepare and provide to Bond Counsel the bond specifications and recommended method of sale. We as Bond Counsel will then prepare the resolution authorizing issuance of the bonds for consideration by the Township Board. The resolution authorizing issuance will set forth the amount, the terms and parameters, and the method for selling the bonds. The resolution authorizing issuance would typically be the final action required by the Township Board with respect to the bonds. The resolution would delegate authority to the Township Manager, Supervisor, Clerk and Treasurer to conduct the bond sale, award the sale of the bonds, and take all other steps necessary to accomplish the sale, issuance and delivery of the bonds, all within the parameters authorized in the resolution. Approximately two weeks after the sale of the bonds, the bonds would be delivered to the purchaser in exchange for the purchase price and the issue would be closed.

We hope that you have found this information helpful. Please let me know if you have any questions.

Very truly yours,

Miller, Canfield, Paddock and Stone, P.L.C.

By: Steven D. Mann
Steven D. Mann

Enclosures

- 1. Sample Resolution.
- 2. Public Indebtedness Ordinance.

cc: Steve Aynes, Township Manager
Paul Burns, Esq.
Brian Rubel
Robert J. Bendzinski
Stephen N. Hayduk