

## RESOLUTION NO. 17-02

A RESOLUTION AUTHORIZING THE NEGOTIATED SALE OF NOT TO EXCEED \$100,000,000 CITY OF CLEARWATER, FLORIDA, WATER AND SEWER REVENUE REFUNDING BONDS, SERIES 2017; AWARDING THE SALE THEREOF TO MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED, ON BEHALF OF ITSELF AND RBC CAPITAL MARKETS AND WELLS FARGO BANK, NATIONAL ASSOCIATION AS THE CO-MANAGERS SELECTED BY THE CITY, SUBJECT TO THE TERMS AND CONDITIONS OF A PURCHASE CONTRACT; APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF A PURCHASE CONTRACT; PROVIDING FOR THE ISSUANCE OF THE SERIES 2017 BONDS IN BOOK-ENTRY-ONLY FORM; AUTHORIZING THE DISTRIBUTION OF A PRELIMINARY OFFICIAL STATEMENT AND AN OFFICIAL STATEMENT IN CONNECTION WITH THE DELIVERY OF THE BONDS; PROVIDING FOR COMPLIANCE WITH A CONTINUING DISCLOSURE CERTIFICATE; APPOINTING A PAYING AGENT AND REGISTRAR; APPOINTING AN ESCROW HOLDER; APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF A REGISTRAR AND PAYING AGENT AGREEMENT AND ESCROW DEPOSIT AGREEMENT; APPOINTING A VERIFICATION AGENT AND ESCROW BIDDING AGENT; PROVIDING CERTAIN OTHER MATTERS IN CONNECTION WITH THE ISSUANCE AND DELIVERY OF SUCH BONDS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on August 2, 1984, the City Council of the City of Clearwater, Florida (the "City") enacted Ordinance No. 3674-84 (the "1984 Ordinance") to provide for the issuance of bonds payable from Net Revenues of the System (as defined therein); and

WHEREAS, on November 15, 2001, the City enacted Ordinance No. 6915-01 (the "2001 Ordinance" and, together with the 1984 Ordinance, the "Original Ordinance") which authorized the issuance of the City of Clearwater, Florida Water and Sewer Revenue [Refunding] Bonds, Series [to be determined], as Additional Bonds thereunder; and

WHEREAS, on December 4, 2014, the City enacted Ordinance No. 8620-14, amending the Original Ordinance (the "2014 Amending Ordinance" and, together with the Original Ordinance, the "Bond Ordinance"), the provisions of which shall apply to each series of Additional Bonds which are authorized on and after the date of enactment of the 2014 Amending Ordinance, retroactive to such date of enactment upon receipt of the consent of the holders of two-thirds in principal of Bonds then outstanding; and

WHEREAS, the City by this Resolution intends to provide for the issuance of its not to exceed \$100,000,000 City of Clearwater, Florida Water and Sewer Revenue Refunding Bonds, Series 2017 (the "Series 2017 Bonds") as Additional Bonds to advance refund all or a portion of the City's outstanding Water and Sewer Revenue Bonds, Series 2009A (the "Series 2009A Bonds") and Water and Sewer Revenue Refunding Bonds, Series 2011 (the "Series 2011 Bonds," the refunded portion thereof, collectively with the refunded portion of the Series 2009A Bonds, being referred to herein as the "Refunded Bonds"); and

WHEREAS, in connection with the refunding of the Refunded Bonds, the City desires to enter into an Escrow Deposit Agreement in the form attached hereto as Exhibit A and to appoint U.S. Bank National Association as the Escrow Holder thereunder; and

WHEREAS, in addition to the Series 2009A Bonds and the Series 2011 Bonds, the City has currently outstanding under the Bond Ordinance, its Water and Sewer Revenue Refunding Bonds, Series 2003, its Water and Sewer Revenue Refunding Bonds, Series 2009B and its Water and Sewer Revenue Refunding Bond, Series 2014 (collectively with any unrefunded portion of the Series 2009A Bonds or Series 2011 Bonds, the "Parity Bonds"); and

WHEREAS, it is in the best interest of the City to provide for the negotiated sale of not to exceed \$100,000,000 of Series 2017 Bonds; and

WHEREAS, the City intends to negotiate a sale of the Series 2017 Bonds with Merrill Lynch, Pierce, Fenner & Smith Incorporated, on behalf of itself and as representative of the co-managers, RBC Capital Markets and Wells Fargo Bank, National Association (collectively, the "Underwriters") subject to the terms and conditions contained herein and set forth in a Purchase Contract, a copy of which is attached hereto as Exhibit B (the "Purchase Contract") and authorize its Mayor, or in his absence the Vice Mayor, and the City Manager or Deputy City Manager to execute such Purchase Contract upon the approval of the terms thereof by the City Manager or Deputy City Manager and the City Finance Director; and

WHEREAS, the City now desires to approve the issuance of its Series 2017 Bonds, to sell its Series 2017 Bonds pursuant to the Purchase Contract, to authorize the distribution of a Preliminary Official Statement and an Official Statement in connection with the issuance of the Series 2017 Bonds and to take certain other actions in connection with the issuance and sale of the Series 2017 Bonds; and

WHEREAS, the City desires to appoint U.S. Bank National Association as the Registrar and Paying Agent under the Bond Ordinance with respect to the Series 2017 Bonds and to enter into a Registrar and Paying Agent Agreement in the form attached hereto as Exhibit C; and

WHEREAS, the City will be provided all applicable disclosure information by the Underwriters as required by Section 218.385, Florida Statutes, prior to the execution of the Purchase Contract, a copy of which disclosure is to be attached to the Purchase Contract; and

WHEREAS, this Resolution shall constitute a supplemental resolution under the terms of the Bond Ordinance, and all capitalized undefined terms used herein shall have the meanings set forth in the Bond Ordinance;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLEARWATER, FLORIDA:

SECTION 1. The not to exceed \$100,000,000 of the Water and Sewer Revenue Refunding Bonds, Series [to be determined] authorized by the Bond Ordinance being offered pursuant to this resolution are hereby designated as Series 2017 Bonds (the "Series 2017 Bonds"), provided that the series designation shall reflect the year in which the Series 2017 Bonds are actually issued. The issuance of not to exceed \$100,000,000 of the Series 2017 Bonds by the City in one or more subseries is hereby approved upon the terms and conditions set forth in the Bond Ordinance and this Resolution.

SECTION 2. It is in the best interest of the City and the residents and inhabitants thereof that the Series 2017 Bonds be issued utilizing a pure book-entry system of registration. For so long as the Series 2017 Bonds remain in such book entry only system of registration, in the event of a conflict between the provisions of the Bond Ordinance and the provisions of the Blanket Letter of Representations between the City and Depository Trust Company as previously executed and delivered, the terms and provisions of the Blanket Letter of Representations shall prevail.

SECTION 3. (a) Due to the willingness of the Underwriters to purchase not to exceed \$100,000,000 in aggregate principal amount of the Series 2017 Bonds at favorable interest costs and the importance of timing in the marketing of such obligations in conjunction with funding and structuring the defeasance escrow for the Refunded Bonds, it is hereby determined that it is in the best interest of the public and the City to sell the Series 2017 Bonds at a negotiated sale and such sale to the Underwriters pursuant to the terms and conditions contained in the Purchase Contract and herein is hereby authorized and approved, subject to the satisfaction of the conditions set forth in Section 3(b) below.

(b) The Finance Director is hereby authorized to receive the offer to purchase the Series 2017 Bonds from the Underwriters in the form of an executed Purchase Contract substantially in the form approved herein. The City Manager or Deputy City Manager and the Finance Director are hereby authorized to award the sale of the Series 2017 Bonds on their determination that the offer submitted by the Underwriters for the purchase of all of the Series 2017 Bond is within the following parameters: (i) the refunding of that portion of the Refunded Bonds to be refunded by the Series 2017 Bonds shall provide the City with a net present value savings of not less than 4.0% of the par amount of such Refunded Bonds so refunded, (ii) the Underwriters' Discount shall not be in excess of .50% of the principal amount thereof, (iii) the final maturity shall not be later than December 1, 2039, and (iv) the principal amount shall not be in excess of the amount necessary to defease and redeem the Refunded Bonds plus costs of issuing the Series 2017 Bonds. The Finance Director, in coordination with the City's financial advisor and the Underwriters, is hereby authorized and directed to determine what portions of the Refunded Bonds are in the best interest of the City to be refunded through the issuance of the Series 2017 Bonds. The City Manager or Deputy City Manager and the Finance Director are hereby authorized to award the sale of the Series 2017 Bonds as set forth above or to reject the offer from the Underwriters for any or all series of Series 2017 Bonds or any portion thereof. Such award shall be final. The acceptance of the offer to purchase the Series 2017 Bonds, to the extent the proceeds thereof are used to refund the Refunded Bonds shall constitute a decision to refund the Refunded Bonds in accordance with the Bond Ordinance.

SECTION 4. The Series 2017 Bonds shall be sold to the Underwriters, upon the terms and conditions set forth in the Purchase Contract attached hereto as Exhibit B and incorporated by reference, upon the satisfaction of the conditions set forth in Section 3(b) hereof. The Mayor, or in his absence the Vice Mayor, the City Manager or Deputy City Manager and the City Clerk are hereby authorized to execute such Purchase Contract in substantially the form attached as Exhibit B upon the approval of the City Attorney as to form and legal sufficiency, with such additional changes, insertions and omissions therein as do not change the substance thereof and as may be approved by the said officers of the City executing the same, such execution to be conclusive evidence of such approval.

SECTION 5. The Series 2017 Bonds shall be dated, shall bear interest at a rate or rates not exceeding the maximum rate permitted by law, payable at the times, shall mature and shall be subject to redemption as provided in the Purchase Contract. In addition to such redemption provisions, any notice of redemption of Series 2017 Bonds may be conditioned upon the deposit

of sufficient funds to pay the 2017 Bonds subject to redemption on the redemption date. The use of the proceeds of the Series 2017 Bonds, shall be as provided in the Official Statement relating to the Series 2017 Bonds.

SECTION 6. The Series 2017 Bonds shall be issued under and secured by the Bond Ordinance and shall be executed and delivered by the Mayor, the City Manager or Deputy City Manager and the City Clerk upon the approval of the City Attorney as to form and legal sufficiency, in substantially the form set forth in the Bond Ordinance, with such additional changes and insertions therein as conform to the provisions of the Purchase Contract and such execution and delivery shall be conclusive evidence of the approval thereof by such officers.

SECTION 7. U.S. Bank National Association is hereby appointed Registrar and Paying Agent for the Series 2017 Bonds to serve pursuant to a Paying Agent Agreement substantially in the form attached hereto as Exhibit C. The Mayor, or in his absence the Vice Mayor, the City Manager or Deputy City Manager and the City Clerk are hereby authorized to execute such Paying Agent Agreement in substantially the form attached as Exhibit C upon the approval of the City Attorney as to form and legal sufficiency, with such additional changes and insertions therein as approved by the officers executing the same, and such execution and delivery shall be conclusive evidence of the approval thereof by such officers.

SECTION 8. U.S. Bank National Association is hereby appointed as the Escrow Holder under the Escrow Deposit Agreement for the Refunded Bonds, which Escrow Deposit Agreement shall be substantially in the form attached hereto as Exhibit A. The Mayor, or in his absence the Vice Mayor, the City Manager or Deputy City Manager and the City Clerk are hereby authorized to execute such Escrow Deposit Agreement in substantially the form attached as Exhibit A upon the approval of the City Attorney as to form and legal sufficiency, with such additional changes and insertions therein as approved by the officers executing the same, and such execution and delivery shall be conclusive evidence of the approval thereof by such officers.

SECTION 9. Causey Demgen & Moore Inc. is hereby appointed as the Verification Agent for the defeasance of the Refunded Bonds and as bidding agent with respect to open market securities purchased as escrow obligations for such defeasance, if applicable.

SECTION 10. On the date of issuance of the Series 2017 Bonds, the City may transfer the funds on hand in the various funds and accounts established for the Refunded Bonds in such manner as may be approved by a certificate of the Finance Director executed prior to or simultaneously with the issuance of the Series 2017 Bonds.

SECTION 11. The distribution by the Underwriters of the Preliminary Official Statement is hereby approved, confirmed and ratified. The distribution of a final Official Statement of the City relating to the issuance of the Series 2017 Bonds is hereby approved, such final Official Statement to be in substantially the form attached hereto as Exhibit D, with such additional changes, insertions and omissions as may be made and approved by officers of the City executing the same, such execution to be conclusive evidence of any such approval. The Mayor, or in his absence the Vice Mayor, and the City Manager or Deputy City Manager are hereby authorized to execute such Official Statement in substantially the form attached hereto as Exhibit D. The execution of such Official Statement by such officers is hereby approved with such additional changes, insertions and omissions as may be made and approved by such officers. For purposes of Rule 15c2-12 of the United States Securities and Exchange Commission (the "Rule"), the City Manager or Deputy City Manager and the Finance Director

are hereby authorized and directed to deem "final" the Preliminary Official Statement in substantially the form attached hereto as Exhibit D.

SECTION 12. The City hereby covenants and agrees that, in order to provide for compliance by the City with the secondary market disclosure requirements of the Rule, that it will comply with and carry out all of the provisions of that certain Continuing Disclosure Certificate in substantially the form attached hereto as Exhibit E, to be executed by the City and dated the date of issuance and delivery of the Series 2017 Bonds, as it may be amended from time to time in accordance with the terms thereof (the "Continuing Disclosure Certificate"). Notwithstanding any other provision of this Resolution, failure of the City to comply with such Continuing Disclosure Certificate shall not be considered an event of default; however, any holder of Series 2017 Bonds may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this Section and the Continuing Disclosure Certificate. The Mayor, or in his absence the Vice Mayor, the City Manager or Deputy City Manager and the City Clerk are hereby authorized to execute such Continuing Disclosure Certificate upon the approval of the City Attorney as to form and legal sufficiency, in substantially the form attached as Exhibit E, with such additional changes, insertions and omissions therein as do not change the substance thereof and as may be approved by the said officers of the City executing the same, such execution to be conclusive evidence of such approval.

SECTION 13. All prior resolutions of the City inconsistent with the provisions of this resolution are hereby modified, supplemented and amended to conform with the provisions herein contained and except as otherwise modified, supplemented and amended hereby shall remain in full force and effect.

SECTION 14. The Mayor, or in his absence the Vice Mayor, the City Manager, the Deputy City Manager, the Finance Director, the City Attorney and the City Clerk or any other appropriate officers of the City are hereby authorized and directed to execute any and all certifications or other instruments or documents required by the Resolution, the Purchase Contract, the Escrow Deposit Agreement or any other document referred to above as a prerequisite or precondition to the issuance of the Series 2017 Bonds and any such representation made therein shall be deemed to be made on behalf of the City, and the City Manager or Deputy City Manager and the Finance Director are hereby authorized to take such actions as may be necessary or desired to effect the refunding of the Refunded Bonds, including, but not limited to, the selection of a verification agent and escrow investments. In the event both the Mayor and the Vice Mayor are unable to execute the documents related to the Series 2017 Bonds, then any other member of the City Council shall be authorized to execute such documents with the full force and effect as if the Mayor, or the Vice Mayor had executed same. All action taken to date by the officers of the City in furtherance of the issuance of the Series 2017 Bonds is hereby approved, confirmed and ratified.

SECTION 15. For purposes hereof, the Reserve Requirement (as defined in the Bond Ordinance) for the Series 2017 Bonds shall be \$0.00, and upon the effective date of the 2014 Amending Ordinance, the Series 2017 Bonds shall not be entitled to any security provided by any monies on deposit in the Reserve Account. Prior to such effective date, the Series 2017 Bonds shall be additionally secured by the funds on deposit in the Reserve Account as required by the Bond Ordinance, and as of the effective date of the 2014 Amending Ordinance, the Series 2017 Bonds shall cease to be secured by the Reserve Account.

SECTION 16. By purchasing the Series 2017 Bonds, the Bondholders consent to the amendments set forth in the 2014 Amending Ordinance.

SECTION 17. This resolution shall become effective immediately upon its adoption.

Passed and adopted by the City Council of the City of Clearwater, Florida, this \_\_\_\_ day of January, 2017.

CITY OF CLEARWATER, FLORIDA

By: \_\_\_\_\_  
George N. Cretekos  
Mayor

Approved as to form:

Attest:

\_\_\_\_\_  
Pamela K. Akin  
City Attorney

\_\_\_\_\_  
Rosemarie Call,  
City Clerk

EXHIBIT A

FORM OF ESCROW DEPOSIT AGREEMENT

EXHIBIT B  
FORM OF BOND PURCHASE CONTRACT



EXHIBIT C

FORM OF REGISTRAR AND PAYING AGENT AGREEMENT

EXHIBIT D

FORM OF OFFICIAL STATEMENT

EXHIBIT E

FORM OF CONTINUING DISCLOSURE CERTIFICATE