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AMENDED AND RESTATED CHANGE ORDER #1

This Amended and Restated Change Order #1, dated June 16, 2014, (the "Amended and Restated Change Order") amends and restates, in its entirety, Change Order #1, dated July 16, 2013, to that certain Services Contract, dated January 9, 2013, by and between the City of Detroit, Michigan (the "City") and Miller Buckfire & Co., LLC ("Miller Buckfire") (the "Original Contract"), including Addendum #1 to Change Order #1, dated August 26, 2013 ("Addendum #1", and together with Change Order #1, the "Prior Change Order").

Capitalized terms used, but not otherwise defined in this Amended and Restated Change Order, have the respective meanings ascribed to them in the Original Contract. Except as modified by this Amended and Restated Change Order, all terms and conditions of the Original Contract shall continue in full force and effect and be unaffected by this Amended and Restated Change Order.

The Prior Change Order is hereby amended and restated by the following:

EXHIBIT A

SCOPE OF SERVICES

I. Definitions

The following words and expressions or pronouns used in their stead shall be construed as follows, for the purposes of this Scope of Services:

“Asset Monetization” shall mean the disposition to one or more third parties in one or a series of related transactions of any Marketed Assets, other than in the ordinary course of business, including through a sale or exchange of capital stock, options or assets, a lease of assets with or without a purchase option, a merger, consolidation or other business combination, the formation of a governmental or quasi-governmental authority or agency, joint venture, partnership or similar entity, or any similar transaction.

“Contract” shall mean the Original Contract as modified by this Amended and Restated Change Order.

“Debtor-in-Possession Financing” shall mean the post-petition Financing secured by the City to advance certain key investment initiatives of the City (“Quality of Life” initiatives), in advance of the City’s exit from bankruptcy.

“DWSD” shall mean the Detroit Water and Sewerage Department.

“DWSD Financing” shall mean, in connection with the City’s exit from bankruptcy protection: (i) any issuance, sale or placement of debt securities, instruments or obligations of DWSD and/or its successor with one or more lenders or investors except to the extent issued to existing holders of DWSD indebtedness in exchange for their existing securities, or (ii) any loan or other financing of DWSD, including any “exit financing”, in connection with the City’s plan of adjustment under the Bankruptcy Code.

“DWSD Restructuring” shall mean any recapitalization or restructuring (including, without limitation, any reduction in interest rates or elimination of call protection) of DWSD’s debt securities and/or other indebtedness, obligations or liabilities, including pursuant to any exchange, conversion, cancellation, forgiveness, retirement, material modification or amendment to the terms, conditions or covenants, repurchase, a plan of adjustment or a solicitation of consents, waivers, acceptances or authorizations.

“DWSD Transaction” shall mean the disposition of DWSD or a significant portion of its assets or businesses to one or more third parties and/or a combination of the business(es) of DWSD with the business(es) of one or more third parties, in any such case, in one transaction or a series or combination of transactions, other than in the ordinary course of business, including, without limitation, through a sale, purchase or exchange of capital stock, options or assets, a lease of assets with or without a purchase option, a merger, consolidation or other business combination, the formation of a governmental or quasi-governmental authority or agency, joint venture, partnership or similar entity, or any similar transaction.

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“Financing” shall mean (i) any issuance, sale or placement of debt securities, instruments or obligations of the City with one or more lenders and/or investors except to the extent issued to existing security holders of the City in exchange for their existing securities, or (ii) any loan or other financing, including any Debtor-in-Possession Financing” or “exit financing” in connection with a case under the Bankruptcy Code (each such lender or investor, an “Investor”).

“Marketed Asset” shall mean any of the City’s saleable assets and operations (including executory contracts) that the City undertakes to sell, lease, convey, assign, or otherwise use or transfer.

“Restructuring” shall mean any recapitalization or restructuring (including, without limitation, through any exchange, conversion, cancellation, forgiveness, retirement and/or a material modification or amendment to the terms, conditions or covenants thereof) of the City’s debt securities and/or other indebtedness, obligations or liabilities (including swap contracts, unfunded pension and retiree medical liabilities, other employee obligations, lease obligations and/or contract or tort obligations), including pursuant to a repurchase or an exchange transaction, a Plan or a solicitation of consents, waivers, acceptances or authorizations.

“Swap Settlement” shall mean any Restructuring of the obligations under certain existing derivative contracts of the Detroit General Retirement System Service Corporation and the Detroit General Retirement System Service Corporation.

II. Services to be Performed

Miller Buckfire’s engagement team will be led and directed by Kenneth A. Buckfire with the support of other Managing Directors and bankers of Miller Buckfire. If requested by the City, Miller Buckfire, in its capacity as financial advisor to the City, will perform the following services:

Liability Restructuring

- (1) Provide financial advice and assistance to the City in developing and seeking approval of a Restructuring plan (as the same may be modified from time to time, a “Plan”), including a DWSD Restructuring, which may be a plan under chapter 9 of title 11 of the United States Code, 11 U.S.C. §§ 101 *et. seq.* (the “Bankruptcy Code”);
- (2) Provide financial advice and assistance to the City in structuring any new securities to be issued under the Plan;
- (3) Assist the City and/or participate in negotiations with entities or groups affected by the Plan;
- (4) Participate in hearings and, if requested, testify before the bankruptcy court with respect to the matters upon which Miller Buckfire has provided advice, including, as relevant, coordinating with the City’s counsel with respect to testimony in connection therewith;
- (5) Serve as an Independent Registered Municipal Advisor for the purposes of issuance of municipal securities under the Plan pursuant to rules pertaining to the registration of municipal advisors issued by the U.S. Securities and Exchange Commission that become effective July 1, 2014;

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- (6) Provide such other financial advisory services as may from time to time be specifically agreed upon in writing by Miller Buckfire and the City; and,
- (7) Serve as a “Designated Qualified Independent Representative” (within the meaning of CFTC Regulation 23.450) of the City and of the Detroit General Retirement System Service Corporation and the Detroit General Retirement System Service Corporation (in this context, each a “CP”) in negotiations with certain swap dealers to settle such CP’s obligations under certain existing derivative contracts. As such, Miller Buckfire represents to each CP as follows:
 - a. Miller Buckfire has written policies and procedures reasonably designed to ensure that Miller Buckfire satisfies the applicable requirements of CFTC Regulation 23.450(b)(1);
 - b. Miller Buckfire is exercising independent judgment in evaluating all “recommendations” (as such term is used in CFTC Regulations 23.434 and 23.440) with respect to any swaps provided by any swap dealer that are presented to Miller Buckfire;
 - c. unless Miller Buckfire otherwise notifies the CP and a swap dealer in writing:
 - i. Miller Buckfire is not and, within one year of representing such CP in connection with a swap with swap dealer has not been, an “associated person” (as that term is defined in Section 1a(4) of the Commodity Exchange Act) of such swap dealer;
 - ii. There is no “principal relationship” (as that term is defined in CFTC Regulation 23.450(a)(1)) between Miller Buckfire and any swap dealer entering a swap with the CP in which Miller Buckfire has acted as a Designated Qualified Independent Representative;
 - iii. Miller Buckfire (i) provides timely and effective disclosures to each CP of all material conflicts of interest that could reasonably affect Miller Buckfire’s judgment or decision making with respect to Miller Buckfire’s obligations to such CP and (ii) complies with policies and procedures reasonably designed to manage and mitigate such material conflicts of interest;
 - iv. Miller Buckfire is not directly or indirectly, through one or more persons, controlled by, in control of, or under common control with any swap dealer entering a swap with a CP in respect of which Miller Buckfire has acted as a Designated Qualified Independent Representative; and
 - v. To the best of Miller Buckfire’s knowledge, no swap dealer entering a swap with a CP in respect of which Miller Buckfire has acted as a Designated Qualified Independent Representative has referred, recommended, or introduced Miller Buckfire to such CP within one year of Miller Buckfire’s representation of such CP in connection with any Swap with such swap dealer; and
 - d. Miller Buckfire is legally obligated to comply with the applicable requirements of CFTC Regulation 23.450(b)(1) by agreement, condition of employment, law, rule, regulation, or other enforceable duty.

Asset Monetization

- (1) Study and evaluate each Marketed Asset;
- (2) Provide financial advice and assistance to the City in connection with an Asset Monetization, identify potential acquirors and, at the City’s request, contact such potential acquirors;

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- (3) Assist the City in preparing memoranda (with any amendments or supplements thereto, the "Sale Memoranda") to be used in soliciting potential acquirors, it being agreed that (A) the Sale Memoranda shall be based entirely upon information supplied by the City, (B) the City shall be solely responsible for the accuracy and completeness of the Sale Memoranda, and (C) other than as contemplated by this subparagraph (C)(ii), the Sale Memoranda shall not be used, reproduced, disseminated, quoted or referred to at any time in any way, except with Miller Buckfire 's prior written consent;
- (4) Assist the City and/or participate in negotiations with potential acquirors; and
- (5) Provide such other financial advisory services as may from time to time be specifically agreed upon in writing by Miller Buckfire and the City.

Financing

- (1) Provide financial advice and assistance to the City in structuring and effecting a Financing, identify potential Investors and, at the City's request, contact such Investors;
- (2) Assist the City and any other advisors hired to assist with the Financing in developing and preparing memoranda (with any amendments or supplements thereto, the "Financing Offering Memoranda") to be used in soliciting potential Investors, it being agreed that (A) the Financing Offering Memoranda shall be based entirely upon information supplied by the City, (B) the City shall be solely responsible for the accuracy and completeness of the Financing Offering Memoranda, and (C) other than as contemplated by this subparagraph (B)(ii), the Financing Offering Memoranda shall not be used, reproduced, disseminated, quoted or referred to at any time in any way, except with Miller Buckfire's prior written consent;
- (3) Assist the City and/or participate in negotiations with potential Investors;
- (4) Serve as an Independent Registered Municipal Advisor for the purposes of issuance of municipal securities under a Financing pursuant to rules pertaining to the registration of municipal advisors issued by the U.S. Securities and Exchange Commission that are effective July 1, 2014;
- (5) Provide Financing services in connection with a debtor-in-possession Financing proposed to be raised by the City;
- (6) Provide Financing services in connection with a financing proposed to be raised by the City in connection with the City's exit from bankruptcy protection (an "Exit Financing"); and
- (7) Provide Financing services in connection with a DWSD Financing proposed to be raised by the City; and
- (8) Provide such other financial advisory services as may from time to time be specifically agreed upon in writing by Miller Buckfire and the City;

It is understood and agreed that nothing contained herein shall constitute an expressed or implied commitment by Miller Buckfire to act in any capacity or to underwrite, place or purchase any financing or securities.

DWSD Transaction

- (1) Study and evaluate DWSD and its business prospects;
- (2) Identify and analyze the financial alternatives available to the City with respect to DWSD;
- (3) Develop the strategy and tactics to be used in evaluating these alternatives in the market and conduct a marketing process for DWSD that may result in a DWSD

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- Transaction and/or an operating and maintenance agreement with respect to the operation and maintenance of DWSD;
- (4) If a DWSD Transaction is pursued:
 - a. Provide analysis and advice in connection with the consideration of offers received relating to a DWSD Transaction; and
 - b. As directed by the City, assist in the negotiation of definitive agreement(s) with prospective operator(s) and/or investor(s).
 - (5) Provide such other financial advisory services as may from time to time be specifically agreed upon in writing by Miller Buckfire and the City.

Opinions

- (1) If requested by the City in connection with a DWSD Transaction, or other Asset Monetization, Miller Buckfire will provide, in accordance with its customary practice, an opinion (the "Opinion") to the City, with respect to the adequacy or fairness, from a financial point of view, of the consideration to be received by the City in such monetization, it being understood that the Opinion shall be in such form as Miller Buckfire shall determine and Miller Buckfire may qualify the Opinion in such manner as Miller Buckfire believes appropriate. The Opinion shall not address the City's underlying strategic decision to effect any such transaction.

III. General

Notwithstanding the provisions of Section I of Exhibit A to the Contract, this Services Contract shall be effective as of January 9, 2013, and shall terminate upon consummation of a Restructuring of the City unless extended by the City and Miller Buckfire pursuant to a written agreement except for those provisions of the Contract which by their terms survive termination.

EXHIBIT B

FEE SCHEDULE

I. General

- (1) The Contractor shall be paid a financial advisory fee of \$500,000 per month through December 2013, and \$300,000 per month thereafter through the consummation of a plan of adjustment or the termination of this Contract by the City (the "Monthly Advisory Fee"). The Monthly Advisory Fee shall be invoiced promptly upon the end of each month. One hundred percent of any Monthly Advisory Fee paid in respect of this engagement, for the period beginning on September 1, 2013 and ending on September 30, 2014, shall be credited against the Restructuring Fee (as defined below) earned by Miller Buckfire. Fifty percent of any Monthly Advisory Fee paid in respect of this engagement for the period beginning October 1, 2014 and thereafter shall be credited against any Restructuring Fee earned by Miller Buckfire.
- (2) One hundred percent of any fees actually paid in connection with any Debtor-in-Possession Financing services and Swap Settlement services pursuant to the Prior Change Order, shall be credited against the Restructuring Fee earned by Miller Buckfire.
- (3) The fee for any such Opinion, as defined in Exhibit A, shall be mutually agreed upon in writing by Miller Buckfire and the City. One hundred percent of any fees paid in connection with any Opinion shall be credited against the Restructuring Fee earned by Miller Buckfire.
- (4) If at any time during (i) the term of this Contract or (ii) within twelve full months following the expiration of this Contract or the termination of this Contract by the City other than for cause (such period including the term of this engagement, the "Fee Period"), any Restructuring is consummated or an agreement in principle, definitive agreement or Plan to effect a Restructuring is entered into and concurrently therewith or at any time thereafter (including following the expiration of the Fee Period), any Restructuring is consummated, the City shall pay Miller Buckfire a flat fee (the "Restructuring Fee") of \$28,000,000 (Twenty-Eight Million Dollars).
 - a. Notwithstanding anything to the contrary in the Original Contract, the Restructuring Fee shall be payable 80% upon confirmation of a plan of adjustment of the City and 20% upon consummation of such Restructuring.
 - b. Notwithstanding anything to the contrary in the Original Contract, Miller Buckfire acknowledges that the City may cause DWSD to pay any transactions fees due to Miller Buckfire related to a DWSD Transaction or DWSD Restructuring on behalf of the City. However, any such allocation to DWSD does not impact the City's obligation to Miller Buckfire until and unless such fees are paid.
 - c. It is understood and agreed that the Restructuring Fee is the total amount of fees to be paid in respect of any and all services performed under this Amended and Restated Change Order as described in Exhibit A, subject to amounts to be credited as described in this Exhibit B.

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This Amended and Restated Change Order and the Original Contract are hereby approved and ratified in all aspects as valid and binding obligations of Miller Buckfire and the City notwithstanding anything to the contrary in the Original Contract, including without limitation the requirements set forth in Article 17 or any other provision of the Original Contract requiring approval of appropriate City departments, the City Council and the signature of the Purchasing Director.

In witness whereof, the parties have executed this Amended and Restated Change Order to the Contract as of June 16, 2014.

Contractor:
Miller Buckfire & Co., LLC

By: 

Kenneth A. Buckfire
President

City of Detroit

By: 

Keyyn D. Orr
Emergency Manager
City of Detroit