

A RESOLUTION OF THE CITY OF WEST PLAINS, MISSOURI, AUTHORIZING THE MAYOR TO EXECUTE AGREEMENTS WITH WM FINANCIAL SERVICES AND GILMORE & BELL, P.C. FOR PROFESSIONAL SERVICES IN CONNECTION WITH REFUNDING THE TAXABLE CERTIFICATES OF PARTICIPATION, SERIES 2010, AND PREPAYING THE CITY'S OBLIGATIONS RELATING THERETO.

WHEREAS, the City Council of the City of West Plains, Missouri (the "City"), hereby determines it to be in the City's best interest, subject to continued availability of favorable interest rates, to authorize the delivery of Refunding Certificates of Participation (the "Certificates") and to enter into related lease agreements to refund the outstanding Taxable Certificates of Participation, Series 2010, and to prepay the City's lease obligations related thereto; and

WHEREAS, the City Council hereby determines it to be in the City's best interest to engage the firm of WM Financial Strategies, of St. Louis, Missouri, to provide financial advisory services to the City in connection with the issuance of the Certificates, and to engage the firm of Gilmore & Bell, P.C. of Kansas City, Missouri, to serve as the City's special tax counsel (bond counsel) in connection with the issuance of the Certificates.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF WEST PLAINS, MISSOURI, AS FOLLOWS:

Section 1. The City Council hereby agrees to engage WM Financial Strategies to provide financial advisory services to the City in connection with the issuance of the Certificates, under the terms and conditions described in the agreement attached as Exhibit A to this Resolution. The Mayor is hereby authorized and directed to execute and deliver the agreement attached as Exhibit A, thereby evidencing the City Council's acceptance of the terms therein.

Section 2. The City Council hereby agrees to engage Gilmore & Bell, P.C. to serve as the City's special tax counsel in connection with the issuance of the Certificates, under the terms and conditions described in the agreement attached as Exhibit B to this Resolution. The Mayor is hereby authorized and directed to execute and deliver the agreement attached as Exhibit B, thereby evidencing the City Council's acceptance of the terms therein.

Section 3. This Resolution shall be in full force and effect ten days from and after its passage and approval.

PASSED AND APPROVED THIS 19TH DAY OF OCTOBER, 2020.

CITY OF WEST PLAINS, MISSOURI

MAYOR JACK PAHLMANN

ATTEST:

CITY CLERK MALLORY SNODGRAS

FINANCIAL ADVISORY AGREEMENT

THIS FINANCIAL ADVISORY AGREEMENT (The "Agreement") dated as of October 19, 2020 is between Joy A. Howard /dba/ WM Financial Strategies and the City of West Plains, Missouri (the "City").

WHEREAS, Subject to continued favorable interest rates, the City is planning to issue Certificates of Participation (the "Certificates") to refund its outstanding Taxable Certificates of Participation), Series 2010 and

WHEREAS, the City has agreed to hire WM Financial Strategies as its municipal advisor to assist in providing services in connection with the Certificates.

NOW THEREFORE, In consideration of the terms set forth herein, WM Financial Strategies and the City agree as follows:

1. AGREEMENT TO HIRE. The City hereby hires WM Financial Strategies to provide services as set forth in EXHIBIT A attached hereto and hereby incorporated by reference to this Agreement.

2. AGREEMENT TO PROVIDE INFORMATION. The City agrees to provide WM Financial Strategies with information including financial statements, budgets, and other information required to provide the services described herein.

3. COMPENSATION. For its services, WM Financial Strategies shall receive a fee equal to \$13,000 payable upon and contingent on the closing of the Certificate sale.

4. OUT-OF-POCKET EXPENSES. The fee set forth in 3. above shall include WM Financial Strategies' out-of-pocket expenses for telephone, travel, courier, in-house reproductions, and postage.

5. PROPERTY OWNERSHIP. All reports, studies and data obtained or compiled as part of this Agreement shall be the property of the City. All such reports, studies and data shall be delivered promptly to the City as completed. The City may additionally request receipt of partially completed reports, studies and data in order to assess the status of completion of services.

THE CITY OF WEST PLAINS, MISSOURI

WM FINANCIAL STRATEGIES

BY: _____

BY: _____

**EXHIBIT A
SERVICES**

- **Certificate Structuring**

WM Financial Strategies will develop a financing plan which will include recommendations with respect to the timing of the Certificate sale, the size of the issue, maturity schedule, redemption features, investment provisions, and other covenants required to market the Certificates.

- **Document Preparation**

WM Financial Strategies will assist the City and Special Tax Counsel in the development of the Certificate ordinance and other required Certificate documents.

- **Trustee**

WM Financial Strategies shall assist the City in selecting the Trustee.

- **Management of Timing**

WM Financial Strategies shall prepare a time schedule for completing the various steps of the transaction and shall manage the parties to the transaction to insure completion of the events consistent with the time schedule.

- **Certificate Marketing**

WM Financial Strategies shall develop a marketing plan for the sale of Certificates. WM Financial Strategies shall prepare an Indication of Interest ("IOI") to determine the feasibility of implementing a private placement or public sale of the securities. Based on the IOIs received WM Financial Strategies may recommend the method of sale and purchaser or underwriter. Alternatively, WM Financial Strategies may prepare a formal request for proposals, appraise the proposals received, recommend the firm to be selected and negotiate the terms of the sale in the City's best interest.

- **Credit Review and Rating**

Based on the proposals received, WM Financial Strategies shall determine whether to sell the securities with or without a rating. If a rating is required to favorably market the Certificates, then WM Financial Strategies shall use its best efforts in obtaining the highest possible rating for the issue. The process to be utilized for this purpose will include making a credit review of the City, advising the City of its findings, rehearsing possible rating questions, making an analysis of areas which can be expected to be raised by the rating agency, preparing supplemental reports and schedules for the rating agency, and preparing for the rating interview call. WM Financial Strategies shall also review the feasibility of obtaining a municipal bond insurance policy and if determined to desirable shall make an application for insurance.

- **Official Statement Preparation**

If a public sale is determined to be feasible, WM Financial Strategies will prepare the Preliminary and Final Official Statement (collectively the "Official Statement") to be used in conjunction with the sale of the Bonds, except for the sections relating to the tax exemption of the Certificates and the Certificate ordinance which shall be the responsibility of Special Tax Counsel.

- **Market Analysis**

In order to appropriately advise the City on the establishment of a desirable sale date and to keep the City abreast of the cost of the financing plan under development, WM Financial Strategies shall monitor the following:

- The general condition and trends in the economy.
- The status of recently sold bond issues including the yield on the bonds.
- The supply of issues coming to market.

- **Mathematical Computations**

WM Financial Strategies will prepare maturity schedules and other schedules showing mathematical results including the source and disbursement of funds, yield calculations, savings and escrow account. These schedules will be prepared using the computer systems and proprietary software maintained by WM Financial Strategies. The schedules will be updated from time to time to reflect changes in market conditions.

- **Attendance at Meetings**

WM Financial Strategies shall attend meetings (which may be virtual) to explain the progress of the transaction and the various documents to be adopted by the City.

- **Technical Services**

WM Financial Strategies provides many technical services required to effectuate the Certificates closing. These services include, among others, the transfer of funds at the time of the Certificate closing and obtaining CUSIP identification numbers.

REQUIRED DISCLOSURES

WM Financial Strategies, is a registered municipal advisor with the Securities and Exchange Commission ("SEC") and the Municipal Securities Rulemaking Board ("MSRB"). The Municipal Securities Rulemaking Board requires disclosures relating to (a) conflicts of interest, (b) disciplinary events filed with the Securities and Exchange Commission, and (c) fee arrangements. These disclosures are set forth below:

- (a) WM Financial Strategies has no known conflicts of interest relating to this transaction.
- (b) Joy A. Howard has not been the subject of any disciplinary event.
- (c) The Municipal Advisor Agreement includes contingent fees payable upon the closing of the Certificates. The Municipal Securities Rulemaking Board has identified fees contingent on the closing of a transaction as a potential conflict of interest since it could encourage proceeding with a transaction that may not be feasible; however, WM Financial Strategies has a fiduciary duty to serve in the City's best interest which should mitigate the potential conflict of interest.

WM Financial Strategies is required to provide its clients the following information at least once in any calendar year during the term of its engagement:

- (a) Notice that as a client of a registered municipal advisor you have certain protections from the MSRB.
- (b) You may access a brochure regarding your protections and how to file a complaint on the MSRB's website at <http://www.msrb.org>.



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October 9, 2020

Mayor and City Council
City of West Plains
1910 Holiday Lane
West Plains, Missouri 65775

Re: Proposed Issuance of Refunding Certificates of Participation, Series 2021,

Ladies and Gentlemen:

The purpose of this engagement letter is to set forth certain matters concerning the services we will perform as special tax counsel (bond counsel) to the City of West Plains (the "*Issuer*"), in connection with the issuance of the above-referenced certificates of participation (the "*Certificates*"), to be issued in the approximate principal amount of \$2,000,000. We understand that the Certificates are being issued for the purpose of refunding the outstanding Taxable Certificates of Participation, Series 2010 and prepaying the City's lease obligations related thereto, with closing anticipated in early 2021. We further understand that the method of sale of the Certificates will be determined at a later date, upon the Issuer's consultation and advice of its municipal advisor, WM Financial Strategies.

SCOPE OF ENGAGEMENT

In this engagement, as special tax counsel to the Issuer we expect to perform the following duties:

- (1) Subject to the completion of proceedings to our satisfaction, render our legal opinion (the "*Approving Opinion*") regarding the validity and binding effect of the Certificates and the lease agreements related thereto ("*Lease Agreements*"), the excludability of interest on the Certificates from gross income for federal and Missouri income tax purposes, and such related matters as we deem necessary or appropriate.
- (2) Examine applicable law as it relates to the authorization and delivery of the Lease Agreements, the issuance of the Certificates and our Approving Opinion and advise the Issuer regarding the legal authority for entering into the Lease Agreements, the issuance of the Certificates and other legal matters related to the structure of the Certificates.
- (3) Prepare or review authorizing proceedings, the Lease Agreements and other legal documents necessary or appropriate to the authorization, issuance and delivery of the Certificates and coordinate the authorization and execution of the Lease Agreements and such other documents.

- (4) Prepare or review those sections of the official statement, private placement memorandum or other form of offering or disclosure document to be disseminated in connection with the sale of the Certificates involving: (a) the terms of the Certificates, (b) appropriate descriptions or summaries of the Lease Agreements and certain other legal documents and legal matters, (c) Missouri and federal law pertinent to the validity of the Certificates and the income tax treatment of interest paid thereon, and (d) our Approving Opinion. If requested, we will deliver a customary supplemental opinion of special tax counsel regarding the above sections of the offering document and certain other matters at closing.
- (5) Draft or review any continuing disclosure undertaking of the Issuer.
- (6) Assist the Issuer in seeking from other governmental authorities such approvals, permissions, and exemptions as we determine are necessary or appropriate in connection with the authorization, issuance and delivery of the Certificates, except that we will not be responsible for any required Blue Sky filing.
- (7) Assist the Issuer in presenting information to bond rating organizations and providers of credit enhancement relating to legal issues affecting the issuance of the Certificates.
- (8) Coordinate delivery of any required title insurance policy.
- (9) Attend meetings and conferences related to the issuance and delivery of the Certificates and otherwise consult with the parties to the transaction prior to the issuance of the Certificates.
- (10) Coordinate the closing of the transaction, and after the closing assemble and distribute transcripts of the proceedings and documentation relating to the authorization and issuance of the Certificates.

Our Approving Opinion will be addressed to the Issuer and to the initial purchaser of the Certificates (the "*Purchaser*") and will be delivered by us on the date the Certificates are exchanged for their purchase price (the "*Closing*"). The Approving Opinion will be based on facts and law existing as of its date. In rendering our Approving Opinion, we will rely upon the certified proceedings and other certifications of public officials and other persons furnished to us without undertaking to verify the same by independent investigation, and we will assume continuing compliance by the Issuer with applicable laws relating to the Lease Agreements and the Certificates. During the course of this engagement, we will rely on you to provide us with complete and timely information on all developments pertaining to any aspect of the Certificates and their security. We understand that you will direct members of your staff and other employees of the Issuer to cooperate with us in this regard.

Our duties in this engagement are limited to those expressly set forth above. Among other things, our duties do not include:

- (a) Preparing requests for tax rulings from the Internal Revenue Service or no-action letters from the Securities and Exchange Commission, or representing the Issuer in Internal

Revenue Service examinations or inquiries or Securities and Exchange Commission investigations.

- (b) Preparing blue sky or investment surveys with respect to the Certificates.
- (c) Drafting state constitutional or legislative amendments or pursuing test cases or other litigation.
- (d) Making an investigation or expressing any view as to the creditworthiness of the Issuer or any credit enhancement provider for the Certificates.
- (e) Preparing or negotiating the terms of any guaranteed investment contract or other investment agreement.
- (f) After Closing, providing advice concerning any actions necessary to assure compliance with any continuing disclosure undertaking.
- (g) After Closing, providing continuing advice to the Issuer or any other party concerning any actions necessary to assure that interest paid on the Certificates will continue to be excludable from gross income for federal income tax purposes (*e.g.*, our engagement does not include rebate calculations for the Certificates).
- (h) Addressing any other matter not specifically set forth above that is not required to render our Approving Opinion.

ATTORNEY-CLIENT RELATIONSHIP

Upon execution of this engagement letter, the Issuer will be our client and an attorney-client relationship will exist between us. We assume that all other parties will retain such counsel as they deem necessary and appropriate to represent their interests in this transaction. We further assume that all other parties understand that in this transaction we represent only the Issuer, we are not counsel to any other party, and we are not acting as an intermediary among the parties. Our services as special tax counsel are limited to those contracted for in this letter; the Issuer's execution of this engagement letter will constitute an acknowledgment of those limitations. Our representation of the Issuer will not affect, however, our responsibility to render an objective Approving Opinion.

Our representation of the Issuer and the attorney-client relationship created by this engagement letter will be concluded upon issuance of the Certificates and delivery of our Approving Opinion. Nevertheless, subsequent to Closing, we will mail the appropriate Internal Revenue Service Form 8038 and prepare and distribute to the participants in the transaction a transcript of the proceedings pertaining to the Certificates. We do not undertake (unless separately engaged) to provide continuing advice to the Issuer or any other party concerning any actions necessary to assure that interest paid on the Certificates will continue to be excludable from gross income for federal and Missouri income tax purposes or to assure compliance with the continuing disclosure requirements of applicable federal securities laws. Nonetheless, subsequent events may affect the tax-exempt status of interest on the Certificates and compliance with federal securities laws. Consequently, continued monitoring and other action to assure

compliance with these requirements may be necessary. Should the Issuer want our firm to assist with such compliance (*e.g.*, arbitrage rebate calculations and ongoing securities law disclosure), our participation in such post-closing matters must be specifically requested, and a separate engagement will be required.

CONFLICTS

As you are aware, our firm represents many political subdivisions, underwriters and others. It is possible that during the time that we are representing the Issuer, one or more of our present or future clients will have transactions with the Issuer. We also may represent, in unrelated matters, one or more of the entities involved in the issuance of the Certificates, including the Purchaser. We do not believe any such representation will adversely affect our ability to represent you as provided in this letter, either because such matters will be sufficiently different from the issuance of the Certificates so as to make such representations not adverse to our representation of the Issuer or because the potential for such adversity is remote or minor and outweighed by the consideration that it is unlikely that advice given to the other client will be relevant to any aspect of the issuance of the Certificates. Acceptance of this letter will signify the Issuer's consent to our representation of others consistent with the circumstances described in this paragraph.

FEES

Based upon (i) our current understanding of the terms, structure, size and schedule of the financing represented by the Certificates, (ii) the duties we will undertake pursuant to this engagement letter, (iii) the time we anticipate devoting to the financing, and (iv) the responsibilities we will assume in connection therewith, we estimate that our fee will be \$30,000. Our fee may vary (a) if the principal amount of Certificates actually issued differs significantly from the amount stated above, (b) if material changes in the structure or schedule of the financing occur, or (c) if unusual or unforeseen circumstances arise which require a significant increase in our time or responsibility. If, at any time, we believe that circumstances require an adjustment of our original fee estimate, we will advise you. We will not expect to be reimbursed for customary out-of-pocket expenses incurred on your behalf (photocopying, deliveries, teleconference charges, telecopy charges, postage, computer-assisted research and similar expenses), but we will expect reimbursement of any travel-related expenses in connection with attending meetings. We estimate that such charges will not exceed \$600.

Our fee is usually paid at the Closing, and we customarily do not submit any statement until the Closing unless there is a substantial delay in completing the financing. We may submit an additional statement for client charges following the Closing. If the financing is not consummated, we understand and agree that we will not be paid the fee stated above or for our time expended on your behalf but will be paid for client charges made or incurred on your behalf. If, however, the financing is completed without the delivery of our Approving Opinion as special tax counsel, or our services are otherwise terminated, we will expect to be paid a fee that is mutually agreed on between you and us as reasonable compensation for the services rendered, plus reimbursement for any client charges made or incurred on your behalf.

RECORDS

Papers and property furnished by you will be returned promptly upon request. Our own files, including lawyer work product, pertaining to the transaction will be retained by us. For various reasons,

including the minimization of unnecessary storage expenses, we reserve the right to dispose of any documents or other materials retained by us after the termination of this engagement.

If the foregoing terms are acceptable to you, please so indicate by returning this engagement letter dated and signed by an authorized officer, retaining the original for your files. We look forward to working with you. If this engagement letter is not signed and returned, but you direct us to conduct the work as initially discussed without objection to the terms of this letter, we will consider this letter to govern our relationship unless we agree otherwise in writing.

GILMORE & BELL, P.C.

By: 

ACCEPTED AND APPROVED:

CITY OF WEST PLAINS, MISSOURI

By: Jack Pahlmann, Mayor

cc: Joy Howard, WM Financial Strategies