

Financial Advisory Services Agreement

FINANCIAL ADVISOR SERVICES AGREEMENT

This FINANCIAL ADVISOR SERVICES AGREEMENT (this "Agreement") is entered into as of May 29 2018, by and between CITY OF BROOKHAVEN, GEORGIA (the "City") and DAVENPORT & COMPANY LLC ("Davenport") with its primary office located at 901 East Cary Street, Richmond, VA 23219; and

WHEREAS, the City desires to formally enter into an Agreement with Davenport for professional assistance related to general municipal financial advice, counsel and associated services;

NOW, THEREFORE, in consideration of the mutual covenants, promises and representations contained herein, the parties hereto agree as follows:

ARTICLE I. Scope of Services

The extent and character of the services to be performed by Davenport shall be subject to the general control and approval of the City Manager and Assistant City Manager or their authorized representative(s). Davenport shall not comply with requests and/or orders issued by anyone other than the City Manager, Assistant City Manager or their authorized representative(s) acting within their authority for the City.

Davenport shall, using its professional staff members, upon request of the City Manager, Assistant City Manager or their designee, provide services related to financial planning and policy development and services which may include debt issuance. Prior to performing any such services, Davenport shall have received authorization from the City Manager, Assistant City Manager or their designee to perform such services at a fee agreed upon by the parties in advance. The services provided pursuant to the Scope of this Agreement shall include, but not necessarily be limited to, the following:

A. Financial Planning and Policy Development

- Assist the City in the formulation of Financial and Debt Policies and Administrative Procedures;
- Review current debt structure, identifying strengths and weaknesses of structure so that future debt issues can be structured to maximize ability to finance future capital needs, including but not limited to, semi-annual review of existing debt for the possibility of refunding debt to provide the City with savings;
- Analyze future debt capacity to determine the City's ability to raise future debt capital;
- Assist the City in the development of the Capital Improvement program by identifying sources of capital funding for infrastructure needs, assessing capital needs, identifying potential revenue sources, analyze financing alternatives such as pay-as-you-go, lease/purchasing, short-term vs. long-term financings, assessments, user fees, impact fees, developer contributions, public/private projects, and grants, and provide analysis of each alternative, as required, as to the budgetary and financial impact;
- Review the reports of accountants, independent engineers, and other project feasibility consultants to ensure that such studies adequately address technical, economic, and financial risk factors affecting the marketability of any proposed revenue debt issues; provide bond market assumptions necessary for financial projections included in these studies; attend all relevant working sessions regarding the

preparation, review and completion of such independent studies; and provided written comments and recommendations regarding assumptions, analytic methods, and conclusions contained therein;

- Develop, manage and maintain computer models to assist with long-term capital planning and debt management;
- Provide debt service schedules reflecting varying interest rates, issue size, and maturity structures as these are needed for related fiscal planning;
- Attend meetings with City staff, consultants and other City representatives;
- Review underwriters' ideas and proposals on behalf of the City;
- Undertake any and all other financial planning and policy development assignments made by the City regarding bond and other financing and related fiscal policy and programs; and
- Assist the City in preparing financial presentations for public hearings and/or referendums.

B. Transaction Services

- Develop a financing plan in concert with City's staff, which would include recommendations as to the timing of the plan;
- Advise as to the various financing alternatives available to the City;
- Preparation of a financing sale calendar, management and administration of the working group and financing sale process, as a whole;
- Develop alternatives related to debt transactions including evaluation of revenue available, maturity schedule and cash flow requirements;
- Assist the City by recommending the best method of sale, either as a direct bank loan, or a competitive or negotiated public sale;
- Preparation and distribution of requests for proposals related to the bond issue such as financial printer, verification agent, underwriter, letter of credit provider, bond insurer, paying agent, feasibility consultant, and escrow agent;
- Assist in the solicitations, review and evaluation of bids/proposals;
- If appropriate, develop credit rating presentation and coordinate with the City the overall presentation to rating agencies;
- Review and comment on successive drafts of bond resolutions and other bond documents;
- Identify key bond covenant features and advise on provisions to be included in bond resolutions regarding security, creation of reserve funds, flow of funds, redemption provisions, and additional parity debt test;
- Review the terms, conditions and structure of a proposed debt offering undertaken by the City and provide suggestions, modifications and enhancements where appropriate and necessary to reflect the constraints or current financial policy and fiscal capability;
- Assistance with, review of and comment on preliminary official statement (POS) and final official statement related financial terms of the bonds;
- Provide regular updates of tax-exempt bond market conditions and advise the City as to the most advantageous timing for issuing its debt;
- Advise the City on the condition of the bond market at the time of the offering, including volume, timing considerations, competing offerings, and general economic considerations;

- Assist and advise the City in negotiations with investment banking groups regarding fees, pricing of the bonds and final terms of any security offering. Provide insight that the pricing of the bonds is fair and reasonable based on existing market conditions.
- Attendance at all working group meetings with City staff, bond counsel and other consultants to the City, as requested;
- Attendance at City Council meetings, hearings and briefings to affect the sale of bonds as requested;
- Coordination of requests for bond ratings including the preparation of presentation materials;
- Preparation of bond sizing schedules including debt service and related schedules;
- Analysis and recommendation of bond issuance details including, but not limited to: redemption provision, timing of issue, maturity schedule and amortization, method of sale;
- Assistance with preparation of notice of sale and bid form;
- Development and provision of mailing list for POS, notice of sale and bid form;
- Receipt and verification of bids or negotiation of coupons and yields on the bonds (if a negotiated sale);
- Review of closing documents; and
- Coordination of closing activities.

C. Special Services

Upon request of the City, Davenport may provide other services that may include, but are not limited to, the following:

- Impact fee financial analysis;
- Rate analysis;
- Referendum assistance;
- Legislative initiatives;
- Project assessment analysis;
- Implementation of revenue enhancement programs;
- Financial analysis of projects being developed by engineer/architect studies; and
- Negotiation on behalf of the City for proposed projects.

Fees of such services will be determined on a task-order basis and the City will negotiate a fixed fee, task fee, or hourly rate for each special service task prior to undertaking the task.

D. Investment Management Services

Provide Investment Management Services for such funds as the City may from time to time assign by written notice to Davenport. Fees for such services will be determined on a task-order basis and the City will negotiate a fixed fee, task fee, or hourly rate for each special task prior to undertaking the task.

ARTICLE II. Compensation

A. Financial Planning, Policy Development and other Services

For the professional services described in Article I.A. or other projects as desired, Davenport will be compensated based upon the hourly rate structure set forth below for work performed as requested. A not-to-exceed amount can be agreed upon prior to the beginning of the project. Davenport's hourly rate structure is as follows:

Senior Vice President	\$300/Hour
First Vice President	\$275/Hour
Vice President	\$250/Hour
Associate	\$225/Hour
Analyst	\$200/Hour

Such amounts will be adjusted annually beginning with the 2nd year of the contract. The adjustment will be equal to the percentage increase for the previous twelve (12) months from July of the prior year to June of the current year in the Consumer Price Index, U.S. Cities average, all items, 1967 base, as adjusted, as published by the Bureau of Labor Statistics, U.S. Department of Labor. Should this index be superseded, the City reserves the right to select another appropriate index. For services that are billed on an hourly basis Davenport will provide the City with a summary of the hours for each professional involved.

B. Transaction Compensation

Davenport will be entitled to receive a transaction completion fee for the professional services described in Article I.B. Each such fee will be determined by taking into account the details of the specific transaction contemplated and agreed upon by the parties in advance, subject to a minimum fee of \$30,000 per transaction. An additional \$20,000 if the transaction is rated and an additional \$10,000 shall be added for each of the following instances, if the transaction will be a negotiated public sale and for each refunding component.

Davenport shall only be compensated for any issuance of bonds and/or notes or loan upon successful completion and closing of such financing.

C. Reimbursement for Out-of-Pocket Expenses

Davenport shall be entitled to receive its agreed upon fees plus reasonable and necessary out-of-pocket expenses, including costs of travel, meals, lodging, express mail, legal fees incurred in connection with the services pertaining to this Agreement provided, however, that such fee and out-of-pocket expenses shall be rendered payable quarterly in arrears but only to the extent that the Davenport furnishes to the City, an invoice containing a detailed list of event and associated cost for such fees and expenses. In addition, the City shall pay four percent (4%) of any fee amount billed for indirect expenses such as conference calls, printing, binding, postage and other incidental expenses.

ARTICLE III. Direct Personnel Expense

Davenport represents that it has, or will secure at its own expense, all personnel required in performing the services under this Agreement. Such personnel shall not be employees of, or have any contractual relationship with, the City. Further, all services required hereunder will be performed by Davenport or under its supervision, and all personnel engaged in the work shall be fully qualified to perform such services.

ARTICLE IV. Term of Agreement

The Agreement term is for an initial period of three (3) years from the effective date. The Agreement shall be extended automatically thereafter for one (1) year terms on the anniversaries of the effective date unless terminated earlier in accordance with termination provisions of this Agreement.

ARTICLE V. General Conditions

A. Assignment

Neither the City nor Davenport shall assign, sublet, or transfer their rights or obligations in Agreement without the written consent of the other.

B. Non-discrimination

1. During the performance of this contract, Davenport agrees as follows:

(a) Davenport will not discriminate against the employee or applicant for employment because of race, religion, color, sex, national origin, age, disability or any other basis prohibited by state law relating to discrimination in employment, except where there is a bonafide occupational qualification reasonably necessary to the normal operation of the contractor. Davenport agrees to post in conspicuous places, available to employees and applications for employment, notices setting forth the provisions of the non-discrimination clause.

(b) Davenport in all solicitations or advertisements for employees placed on behalf of the contractor will state that such bidder is an equal opportunity employer.

(c) Notices, advertisements, and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

2. Davenport will include the provisions of the foregoing paragraphs (a), (b), and (c) in every subcontract or purchase order of over \$10,000 so that the provisions will be binding upon each subcontractor or vendor.

C. Drug-free workplace

During the performance of this contract, Davenport agrees to (i) provide a drug-free workplace for Davenport's employees, (ii) post in conspicuous places, available to employees and applicants for employment, a statement notify employees that the unlawful manufacture, sale, distribution, dispensation, possession or use of a controlled substance or marijuana is prohibited in Davenport's workplace and specifying the actions that will be taken against employees for violations of such prohibition, (iii) state in all solicitation or advertisements for employees placed by or on behalf of Davenport that Davenport maintains a drug-free workplace, and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purpose of this section "drug-free workplace" means a site for the performance or work done in connection with a specific contract awarded to a contractor in accordance with this chapter, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of this contract.

D. Representatives and Notices

1. The City representative shall be the City Manager, the Assistant City Manager or as otherwise designated in writing by the City Manager or the Assistant City Manager.

2. Davenport's representative shall be Courtney Rogers or as designated in writing and accepted by the City in writing.

3. Any bills, invoices or reports, required by this Agreement shall be sufficient if sent by the parties in United States, postage paid, to the appropriate party at the respective address noted. Any notices shall be sent by certified mail.

E. Termination of Agreement

1. This Agreement is subject to termination by either party on thirty (30) days advance written notice to the other at its address as herein above specified. However, in the event bonds are sold, Davenport shall continue to render services relating to the issuance of municipal securities by the City within the Agreement Year.

2. In the event of such termination, Davenport shall be entitled to receive only the fair value, in compliance with ARTICLE II, of services rendered hereunder prior to the effective date of such notice of termination. All work products produced by Davenport shall be property of the City and turned over to the City upon termination of the Agreement.

F. Compliance with Local, State and Federal Rules, Regulations and Laws

Davenport shall comply with all applicable laws, orders and codes of the Federal, State and local governments as they pertain to this Agreement.

G. Interest of Members of City

No members of the governing body of the City and no other official, employee or agent of the City who exercises any functions or responsibilities in connection with the carrying out of the services to which this Agreement pertains, shall have any personal interest, direct or indirect, in this Agreement.

H. Findings Confidential

Unless otherwise required by law, all of the reports, information, data, etc., prepared or assembled by the consultant under this Agreement are confidential; and Davenport agrees that the same shall not be made available to any individual or organization without the prior written approval of the City.

I. Ownership of documents

All documents and/or computer models prepared or obtained by Davenport shall remain the property of the City.

J. Prohibition Against Contingent Fees

Davenport warrants that it has not employed or retained any company or person, other than bona fide employee working solely for the consultant to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for

Davenport any fee, commission, percentage, gift or any other consideration, contingent upon or resulting from the award or making of this agreement.

K. No Agency Relationship

Davenport is not the agent, subagent or representative of the City; and this Agreement shall not make the City liable to any person, firm corporation or other who contracts with or who provides goods or services to Davenport in connection with the services it has agreed to perform hereunder or otherwise, or for debts or claims accruing to such parties against Davenport; and there is no contractual relationship, either express or implied, between the City and any other person, firm, corporation or other supplying any work, labor, services, goods or materials to Davenport as a result of its services to the City hereunder or otherwise.

L. Modification of Scope of Services

It shall be the responsibility of Davenport to notify the City, in writing, of any necessary modifications or additions in the Scope of this Agreement. Compensation for changes or additions in the Scope of this Agreement will be negotiated and approved by the City in writing. Furthermore, it is understood and agreed by both parties that any modifications or additions to this Agreement prior to the City's written approval shall be at the total risk of Davenport and may not be compensated.

M. Assurance of City

The City agrees to cooperate fully with Davenport in its fulfillment of the duties specified in this Agreement. Without limited the foregoing, the City shall make available to Davenport any information the City possesses relevant to services to be undertaken by the consultant and appropriate members of the City staff for assistance to and/or consultation by Davenport.

N. Insurance

Davenport shall purchase and maintain insurance coverage including General Liability Insurance in an amount of \$1 million per occurrence and \$2 million aggregate; Workman's Compensation Insurance; and Commercial Umbrella Liability insurance with an annual aggregate of \$10 Million.

O. Headings

All headings and descriptive headings of paragraphs in this Agreement are inserted for convenience only and shall not affect the construction or interpretation hereof.

P. Severability

If any part, term, or provision of this Agreement, shall be found by a court of law to be legally invalid or unenforceable, then such provision or portion thereof, shall be reformed in accordance with applicable laws. The invalidity or unenforceability of any provision or portion of any contract document shall not affect the validity of any other provision or portion of the contract document.

Q. Non-appropriation

Notwithstanding anything constrained herein to the contrary, this contract shall be terminated if all of the following events have occurred:

1. Funds are not appropriated for a subsequent fiscal period during the term of this contract for the acquisition of substantially the same functions as provided for herein, and written notice thereof is

given to Davenport at least thirty (30) days prior to the first day of such subsequent fiscal periods or within five (5) days of the approval of the final budget for such fiscal year, whichever occurs later.

2. City has exhausted all funds legally available for payment under this contract.

Upon such termination, Davenport's only remedy shall be to terminate the contract at the end of the fiscal period during which notice is given. Payment in compliance with the contract for materials, goods and services rendered hereunder during the fiscal year at the end of which termination occurs, without penalty, termination, profit or overhead expenses of any kind shall constitute full performance on the part of the City.

ARTICLE VI. Agreement Constructed Under Georgia Laws

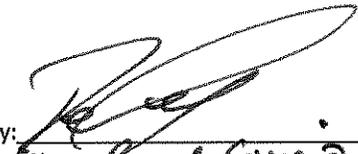
This Agreement is to be executed and performed in the State of Georgia and shall be constructed in accordance with the laws of the State of Georgia.

WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed at the place and on the day herein above first written.

CITY OF BROOKHAVEN, GEORGIA

DAVENPORT & COMPANY LLC

By: 
Name: CHRISTIAN GIBMAN
Title: CITY MANAGER

By: 
Name: Ricardo Canjo
Title: First Vice President

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