

Financial Advisor Service Agreement

THIS AGREEMENT made effective as of the ____ day of February, 2019, by and between the City of Clearwater, P.O. Box 4748, Clearwater, Florida 33758, hereinafter referred to as the "City", party of the first part, and Hilltop Securities Inc., 450 S. Orange Avenue, Suite 460, Orlando, Florida 32801, hereinafter referred to as the "Financial Advisor", party of the second part;

WITNESSETH:

WHEREAS, the City has determined that there is a periodic need to review capital projects within the City; and

WHEREAS, the City has determined that external funding may be required for these projects; and

WHEREAS, the City has determined that the most feasible method of securing the required funds may be through obtaining funds from various financial markets; and

WHEREAS, a qualified financial advisor is needed to assist in the preparation of plans, studies, analyses and recommendations to market the financial plans; and

WHEREAS, the City issued Request for Proposal #11-19 FINANCIAL ADVISOR SERVICES to perform the required services described herein for a period of five years.

NOW, THEREFORE, the City and its Financial Advisor agree to the terms and conditions stated as follows:

SERVICES TO BE PERFORMED BY THE FINANCIAL ADVISOR:

As described in the City's RFP #11-19 FINANCIAL ADVISOR SERVICES, for each unique facility/program, the Financial Advisor hereby agrees to develop the plan of financing in consultation with the City staff, external auditors, consulting engineers, and the City's bond counsel. The plan will give consideration to engineering and feasibility studies of proposed projects, revenue projections and the existing corporate, financial and legal structure of the City. The required services include the following:

- a. Review existing debt structure and financial resources to determine available borrowing capacity and refinancing options including refinancing opportunities.
- b. Recommend appropriate financial structure for proposed projects.
- c. Assist the City with the preparation of cash flow forecasts for proposed issues, addressing debt service requirements and funding sources.
- d. Provide advice on terms and features of bonds, both public offerings and direct placement "bank loans"; timing and marketing of bond issues, market conditions as they relate to future sales.
- e. Advise on benefits of negotiated versus competitive bid sales for each issue.
- f. Assist the City in preparation of an official statement in conjunction with bond and disclosure counsels and the City.
- g. Arrange for the widest possible distribution of the official statement to bond underwriters and potential investors on competitive sale transactions.
- h. Consult, as needed, with City staff regarding various financing options or concerns.
- i. Assist the City in obtaining the highest possible credit ranking.
- j. Assist the City with bid opening on competitive sale transactions, and as applicable, to advise on bond market conditions, compute accuracy of bids received, and prepare formal recommendation on acceptability of preferred offer.
- k. Assist the City with monitoring the progress of a negotiated sale on the day of pricing, and as applicable, advise regarding market conditions and acceptability of the offer.
- l. Assist with bond closings and coordinate printing, signing, and delivery of bond documents.
- m. Assist in selecting paying agents and other financial intermediaries as necessary.

- n. Advise the City on proposed and actual changes in tax laws and financial market developments that could affect City bond financing plans.
- o. Attend City Council meetings and other scheduled City meetings as requested, with reasonable advance notice.
- p. Provide expert testimony at validation hearings.

Additional financial advisory services can be performed by the Financial Advisor, but must be mutually agreed upon in writing prior to the commencement of such services.

FEES PAID TO FINANCIAL ADVISOR FOR SERVICES:

The Financial Advisor's fees shall be as follows:

1. **Work Directly Related to a Financial Transaction.** The Financial Advisor shall be paid the following fee schedule upon the successful closing of a bond transaction or any other alternative financing method, such as a bank loan:

Transactional Fee Schedule*		
Minimum Par Amount	Maximum Par Amount	Incremental Fee per \$1,000*
\$0	\$25,000,000	\$1.00
\$25,000,001	\$50,000,000	\$0.75
\$50,000,001	Unlimited	\$0.50

**Subject to a minimum fee of \$17,500.*

2. **Work Not Directly Related to a Financial Transaction.** The Financial Advisor shall be compensated for all non-transactional related work as follows:

Non-Transactional Fee Schedule*	
Title	Hourly Fee
Director / Managing Director	\$200
Assistant Vice President / Vice President	\$175
Analyst / Associate	\$125
Administrative Staff	\$50

**Non-transactional fees that are projected to exceed \$2,000 per project must be approved in writing by the City prior to engagement.*

If non-transactional fees are charged in instances which ultimately result in a successful closing of a transaction, 50% of the non-transactional fees associated with that specific project that were charged during the preceding calendar year will be credited back to the City at the transaction's successful closing.

3. **Additional Expenses.** Out-of-pocket fees, such as travel related expenses, associated with a specific transaction or an agreed upon non-transactional engagement will be charged as part of the transaction or quarterly, in arrears, as part of a non-transactional engagement.

COSTS PAID BY THE CITY:

The City agrees to pay all costs of the bond issue, including but not limited to: fees for attorneys of the City, fee of bond counsel, fee of disclosure counsel, rating agency fees, bond insurance fees, printing costs of the City, printing costs of the preliminary official statement, the official statement and all financing related documents, advertising costs and travel expenses of officials of the City.

GENERAL CONDITIONS:

- A. Financial Advisor agrees not to participate, either directly or indirectly, as an underwriter in the sale of any bonds issued by the City. It is agreed that the Financial Advisor may, however, purchase or sell any of such bonds in the secondary market after the expiration of the underwriting period.

- B. Should financing not be obtained, the City shall not be financially obligated to pay the Financial Advisor except as to reimbursement of such expenses as provided herein and such expenses as may be hereinafter approved by the City prior to their being incurred.
- C. Should, in the course of performing services described in this Agreement, the City determine that additional work products are desired of the Financial Advisor, and should the Financial Advisor accept such assignments, then this Agreement will be amended in writing as mutually acceptable to the parties to provide for accomplishment of such additional work products and the basis of payments therefore.
- D. This Agreement shall be in full force and effect for a period of five years beginning February __, 2019; however, that each of the City and the Financial Advisor shall have the option, at any time during this period and with its sole discretion to terminate this Agreement. Said termination will be effective upon receipt by the non-terminating party of written notice as least thirty (30) days prior to any such termination.
- E. The Financial Advisor agrees to assist the City as provided only on the basis that it is expressly understood and agreed that the Financial Advisor assumes no responsibility to the City or any person for the accuracy or completeness of any information contained in any preliminary official statement or official statement issued in connection with the City's financings.
- F. In the event that each of Matthew Sansbury, Managing Director, and Alex Bugallo, Managing Director, should no longer work for Financial Advisor or be permanently unavailable to assist the City when requested, the City may request a renegotiation of the terms of this Agreement or may, at its sole option, terminate this Agreement by giving written notice to the Financial Advisor at least ten (10) days prior to such termination. Upon termination, the City shall have no further obligation to the Financial Advisor for any services.
- G. This agreement embodies the whole agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein. This Agreement shall supersede all previous communications, representations of agreements, either verbal or written, between the parties hereto.
- H. The Financial Advisor agrees to protect, defend, indemnify and hold the City and its officers and employees harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses arising out of or due to any grossly negligent act or omission of the Financial Advisor, or its employees or agents. The Financial Advisor shall procure and maintain professional liability insurance with respect to the services performed during the life of this Agreement.
- I. The Financial Advisor agrees to transfer or assign to the City upon request, documents, financial analysis, correspondence and memos produced by the Financial Advisor for the benefit of the City.
- J. Any dispute arising out of this Agreement or the performance hereof shall be resolved in binding arbitration before the American Arbitration Association, pursuant to its commercial arbitration rules. Venue for such arbitration will be Pinellas County, Florida. EACH PARTY, TO THE EXTENT PERMITTED BY LAW, KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ITS RIGHT TO A JURY TRIAL IN ANY ACTION OR OTHER LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE SERVICES PROVIDED HERETO.

REGULATORY MATTERS:

- 1. *City's Obligations.* The City agrees that its staff and consultants will cooperate with the Financial Advisor and make available any data in the possession of the City necessary to perform financial advisory services and regulatory obligations as described in Exhibit A to this agreement.
- 2. *Regulatory Disclosures:*
 - a. The City is aware of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the Securities and Exchange Commission's (SEC) adopted rule commonly known as the "Municipal Advisor Rule" (SEC

Rule 15Ba1-1 to 15Ba1-8), herein after referred to as the "Rule". The Financial Advisor will be serving as a municipal advisor to the City under the Rule and this agreement documents the municipal advisory relationship between the Financial Advisor and the City.

- b. The Municipal Securities Rulemaking Board's (MSRB) Rule G-42 requires that a municipal advisor provide its client with certain written disclosures. Please see Exhibit A to this Agreement for such disclosures.
3. *Authority to Direct Financial Advisor.* The following City individuals have the authority to direct the Financial Advisor's performance of its scope of work under this Agreement:

Jay Ravins, Finance Director
Monica Mitchell, Assistant Finance Director
Clement Vericker, Debt Manager

IN WITNESS WHEREOF, the parties hereto have set their hands and seal the day and year first above written:

CITY OF CLEARWATER, FLORIDA

Mayor

Approved as to form:

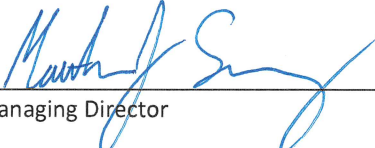
City Attorney

City Manager

Attest:

City Clerk

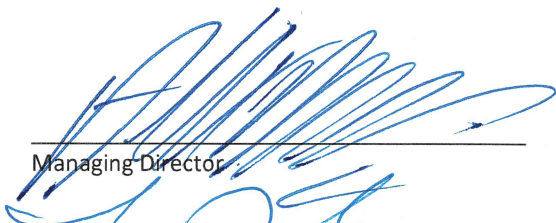
HILLTOP SECURITIES INC.



Managing Director



Witness



Managing Director



Witness

EXHIBIT A
MUNICIPAL ADVISOR DISCLOSURE STATEMENT

This disclosure statement ("Conflict Disclosures") is provided by **Hilltop Securities Inc.** ("the Firm") to you (the "Client") in connection with our current municipal advisory agreement, ("the Agreement"). These Conflict Disclosures provide information regarding conflicts of interest and legal or disciplinary events of the Firm that are required to be disclosed to the Client pursuant to MSRB Rule G-42(b) and (c)(ii).

PART A – Disclosures of Conflicts of Interest

MSRB Rule G-42 requires that municipal advisors provide to their clients disclosures relating to any actual or potential material conflicts of interest, including certain categories of potential conflicts of interest identified in Rule G-42, if applicable.

Material Conflicts of Interest – The Firm makes the disclosures set forth below with respect to material conflicts of interest in connection with the Scope of Services under the Agreement with the Firm, together with explanations of how the Firm addresses or intends to manage or mitigate each conflict.

General Mitigations – As general mitigations of the Firm's conflicts, with respect to all of the conflicts disclosed below, the Firm mitigates such conflicts through its adherence to its fiduciary duty to Client, which includes a duty of loyalty to Client in performing all municipal advisory activities for Client. This duty of loyalty obligates the Firm to deal honestly and with the utmost good faith with Client and to act in Client's best interests without regard to the Firm's financial or other interests. In addition, because the Firm is a broker-dealer with significant capital due to the nature of its overall business, the success and profitability of the Firm is not dependent on maximizing short-term revenue generated from individualized recommendations to its clients but instead is dependent on long-term profitability built on a foundation of integrity, quality of service and strict adherence to its fiduciary duty. Furthermore, the Firm's municipal advisory supervisory structure, leveraging our long-standing and comprehensive broker-dealer supervisory processes and practices, provides strong safeguards against individual representatives of the Firm potentially departing from their regulatory duties due to personal interests. The disclosures below describe, as applicable, any additional mitigations that may be relevant with respect to any specific conflict disclosed below.

- I. **Affiliate Conflict.** The Firm, directly and through affiliated companies, provides or may provide services/advice/products to or on behalf of clients that are related to the Firm's advisory activities within the Scope of Services outlined in the Agreement. First Southwest Asset Management (FSAM), a SEC-registered affiliate of the Firm, provides post issuance services including arbitrage rebate and treasury management. The Firm's arbitrage team verifies rebate and yield restrictions on the investments of bond proceeds on behalf of clients in order to meet IRS restrictions. The treasury management division performs portfolio management/advisor services on behalf of public sector clients. The Firm, through affiliate First Southwest Advisory, provides a multi-employer trust tailor-made for public entities which allows them to prefund Other Post-Employment Benefit liabilities. The Firm has a structured products desk that provides advice to help clients mitigate risk through investment management, debt management and commodity price risk management products. These products consist of but are not limited to swaps (interest rate, currency, commodity), options, repos, escrow structuring and other securities. Continuing Disclosure services provided by the Firm assist issuers in meeting disclosure requirements set forth in SEC rule 15c2-12. Services include but are not limited to ongoing maintenance of issuer compliance, automatic tracking of issuer's annual filings and public notification of material events. The Firm administers two government investment pools for Texas governments; the Short-Term Asset Reserve Fund (TexSTAR) and the Local Government Investment Cooperative (LOGIC). These programs offer Texas government entities investment options for their cash management programs based on the entities specific needs. The Firm and the aforementioned affiliate's business with a client could create an incentive for the Firm to recommend to a client a course of action designed to increase the level of a client's business activities with the affiliates or to recommend against a course of action that would reduce or eliminate a client's business activities with the affiliates. Furthermore, this potential conflict is mitigated by the fact that the Firm and affiliates are subject to their own comprehensive regulatory regime as a member of multiple self-regulatory organizations in which compliance is verified by not only internal tests but annual external examinations.
- II. **Other Municipal Advisor Relationships.** The Firm serves a wide variety of other clients that may from time to time have interests that could have a direct or indirect impact on the interests of Client. For example, the Firm serves as municipal advisor to other municipal advisory clients and, in such cases, owes a regulatory duty to such other clients just as it does to Client. These other clients may, from time to time and depending on the specific circumstances, have competing

interests, such as accessing the new issue market with the most advantageous timing and with limited competition at the time of the offering. In acting in the interests of its various clients, the Firm could potentially face a conflict of interest arising from these competing client interests. In other cases, as a broker-dealer that engages in underwritings of new issuances of municipal securities by other municipal entities, the interests of the Firm to achieve a successful and profitable underwriting for its municipal entity underwriting clients could potentially constitute a conflict of interest if, as in the example above, the municipal entities that the Firm serves as underwriter or municipal advisor have competing interests in seeking to access the new issue market with the most advantageous timing and with limited competition at the time of the offering. None of these other engagements or relationships would impair the Firm's ability to fulfill its regulatory duties to Client.

- III. **Secondary Market Transactions in Client's Securities.** The Firm, in connection with its sales and trading activities, may take a principal position in securities, including securities of Client, and therefore the Firm could have interests in conflict with those of Client with respect to the value of Client's securities while held in inventory and the levels of mark-up or mark-down that may be available in connection with purchases and sales thereof. In particular, the Firm or its affiliates may submit orders for and acquire Client's securities issued in an Issue under the Agreement from members of the underwriting syndicate, either for its own account or for the accounts of its customers. This activity may result in a conflict of interest with Client in that it could create the incentive for the Firm to make recommendations to Client that could result in more advantageous pricing of Client's bond in the marketplace. Any such conflict is mitigated by means of such activities being engaged in on customary terms through units of the Firm that operate independently from the Firm's municipal advisory business, thereby reducing the likelihood that such investment activities would have an impact on the services provided by the Firm to Client under this Agreement.
- IV. **Broker-Dealer and Investment Advisory Business.** The Firm is dually registered as a broker-dealer and an investment advisor that engages in a broad range of securities-related activities to service its clients, in addition to serving as a municipal advisor or underwriter. Such securities-related activities, which may include but are not limited to the buying and selling of new issue and outstanding securities and investment advice in connection with such securities, including securities of Client, may be undertaken on behalf of, or as counterparty to, Client, personnel of Client, and current or potential investors in the securities of Client. These other clients may, from time to time and depending on the specific circumstances, have interests in conflict with those of Client, such as when their buying or selling of Client's securities may have an adverse effect on the market for Client's securities, and the interests of such other clients could create the incentive for the Firm to make recommendations to Client that could result in more advantageous pricing for the other clients. Furthermore, any potential conflict arising from the firm effecting or otherwise assisting such other clients in connection with such transactions is mitigated by means of such activities being engaged in on customary terms through units of the Firm that operate independently from the Firm's municipal advisory business, thereby reducing the likelihood that the interests of such other clients would have an impact on the services provided by the Firm to Client.
- V. **Compensation-Based Conflicts.** Fees that are based on the size of the issue are contingent upon the delivery of the Issue. While this form of compensation is customary in the municipal securities market, this may present a conflict because it could create an incentive for the Firm to recommend unnecessary financings or financings that are disadvantageous to Client, or to advise Client to increase the size of the issue. This conflict of interest is mitigated by the general mitigations described above.

Fees based on a fixed amount are usually based upon an analysis by Client and the Firm of, among other things, the expected duration and complexity of the transaction and the Scope of Services to be performed by the Firm. This form of compensation presents a potential conflict of interest because, if the transaction requires more work than originally contemplated, the Firm may suffer a loss. Thus, the Firm may recommend less time-consuming alternatives, or fail to do a thorough analysis of alternatives. This conflict of interest is mitigated by the general mitigations described above.

Hourly fees are calculated with, the aggregate amount equaling the number of hours worked by Firm personnel times an agreed-upon hourly billing rate. This form of compensation presents a potential conflict of interest if Client and the Firm do not agree on a reasonable maximum amount at the outset of the engagement, because the Firm does not have a financial incentive to recommend alternatives that would result in fewer hours worked. This conflict of interest is mitigated by the general mitigations described above.

PART B – Disclosures of Information Regarding Legal Events and Disciplinary History

MSRB Rule G-42 requires that municipal advisors provide to their clients certain disclosures of legal or disciplinary events material to its client's evaluation of the municipal advisor or the integrity of the municipal advisor's management or advisory personnel.

Accordingly, the Firm sets out below required disclosures and related information in connection with such disclosures.

I. **Material Legal or Disciplinary Event.** The Firm discloses the following legal or disciplinary events that may be material to Client's evaluation of the Firm or the integrity of the Firm's management or advisory personnel:

- For related disciplinary actions please refer to the Firm's [BrokerCheck](#) webpage.
- The Firm self-reported violations of SEC Rule 15c2-12: Continuing Disclosure. The Firm settled with the SEC on February 2, 2016. The firm agreed to retain independent consultant and adopt the consultant's finding. Firm paid a fine of \$360,000.
- The Firm settled with the SEC in matters related to violations of MSRB Rules G-23(c), G-17 and SEC rule 15B(c) (1). The Firm disgorged fees of \$120,000 received as financial advisor on the deal, paid prejudgment interest of \$22,400.00 and a penalty of \$50,000.00.
- The Firm entered into a Settlement Agreement with Rhode Island Commerce Corporation. Under the Settlement Agreement, the firm agreed to pay \$16.0 million to settle any and all claims in connection with The Rhode Island Economic Development Corporation Job Creation Guaranty Program Taxable Revenue Bond (38 Studios, LLC Project) Series 2010, including the litigation thereto. The case, filed in 2012, arose out of a failed loan by Rhode Island Economic Development Corporation. The firm's predecessor company, First Southwest Company, LLC, was one of 14 defendants. FirstSouthwest's engagement was limited to advising on the structure, terms, and rating of the underlying bonds. Hilltop settled with no admission of liability or wrongdoing.

II. **How to Access Form MA and Form MA-I Filings.** The Firm's most recent Form MA and each most recent Form MA-I filed with the SEC are available on the SEC's EDGAR system at [Forms MA and MA-I](#). The SEC permits certain items of information required on Form MA or MA-I to be provided by reference to such required information already filed by the Firms in its capacity as a broker-dealer on Form BD or Form U4 or as an investment adviser on Form ADV, as applicable. Information provided by the Firm on Form BD or Form U4 is publicly accessible through reports generated by BrokerCheck at <http://brokercheck.finra.org/>, and the Firm's most recent Form ADV is publicly accessible at the Investment Adviser Public Disclosure website at <http://www.adviserinfo.sec.gov/>. For purposes of accessing such BrokerCheck reports or Form ADV, click previous hyperlinks.

PART C – Future Supplemental Disclosures

As required by MSRB Rule G-42, this Municipal Advisor Disclosure Statement may be supplemented or amended, from time to time as needed, to reflect changed circumstances resulting in new conflicts of interest or changes in the conflicts of interest described above, or to provide updated information with regard to any legal or disciplinary events of the Firm. The Firm will provide Client with any such supplement or amendment as it becomes available throughout the term of the Agreement.