

ESCROW DEPOSIT AGREEMENT

This ESCROW DEPOSIT AGREEMENT, dated as of _____, 2017, by and between the CITY OF CLEARWATER, FLORIDA, a municipal corporation of the State of Florida (the "Issuer"), and U.S. BANK NATIONAL ASSOCIATION, a national banking association organized under the laws of the United States of America, as Escrow Holder (the "Escrow Holder");

WITNESSETH:

WHEREAS, the Issuer has previously authorized and issued obligations of the Issuer as hereinafter set forth defined as the "Refunded Bonds", as to which the Annual Debt Service (as hereinafter defined) is set forth on Schedule A; and

WHEREAS, the Issuer has determined to provide for payment of the Aggregate Debt Service of the Refunded Bonds by depositing with the Escrow Holder pursuant to the provisions hereof, cash and Federal Securities (as defined herein), the principal of and interest on which will be at least equal to the Aggregate Debt Service; and

WHEREAS, in order to obtain the funds needed for such purpose, the Issuer has authorized and is, concurrently with the delivery of this Agreement, issuing the Series 2017 Bonds more fully described herein; and

WHEREAS, the Issuer has determined that the amount to be on deposit from time to time in the Escrow Account, as defined herein, will be sufficient to pay the Aggregate Debt Service;

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, the Issuer and the Escrow Holder agree as follows (provided however that the Escrow Holder in agreeing to the foregoing shall not be held or deemed responsible in any manner whatsoever for the recitals made herein or in the Ordinance, or the adequacy or sufficiency of the Escrow Requirement):

Section 1. Definitions. As used herein, the following terms mean:

(a) "Aggregate Debt Service" means, as of any date, the sum of all present and future Annual Debt Service payments then remaining unpaid with respect to the respective Series of the Refunded Bonds.

(b) "Agreement" means this Escrow Deposit Agreement.

(c) "Annual Debt Service" means, with respect to the redemption date for the Refunded Bonds, the principal of and interest and premium, if any, on the Refunded Bonds coming due after the date hereof but on or before the Call Date as shown on Schedule A attached hereto.

(d) "Bonds" or "Series 2017 Bonds" means the Water and Sewer Revenue Refunding Bonds, Series 2017 of the Issuer, authorized by the Ordinance, as herein defined.

(e) "Call Date" means [with respect to the Series 2009A Bonds,] December 1, 2019 [and with respect to the Series 2011 Bonds, December 1, 2021].

(f) "Escrow Account" means the account established and held by the Escrow Holder pursuant to this Agreement, in which cash and investments will be held for payment of the Refunded Bonds.

(g) "Escrow Holder" means U.S. Bank National Association, a national banking association organized under the laws of the United States of America.

(h) "Escrow Requirement" means, as of any date of calculation, the sum of an amount in cash and principal amount of Federal Securities in the Escrow Account which, together with the interest due on the Federal Securities, will be sufficient to pay, as the installments thereof become due, the Annual Debt Service.

(i) "Federal Securities" means direct obligations of the United States of America and obligations the principal of or interest on which are fully guaranteed by the United States of America, none of which permit redemption prior to maturity at the option of the obligor.

(j) "Irrevocable Instruction and Authorization to Redeem Bonds" means a certificate executed by the Issuer which provides for redemption of certain of the Refunded Bonds on the Call Date, irrevocably instructs the Escrow Holder to give notice of such redemption and directs the Paying Agent for the Refunded Bonds to pay the Refunded Bonds and the interest thereon upon surrender thereof at maturity or on their Call Date.

(k) "Issuer" means the City of Clearwater, Florida.

(l) "Ordinance" means Ordinance No. 3674-84 enacted by the Issuer on August 2, 1984, as amended and supplemented by Ordinance 6915-01, enacted November 15, 2001, as amended by Ordinance No. 8620-14, enacted by the Issuer on December 4, 2014, and as further supplemented by Resolution No. 16-04, adopted on _____, 2017.

(m) "Paying Agent" shall mean U.S. Bank National Association, the Paying Agent for the Refunded Bonds, whose address is 225 E. Robinson Street, Suite 250, Orlando, Florida 32801.

(n) "Refunded Bonds" shall mean the outstanding Series 2009A Bonds maturing on and after December 1, 2020 [and the outstanding Series 2011 Bonds maturing on and after December 1, 2022].

(o) "Restricted Securities" shall mean the Federal Securities identified as such on Schedule B attached hereto.

(p) "Series 2009A Bonds" shall mean the Issuer's Water and Sewer Revenue Bonds, Series 2009A.

(q) ["Series 2011 Bonds" shall mean the Issuer's Water and Sewer Revenue Refunding Bonds, Series 2011.]

(r) "Unrestricted Securities" shall mean the Federal Securities identified as such on Schedule B attached hereto.

Section 2. Deposit of Funds. The Issuer hereby deposits \$_____ with the Escrow Holder in immediately available funds, to be held in irrevocable escrow by the Escrow Holder and applied solely as provided in this Agreement. The Issuer represents that:

(a) Such funds are all derived as follows:

(1) \$_____ from the net proceeds of the Series 2017 Bonds;

(2) \$_____ transferred from the Debt Service Fund; and

(3) \$_____ [transferred from the Debt Service Reserve Fund held for the Refunded Bonds.]

(b) Such funds, when applied pursuant to Section 3 below, will at least equal the Escrow Requirement as of the date hereof.

Section 3. Use and Investment of Funds. The Escrow Holder acknowledges receipt of \$_____ and agrees:

(a) to hold the funds in irrevocable escrow during the term of this Agreement, and

(b) to deposit the sum of \$_____ of funds from the Debt Service Fund [and Debt Service Reserve Fund] and invest \$_____ of such funds in the Unrestricted Securities identified as such on Schedule B hereto, and hold \$_____ in cash, and deposit the sum of \$_____ from the proceeds of the Bonds, and invest \$_____ of such funds in the Restricted Securities identified as such on Schedule B hereto and hold \$_____ in cash until the Call Date.

(c) The Escrow Holder shall invest the moneys held in the Escrow Account upon written direction of the Issuer accompanied by (1) a list of the Federal Securities to be purchased, (2) a report of an independent certified accountant verifying the sufficiency of the receipts from the Federal Securities will be sufficient to redeem the Refunded Bonds on December 1, 2019 [with respect to the Series 2009A Bonds and on December 1, 2021 with respect to the Series 2011 Bonds], and (3) an opinion of Bond Counsel to the effect that such investment will not materially adversely affect the exclusion of the interest on the Series 2017 Bonds from income for purposes of federal income taxation.

Section 4. Payment of Refunded Bonds.

(a) Refunded Bonds. On the Call Date for the Refunded Bonds, the Escrow Holder shall pay to the Paying Agent for the Refunded Bonds, from the cash and proceeds of the Federal Securities on hand in the Escrow Account, a sum sufficient to pay the Annual Debt Service for the Refunded Bonds coming due on the redemption date as shown on Schedule A and as demonstrated on Schedule B hereto.

(b) Surplus. On the Call Date, after making the payments from the Escrow Account described in Subsection 4(a), the Escrow Holder shall pay to the Issuer any remaining cash in the Escrow Account in excess of the Escrow Requirement, to be used for any lawful purpose of the Issuer.

(c) Priority of Payments. The holders of the Refunded Bonds shall have an express first lien on the funds and Federal Securities in the Escrow Account until such funds and Federal Securities are used and applied as provided in this Agreement. If the cash on hand in the Escrow Account is ever insufficient to make the payments required under Subsection 4(a), all of the payments required under Subsection 4(a) shall be made when due before any payments shall be made under Subsections 4(b).

(d) Fees and Expenses of Escrow Holder/Paying Agent. The Escrow Holder acknowledges that it is also acting in the capacity of Paying Agent, and on the date hereof, acknowledges receipt of its fees to serve as Escrow Holder and Paying Agent in the amount of \$750.00 (which amount excludes reimbursement of any out of pocket expenses incurred by the

Escrow Holder/Paying Agent in performing its services hereunder), and further acknowledges that the Escrow Holder/Paying Agent does not have a lien on or claim against any funds held hereunder for reimbursement of such expenses.

Section 5. Reinvestment.

(a) Except as provided in Section 3 hereof, and in this Section, the Escrow Holder shall have no power or duty to invest any funds held under this Agreement or to sell, transfer or otherwise dispose of or make substitutions of the Federal Securities held hereunder.

(b) At the written request of the Issuer and upon compliance with the conditions hereinafter stated, the Escrow Holder shall sell, transfer, otherwise dispose of or request the redemption of any of the Federal Securities acquired hereunder and shall either apply the proceeds thereof to the full discharge and satisfaction of the Refunded Bonds or substitute other Federal Securities for such Federal Securities. The Issuer will not request the Escrow Holder to exercise any of the powers described in the preceding sentence in any manner which would cause any Bonds to be "arbitrage bonds" within the meaning of the Internal Revenue Code of 1986, as amended, and the Regulations thereunder. The transactions may be effected only if (i) an independent certified public accountant shall certify to the Escrow Holder that the cash and principal amount of Federal Securities remaining on hand after the transactions are completed, together with the interest due thereon, will be not less than the Escrow Requirement, and (ii) the Escrow Holder shall receive an unqualified opinion from a nationally recognized bond counsel or tax counsel to the effect that the transactions will not cause such Bonds to be "arbitrage bonds" within the meaning of the Internal Revenue Code of 1986, as amended, and the regulations thereunder in effect on the date of the transactions and applicable to transactions undertaken on such date.

Section 6. No Redemption or Acceleration of Maturity. Except as provided in the Irrevocable Instruction and Authorization to Redeem Bonds, the Issuer will not accelerate the maturity or due date of the Refunded Bonds.

Section 7. Responsibilities of Escrow Holder. The Escrow Holder and its respective successors, assigns, agents and servants shall not be held to any personal liability whatsoever, in tort, contract, or otherwise, in connection with the execution and delivery of this Agreement, the establishment of the Escrow Account, the acceptance of the funds deposited therein, the purchase of the Federal Securities, the retention of the Federal Securities or the proceeds thereof or any payment, transfer or other application of money or securities by the Escrow Holder in any non-negligent act, non-negligent omission or non-negligent error of the Escrow Holder made in good faith in the conduct of its duties. The Escrow Holder shall, however, be liable to the Issuer for its negligent or willful acts, omissions or errors which violate or fail to comply with the terms of this Agreement. The duties and obligations of the Escrow Holder shall be

determined by the express provisions of this Agreement. The Escrow Holder may consult with counsel, who may or may not be counsel to the Issuer, and in reliance upon the opinion of such counsel shall have full and complete authorization and protection in respect of any action taken, suffered or omitted by it in good faith in accordance therewith. Whenever the Escrow Holder shall deem it necessary or desirable that a matter be proved or established prior to taking, suffering or omitting any action under this Agreement, such matter may be deemed to be conclusively established by a certificate signed by an authorized officer of the Issuer.

The Escrow Holder has no duty to determine or inquire into the happening or occurrence of any event or contingency where the performance or the failure of performance of the Issuer with respect to arrangements or contracts with others, the Escrow Holder's sole duty and responsibility hereunder being to safeguard the Escrow Account and dispose of and deliver the same strictly in accordance with this Agreement.

Section 8. Resignation of Escrow Holder. The Escrow Holder may resign and thereby become discharged from the duties and obligations hereby created, by notice in writing given to the Issuer and published once in a newspaper of general circulation published in the territorial limits of the Issuer, and in a daily newspaper of general circulation or a financial journal published or circulated in the Borough of Manhattan, City and State of New York, not less than sixty (60) days before such resignation shall take effect. Such resignation shall take effect immediately upon the appointment of a successor Escrow Holder hereunder and payments of all amounts due the resigning Escrow Holder.

Section 9. Removal of Escrow Holder.

(a) The Escrow Holder may be removed at any time by an instrument or concurrent instruments in writing, executed by the holders of not less than fifty-one per centum (51%) in aggregate principal amount of each series of Refunded Bonds then outstanding, such instruments to be filed with the Issuer, and notice in writing given by such holders to all of the registered holders of each series of the Refunded Bonds and published once in a newspaper of general circulation published in the territorial limits of the Issuer, and in a daily newspaper of general circulation or a financial journal published or circulated in the Borough of Manhattan, City and State of New York, not less than sixty (60) days before such removal is to take effect as stated in such instrument or instruments. A photographic copy of any instrument filed with the Issuer under the provisions of this paragraph shall be delivered by the Issuer to the Escrow Holder.

(b) The Escrow Holder may also be removed at any time for any breach of trust or for acting or proceeding in violation of, or for failing to act or proceed in accordance with, any provisions of this Agreement with respect to the duties and obligations of the Escrow

Holder, by the Issuer or by the holders of not less than twenty-five per centum (25%) in aggregate principal amount of each series of the Refunded Bonds then outstanding.

(c) No such removal shall take effect until a successor Escrow Holder shall be appointed hereunder.

Section 10. Successor Escrow Holder.

(a) If at any time hereafter the Escrow Holder shall resign, be removed, be dissolved or otherwise become incapable of acting, or shall be taken over by any governmental official, agency, department or board, the position of Escrow Holder shall thereupon become vacant. If the position of Escrow Holder shall become vacant for any of the foregoing reasons or for any other reason, the Issuer shall appoint a successor Escrow Holder to fulfill the duties of Escrow Holder hereunder. The Issuer shall publish notice of any such appointment once in each week for four (4) successive weeks in a newspaper of general circulation published in the territorial limits of the Issuer and in a daily newspaper of general circulation or a financial journal published or circulated in the Borough of Manhattan, City and State of New York, and, before the second publication of such notice shall mail a copy thereof to the original purchaser or purchasers of the Refunded Bonds.

(b) At any time within one year after such vacancy shall have occurred, the holders of a majority in principal amount of each series of Refunded Bonds then outstanding, by an instrument or concurrent instruments in writing, executed by all such bondholders and filed with the governing body of the Issuer, may appoint a successor Escrow Holder, which shall supersede any Escrow Holder theretofore appointed by the Issuer. Photographic copies of each such instrument shall be delivered promptly by the Issuer, to the predecessor Escrow Holder and to the Escrow Holder so appointed by the bondholders.

(c) If no appointment of a successor Escrow Holder shall be made pursuant to the foregoing provisions of this section, the holder of any Refunded Bonds then outstanding, or any retiring Escrow Holder may apply to any court of competent jurisdiction to appoint a successor Escrow Holder. Such court may thereupon, after such notice, if any, as such court may deem proper and prescribe, appoint a successor Escrow Holder.

Section 11. Term. This Agreement shall commence upon its execution and delivery and shall terminate when the Refunded Bonds have been paid and discharged in accordance herewith, and all amounts held by the Escrow Holder hereunder have been applied in accordance herewith.

Section 12. Severability. If any one or more of the covenants or agreements provided in this Agreement on the part of the Issuer or the Escrow Holder to be performed should be

determined by a court of competent jurisdiction to be contrary to law, such covenant or agreements herein contained shall be null and void and shall be severed from the remaining covenants and agreements and shall in no way affect the validity of the remaining provisions of this Agreement.

Section 13. Counterparts. This Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as duplicate originals and shall constitute and be but one and the same instrument.

Section 14. Governing Law. This Agreement shall be construed under the laws of the State of Florida.

Section 15. Security for Accounts and Funds. All accounts and funds maintained or held pursuant to this Agreement shall be continuously secured in the same manner as other deposits of municipal funds are required to be secured by the laws of Florida.

Section 15. Brokerage Requirements. The Issuer acknowledges that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant the Issuer the right to receive individual confirmations of security transactions at no additional cost, as they occur, the Issuer specifically waives receipt of such confirmations to the extent permitted by law. The Escrow Agent will furnish the Issuer periodic cash transaction statements that include detail for all investment transactions made by the Escrow Agent hereunder.

[Remainder of page left intentionally blank – Signature pages follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers and their official seals to be hereunto affixed as of the date first above written.

CITY OF CLEARWATER, FLORIDA

(SEAL)

George N. Cretekos, Mayor

ATTEST:

Rosemarie Call, City Clerk

William B. Horne, II, City Manager

Approved as to Form,
Sufficiency and Correctness:

Pamela K. Akin, City Attorney

[Issuer's Signature Page to Escrow Deposit Agreement]

U.S. BANK NATIONAL ASSOCIATION,
as Escrow Holder

By: _____
Name:
Title:

[Escrow Agent's Signature Page to Escrow Deposit Agreement]

Schedule A

(Debt Service; Description of Refunded Bonds)

Series 2009A Bonds

| Payment Date | Principal | Interest | Premium | Total Debt Service |
|--------------|-----------|----------|---------|--------------------|
|--------------|-----------|----------|---------|--------------------|

Series 2011 Bonds

| Payment Date | Principal | Interest | Premium | Total Debt Service |
|--------------|-----------|----------|---------|--------------------|
|--------------|-----------|----------|---------|--------------------|

Schedule B

Escrow Cash Flow

| <u>Payment Date</u> | <u>Principal</u> | <u>Interest</u> | <u>Total</u> |
|---------------------|------------------|-----------------|--------------|
|---------------------|------------------|-----------------|--------------|

UNRESTRICTED SECURITIES

| <u>Type of Security</u> | <u>Maturity Date</u> | <u>Par Amount</u> | <u>Rate</u> | <u>Total Cost</u> |
|-------------------------|----------------------|-------------------|-------------|-------------------|
|-------------------------|----------------------|-------------------|-------------|-------------------|

RESTRICTED SECURITIES

| <u>Type of Security</u> | <u>Maturity Date</u> | <u>Par Amount</u> | <u>Rate</u> | <u>Total Cost</u> |
|-------------------------|----------------------|-------------------|-------------|-------------------|
|-------------------------|----------------------|-------------------|-------------|-------------------|