



REQUEST FOR ACTION CITY COUNCIL

Agenda Date: 8/4/2026
Agenda Section: Consent Agenda

Department Origination: Administration

Agenda Item: Authorize the Execution of Conflict Waiver for Flaherty & Hood to Represent the City of Brainerd and Brainerd Public Utilities

Approval Required: Simple Majority Vote

BACKGROUND

On July 28, 2026, City Administration received an inquiry from Daniel Marx, an attorney with Flaherty & Hood, seeking the City of Baxter's consent to provide legal services for the City of Brainerd and Brainerd Public Utilities (BPU) related to the upcoming wastewater treatment plant improvements, including review of the Sewer Use and Capacity Agreement related to the plant. Mr Marx is seeking this consent because his firm currently has a contract with the City of Baxter for legislative consulting services. This results in a conflict of interest under Minnesota Rules of Professional Conduct for attorneys (Rule 1.7). The Rule indicates that an attorney can not present a client (Brainerd / BPU) if that representation is directly adverse to another client (City of Baxter) unless both parties consent to the representation in writing. A copy of Mr. Marx's letter of inquiry is attached.

Administration and Nancy Burke, the City's legal counsel on water/wastewater, have reviewed the consent waiver (included in Mr. Marx's letter). Both are of the opinion that the limited services that Baxter contracts with the firm will not be adversely impacted and, therefore, do not object to the execution of the said conflict waiver.

FINANCIAL IMPLICATIONS

None

STAFF RECOMMENDATIONS

Staff recommends execution of the execution of the attached conflict waiver for Flaherty & Hood.

COUNCIL ACTION REQUESTED

If Council concurs with the conclusions of Administration and legal counsel, Council is requested to authorize the execution of the attached conflict waiver for Flaherty & Hood.