

## **INVESTMENT ADVISORY AGREEMENT**

This Agreement, effective as of the \_\_\_\_ day of March, 2019 (this "Agreement"), is by and between Insight North America LLC (the "Adviser") and the Pompano Beach Community Redevelopment Agency (the "Client"). The parties agree as follows:

### **1. APPOINTMENT**

The Client hereby appoints the Adviser as the investment adviser of those assets designated by the Client (the "Advisory Account"), and by execution of this Agreement, the Adviser accepts appointment as investment adviser for the Advisory Account.

### **2. SCOPE OF SERVICES**

The Adviser agrees to supervise and direct the Investment of the Advisory Account in accordance with the written investment objectives, policies and restrictions applicable to the Advisory Account, which is attached hereto and made a part hereof as Exhibit B (as amended by the Client from time to time, the "Investment Guidelines"). The Client shall provide the Adviser with its Investment Guidelines and agrees to notify the Adviser promptly in writing of any modifications to the Investment Guidelines. The Adviser, with full discretionary authority, and consistent with the Client's Investment Guidelines, may buy or sell securities and place orders for the execution of transactions for the Advisory Account. Other services to be provided by Adviser are more fully outlined at Exhibit B.

The Client agrees that the Adviser assumes no responsibility or liability, for any Client investments for which the Adviser has not been appointed as Investment Adviser. The Client understands that this Agreement does not require or obligate the Adviser to provide legal or tax advice services to the Client and that the Adviser is not providing such services to the Client.

The Client is required to notify the Adviser promptly in writing of any modifications to the Investment objectives, policies or restrictions applicable to the Advisory Account. The Client agrees to notify the Adviser promptly of any withdrawal of securities from the Advisory Account initiated by the Client.

### **3. CLIENT REPORTING**

The Adviser will make available to the Client no less than quarterly a report of the investment transactions executed, statement of investment holdings, fair value, market commentary and portfolio performance. The Adviser does not assume responsibility for the accuracy of information or data furnished by the Client or any other person relating to assets not managed by the Adviser.

The Client agrees to provide the Adviser and the Adviser's service provider with read-only electronic access to the Client's Custodian account records and it will authorize its Custodian(s) to provide such access. Such Client authorization is required in order to permit the aggregation of data necessary to compile and generate accurate client portfolio reports. All Information In such client portfolio reports will be reconciled with the Client's Custodian(s) account records.

#### **4. ALLOCATION OF BROKERAGE**

The Adviser will have complete discretion, subject to its policy of seeking best execution, to select broker-dealers and place orders for securities transactions with such broker-dealers. When placing orders for the execution of transactions for the Advisory Account, the Adviser will take into consideration available prices and other relevant factors such as, without limitation, execution and settlement capabilities. The Adviser shall exercise good faith in obtaining the best price and execution for each transaction for the Advisory Account; provided, however, that the Client acknowledges that transactions may not always be executed at the lowest available price. The Adviser shall not be liable to the Client for any act or omission of any broker or dealer selected by the Adviser in good faith.

The Adviser may aggregate sale and purchase orders of securities or contracts with respect to the Advisory Account with other orders being placed simultaneously for other accounts on behalf of the Adviser or any of its affiliates. Neither the Adviser nor its affiliates, however, shall be required to so aggregate orders. When account decisions are made on an aggregate basis, the Adviser may, in its discretion, place one or more orders to purchase or sell a particular security for the Advisory Account and the accounts of one or more other clients or one or more clients of its affiliates. The Client understands and acknowledges that, because of the prevailing trading activity and the requirements of this Agreement, it may not be possible to receive the same price or execution on the entire volume of securities purchased or sold on behalf of accounts managed by the Adviser or its affiliates, and the Adviser shall have no obligation to provide for the execution of trades allocated to the Client and trades allocated to other accounts managed by the Adviser or its affiliates in any specific order. The accounting for such aggregated order, price commission and other expenses shall be averaged on a per share, per bond or per contract basis, or in a manner that is reasonably deemed by the Adviser to be fair and equitable over time, so that no client included in the aggregation is systematically advantaged relative to the Client.

The Adviser may give a copy of this Agreement to any broker-dealer or other party to a transaction for the Advisory Account, or the Custodian, as evidence of the Adviser's authority to act for the Advisory Account.

#### **5. VALUATION**

The Adviser will value the securities in the Advisory Account based upon prices obtained from an independent pricing source(s). Where prices cannot be obtained from such an Independent source, the Adviser will obtain prices from dealers which make a market in the specified securities. Any other security or asset shall be valued in a manner determined in good faith by the Adviser to reflect its fair market value.

## **6. SAFEKEEPING AND CUSTODY**

The Client shall select a custodian (the “Custodian”) to hold the Advisory Account assets in safekeeping for the Client and to take all necessary steps to settle purchases, sales and other transactions under this Agreement made by the Adviser, including delivery of certificates, payment of funds, collection of income, dividends, and other distributions, and such other acts as may be necessary to fulfill such custodial responsibilities. The Adviser shall not have custody, possession or responsibility for the custody of the Advisory Account assets (including for purposes of the ‘custody rule’ under Rule 206(4)-2 of the Investment Advisers Act of 1940 (as amended, the “Advisers Act”)), and shall not be liable for any act or omission of the Custodian. The Client authorizes the Adviser to give the Custodian instructions for the purchase, sale, conversion, redemption, exchange or retention of any security, cash or cash equivalent or other investment or investment activity for the Advisory Account and as part of any reconciliation of the Advisory Account as set forth in this Agreement. The Adviser shall give notice and proper instructions with respect to transactions in such reasonable manner as shall be agreed upon with the Custodian and the Client. The Client confirms and agrees to instruct the Custodian, and the Adviser acknowledges and agrees, that the Adviser shall have no authority whatsoever, nor any authority to direct the Custodian, to withdraw or transfer funds or securities from the Advisory Account otherwise than in connection with effecting or settling trades for the Advisory Account as contemplated in this Agreement. In the event that the custody agreement between the Custodian and the Client provides the Adviser with additional authorities than what is set forth in this Agreement, the Adviser’s authorities will nevertheless be limited to this agreement. The Client shall notify the Adviser prior to making any changes to the Custodian. The Client shall be solely responsible for all fees involved with any custodial arrangements.

## **7. FUNDING POLICY**

The Client shall inform the Adviser in writing of the funding and disbursement policy applicable to the Client. The Adviser shall make its investment decisions for the Advisory Account in accordance with such funding and disbursement policy. The Client understands that it bears the market risk associated with changes to such funding and disbursement policy.

The Client will provide the Adviser with no less than five (5) business day notice of a substantial contribution or withdrawal (I.e. an amount equal to or greater than 10% of the portfolio assets) to or from the Advisory Account to permit the Adviser to affect an orderly execution of the Advisory Account's holdings. In the absence of such notice, the Adviser shall use its best efforts to minimize adverse effects of such contributions or withdrawals on the Advisory Account.

## **8. LEGAL ACTIONS**

The Client agrees that the Adviser shall not be responsible for, and shall incur no liability, in connection with the handling of any legal proceedings, including class actions and bankruptcies (each, a “Legal Action”), with respect to any Advisory Account assets. The Client and/or its Custodian will handle matters relating to any Legal Action and the Adviser shall not have any obligations relating thereto.

## **9. DELEGATION AND THIRD PARTIES**

The Adviser may delegate to an affiliate(s) any of its functions, responsibilities or authorities under this Agreement, including any investment services or any operational function which is critical or important for the performance of any investment services to be provided by the Adviser, and may provide information about the Client and the Advisory Account to any person to whom functions have been delegated. The Client agrees that any representations and warranties made by the Client to the Adviser in this Agreement shall also be deemed to be made by the Client to any affiliate of the Adviser in the event that the delegation contemplated under this Section occurs, as if such representations and warranties were made directly by the Client to such affiliate. The Adviser shall notify the Client of any delegation of a function which involves the exercise of the whole or substantially the whole of its discretionary investment management power and authority. The Adviser acknowledges that it shall be responsible for the actions of any such affiliate delegates to the same extent that it would be liable to the Client under the terms of this Agreement as if such actions were taken by the Adviser.

The Adviser may outsource to third parties certain investment support services that are required to enable the Adviser to perform its services under this Agreement. With regard to such third parties, the Adviser will act in good faith and with the skill, care and diligence expected of a professional investment manager in their selection, and shall be liable to the Client for any actions or omissions by such third parties in connection with the investment support services provided on behalf of the Adviser.

## **10. FEES**

The compensation of the Adviser for its services under this Agreement shall be calculated and paid in accordance with the Fee Schedule in Exhibit A, as the same may be amended from time to time by mutual agreement of the Client and the Adviser.

## **11. LIMITATION OF LIABILITY**

The Adviser shall not be liable for any error in judgment or any acts or omissions to act except those resulting from the Adviser's negligence, willful misconduct or reckless disregard/malfeasance of its duties and obligations under this Agreement. Nothing herein shall in any way constitute a waiver or limitation of any right of any person under the federal and state securities laws.

The Adviser shall not be liable for any indirect, special or consequential loss, any loss of profit or business opportunity, or any loss of goodwill, whether or not within the knowledge or contemplation of the Adviser. Furthermore, and for the avoidance of doubt, the Adviser gives no guarantee, warranty or undertaking as to the performance or profitability of the Advisory Account or any part of it, or that any performance, cash flow, liability-matching or other investment objective, set out in the Investment Guidelines or otherwise, will be achieved. The Client understands that investments made for the Advisory Account pursuant to Section 2 herein are subject to various market, currency, economic, political or business risks, and that those investments will not always be profitable.

The Adviser shall not be liable for the suitability of any investment made at the instruction of the Client, or any losses that the Advisory Account may incur as a result of such instruction.

The provisions of this Section 11 shall survive termination of this Agreement.

## 12. INSURANCE

Adviser agrees to provide the Client with thirty (30) days' notice of cancellation, reduction or non-renewal of insurance for each required coverage to the extent notification has been received from the insurance carrier.

The following insurance coverage shall be required:

- a. Errors & Omissions and Fiduciary Liability Insurance coverage of at least \$10 million.
- b. Worker's Compensation Insurance covering all employees and providing benefits as required by Florida Statute, Chapter 440, regardless of the size of the company (number of employees). The Adviser further agrees to be responsible for employment, control and conduct of its employees and for any Injury sustained by such employees in the course of their employment.
- c. Liability Insurance
  - 1) Such Liability insurance shall include the following checked types of insurance and indicated minimum policy limits.

### Type of Insurance

### Limits of Liability

<b>GENERAL LIABILITY:</b>	Minimum \$1,000,000 per Occurrence and \$2,000,000.00 Per Aggregate
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\* Policy to be written on a claims incurred basis

XX comprehensive form	bodily injury and property damage
XX premises - operations	bodily injury and property damage
XX products/completed operations hazard	bodily injury and property damage combined
XX contractual insurance	bodily injury and property damage combined
XX independent CONTRACTORS	personal injury
XX personal injury	

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<b>AUTOMOBILE LIABILITY:</b>	Minimum \$1,000,000 Per Occurrence and Aggregate. Bodily injury (each person) bodily injury (each accident), property damage, bodily injury and property damage combined.
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XX comprehensive form

XX owned  
XX hired  
XX non-owned

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**PROFESSIONAL LIABILITY**

Per Occurrence    Aggregate

XX    \* Policy to be written on a claims made basis    \$10,000,000    \$10,000,000

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**13. SERVICES TO OTHER CLIENTS**

It is understood that the Adviser performs investment advisory services for other clients, including certain of its affiliates. The Client agrees that the Adviser may give advice and take action with respect to any of its other clients, including proprietary accounts, which may differ from advice given, or the timing, or nature of action taken, with respect to the Advisory Account.

Nothing in this Agreement shall be construed to prevent Adviser or any affiliate of the Adviser or any of its directors, officers, employees, or affiliates ("Affiliated Persons") in any way from purchasing or selling any assets that are the same or similar to Advisory Account assets for its or their own accounts prior to, simultaneously with, or subsequent to any recommendation or action taken with respect to the Advisory Account, or to impose upon the Adviser any obligation to purchase or sell for the Advisory Account any security which the Adviser or any of its Affiliated Persons may purchase or sell for its or their own accounts or for the account of any advisory, brokerage or other type of client.

**14. REPRESENTATIONS BY THE CLIENT**

The Client represents that the terms of this Agreement do not violate any obligation by which the Client is bound, whether arising by contract, operation of law, or otherwise, and that this Agreement has been duly authorized by appropriate action and is binding upon the Client in accordance with its terms.

The Client agrees that the Adviser may add Client's name to the Adviser's Representative Client List and may provide the Client's name and contact details in response to certain RFP requests for client contact information.

None of the Advisory Account assets are subject to Title I of the Employee Retirement Income Security Act of 1974 ("ERISA"), as amended, or Section 4975 of the Internal Revenue Code of 1986 (the "Code"), as amended, or any law, regulation, rule, policy or procedure which is similar to Title I of ERISA or Section 4975 of the Code.

**15. REPRESENTATIONS BY THE ADVISER**

The Adviser represents that it is a registered Investment adviser under the provisions of the Investment Advisers Act of 1940 ("the Act"). This Agreement has been duly authorized by appropriate action and is binding upon the Adviser in accordance with its terms.

#### **16. ACKNOWLEDGMENT OF RECEIPT OF BROCHURE (FORM ADV PART 2A)**

The Client hereby acknowledges receipt of the Adviser's Brochure (Form ADV Part 2A) at least 48 hours prior to the date of execution of this Agreement in compliance with Rule 204-3 of the Act. The Client hereby consents to the Adviser's use of electronic mail to satisfy its disclosure delivery requirements under the federal securities laws (Including the Adviser's obligation to deliver its Form ADV), and to deliver any other reports and documents. Such consent shall be effective for the duration of this Agreement, unless the Client revokes such consent in writing.

#### **17. NOTICE**

All notices and other communications shall be deemed effective when received, in writing, at the addresses appearing below. Receipt of written notice shall be presumed if mailed postpaid by registered or certified mail, return receipt requested. Each party shall be entitled to presume the correctness of such address until notified in writing to the contrary.

Client: Andrew Jean-Pierre, Finance Director  
City of Pompano Beach  
100 West Atlantic Boulevard, Suite 480  
Pompano Beach, FL 33060  
(954) 786-4680

Adviser: Jason Celente  
Insight North America LLC  
200 Park Ave.  
New York, NY 10166  
(212) 365-3127

#### **18. TERMINATION; ASSIGNMENT; AMENDMENT**

Upon thirty (30) business day's written notice delivered by certified mail, return receipt requested, to Adviser, the Client may without cause and without prejudice to any other right or remedy, terminate this Agreement for Client's convenience whenever Client determines that such termination is in the best interest of Client. Upon receipt of the notice of termination for convenience, Adviser shall promptly discontinue all work at the time and to the extent that they relate to any and/or all portions of this Agreement which have been terminated and shall refrain from providing any additional services except as may be necessary to complete work already undertaken. If Adviser continues the work beyond the time specified in the notice, it does so at its own risk and for its own account. Notwithstanding, should the Client request, the Adviser may continue to provide services to the account at the contract fee until such time a substitute investment adviser has been appointed. Adviser shall be paid for all work properly performed prior to the effective date of termination and for all services which cannot be cancelled and which were

placed prior to the effective date of the termination. The Adviser may terminate this Agreement by giving the Client at least ninety (90) business day's prior written notice of termination.

Upon termination, or upon receipt of instructions from Client relating to the withdrawal of certain assets, the property to which such termination or instructions pertain shall be delivered to the Client in a reasonable time. If any fees have been paid In advance, the Adviser will refund to the Client a prorate share of the fee.

Adviser shall not assign (as that term is defined in the Advisers Act) all or any portion of this Agreement without the prior written consent of the Client, and it is agreed that said consent must be sought in writing by the Adviser not less than fifteen (15) days prior to the date of any proposed assignment. This Agreement may be amended or modified at any time by mutual agreement in writing.

## **19. INVOICES**

Invoices from Adviser shall be submitted to the Client quarterly. All payments by the Client will be issued within forty-five (45) days of submittal.

## **20. SURVIVAL OF OBLIGATIONS**

All representations, Indemnifications, warranties and guarantees made in, required by, or given in accordance with the Agreement, as well as all continuing obligations shall survive for a period of three years after final payment, completion and acceptance of the work and termination or completion of the Agreement.

## **21. NON-DISCRIMINATION AND EQUAL OPPORTUNITY EMPLOYMENT**

During the performance of the Agreement, the Adviser shall not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin. The Adviser will take affirmative action to ensure that employees are treated during employment, without regard to their race, creed, color or national origin. Such action must Include, but not be limited to, the following: employment, upgrading; demotion or transfer; recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Adviser shall agree to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer settling forth the provisions of its nondiscrimination policy.

## **22. COUNTERPARTS**

This Agreement may be executed in two or more counterparts, each one of which shall be deemed to be an original.

## **23. GOVERNING LAW**



To the extent federal law does not apply, this Agreement has been and shall be construed as having been made and delivered within the State of Florida, and it is agreed by each party hereto that this Agreement shall be governed by the laws of the State of Florida, both as to Interpretation and performance. Any action at law, or in equity, shall be Instituted and maintained only in courts of competent jurisdiction In Broward County, Florida.

## **24. SEVERABILITY**

Should any provision of this Agreement or the applications of such provisions be rendered or declared invalid by a court action or by reason of any existing or subsequently enacted legislation, the remaining parts of provisions of this Agreement shall remain in full force and effect.

The Client for himself and for his successors and assigns, does hereby agree to the full performance of all the covenants herein contained upon the part of the Client.

It is further provided that no liability shall be attached to the Client by reason of entering Into this contract, except as expressly provided herein.

## **25. AUDIT AND INSPECTION RECORDS**

The Adviser shall permit the authorized representatives of the Client to Inspect and audit all data and records of the Adviser, if any, relating to performance under the contract until the expiration of three years after final payment under this contract.

The Adviser further agrees to include In all his subcontracts hereunder a provision to the effect that the subcontractor agrees that Client of any of their duly authorized representatives shall, until the expiration of three years after final payment under the subcontractor, have access to and the right to examine any directly pertinent books, documents, papers and records of such subcontractor, involving transactions related to the subcontractor.

## **26. PUBLIC RECORDS**

A. The Client is a public agency subject to Chapter 119, Florida Statutes. The Contractor shall comply with Florida's Public Records Law, as amended. Specifically, the Contractor shall:

1. Keep and maintain public records required by the City in order to perform the service.
2. Upon request from the City's Custodian of public records, provide the City with a copy of requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Contractor does not transfer the records to the City.

4. Upon completion of the contract, transfer, at no cost to the City, all public records in possession of the Contractor, or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's Custodian of public records in a format that is compatible with the information technology systems of the City.

B. Failure of the Contractor to provide the above described public records to the City within a reasonable time may subject Contractor to penalties under 119.10, Florida Statutes, as amended.

## **PUBLIC RECORDS CUSTODIAN**

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

**CITY CLERK  
100 W. Atlantic Blvd., Suite 253  
Pompano Beach, Florida 33060  
(954) 786-4611  
[RecordsCustodian@copbfl.com](mailto:RecordsCustodian@copbfl.com)**

## **27. ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement of the parties with respect to the management of the Advisory Account. The Exhibits referenced herein are incorporated into this Agreement. Client and Adviser acknowledge that Adviser submitted a response to the Request for Proposal (RFP P-52-18) Investment Management Services, hereinafter referred to as "Proposal". Said Proposal and response documents are hereby incorporated and made a part of this agreement by reference as Exhibit "C". In the event of conflict between the provisions of this Agreement and the Proposal,

response documents and the provisions of this Agreement, the provisions of this agreement shall control.

## **28. TERM OF THE AGREEMENT**

The term of this Agreement shall be a five (5) year term and shall be effective as of March 1, 2019.

## **29. FORCE MAJEURE**

Notwithstanding anything in this Agreement to the contrary, the Adviser shall not be responsible or liable for its failure to perform under this Agreement or for any losses to the Advisory Account resulting from any event beyond the reasonable control of the Adviser, or its agents, including but not limited to: (a) nationalization, strikes, expropriation, devaluation, seizure, or similar action by any governmental authority, de facto or de jure, or enactment, promulgation, imposition or enforcement by any such governmental authority of currency restrictions, exchange controls, levies or other charges affecting the Advisory Account's property; (b) the breakdown, failure or malfunction of any utilities or telecommunications systems or any order or regulation of any banking or securities industry, including changes in market rules and conditions affecting the execution or settlement of transactions; (c) acts of war, terrorism, insurrection or revolution; or (d) acts of God or any other similar event. The Adviser shall use commercially reasonable efforts to mitigate any losses resulting from such events and shall maintain a commercially reasonable business recovery plan. This Section shall survive the termination of this Agreement.

**THE REMAINDER OF THE PAGE IS INTENTIONALLY LEFT BLANK**

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed the day and year hereinabove written.

Witnesses:

**POMPANO BEACH COMMUNITY  
REDEVELOPMENT AGENCY**

\_\_\_\_\_

By: \_\_\_\_\_  
REX HARDIN, CHAIRPERSON

\_\_\_\_\_

By: \_\_\_\_\_  
GREGORY P. HARRISON,  
EXECUTIVE DIRECTOR

Attest:

\_\_\_\_\_  
MARSHA CARMICHAEL, SECRETARY  
(SEAL)

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by **REX HARDIN** as Chairperson, **GREGORY P. HARRISON** as Executive Director, and **MARSHA CARMICHAEL** as Secretary of the Pompano Beach Community Redevelopment Agency (CRA), on behalf of the CRA, who is personally known to me.

NOTARY'S SEAL:

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF FLORIDA

\_\_\_\_\_  
(Name of Acknowledger Typed, Printed or Stamped)

\_\_\_\_\_  
Commission Number

**"ADVISER"**

Insight North America LLC

Witnesses:

[Signature]

Vivek Nayar  
(Print or Type Name)

[Signature]

Juan Celente  
(Print or Type Name)

By: [Signature]  
Name: Jack Boyce  
Title: Authorized Signatory

STATE OF New York

COUNTY OF New York

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of February, 2019, by Jack Boyce, as an authorized signatory of Insight North America LLC, a New York limited liability company, authorized to do business in Florida on behalf of the company. He/she is personally known to me or who has produced \_\_\_\_\_  
\_\_\_\_\_ (type of identification) as identification.

NOTARY'S SEAL:

Jennifer A. Bell  
NOTARY PUBLIC, STATE OF NEW YORK

Jennifer A. Bell  
(Name of Acknowledger Typed, Printed or Stamped)

01BE6365082  
Commission Number

