

**Town Board Meeting  
October 25, 2021**

Supv. Crossen called the meeting of the Alabama Town Board to order at 7:00 p.m. Roll Call was taken, Councilperson Fisher, LaGrou, Klotzbach, Veazey and Supv. Crossen were present. Also present: Supt. Covell, Attorney Boylan, Jeff Tauscher, Mary Jo Hinkson. Also present via zoom: Pam Thurber.

**2021 Budget Amendment**

MOTION by Councilperson LaGrou, seconded by Councilperson Veazey to amend the 2021 budget by adding \$100,000.00 to A2210 Revenue line for Plug Power reimbursements. Approved by roll call vote: C. Fisher – yes C. LaGrou – yes C. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

**WD#2 Amended Legal Services Agreement**

RUS Bulletin 1780-7  
UNITED STATES DEPARTMENT OF AGRICULTURE  
Rural Utilities Service  
**AMENDED**  
LEGAL SERVICES AGREEMENT

This agreement made this 13th day of October, 2021, between The Town of Alabama on behalf of Water District #2 hereinafter referred to as "Owners," and Mark S. Boylan, Esq., of Boylan Law Office, LLP, attorneys at law, hereinafter referred to as "Attorney":

WHEREAS, Owners are intending to construct and operate Water District #2 (Phase 3) in The Town of Alabama, Genesee County, New York.

WHEREAS, the Attorney agrees to perform all legal services necessary to finance, construct, and initial operation of said facility

WITNESSETH:

That for and in consideration of the mutual covenants and promises between the parties hereto, it is hereby agreed:

SECTION A - LEGAL SERVICES

That the Attorney will perform such services as are necessary to accomplish the above recited objectives including, but not limited to, the following:

1. Assistance in the taking of actions as may be necessary or incidental to cause the Owners to finance construct and operate said facility.
2. Furnish advice and assistance to the governing body of the duly incorporated association in connection with (a) the notice for and conduct of meetings; (b) the preparation of minutes of meetings; (c) the preparation and enactment of such resolutions as may be necessary in connection with the authorization, financing, construction, and initial operation of the facility; (d) the preparation of such affidavits, publication notices, reports, certifications, and other instruments and advice as may be needed in the financing of said facility; (e) the completion and execution of documents for obtaining a loan made or insured or a grant made by the United States of America, acting through the Rural Utilities Service, U. S. Department of Agriculture; (g) entering into construction contracts; (h) preparation and adoption of By-Laws, Rules and Regulations, and rate schedules; (i) such other corporate action as may be necessary in connection with the financing, construction, and initial operation of the facility.
3. Review of construction contracts, bid-letting procedure, and surety and contractual bonds in connection therewith.
4. Preparation, negotiation, or review of contract with a city or other source of water supply when necessary.

5. Preparation, where necessary, and review of deeds, easements and other rights-of-way documents, and other instruments; rendering title opinions with reference thereto; and providing for the recordation thereof. 2
6. Obtain necessary permits and certificates from county and municipal bodies, from State regulatory agencies, and from other public or private sources with respect to the approval of the facility, the construction and operation thereof.
7. Cooperate with the engineer employed by Owners in connection with preparation of tract sheets, easements, and other necessary title documents, construction contracts, water supply contracts, health permits, crossing permits, and other instruments.
8. When applicable, secure assistance of and cooperate with recognized bank counsel in the preparation of the documents necessary for the financing aspects of the system. Where bank counsel is retained, the Attorney will not be responsible for the preparation and approval of those documents pertaining to the issuance of the Owner's obligations.

SECTION B – COMPENSATION

Owners will pay to the Attorney for professional services rendered in accordance herewith, fees payable at time of closing as follows, as billed in an amount not to exceed **\$135,000.00**

SECTION C - OTHER PROVISIONS

1. That the Owner shall by appropriate resolution adopt and ratify this Agreement.
2. That upon submission to the Owner should the Owner fail or refuse to adopt and ratify this Agreement by appropriate resolution within 60 days from the date of the submission,, this Agreement shall terminate and Owners shall be liable to the Attorney for payment of the amount as billed, which sum represents payment in full for all legal services rendered to Owners under the terms of this Agreement to the date of said termination.

MOTION By Councilperson LaGrou, seconded by Councilperson Klotzbach to accept the amended Legal Service Agreement for Water District #2 in an amount not to exceed \$135,000.00. Approved by roll call vote:

C. Fisher – yes    C. LaGrou – yes    C. Klotzbach – yes    C. Veazey – yes    Supv. Crossen – yes

**Amended USDA Fee Letter for Bond Counsel**

Re: Town of Alabama, Genesee County, New York  
 Water District No. 2 - \$6,545,000 Serial Bonds – Sale to USDA  
 Orrick File No.: 44096-2- 1

Supervisor Crossen:

As you are aware, we serve Town of Alabama as Bond Counsel with respect to rendering our approving opinions in connection with obligations to be issued pursuant to the Local Finance Law by the Town in order to finance the above-referenced project.

We are drafting this amended USDA fee letter at your request.

As your bond counsel, we will provide such usual and customary bond counsel services as preparation of proceedings and documentation necessary to be adopted or executed for the authorization, sale and issuance of your notes and bonds, as well as provide legal advice on related municipal law, local finance law and tax law matters. Usual and customary bond counsel services do not include (but we expect to be

available if needed for separate engagement for) any litigation or other legal or administrator proceeding involving any notes, bonds or any related matter, compliance with federal or state securities laws, arbitrage rebate compliance or continuing disclosure.

Our legal services in connection with the above have included and will include the following:

1. General advice relative to the financing.
2. Assistance in the process of assuring compliance with the State Environmental Quality Review Act.
3. Drafting and/or review of Town Law District proceedings, as applicable.
4. Drafting of the bond resolution.
5. Drafting of the form of Legal Notice of estoppel.
6. Drafting of the Bond Determinations Certificate providing for the details and authorizing the sale of the bond issue to Rural Development (U.S.D.A.).
7. Drafting of a preliminary approving opinion for Rural Development.
8. Drafting of the form of the local Attorney's Certificate as to No Litigation.
9. Drafting of the forms of the final approving opinion.
10. Drafting of the bond forms.
11. Drafting of the General Certificate of the Town Clerk.
12. Drafting and/or review of the maturity schedule for the bond issue.
13. Preparation of typewritten bonds.
14. Drafting of the form of the Closing Certificate for the closing.
15. Drafting of forms of Arbitrage Certificate.
16. Completion and filing of IRS information forms 8038-G.
17. Complete supervision from commencement of the financing of the project through the closing, including various detailed letters of instructions.
18. Review of the form of loan resolution required and provided by the Rural Development.
19. Drafting of this letter providing for the terms of our retainer.

Previously we provide a fee letter dated March 18, 2018 for a +/- \$8,523,000 bond issue, not to exceed \$16,725. That letter stated a separate projection of fees for BANs and that did not anticipate a total of five BANs due to the longer construction period. As a result, the not to exceed expectation as to BANs has nearly exceeded the original estimate and totaled \$28,580, exceeding the total borrowing budget of \$29,405. We therefore have been asked to provide this letter to cover the bond issuance itself.

**Our fee for the above services for \$6,545,000 U.S.D.A. bond issue will be \$14,395 which is below the \$16,725 originally estimated for the bond issue. The total engagement maximum amount, including past invoices is \$42,975.**

As a result of Orrick's extensive public finance and other practices, the firm regularly performs legal services for many private and public entities in connection with a wide variety of matters, such as other public entities, underwriters, trustees, rating agencies, credit enhancement providers, lenders, contractors, suppliers, financial and other consultants/advisors, accountants, investment and others who may have a role or interest in connection with notes or bonds issued by you or with which you may be involved. We want to assure you that we would not represent any such entity in connection with notes or bonds for which we are your bond counsel without your consent.

MOTION By Councilperson Veazey, seconded by Councilperson Fisher to accept the amended USDA Fee letter for Bond Counsel for Water District #2. Approved by roll call vote:

C. Fisher – yes C. LaGrou – yes C. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

**WATER DISTRICT #2 PROJECT BUDGET MODIFICATIONS**

**WHEREAS**, the Town of Alabama has received funding from Rural Development for their Water District #2 (“Project”); and

**WHEREAS**, the Town Board wishes to adjust project budget items to more accurately reflect actual costs and;

**WHEREAS**, Rural Development requires the Town Board to authorize all changes to the Administrative Budget as shown on the Form E; NOW, therefore be it

**RESOLVED**, that the Town Board of the Town of Alabama authorizes the following Budget modifications for the Project:

Local Counsel	Increase of	\$10,000.00
Bond Counsel	Increase of	13,570.00
Fiscal Advisor	Increase of	3,000.00
Net Interest	Decrease of	63,601.31
Lands & Rights of Way	Increase of	1,838.00
Miscellaneous	Decrease of	15,000.00
Contingency	Increase of	50,193.31

Councilperson Fisher offered the resolution, which was seconded by Councilperson LaGrou and approved by roll call vote:

C. Fisher – yes    C. LaGrou – yes    C. Klotzbach – yes    C. Veazey – yes    Supv. Crossen – yes

**2022 Budget Review**

Board Members reviewed the preliminary budget in detail.

Disc. with Town Justices regarding their budget requests and having a Town Prosecutor.

The Justices did not apply for a JCAP Grant this year.

Street Lights – will plan on putting up street lights at the Kenyon/Judge Rd. intersection, approx. cost \$6,109 and Wight/Judge Rd. intersection, approx. cost of \$6,274.

The bookkeeper will add the Budget modifications as discussed and provide an update copy to the Board for the public hearing and November meeting.

**2022 Town of Alabama Budget Public Hearing**

Councilperson LaGrou offered the resolution:

**RESOLVED**, that the Town Board will hold a public hearing on the 2022 Town of Alabama Budget with salaries for Elected Officials to be Supervisor \$18,415; Town Clerk \$38,025; Town Board \$10,500 (4); Town Justices \$18,760 (2); and Highway Superintendent \$69,290; on the 8th Day of November, 2021 at 7:00 p.m. at the Alabama Town Hall, 2218 Judge Road, Town of Alabama, Genesee County, NY.

Which was seconded by Councilperson Klotzbach and approved by roll call vote:

C. Fisher – yes    C. LaGrou – yes    C. Klotzbach – yes    C. Veazey – yes    Supv. Crossen – yes

**2022 Alabama Fire Dept. Budget Public Hearing**

Councilperson LaGrou offered the resolution:

**RESOLVED**, that the Town Board will hold a Public Hearing on the 2022 Alabama Fire Department contract in the amount of \$101,700.00 for the contract year beginning January 1, 2022 on the 8<sup>th</sup> day of November 2021 at 7:00 PM at the Alabama Town Hall, 2218 Judge Road, Town of Alabama, Genesee County, NY.

Which was seconded by Councilperson Klotzbach and approved by roll call vote:

C. Fisher – yes C. LaGrou – yes C. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

MOTION by Councilperson LaGrou, seconded by Councilperson Klotzbach to adjourn meeting at 9:45 p.m. Approved by roll call vote:

C. Fisher – yes C. LaGrou – yes C. Klotzbach – yes C. Veazey – yes Supv. Crossen – yes

Respectfully Submitted,

Rebecca L. Borkholder  
Town Clerk