

## **REGISTRAR AND PAYING AGENT AGREEMENT**

THIS AGREEMENT is entered into as of \_\_\_\_\_, 2017 (the "Agreement"), by and between the City of Clearwater, Florida (the "Issuer") and U.S. Bank National Association (the "Bank") a national banking association duly organized and operating under the laws of the United States of America.

WHEREAS, the Issuer has duly authorized and provided for the issuance of its \$\_\_\_\_\_ Water and Sewer Revenue Refunding Bonds, Series 2017, dated \_\_\_\_\_, 2017 (the "Series 2017 Bonds"); to be issued in fully registered form only as to the payment of principal and interest thereon; and

WHEREAS, the Bonds are scheduled to be delivered to the initial purchasers thereof on or about \_\_\_\_\_, 2017; and

WHEREAS, the Issuer has selected the Bank to serve as Paying Agent in connection with the payment of the principal of, premium, if any, and interest on the Bonds and as Registrar with respect to the registration, transfer, and exchange thereof by the registered owners thereof; and

WHEREAS, the Bank has agreed to serve in such capacities for and on behalf of the Issuer and has full power and authority to perform and serve as Registrar and Paying Agent for the Bonds;

NOW, THEREFORE, it is mutually agreed as follows:

### **ARTICLE ONE APPOINTMENT OF BANK AS REGISTRAR AND PAYING AGENT**

**SECTION 1.01. APPOINTMENT.** The Issuer hereby appoints the Bank to serve as Paying Agent with respect to the Bonds. As Paying Agent for the Bonds, the Bank shall be responsible for paying on behalf of the Issuer the principal, premium (if any), and interest on the Bonds as the same become due and payable to the registered owners thereof, all in accordance with this Agreement and the "Bond Ordinance" (hereinafter defined).

The Issuer hereby appoints the Bank as Registrar with respect to the Bonds. As Registrar for the Bonds, the Bank shall keep and maintain for and on behalf of the Issuer books and records as to the ownership of said Bonds and with respect to the transfer and exchange thereof as provided herein and in the Bond Ordinance, a copy of which books and records shall be maintained at the designated office of the Bank located in the State of Florida or shall be available to be accessed from such office located in the State of Florida

The Bank hereby accepts its appointment, and agrees to serve as the Paying Agent and Registrar for the Bonds.

**SECTION 1.02. COMPENSATION.** As compensation for the Bank's services as Paying Agent and Registrar, the Issuer hereby agrees to pay the Bank a one-time upfront payment in an amount equal to \$2,500.00, being full payment for services rendered and costs incurred by the Paying Agent under this Agreement for the term hereof and the Escrow Holder under the Escrow Deposit Agreement, on the date of issuance of the Bonds.

## **ARTICLE TWO DEFINITIONS**

**SECTION 2.01. DEFINITIONS:** For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

"Bank Office" means the office of the Bank as follows: 225 E. Robinson Street, Suite 250, Orlando, Florida 32801. The Bank will notify the Issuer in writing of any change in location of the Bank Office.

"Bond 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. 17-\_\_, adopted on \_\_\_\_, 2017.

"Collected Funds" Funds immediately available to the Paying Agent as of the due date of such funds.

"Date of Issue" means \_\_\_\_, 2017.

"Delivery Date" means \_\_\_\_, 2017.

"Depositories" means "DTC"

"Fiscal Year" means, with respect to the Issuer, the year ending September 30.

"Holder" and "Security Holder" each means the Person in whose name a Security is registered in the Security Register.

"Issuer Request" and "Issuer Order" means a written request or order signed in the name of the Issuer by the Treasurer or his or her designee.

"Legal Holiday" means a day on which the Bank is required or authorized to be closed.

"Payment Dates" means June 1 and December 1, commencing June 1, 2017.

"Person" means any individual, corporation, partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision of a government.

"Predecessor Bonds" of any particular Security means every previous Security evidencing all or a portion of the same obligation as that evidenced by such particular Security (and, for the purposes of this definition, any mutilated, lost, destroyed, or stolen Security for which a replacement Security has been registered and delivered in lieu thereof pursuant to Section 4.05 hereof and the Bond Ordinance).

"Record Date" means each May 15 and November 15 whether or not a business day.

"Redemption Date" when used with respect to any Security to be redeemed means the date fixed for such redemption pursuant to the terms of the Bond Ordinance.

"Responsible Officer" when used with respect to the Bank means the Chairman or Vice-Chairman of the Board of Directors, the Chairman or Vice-chairman of the Executive Committee of the Board of Directors, the President, any Vice President, the Secretary, any Assistant Secretary, the Treasurer, any Assistant Treasurer, the Cashier, any Assistant Cashier, any Trust Officer or Assistant Trust Officer, or any other officer of the Bank customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other officer to whom such matter is referred because of his knowledge of and familiarity with the particular subject.

"Security" means any one of the individual Bonds of the Issuer's \$\_\_\_\_\_ Water and Sewer Revenue Refunding Bonds, Series 2017, dated \_\_\_\_\_, 2017.

"Security Register" means a register maintained by the Bank on behalf of the Issuer providing for the registration and transfer of the Bonds.

"Stated Maturity" means the date specified in the particular Security upon which the principal of a Security is scheduled to be due and payable.

**SECTION 2.02. OTHER DEFINITIONS.** The terms "Bank," "Issuer," and "Bonds (Security)" have the meanings assigned to them in the recital paragraphs of this Agreement.

The terms "Registrar" and "Paying Agent" refers to the Bank in the performance of the duties and functions of this Agreement.

### **ARTICLE THREE PAYING AGENT**

#### **SECTION 3.01. DUTIES OF PAYING AGENT.**

(a) As Paying Agent, the Bank shall, provided adequate Collected Funds have been provided to it for such purpose by or on behalf of the Issuer, pay on behalf of the Issuer the principal of each Security at its Stated Maturity or Redemption Date to the Holder upon surrender of the Security to the Bank at its corporate trust operations office located in Orlando, Florida.

(b) As Paying Agent, the Bank shall, provided adequate Collected Funds have been provided to it for such purpose by or on behalf of the Issuer, pay on behalf of the Issuer the interest on each Security when due, by computing the amount of interest to be paid each Holder and preparing and sending checks by United States Mail, first class, postage prepaid, on each payment date, to the Holders of the Bonds (or their Predecessor Bonds) on the respective Record Date, to the address appearing on the Security Registrar or by such other method, acceptable to the Bank, requested in writing by the Holder at the Holder's risk and expense.

The Issuer shall pay all charges from Depositories for untimely payments, provided however, the Bank also agrees to abide by the Depository requirement for same day wire transfer of funds for debt service payment.

**SECTION 3.02. PAYMENT DATES.** The Issuer hereby instructs the Bank to pay the principal of and interest on the Bonds on each Payment Date and such other dates on which a redemption of the Bonds occurs.

### **ARTICLE FOUR REGISTRAR**

**SECTION 4.01. SECURITY REGISTER – TRANSFERS AND EXCHANGES.** The Bank agrees to keep and maintain for and on behalf of the Issuer at the Bank Office books and records (herein sometimes referred to as the "Security Register") for recording the names and addresses of the Holders of the Bonds, the transfer, exchange, and replacement of the Bonds, and the payment of the principal of and interest on the Bonds to the Holders and containing such other information as may be reasonably required by the Issuer and subject to such reasonable regulations as the Issuer and the Bank may prescribe. All transfers, exchanges, and replacement of Bonds shall be noted in the Security Register. The Bank agrees further to keep and maintain a copy of the Security Register

at its Office located in the State of Minnesota or provides for such Security Register to be available to be accessed from such Bank Office.

Every Security surrendered for transfer or exchange shall be duly endorsed or be accompanied by a written instrument of transfer, the signature on which has been guaranteed by an officer of a federal or state bank or a member of the National Association of Bonds Dealers, in form satisfactory to the Bank, duly executed by the Holder thereof or his agent duly authorized in writing.

The Bank may request any supporting documentation it feels necessary to effect a registration, transfer, or exchange of the Bonds.

To the extent possible and under reasonable circumstances, the Bank agrees that, in relation to an exchange or transfer of Bonds, the exchange or transfer by the Holders thereof will be completed and new Bonds delivered to the Holder or the assignee of the Holder in not more than three business days after the receipt of the Bonds to be canceled in an exchange or transfer and the written instrument of transfer or request for exchange duly executed by the Holder, or his duly authorized agent, in form and manner satisfactory to the Paying Agent/Registrar.

**SECTION 4.02. FORM OF SECURITY REGISTER.** The Bank, as Registrar, will maintain the Security Register relating to the registration, payment, transfer, and exchange of the Bonds in accordance with the Bank's general practices and procedures in effect from time to time. The Bank shall not be obligated to maintain such Security Register in any form other than those which the Bank has currently available and currently utilizes at the time.

The Security Register may be maintained in written form or in any other form capable of being converted into written form within a reasonable time.

**SECTION 4.03. LIST OF SECURITY HOLDERS.** The Bank will provide the Issuer at any time requested by the Issuer, upon payment of the required fee, a copy of the information contained in the Security Register. The Issuer may also inspect the information contained in the Security Register at any time the Bank is customarily open for business, provided that reasonable time is allowed the Bank to provide an up-to-date listing or to convert the information into written form.

Unless required by law, the Bank will not release or disclose the contents of the Security Register to any person other than to, or at the written request of, an authorized officer or employee of the Issuer, except upon receipt of a court order or as otherwise required by law. Upon receipt of a court order and prior to the release or disclosure of the contents of the Security Register, the Bank will notify the Issuer so that the Issuer may contest the court order or such release or disclosure of the contents of the Security Register.

**SECTION 4.04. CANCELED BONDS.** The Bank will retain and destroy canceled and matured Bonds upon expiration of the appropriate retention period.

**SECTION 4.05. MUTILATED, DESTROYED, LOST, OR STOLEN BONDS.** The Issuer hereby instructs the Bank, subject to the applicable provisions of the Bond Ordinance, to deliver and issue Bonds in exchange for or in lieu of mutilated, destroyed, lost, or stolen Bonds as long as the same does not result in an over issuance.

In case any Security shall be mutilated, or destroyed, lost, or stolen, the Bank, in its discretion, may execute and deliver a replacement Security of like form and tenor, and in the same denomination and bearing a number not contemporaneously outstanding, in exchange and substitution for such mutilated Security, or in lieu of and in substitution for such destroyed, lost, or stolen Security, only after (i) the filing by the Holder thereof with the Bank of evidence satisfactory to the Bank of the destruction, loss, or theft of such Security, and of the authenticity of the ownership thereof and (ii) the furnishing to the Bank of indemnification in an amount satisfactory to hold the Issuer and the Bank harmless. All expenses and charges associated with such indemnity and with the preparation, execution, and delivery of a replacement Security shall be borne by the Holder of the Security mutilated, or destroyed, lost, or stolen.

**SECTION 4.06. TRANSACTION INFORMATION TO ISSUER.** The Bank will, within a reasonable time after receipt of written request from the Issuer, furnish the Issuer information as to the Bonds it has paid pursuant to Section 3.01, Bonds it has delivered upon the transfer or exchange of any Bonds pursuant to Section 4.01, and Bonds it has delivered in exchange for or in lieu of mutilated, destroyed, lost, or stolen Bonds pursuant to Section 4.05.

## **ARTICLE FIVE THE BANK**

**SECTION 5.01 DUTIES OF BANK.** The Bank undertakes to perform the duties set forth herein and in the Bond Ordinance and the Ordinance agrees to use reasonable care in the performance thereof.

### **SECTION 5.02 RELIANCE ON DOCUMENTS, ETC.**

(a) The Bank may conclusively rely, as to the truth of the statements and correctness of the opinions expressed therein, on certificates or opinions furnished to the Bank.

(b) The Bank shall not be liable for any error of judgment made in good faith by a responsible Officer, unless it shall be proved that the Bank was negligent in ascertaining the pertinent facts.

(c) No provision of this Agreement shall require the Bank to expend or risk its own funds or otherwise incur any financial liability for performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity satisfactory to it against such risks or liability is not assured to it.

(d) The Bank may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, resolution, bond, note, security, or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties. Without limiting the generality of the foregoing statement, the Bank need not examine the ownership of any Bonds, but is protected in acting upon receipt of Bonds containing an endorsement or instruction of transfer or power of transfer which appears on its face to be signed by the Holder or an agent of the Holder. The Bank shall not be bound to make any investigation into the facts or matters stated in a resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, bond, note security or other paper document supplied by Issuer.

(e) The Bank may consult with counsel, and the written advice of such counsel or any opinion of counsel shall be full and complete authorization and protection with respect to any action taken, suffered, or omitted by it hereunder in good faith and in reliance thereon.

(f) The Bank may exercise any of the powers hereunder and perform any duties hereunder either directly or by or through agents or attorneys of the Bank.

**SECTION 5.03    RECITALS OF ISSUER.** The recitals contained herein with respect to the Issuer and in the Bonds shall be taken as the statements of the Issuer, and the Bank assumes no responsibility for their correctness.

The Bank shall in no event be liable to the Issuer, and Holder or Holders of any Security, or any other Person for any amount due on any Security from its own funds.

**SECTION 5.04.    MAY HOLD BONDS.** The Bank, in its individual or any other capacity, may become the owner or pledgee of Bonds and may otherwise deal with the Issuer with the same rights it would have if it were not the Paying Agent/Registrar, or any other agent.

**SECTION 5.05.    MONEY HELD BY BANK.** The Issuer shall deposit or cause to be deposited with the Bank from Pledged Revenues sufficient funds for the payment of the Bonds to pay when due and payable the principal of, redemption premium, if any, and interest on the Bonds.

All funds at any time and from time to time provided to or held by the Bank hereunder shall be deemed, construed, and considered for all purposes as being provided to or held by the Bank in

trust and as a trustee for the benefit of the Security Holders. The Bank acknowledges, covenants, and represents that it is acting herein in a fiduciary capacity in relation to such funds, and is not accepting, holding, administering, or applying such funds as a banking depository, but solely as trustee and fiduciary for and on behalf of the Security thereto, except as trustee pursuant to the terms of this Agreement. The Holders shall be entitled to the same preferred claim and first lien on the funds so provided as are enjoyed by the beneficiaries of trust funds generally. The funds provided to the Bank hereunder shall not be subject to warrants, drafts, or checks drawn by the Issuer and, except as expressly provided herein, shall not be subject to compromise, setoff, or other charge or diminution by the Bank.

The Bank shall be under no liability for interest on any money received by it hereunder.

Subject to the unclaimed property laws of the State of Florida and any provisions in the Ordinance or the Bond Ordinance to the contrary, any money deposited with the Bank for the payment of the principal, premium (if any), or interest on any Security and remaining unclaimed for three years after final maturity of the Security has become due and payable will be paid by the Bank to the Issuer, and the Holder of such Security shall thereafter look only to the Issuer for payment thereof, and all liability of the Bank with respect to such money shall thereupon cease.

**SECTION 5.06. INDEMNIFICATION.** To the extent permitted by law, the Issuer agrees to indemnify the Bank for, and hold it harmless against, any loss, liability, or expense incurred without negligence or bad faith on its part, arising out of or in connection with its acceptance or administration of its duties hereunder, including the cost and expense against any claim or liability in connection with the exercise or performance of any of its powers or duties under this Agreement.

**SECTION 5.07 INTERPLEADER.** The Issuer and the Bank agree that the Bank may seek adjudication of any adverse claim, demand, or controversy over its person as well as funds on deposit, in either a Federal or State District Court located in the State and County where either the Bank Office or the administrative offices of the Issuer is located, and agree that service of process to Bank's Interpleader by certified or registered mail, return receipt requested, to the address referred to in Section 6.03 of this Agreement shall constitute adequate service. The Issuer and the Bank further agree that the Bank has the right to file a Bill of Interpleader in any court of competent jurisdiction to determine the rights of any Person claiming any interest herein.

**SECTION 5.08. DEPOSITORY TRUST COMPANY SERVICES.** It is hereby represented and warranted that, in the event the Bonds are otherwise qualified and accepted for "Depository Trust Company" services or equivalent depository trust services by other organizations, the Bank has the capability and, to the extent within its control, will comply with the "Operational Arrangements," effective from time to time, which establishes requirements for Bonds to be eligible for such type depository trust services, including, but not limited to, requirements for the timeliness



of payments and funds availability, transfer turnaround time, and notification of redemptions and calls. Operational Arrangements shall govern over any other inconsistent provision.

## **ARTICLE SIX MISCELLANEOUS PROVISIONS**

**SECTION 6.01. AMENDMENT.** This Agreement may be amended only by an agreement in writing signed by both of the parties hereto.

**SECTION 6.02 ASSIGNMENT.** This Agreement may not be assigned by either party without the prior written consent of the other.

**SECTION 6.03. NOTICES.** Any request, demand, authorization, direction, notice, consent, waiver, or other document provided or permitted hereby to be given or furnished to the Issuer or the Bank shall be mailed or delivered to the Issuer or the Bank, respectively, at the addresses shown below:

To the City:                   City of Clearwater  
                                  Municipal Services Building  
                                  100 S. Myrtle Avenue  
                                  Clearwater, Florida 33756-5520  
                                  Attention: Brian Jay Ravins, Finance Director

With a copy to:           City Attorney  
                                  City of Clearwater  
                                  112 South Osceola Avenue, 3<sup>rd</sup> Floor  
                                  Clearwater, Florida 33756  
                                  Attention: Pamela K. Akin, Esquire

To the Bank:               U.S. Bank National Association  
                                  225 E. Robinson Street, Suite 250  
                                  Orlando, Florida 32801  
                                  Attention: Corporate Trust

**SECTION 6.04. EFFECT OF HEADINGS.** The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

**SECTION 6.05. SUCCESSORS AND ASSIGNS.** All covenants and agreements herein by the Issuer shall bind its successors and assigns, whether so expressed or not.

**SECTION 6.06. SEVERABILITY.** In case any provision herein shall be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

**SECTION 6.07. BENEFITS OF AGREEMENT.** Nothing herein, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder, any benefit or any legal or equitable right, remedy, or claim hereunder.

**SECTION 6.08. ENTIRE AGREEMENT.** This Agreement and the Bond Ordinance constitute the entire agreement between the parties hereto relative to the Bank acting as Paying Agent/Registrar and if any conflict exists between this Agreement and the Bond Ordinance, the Bond Ordinance shall govern.

**SECTION 6.09. COUNTERPARTS.** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same Agreement.

**SECTION 6.10. TERMINATION.** This Agreement will terminate on the date of final payment of the principal of interest on the Bonds to the Holders thereof or may be earlier terminated by the Issuer upon 60 days written notice; provided, however, an early termination of this Agreement by the Issuer shall not be effective until (a) a successor Paying Agent/Registrar has been appointed by the Issuer and such appointment accepted and (b) notice has been given to the Holders of the Bonds of the appointment of a successor Paying Agent/Registrar. Furthermore, the Bank and Issuer mutually agree that the effective date of an early termination of this Agreement shall not occur at any time which would disrupt, delay, or otherwise adversely affect the payment of the Bonds.

Upon an early termination of this Agreement, the Bank agrees to promptly transfer and deliver the Security Register (or a copy thereof), together with other pertinent books and records relating to the Bonds, to the Successor Paying Agent/Registrar designated and appointed by the Issuer.

The provisions of Article Five shall survive and remain in full force and effect following the termination of this Agreement.

**SECTION 6.11 GOVERNING LAW.** This Agreement shall be construed in accordance with and governed by the laws of the State of Florida.

**SECTION 6.12 SUCCESSOR PAYING AGENT.** Any corporation or association into which the Paying Agent may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its trust business and assets as a whole, or any corporation or

association resulting from any such conversion, sale, merger, consolidation or transfer too which it is a party, shall be and become successor Paying Agent hereunder and vested with all of the powers, discretion's, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

*[Remainder of page left intentionally blank – signature page follows]*

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the day and year first above written.

ISSUER:

**CITY OF CLEARWATER, FLORIDA**

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

By: \_\_\_\_\_  
William B. Horne, II, City Manager

ATTEST:

By: \_\_\_\_\_  
Rosemarie Call, City Clerk

Approved as to Form:

By: \_\_\_\_\_  
Pamela K. Akin, City Attorney

**U.S. BANK NATIONAL ASSOCIATION**

By: \_\_\_\_\_  
James Audette, Vice President

[Signature page to Paying Agent Agreement]