

**RESOLUTION**

**Authorizing Execution Non-Binding Letters of Intent and/or**

**Financial Advisor Agreements**

**from Time to Time with Raymond James & Associates, Inc.**

**WHEREAS**, The City of Smyrna (the “City”) and the Downtown Smyrna Development Authority (the “Authority”) have for many years enjoyed a robust flow of the widest scope of information and ideas both from and with its Investment Bankers, Gordon Mortin and Tom Owens; and

**WHEREAS**, new rules and regulations, effective July 1, 2014, promulgated by the United States Securities and Exchange Commission (“SEC”) pursuant to the 2010 Dodd-Frank Act of the United States Congress (the “Rule”) have the potential to fundamentally alter and adversely impact the way public finance bankers may interact with the City and the Authority by limiting the exchange of information and ideas between underwriters of municipal debt and issuers of such debt, and potentially precluding an underwriter from underwriting (either on a negotiated or competitive sale basis) or privately placing certain municipal debt of such issuer under certain facts and circumstances; and

**WHEREAS**, the Rule provides safe harbors to enable a continued robust flow of useful information and ideas between issuers and underwriters of municipal debt to continue similar (but not the same) as in the past; and

**WHEREAS**, one of the Rule’s safe harbors that enables a continued open flow of information and ideas between Raymond James and the City, City Staff, Authority, and Authority Staff is execution of a non-binding, cancellable at any time by any party, Letter of Intent for underwriting services (“LOI”) substantially in the form attached to this Resolution coupled with acknowledgement of receipt by the City and/or Authority (as applicable) of a letter from Raymond James commonly known as a G-17 Letter {so named for Municipal Securities Rulemaking Board’s (“MSRB”) Rule G-17}; and

**WHEREAS**, the Rules precludes an underwriter from providing advice on certain topics but allows advice on these topics if a financial advisor agreement is in place covering these topics; and

**WHEREAS**, the City wishes to facilitate the continued open and robust flow of information and ideas between the City and Authority staffs, legal counsel and elected or appointed officials, and Raymond James in a manner that does not burden the City Council (the “Council”) or inhibit or delay the open exchange of such information and ideas in the future.

**NOW THEREFORE BE IT RESOLVED AND IT IS HEREBY RESOLVED AS FOLLOWS:**

1. The Mayor, City Administrator, City Attorney, City Finance Director, Community Development Director and Economic Development Manager are each authorized to, from time to time, enter

into non-binding, cancellable at any time, Letter(s) of Intent for underwriting services with Raymond James and acknowledge receipt of G-17 Letters, both the forms of which are attached to this Resolution.

2. For exchanges of information, ideas and advice (as distinguished from general information under the Rules) between Raymond James, as Financial Advisor, and the City regarding debt issued by the City, the Mayor, City Administrator, City Attorney, City Finance Director, Community Development Director and Economic Development Manager are each authorized to, from time to time, enter into financial advisor agreements that (a) terminate by their terms not later than 60-days from their date of execution (b) are narrow in scope dealing with advice on not more than two general topics and (c) do not obligate the City to payment of any financial advisor fee.
3. For exchanges of information and ideas between Raymond James and the Downtown Smyrna Development Authority (the "Authority") and its staff regarding the Authority financings which would prospectively be credit-supported by intergovernmental contracts between the Authority and the City, Chairman of the Authority, City Administrator, City Attorney, City Finance Director, City's Community Development Director and City's Economic Development Manager are each authorized to, from time to time, enter into non-binding, cancelable at any time, Letter(s) of Intent for underwriting services with Raymond James and acknowledge receipt of G-17 Letter(s), both the forms of which are attached to this Resolution.
4. For exchanges of information, ideas and advice (as distinguished from general information under the Rules) between Raymond James, as Financial Advisor, and the Authority regarding debt issued by the Authority, the Mayor, Chairman of the Authority, City Administrator, City Attorney, City Finance Director, Community Development Director and Economic Development Manager are each authorized to, from time to time, enter into financial advisor agreements that (a) terminate by their terms not later than 60-days from their date of execution (b) are narrow in scope dealing with advice on not more than two general topics and (c) do not obligate the Authority to payment of any financial advisor fee.

**SO ADOPTED**, this \_\_ day of \_\_\_\_\_, \_\_\_\_.

CITY of SMYRNA, GEORGIA

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A. MAX BACON, MAYOR

ATTEST:

Approved as to Form:

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Terri Graham, City Clerk

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City Attorney, Scott Cochran

**EXHIBIT "A"**

**FORM OF LETTER OF INTENT FOR UNDERWRITING SERVICES**

[To be placed on Raymond James Letterhead]

[DATE]

City of Smyrna  
2800 King Street  
Smyrna, Georgia 30080

Re: Letter of Intent for Underwriting Services

Dear [Authorized Official responsible for Muni Finance]:

In order for Raymond James & Associates, Inc. ("RJA") to give you advice regarding one or more related transactions, and to document our compliance with an exception to the Municipal Advisor Rule, we ask that you agree, and acknowledge by signing below, to the following:

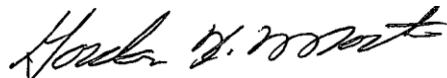
The City of Smyrna (the "City") is aware of the "Municipal Advisor Rule" of the Securities and Exchange Commission (effective July 1, 2014) and the underwriter exception from the definition of "municipal advisor" for a firm serving as an underwriter for one or more series of bonds or other municipal securities.

The City wishes to engage RJA as the underwriter for [brief description of the Bonds or project to be financed with multiple series of bonds] (collectively, the "Bonds") that the City currently anticipates issuing. As an underwriter, RJA may provide advice to the City on the structure, timing, terms, and other similar matters concerning the Bonds.

It is the City's present intention that RJA will underwrite the Bonds, subject to satisfaction of applicable procurement laws, formal approval by the City, finalizing the structure of the Bonds, and the execution of a mutually agreed upon Bond Purchase Agreement. While the City presently engages RJA as the underwriter for the Bonds, this engagement letter is preliminary and nonbinding, and may be terminated at any time by either the City or RJA without liability or obligation on the part of either party. Furthermore, this engagement letter does not restrict the City from entering into the proposed Bonds or any other municipal securities transaction with any other underwriters or selecting an underwriting syndicate that does not include RJA.

Sincerely yours,

**Raymond James & Associates, Inc.**



By: \_\_\_\_\_  
Gordon Mortin,  
Managing Director

Acknowledged and Agreed to by:  
**Smyrna, Georgia**

By: \_\_\_\_\_  
[Authorized Official responsible for Muni Finance]

**EXHIBIT "B"**

**G-17 GENERAL MUNI DISCLOSURE LETTER TEMPLATE**

[To be placed on Raymond James Letterhead]

[Date]

City of Smyrna  
2800 King Street  
Smyrna, Georgia 30080

Attn: [Name of Authorized Issuer Official]

Re: Disclosures by Underwriter  
Pursuant to MSRB Rule G-17  
[Name or Short Description of Proposed Bond Issue]

Dear [Name of Authorized Issuer Official]:

We are writing to provide you, as [Authorized Official] of the City of Smyrna, Georgia (the "Issuer"), and an official of the Issuer with the authority to bind the Issuer by contract, with certain disclosures relating to the captioned bond issue (the "Bonds"), as required by Municipal Securities Rulemaking Board (MSRB) Rule G-17 as set forth in MSRB Notice 2012-25 (May 7, 2012)<sup>1</sup>.

The Issuer has engaged Raymond James & Associates, Inc. ("RJA"), to serve as an underwriter, and not as a financial advisor or municipal advisor, in connection with the issuance of the Bonds.

As part of our services as underwriter, RJA may provide advice concerning the structure, timing, terms, and other similar matters concerning the issuance of the Bonds.

**I. Disclosures Concerning the Underwriter's Role:**

- (i) MSRB Rule G-17 requires an underwriter to deal fairly at all times with both municipal issuers and investors.
- (ii) The primary role of the underwriter is to purchase the Bonds with a view to distribution in an arm's-length commercial transaction with the Issuer. The underwriter has financial and other interests that differ from those of the Issuer.
- (iii) Unlike a municipal advisor, the underwriter does not have a fiduciary duty to the Issuer under the federal securities laws and are, therefore, not required by federal law to act in the best interests of the Issuer without regard to their own financial or other interests.
- (iv) The underwriter has a duty to purchase the Bonds from the Issuer at a fair and reasonable price, but must balance that duty with their duty to sell the Bonds to investors at prices that are fair and reasonable.

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<sup>1</sup> Interpretive Notice Concerning the Application of MSRB Rule G-17 to Underwriters of Municipal Securities (effective August 2, 2012).

(v) The underwriter will review the official statement for the Bonds in accordance with, and as part of, their respective responsibilities to investors under the federal securities laws, as applied to the facts and circumstances of this transaction<sup>2</sup>.

## II. Disclosures Concerning the Underwriter's Compensation:

The underwriter will be compensated by a fee and/or an underwriting discount that will be set forth in the bond purchase agreement to be negotiated and entered into in connection with the issuance of the Bonds. Payment or receipt of the underwriting fee or discount will be contingent on the closing of the transaction and the amount of the fee or discount may be based, in whole or in part, on a percentage of the principal amount of the Bonds. While this form of compensation is customary in the municipal securities market, it presents a conflict of interest since the underwriters may have an incentive to recommend to the Issuer a transaction that is unnecessary or to recommend that the size of the transaction be larger than is necessary.

## III. Additional Conflicts and Business Relationships Disclosures:

RJA has identified the following additional potential or actual material conflicts or business relationships we wish to call to your attention:

In the ordinary course of its various business activities, RJA and its affiliates, officers, directors, and employees may purchase, sell or hold a broad array of investments and may actively trade securities, derivatives, loans, commodities, currencies, credit default swaps, and other financial instruments for their own account and for the accounts of customers. Such investment and trading activities may involve or relate to assets, securities and/or instruments of the Issuer (whether directly, as collateral securing other obligations or otherwise) and/or persons and entities with relationships with the Issuer. RJA and its affiliates also may communicate independent investment recommendations, market advice or trading ideas and/or publish or express independent research views in respect of such assets, securities or instruments and at any time may hold, or recommend to clients that they should acquire, long and/or short positions in such assets, securities and instruments.

**\*\*\*The following conflicts and business relationships disclosures will be excluded only to the extent applicable, deleting any that do not apply to this particular transaction and adding any other conflict situations that may be presented by the particular deal\*\*\***

- [Conflicts of Interest/Payments to or from Third Parties]
  - [Distribution agreements: RJA has entered into a separate agreement with [distributor] that enables [distributor] to distribute certain new issue municipal securities underwritten by or allocated to , which could include the Bonds. Under that agreement, RJA will share with [distributor] a portion of the fee or commission paid to RJA.]
  - [Disclosure of payments, values, or credits received by the underwriter in connection with its underwriting of the Bonds from parties other than the Issuer that relate directly or indirectly to collateral transactions integrally related to the Bonds, such as an affiliate providing a letter of credit or standby bond purchase agreement, acting as trustee, or serving as remarketing agent, swap counterparty, escrow bidding agent, or GIC bidding agent: Affiliates of the underwriter may serve in separate capacities in connection with the issuance of the Bonds, including serving as [\_\_\_\_\_. The affiliated entity will be separately compensated for serving in that capacity.

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<sup>2</sup> Under federal securities law, an issuer of securities has the primary responsibility for disclosure to investors. The review of the official statement by the underwriter is solely for purposes of satisfying the underwriters' obligations under the federal securities laws and such review should not be construed by an issuer as a guarantee of the accuracy or completeness of the information in the official statement.

RJA expects to receive a payment, value, or credit from its swap dealer affiliate if the Issuer decides to enter into an interest rate swap on the Bonds.]

- In the ordinary course of its business, RJA and its affiliates have engaged, and may in the future engage, in transactions with, and perform services for, the Issuer and its affiliates for which they received or will receive customary fees and expenses.
- We understand that the Issuer may use a portion of the proceeds from the issuance of the Bonds to refund certain of the Issuer's outstanding securities ("Refunded Bonds"). To the extent that RJA or an affiliate thereof owns Refunded Bonds, RJA or its affiliate, as the case may be, would receive a portion of the proceeds from the issuance of the Bonds.

- [Conflicts of Interest/Profit-Sharing with Investors]
  - [Describe any such relationship, if applicable.]
- [Conflicts of Interest/Credit Default Swaps]
  - [RJA may from time to time engage in the issuance or purchase of credit default swaps (CDS) for which the reference is the Issuer or an obligation of the Issuer. This potentially can represent a conflict of interest, in that trading in CDS may affect the pricing of the underlying reference obligations, as well as the pricing of other obligations (such as the Bonds) brought to market by the Issuer.]
- [Other Conflicts of Interest Disclosure]
  - [Employee of underwriter/affiliate on governing body of Issuer]
  - [Issuer staff or employee or member of Issuer's governing body on board of directors of underwriter/affiliate]
  - [Employee of underwriter/affiliate related to senior Issuer official]
  - [Bank affiliate of underwriter to receive swap termination payment, loan repayment, or redemption of bank bonds]
  - [Underwriter [intends to/may] place Bonds in the underwriter's or an affiliate's tender option bond program to be held for the account of the underwriter or the affiliate]
  - [Underwriter/affiliate holds a loan or securities (in a material amount) of Issuer outside the ordinary course of business, including, for example, a distressed loan or securities that are not trading and that may be/will be refunded by the transaction]
  - [Underwriter representing multiple issuers/obligors on same project]
  - [Any other relevant conflicts or potential conflicts]

#### IV. Disclosures Concerning Structure of Municipal Securities Financing:

Since RJA has recommended to the Issuer a financing structure that may be considered a "complex municipal securities financing" for purposes of MSRB Rule G-17, attached is a description of the material financial characteristics of that financing structure as well as the material financial risks of the financing that are known to the underwriter and reasonably foreseeable at this time. **\*\*\*Applicable complex structure disclosures will be attached for each transaction\*\*\***

In accordance with the requirements of MSRB Rule G-17, if RJA recommends a "complex municipal securities financing" to the Issuer that is not otherwise described herein, this letter will be supplemented to provide disclosure of the material financial characteristics of that financing structure as well as the material financial risks of the financing that are known to the underwriter and reasonably foreseeable at that time.

If you or any other Issuer official has any questions or concerns about these disclosures, then please make those questions or concerns known immediately to the undersigned. In addition, the Issuer should consult with its own financial and/or municipal, legal, accounting, tax and other advisors, as applicable, to the extent it deems appropriate.

It is our understanding that you have the authority to bind the Issuer by contract with us, and that you are not a party to any conflict of interest relating to the subject transaction. If our understanding is incorrect, please notify the undersigned immediately.

Under MSRB Rules, we are required to seek your acknowledgement that you have received this letter. Accordingly, please send me an email to that effect. Depending on the structure of the transaction that the Issuer decides to pursue, or if additional potential or actual material conflicts are identified, we may be required to send you additional disclosures regarding the material financial characteristics and risks of such transaction and/or describing those conflicts. At that time, we also will seek your acknowledgement of receipt of any such additional disclosures.

We look forward to working with you and the Issuer in connection with the issuance of the Bonds. We appreciate your business.

Sincerely,

RAYMOND JAMES & ASSOCIATES, INC.

By: \_\_\_\_\_

CC: [City Administrator]  
[City Attorney]  
[Bond Counsel]  
[Underwriters' Counsel]