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CITY OF MOUNT RAINIER, MARYLAND
Ordinance NO. 08-2022

Introduced by Mayor & City Council

Issuance of a General Obligation Bond to Finance or Reimburse Costs of the Potts Hall (Welcome Center) Renovations Project and Related Costs

AN ORDINANCE of the Mayor and City Council of City of Mount Rainier (the “City”) authorizing the issuance and sale, upon the full faith and credit of the City, of a general obligation installment bond in the original principal amount not to exceed Two Million Dollars (\$2,000,000) to be designated the “City of Mount Rainier Public Improvements Bond of 2022” (the “Bond”); providing that principal of the Bond will be used for the public purpose of financing or reimbursing costs of the project generally referred to as Potts Hall (Welcome Center) Renovations and related costs as further described herein; prescribing the form and tenor of the Bond and the terms and conditions for the issuance and sale thereof at private negotiated sale, without advertisement or solicitation of competitive bids, in a direct purchase transaction to Truist Bank, a North Carolina Banking Corporation, and other details incident to the sale, issuance and delivery of the Bond; authorizing the City Manager to determine the final original principal amount of the Bond as described herein; providing for the circumstances under which the principal amount of the Bond may be reallocated to other projects; making certain representations, covenants or acknowledgments required by Truist Bank; providing for the appropriation, disbursement and investment of the proceeds of the Bond; pledging the City’s full faith and credit and unlimited taxing power to payment of debt service on the Bond and providing for the imposition of ad valorem taxes sufficient for such purpose; providing that debt service on the Bond also may be paid from any other lawfully available sources of revenue; authorizing certain City officials to take certain actions in connection with the Bond; making or providing for certain representations, covenants and designations relating to the tax-exempt status of the Bond; providing that any provisions of this Ordinance that are inconsistent with any City debt policy shall control; providing that this title is deemed a fair summary of this Ordinance; providing that the provisions of this Ordinance shall be liberally construed; and generally relating to the sale, issuance, delivery and payment of and for the Bond.

RECITALS

WHEREAS, City of Mount Rainier, a municipal corporation of the State of Maryland and a municipality within the meaning of the Enabling Act identified below (the “City”), is authorized and empowered by Sections 19-301 through 19-309 of the Local Government Article of the Annotated Code of Maryland, as replaced, supplemented or amended (the “Enabling Act”), and Section 708 of the Charter of the City of Mount Rainier, as replaced, supplemented or amended (the “Charter”), to

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borrow money for any proper public purpose and to evidence such borrowing by the issuance and sale of its general obligation bonds; and

WHEREAS, the City has determined to undertake the public purpose project generally referred to as Potts Hall (Welcome Center) Renovations identified in Section 2 of this Ordinance; and

WHEREAS, in order to finance or reimburse all or a portion of components of costs of such project, together with related borrowing and other costs, the City desires to undertake a general obligation borrowing; and

WHEREAS, Section 708.A of the Charter provides that the City has the power to issue and sell its general obligation bonds by private negotiated sale; and

WHEREAS, City officials have explored various financing options, including participating in the Maryland Community Development Administration's Local Government Infrastructure Financing Program or issuing a general obligation bond to a bank, and have obtained a proposal dated June 27, 2022 (the "Truist Proposal") from Truist Bank, a North Carolina Banking Corporation (the "Lender"), for the sale of a general obligation bond to the Lender in a direct purchase transaction, which constitutes a private negotiated sale for purposes of Section 708.A of the Charter; and

WHEREAS, the City Council of the City, which consists of the Mayor and four Councilmembers and which serves as the legislative body of the City (the "Council"), has determined to issue the bond provided for herein to the Lender in accordance with the Truist Proposal.

Section 1. NOW, THEREFORE, BE IT ORDAINED AND ENACTED, by the Mayor and Council of the City of Mount Rainier, Maryland that:

(a) The Recitals hereto constitute an integral part of this Ordinance and are incorporated herein by reference. Capitalized terms used in the Sections of this Ordinance and not defined therein shall have the meanings given to such terms in the Recitals.

(b) References in this Ordinance to any official by title shall be deemed to refer (i) to any official authorized under the Charter or other applicable law or authority, including, without limitation, the code of ordinances of the City (the "City Code"), to act in such titled official's stead during the absence or disability of such titled official, (ii) to any person who has been elected, appointed or designated to fill such position in an acting or interim capacity under the Charter, the City Code or other applicable law or authority, (iii) to any person who serves in a "deputy," "associate" or "assistant" capacity as such an official, provided that the applicable responsibilities, rights or duties referred to herein have been delegated to such deputy, associate or assistant in accordance with the Charter, the City Code or other applicable law or authority, and/or (iv) to the extent an identified official commonly uses another title not provided for in the Charter or the City Code, the official, however known, who is charged under the Charter, the City Code or other applicable law or authority with the applicable responsibilities, rights or duties referred to herein.

(c) References in this Ordinance to "principal amount" shall be construed to mean par amount.

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(d) References in this Ordinance to City officials shall be deemed to include references to City employees, to the extent applicable.

Section 2. BE IT FURTHER ORDAINED AND ENACTED, by the Mayor and Council of the City of Mount Rainier, Maryland, that:

(a) Pursuant to the authority of the Enabling Act and Section 708 of the Charter, the City hereby determines to borrow money and incur indebtedness in an original principal amount not to exceed Two Million Dollars (\$2,000,000) for the public purpose of financing or reimbursing all or a portion of the costs (as defined in subsection (b) below) of one or more components of the project generally referred to as Potts Hall (Welcome Center) Renovations (the "Project"). The Project is also sometimes referred to as the Civic Center. The Project is expected to include space for the Council Chambers, other meeting space, and space for the community to gather, and may be used in additional or other ways as determined by the Council in accordance with applicable law.

(b) With respect to the Project, the word "costs" as used in subsection (a) above shall include costs of the following activities and expenses, to the extent applicable: land and right-of-way acquisition and development; acquisition of other property rights; site and utility improvements, including, without limitation, grading, landscaping, paving and repaving, sidewalk, curb, gutter, storm water, water and sewer improvements, street lights, amenities, and related or similar activities and expenses; demolition, razing and removal; acquisition, construction, expansion, reconstruction, replacement, renovation, rehabilitation, upgrading, improvement, installation, furnishing and equipping activities and expenses, and related or similar activities and expenses; planning, design, engineering, architectural, testing, study, feasibility, surveying, document development, bidding, permitting, inspection, construction management, financial, administrative and legal expenses, and related or similar activities and expenses; contingencies; costs of issuance; interest during construction and for a reasonable period thereafter (whether or not expressly so stated); and any such costs that may represent the City's share or contribution to the financing or reimbursement of costs of the Project (collectively, "Costs of the Project").

(c) It is the intention of the Council that, without having to amend this Ordinance unless an amendment is necessary to expand the definition of "Costs of the Project," the principal amount of the Bond (as defined in Section 3(a) below) may be spent on any applicable Costs of the Project identified in subsection (b) above, including, without limitation, costs related to changes in the scope of and/or name of the Project effected through applicable budgetary procedures or applicable law.

(d) The Council, by enactment of a supplemental ordinance, may reallocate any portion of the principal amount of the Bond to be spent on Costs of the Project (as such definition and the definition of the Project may be amended by supplemental ordinance) to one or more additional projects identified in such supplemental ordinance and, in such event, references in this Ordinance to the "Project" shall be deemed to collectively refer to all such projects, including the original Project authorized hereby, as applicable. After any such reallocation is made by supplemental ordinance, the Council may reallocate the principal amount of the Bond to be spent on Costs of the Project among any of the authorized projects in compliance with applicable budgetary procedures or applicable law.

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Section 3. BE IT FURTHER ORDAINED AND ENACTED, by the Mayor and Council of the City of Mount Rainier, Maryland, that:

(a) To evidence the borrowing and indebtedness authorized in Section 2(a) of this Ordinance, the City, acting pursuant to the authority of the Enabling Act and Section 708 of the Charter, shall issue and sell, upon its full faith and credit, a single general obligation installment bond in the original principal amount not to exceed Two Million Dollars (\$2,000,000), to be known as the “City of Mount Rainier Public Improvements Bond of 2022” (the “Bond”). The principal amount of the Bond shall be used and applied as provided in Section 2 hereof. The issuance of the Bond shall not prevent the City from applying other available funds to payment of the Costs of the Project in accordance with applicable budgetary procedures or applicable law.

(b) The City Manager of the City (the “City Manager”) is hereby authorized and empowered to determine the final original principal amount of the Bond prior to its issuance, subject to the limitations set forth in this Section 3, taking into account (i) any subsequent determination of the Council to reduce the original principal amount of the issued Bond from \$2,000,000 and/or (ii) any limitation on the maximum principal amount of the Bond to be issued determined upon calculation of the debt limit provided for in Section 708.B of the Charter. The City Manager’s approval of the final original principal amount of the Bond shall be evidenced conclusively by his execution and delivery of the Bond in such final original principal amount in accordance with the provisions of this Ordinance.

(c) Proceeds of the Bond are hereby appropriated to pay Costs of the Project.

Section 4. BE IT FURTHER ORDAINED AND ENACTED, by the Mayor and Council of the City of Mount Rainier, Maryland, that:

(a) The Bond shall be dated the date of its delivery and shall be issued in the form of a single fully-registered installment bond, without coupons attached, in an original principal denomination not to exceed the final original principal amount determined in accordance with Section 3 above.

(b) The Bond shall mature, subject to prior prepayment in whole only as provided for in accordance with Section 5(a) of this Ordinance, on the date that is ten (10) years after the date of its issuance. Subject to the further provisions of this Section 4, principal of and interest on the Bond shall be payable semi-annually, commencing on the calendar day of the month that occurs on the six month anniversary of the date of issuance of the Bond, and every six months thereafter, subject to prior prepayment in whole only as provided for in accordance with Section 5(a) of this Ordinance, on a roughly level debt service basis based on the Tax-Exempt Rate provided for in subsection (c) below (which shall be calculated on a calendar year or fiscal year basis as required by the Lender).

(c) Subject to the further provisions of this subsection (c), the Bond shall bear interest from its date of issuance at the rate of three and twenty-seven hundredths of one percent (3.27%) per annum (the “Tax-Exempt Rate”); provided that, (i) from and after a Taxable Date (as defined in this subsection (c)), the Bond shall bear interest at the Taxable Rate (as defined in this subsection (c)) and

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(ii) from and after a Bank-Qualified Adjustment Date (as defined in this subsection (c)), the Bond shall bear interest at the Bank-Qualified Adjustment Rate (as defined in this subsection (c)).

Notwithstanding the Tax-Exempt Rate provided for above, the following clauses (i) through (vi) shall apply to the Bond:

(i) In the event a Taxable Date (as defined in clause (vi) below) occurs with respect to the Bond, in addition to any other amounts required to be paid pursuant to the Bond, the City hereby agrees to pay to the registered owner and any prior registered owner, as applicable, of the Bond on demand therefor (1) an amount equal to the difference between (A) the amount of interest on the Bond paid to the registered owner and any such prior registered owner during the period (the "Taxable Period") in which interest on the Bond is includable in the gross income for federal income tax purposes of the registered owner or any such prior registered owner beginning on the Taxable Date and (B) the amount of interest that would have been paid to the registered owner and any such prior registered owner during such Taxable Period had the Bond borne the Taxable Rate (as defined in clause (vi) below), and (2) an amount equal to any interest, penalties or charges owed by the registered owner and any such prior registered owner as a result of interest on the Bond becoming includable in the gross income for federal income tax purposes of the registered owner or such prior registered owner, together with any and all attorneys' fees, court costs, or other out-of-pocket costs incurred by the registered owner or such prior registered owner in connection therewith.

(ii) In the event a Bank-Qualified Adjustment Date (as defined in clause (vi) below) occurs, in addition to any other amounts required to be paid pursuant to the Bond, the City hereby agrees to pay to the registered owner and any prior registered owner, as applicable, of the Bond on demand therefor (1) an amount equal to the difference between (A) the amount of interest paid to the registered owner and any such prior registered owner during the period in which the Bond no longer qualifies as a "qualified tax-exempt obligation" under Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), beginning on the Bank-Qualified Adjustment Date (the "Disqualified Period") and (B) the amount of interest that would have been paid to the registered owner and any such prior registered owner during such Disqualified Period had the Bond borne the Bank-Qualified Adjustment Rate, and (2) an amount equal to any interest, penalties or charges owed by the registered owner and any such prior registered owner as a result of the Bond no longer qualifying as a "qualified tax-exempt obligation" under Section 265(b)(3) of the Code, together with any and all attorneys' fees, court costs, or other out-of-pocket costs incurred by the registered owner or any such prior registered owner in connection therewith.

(iii) Subject to the provisions of clauses (iv) and (v) below, the registered owner or any prior registered owner, as applicable, of the Bond shall afford the City the opportunity, at the City's sole cost and expense, to contest in good faith any challenge to the validity of the tax exemption for federal income tax purposes with respect to the interest on the Bond or the "qualified tax-exempt obligation" status of the Bond under Section 265(b)(3) of the Code, including the right to direct the necessary litigation contesting such challenge (including administrative audit appeals).

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(iv) The following shall constitute conditions precedent to the exercise by the City of its right to contest set forth in clause (iii): the City shall, on demand, promptly reimburse the registered owner and any prior registered owner, as applicable, of the Bond for any and all expenses (including attorneys' fees for services that may be required or desirable, as determined by the registered owner and any such prior registered owner, as applicable, in their sole discretion) of the Bond that may be incurred by the registered owner and any such prior registered owner, as applicable, in connection with any such contest, and shall, on demand, promptly reimburse the registered owner and any such prior registered owner, as applicable, for any and all penalties or other charges payable by the registered owner and any such prior registered owner, as applicable, for failure to include such interest in its gross income for federal income tax purposes or the inability to treat the Bond as a "qualified tax-exempt obligation" under Section 265(b)(3) of the Code.

(v) The obligations of the City set forth in clauses (i) through (iv) above shall survive the prepayment or payment in full of the Bond. The obligations of the City set forth in clauses (i) through (vi) of this subsection are subject to any applicable law and to applicable public policy as determined by a court of competent jurisdiction.

(vi) For purposes of the foregoing clauses (i) through (iv), the following terms shall have the meanings set forth below:

"Bank-Qualified Adjustment Date" means the date of (1) any determination, decision, decree or advisement by the Commissioner of Internal Revenue or any District Director of Internal Revenue (or any other government official or agent exercising the same or a substantially similar function from time to time) or any court of competent jurisdiction to the effect that the Bond no longer qualifies as a "qualified tax-exempt obligation" under Section 265(b)(3) of the Code, or (2) the delivery to the registered owner or any prior registered owner of the Bond of a written opinion of nationally recognized bond counsel to the effect that the Bond no longer qualifies as a "qualified tax-exempt obligation" under Section 265(b)(3) of the Code. Notwithstanding the foregoing, a Bank-Qualified Adjustment Date shall not be deemed to have occurred due to any retroactive revocation of Section 265(b)(3) of the Code and any related U.S. Treasury Regulations in whole or in part.

"Bank-Qualified Adjustment Rate" means, upon a Bank-Qualified Adjustment Date, an interest rate equal to three and thirty-two hundredths of one percent (3.32%) per annum.

"Determination of Taxability" means and shall be deemed to have occurred with respect to the Bond on the first to occur of the following:

(1) on the date when the City files any statement, supplemental statement or other tax schedule, return or document which discloses that an Event of Taxability has occurred;

(2) on the date when the registered owner or any prior registered owner of the Bond notifies the City that it has received a written opinion by a nationally recognized firm

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of attorneys of substantial expertise on the subject of tax-exempt municipal finance to the effect that an Event of Taxability shall have occurred with respect to the Bond unless, within one hundred eighty (180) days after receipt by the City of such notification from such registered owner or such prior registered owner, as applicable, the City shall deliver to such registered owner or such prior registered owner, as applicable, a ruling or determination letter issued to or on behalf of the City by the Commissioner or any District Director of the Internal Revenue Service (or any other governmental official exercising the same or a substantially similar function from time to time) to the effect that, after taking into consideration such facts as form the basis for the opinion that an Event of Taxability has occurred, an Event of Taxability shall not have occurred;

(3) on the date when the City shall be advised in writing by the Commissioner or any District Director of the Internal Revenue Service (or any other government official or agent exercising the same or a substantially similar function from time to time) that, based upon filings of the City, or upon any review or audit of the City or upon any other ground whatsoever, an Event of Taxability shall have occurred with respect to the Bond; or

(4) on the date when the City shall receive notice from the registered owner or any prior registered owner of the Bond that the Internal Revenue Service (or any other government official or agency exercising the same or a substantially similar function from time to time) has assessed the interest on the Bond as includable in the gross income for federal income tax purposes of such registered owner or such prior registered owner due to the occurrence of an Event of Taxability;

provided, however, no Determination of Taxability shall occur under subclauses (3) or (4) above unless the City has been afforded the reasonable opportunity, at its expense, to contest in good faith any such assessment, and, further, no Determination of Taxability shall occur until such contest, if made, has been finally determined; provided further, however, that upon demand from the registered owner or any such prior registered owner of the Bond, the City shall promptly reimburse such registered owner or prior registered owner for any payments, including any taxes, interest, penalties or other charges, such registered owner (or prior registered owner) shall be obligated to make as a result of the Determination of Taxability.

“Event of Taxability” means a (1) the occurrence or existence of any fact, event or circumstance (including, without limitation, the taking of any action by the City, or the failure to take any action by the City, or the making by the City of any misrepresentation in the Bond or in any certificate required to be given in connection with the issuance, sale or delivery of the Bond) which has the effect of causing interest paid or payable on the Bond to become includable, in whole or in part, in the gross income for federal income tax purposes of the registered owner or any prior registered owner thereof or (2) the entry of any decree or judgment by a court of competent jurisdiction, or the taking of any official action by the Internal Revenue Service or the United States Department of the Treasury, which decree, judgment or action shall be final under applicable procedural law, in either case, which has the effect of causing interest paid or payable on the Bond to become includable, in whole or in part, in the gross income of such registered owner or such prior registered owner for federal income tax purposes. Notwithstanding the foregoing, an “Event of Taxability” shall not include the repeal in whole or in part of the tax-exempt status of interest

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payable on the Bond implemented by applicable federal authorities and not based on the action or inaction of the City.

“Taxable Date” means the date on which interest on the Bond is first includable in gross income for federal income tax purposes of the registered owner (including, without limitation, any prior registered owner) of the Bond as a result of an Event of Taxability as such date is established pursuant to a Determination of Taxability.

“Taxable Rate” shall mean, upon a Determination of Taxability, the interest rate of four and nineteen hundredths of one percent (4.19%) per annum.

(d) Interest on the Bond shall be computed on the basis of a 360-day year comprised of 12 30-day months. The Bond shall bear interest from the most recent date to which interest has been paid or, if no interest has been paid, from the date of its delivery. In the event the interest rate on the Bond is increased to the Taxable Rate or the Bank-Qualified Adjustment Rate, only the interest component of the semi-annual installments of principal and interest payable on the Bond shall be adjusted. For purposes of calculating the interest due on the Bond, unpaid outstanding principal on any date shall be an amount equal to the original principal amount of the Bond, less any principal installment paid in accordance with the final amortization schedule for the Bond.

(e) The registered owner of the Bond shall provide reasonable prior written notice to the City Manager of the interest and principal due on the Bond on each semi-annual payment date, but failure to provide such notice shall not affect the amount of, or the City’s obligation to pay, principal or interest due on the Bond. The date and amount of each semi-annual installment payment made by the City on the Bond shall be noted by the registered owner of the Bond on its books and records, which notation when made will be presumed correct absent manifest error. A registered owner’s failure to make appropriate notation of any such installment payment shall not limit or otherwise affect the City’s obligations hereunder.

(f) If a semi-annual payment date for the Bond falls on a Saturday, a Sunday or a day on which the City, banks in the State of Maryland and/or banks in the state in which the registered owner of the Bond is located are not required to be open, payment may be made on the next succeeding day that is not a Saturday, a Sunday or a day on which the City, banks in the State of Maryland and/or banks in the state in which the registered owner of the Bond is located are not required to be open, and no interest shall accrue on the amount owed as of such regularly scheduled payment date for the intervening period.

(g) Principal of and interest on the Bond shall be payable in lawful money of the United States of America. The registered owner of the Bond shall not be required to surrender the Bond in order to receive payment thereon. Principal of and interest on the Bond will be payable by check or draft mailed to the registered owner thereof at the address designated by such registered owner in writing to the City Manager unless the City Manager and the registered owner agree on a different manner of payment, which may include, without limitation, payment by federal funds wire transfer or ACH or authorization to debit a particular account of the City. The City Manager, on behalf of the City, is hereby authorized and empowered to make the agreements provided for in this Section 4(g).

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(h) Notwithstanding the foregoing provisions of this Section 4, the City Manager, on behalf of the City, with the advice of bond counsel to the City, is hereby authorized and empowered to (i) provide for inclusion in the executed and delivered Bond of provisions similar to the foregoing but stated differently in order to correctly reflect the terms of the Truist Proposal, particularly with regard to the applicable definitions that factor into the calculation of interest payable on the Bond and any adjustments to the applicable interest rate, (ii) make changes to or expand upon the corresponding provisions of this Section 4 to be set forth in the executed and delivered Bond, and/or (iii) include in the executed and delivered Bond additional provisions, all as may be required by the Lender in order to clarify or conform to the Lender's requirements provided for or contemplated by the Truist Proposal pertaining to matters set forth in this Section 4, the City Manager's approval of any such changes, deletions or additions to be evidenced conclusively by his execution and delivery of the Bond containing such modified provisions as provided for in Sections 6 and 8 hereof, in which case such provisions of the executed and delivered Bond shall supersede the applicable provisions of this Section 4.

Section 5. BE IT FURTHER ORDAINED AND ENACTED, by the Mayor and Council of the City of Mount Rainier, Maryland, that:

(a) The Bond shall be subject to prepayment prior to maturity at the option of the City *in whole only* at any time on or after the date that is five (5) years after the date of issuance of the Bond, at a prepayment price of 100% of the principal amount of the Bond outstanding, plus accrued interest on such principal amount outstanding to the date fixed for prepayment, without premium or penalty. The City shall give the registered owner of the Bond written notice of its election to prepay the Bond in whole at least 15 days prior to the date fixed for prepayment (or such fewer number of days as is acceptable to the registered owner of the Bond); any such notice may be given by first class mail or email, and any such notice of prepayment may be conditioned upon the availability of sufficient funds to effect such prepayment by the date fixed for prepayment.

(b) In the event the Bond is not prepaid on any date fixed for prepayment in accordance with this Section 5, the Bond shall continue in full force and effect.

Section 6. BE IT FURTHER ORDAINED AND ENACTED, by the Mayor and Council of the City of Mount Rainier, Maryland, that the Bond shall be executed in the name of the City and on its behalf by the City Manager. The corporate seal of the City shall be affixed to the Bond and attested to by the signature of the City Clerk of the City (the "City Clerk"). In the event any official whose signature appears on the Bond shall cease to be such official prior to delivery of the Bond, or, in the event any official whose signature appears on the Bond shall have become such official after the date of issue thereof, the Bond shall, nevertheless, be a valid and legally binding obligation of the City in accordance with its terms. To the extent permitted by applicable law, the signatures of officials and the City's seal on the Bond may be made manually or by facsimile or by any other method authorized by applicable law (including, without limitation and to the extent applicable, electronically).

Section 7. BE IT FURTHER ORDAINED AND ENACTED, by the Mayor and Council of the City of Mount Rainier, Maryland, that the Bond shall be transferable only upon the books kept for that purpose at the office of the City Manager, at the expense of the transferor, by the

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registered owner thereof in person or by the registered owner's duly authorized attorney, upon surrender thereof, together with (i) a written certification substantially to the effect provided for in Section 9(b) of this Ordinance satisfactory to the City Manager and duly executed by the transferee and (ii) a written instrument of transfer in a form satisfactory to the City Manager and duly executed by the registered owner or the registered owner's duly authorized attorney. Upon such transfer there shall be issued in the name of the transferee, or upon exchange by the then-existing registered owner for a replacement Bond, there shall be issued a new registered Bond of the same series in principal amount equal to the unpaid principal amount of the Bond surrendered, and with the same maturity date and installment payment dates and principal installment amounts (or then-remaining installment payment dates and principal installment amounts, as applicable) and bearing interest at the same rate (subject to adjustment as provided for herein). Any such new Bond issued in transfer or exchange may be executed and sealed as provided in Section 6 hereof with respect to the original execution and delivery of the Bond, or as otherwise required by then-applicable law, and appropriate changes may be made to the form of the Bond issued in transfer or exchange to account for the dated date of the Bond issued in transfer or exchange and the then-outstanding principal amount of the Bond.

Section 8. BE IT FURTHER ORDAINED AND ENACTED, by the Mayor and Council of the City of Mount Rainier, Maryland, that the Bond shall be issued in substantially the form attached hereto as Exhibit A and incorporated by reference herein. Appropriate variations and insertions shall be made by the City Manager to the Bond to provide dates, numbers and amounts, including to reflect matters determined in accordance with Sections 2, 3, 4 and 10(b) of this Ordinance, to reflect additional or clarifying requirements of the Lender pursuant to the Truist Proposal, or to comply with the recommendations of legal counsel; in addition, the City Manager may make other modifications not altering the substance of the Bond in any material respect. The covenants contained in the Bond, as completed and as may be modified in accordance with the provisions of this Section 8 and as executed and delivered by the City Manager in accordance with the provisions of Section 6 of this Ordinance, are hereby adopted by the City as and for the form of obligation to be incurred by the City, and such covenants and conditions are hereby made binding upon the City, including the promise to pay therein contained. In addition, the principal amortization schedule for the Bond contemplated by Section 4(b) of this Ordinance shall be prepared by the Lender and shall be attached as Schedule 1 to the executed and delivered Bond; such amortization schedule may also specify the semi-annual interest installments payable on the Bond, calculated at the Tax-Exempt Rate. The execution and delivery of the final form of the Bond by the City Manager in accordance with the provisions of this Ordinance shall be conclusive evidence of the approval by the City Manager of the final form of the Bond and any variations, insertions, omissions, notations, legends or endorsements authorized by this Ordinance. To the extent there are inconsistencies between the provisions of the Bond, as executed and delivered in accordance with the provisions of this Section 8, and the provisions of this Ordinance, the provisions of such executed and delivered Bond shall control.

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Section 9. BE IT FURTHER ORDAINED AND ENACTED, by the Mayor and Council of the City of Mount Rainier, Maryland, that:

(a) As authorized by Section 708.A of the Charter, the Bond shall be sold at private negotiated sale, without advertisement or solicitation of competitive bids, in a direct purchase transaction to the Lender, at a price of par and for cash. The attractive Tax-Exempt Interest Rate, the prepayment terms offered by the Lender, the timeline for issuance of the Bond, and amortization period offered by the Lender, as well as the lower costs of issuance typically incurred with a private negotiated sale in the form of a direct purchase transaction as opposed to a public sale at competitive bid or a negotiated underwriting, are hereby determined to be in the best interests of the City and to justify the sale of the Bond by private negotiated sale. The Bond shall be registered in the name of the Lender or as otherwise specified by the Lender.

(b) The Bond shall be sold to evidence a loan from the Lender and not for resale to the general public. Accordingly, as a condition to delivery of the Bond and prior to the issuance of the Bond, the Lender shall furnish to the City one or more certificates acceptable to bond counsel to the City generally to the effect that (i) the Lender has such knowledge and experience in financial and business matters, including with respect to tax-exempt municipal obligations, that it is capable of evaluating the risks and merits of the loan represented by the Bond; (ii) the Lender has made its own independent and satisfactory inquiry of the financial condition of the City, including inquiry into financial statements and other information relating to the financial condition of the City to which a reasonable lender would attach significance in making lending decisions, and of any other matters deemed to be relevant to a reasonably informed decision to make the loan to the City evidenced by the Bond; (iii) the Lender has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the City and the Bond, all so that the Lender has been able to make a reasonably informed decision to make the loan to the City evidenced by the Bond; (iv) the Lender is not acting as an “underwriter” or “Participating Underwriter” (as defined in Securities and Exchange Commission Rule 15c2-12, as amended, replaced or supplemented) with respect to the Bond and is not purchasing for more than one account or with a view to distributing the Bond; (v) if the Bond is subsequently sold, transferred or disposed of, such sale, transfer or disposition will be made only in compliance with any applicable federal and state securities laws and any other applicable laws; and (vi) the Lender understands and acknowledges that (A) the Bond (1) is not being registered under the Securities Act of 1933, as amended, and is not being registered or otherwise qualified for sale under the “blue sky” laws and regulations of any state, (2) will not be listed on any stock or other securities exchange, (3) will carry no rating from any rating service, (4) will not be readily marketable, (5) will not be assigned a CUSIP number, and (6) will not be registered in book-entry only form with or through The Depository Trust Company, and (B) no disclosure document is being prepared in connection with the issuance and sale of the Bond. The certifications set forth in this subsection (b) may be edited appropriately (i) to conform to standard language of the Lender, and/or (ii) to conform to standard language for such a certification commonly used by any applicable subsequent registered owner of the Bond.

(c) The City acknowledges its obligation to pay the fees and expenses of counsel to the Lender, not to exceed \$7,500, whether from proceeds of the Bond or other available sources.

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Section 10. BE IT FURTHER ORDAINED AND ENACTED, by the Mayor and Council of the City of Mount Rainier, Maryland, that:

(a) On August 25, 2022 or such other date as shall be determined by the Lender and the City Manager and acceptable to bond counsel to the City, the Bond shall be suitably prepared in definitive form, executed and delivered to the Lender upon receipt of the entire principal amount thereof; provided that, the closing date may not be later than August 26, 2022 unless the Lender, in its sole discretion, agrees to a later closing date. The Mayor of the City (the "Mayor"), the City Manager, the City Clerk and all other appropriate officials of the City are expressly authorized, empowered and directed to take any and all action necessary to complete and close the sale, delivery and issuance of the Bond to the Lender and to carry out and effectuate the transactions contemplated hereby, and to negotiate, approve, execute and deliver all closing documents, certificates and instruments necessary or appropriate in connection therewith, including closing documents, certificates and instruments intended to reflect any provisions specified by the Lender in or contemplated by the Truist Proposal, to the extent within the scope of their respective authority and to the extent authority with respect to any such action is not already delegated to a specified official or officials pursuant to this Ordinance. To the extent permitted by applicable law, the signatures of officials and the City seal on any such closing documents, certificates and instruments may be made manually or by facsimile or by any other method authorized by applicable law (including, without limitation and to the extent applicable, electronically).

(b) Notwithstanding anything to the contrary contained in this Ordinance, to the extent any of the provisions set forth in this Ordinance do not comport with the provisions specified by the Lender in the Truist Proposal or as contemplated by the Truist Proposal, the City Manager, on behalf of the City, with the advice of the City Attorney and/or bond counsel to the City, as applicable, is hereby authorized and empowered to include or provide for the inclusion in the final form of the Bond and/or in the appropriate closing documents, certificates or instruments such provisions as modified as required by the Lender, the City Manager's approval of any such modifications to be evidenced conclusively by the City Manager's execution and delivery of the final form of the Bond and/or by the execution and delivery by appropriate City official(s) of such other appropriate closing documents, certificates or instruments containing such modifications pursuant to the provisions of this Ordinance, and to the extent of any discrepancy between this Ordinance and the final provisions of the Bond and/or such closing documents, certificates or instruments, the provisions so included in the executed Bond and/or such executed closing documents, certificates or instrument shall control. Notwithstanding any other provisions of this Ordinance, the City Manager, with the advice of the City Attorney and/or bond counsel to the City, as applicable, is hereby authorized and empowered to agree to terms relating to the Bond and the transactions contemplated by this Ordinance that (i) accurately reflect the provisions of the Truist Proposal, to the extent such terms are not accurately reflected herein, (ii) are more favorable to the City than the terms reflected in this Ordinance, and/or (iii) are not more favorable to the City but are not uncommon for municipal obligations in the nature of the Bond or are of a nature commonly required by the Lender with respect to direct purchase transactions of municipal obligations in the nature of the Bond, any of which such terms shall be reflected in the final form of the Bond executed and delivered by the City Manager in accordance with Sections 6 and 8 of this Ordinance and/or in other applicable closing documents, certificates

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and instruments executed and delivered by appropriate City officials pursuant to the authority of this Ordinance, and to the extent of any discrepancy among the provisions of this Ordinance and the executed and delivered Bond and/or closing documents, certificates and instruments, the provisions of such executed and delivered Bond and/or such executed and delivered closing documents, certificates and instruments shall control.

(c) The Council hereby acknowledges and agrees that the City shall provide to the registered owner of the Bond, while the Bond remains outstanding, the City's audited financial statements within 270 days of the end of each fiscal year of the City, commencing with the fiscal year ended June 30, 2022, subject to any extensions granted to the City for the delivery of such audited financial statements in any applicable year by an applicable Maryland official or officials in accordance with applicable Maryland law.

Section 11. BE IT FURTHER ORDAINED AND ENACTED, by the Mayor and Council of the City of Mount Rainier, Maryland, that:

(a) All proceeds of the Bond shall be disbursed upon the date of issuance at the direction of the appropriate City official or officials. Such disbursement shall be paid directly to the City and/or to such other party or parties as directed by the City; provided that, the Lender shall not be required to make more than four (4) separate funding disbursements. Any disbursements directly to the City shall be deposited by the City Manager or other appropriate official in the proper account or accounts and may be invested within the limits of any applicable Maryland or federal law.

(b) Any par amount of the Bond not needed for Costs of the Project may be spent on debt service payable or prepayable on the Bond, as determined by the Council in accordance with applicable budgetary procedures or applicable law, subject to the provisions of Section 13 below, unless a supplemental ordinance is enacted to otherwise provide for application of any portion of such par amount in accordance with applicable law.

(c) Any investment earnings on the Bond may be spent, as applicable, on Costs of the Project or on debt service payable or prepayable on the Bond, as determined by the Council in accordance with applicable budgetary procedures or applicable law, subject to the provisions of Section 13 below, unless a supplemental ordinance is enacted to otherwise provide for application of any portion of such earnings in accordance with applicable law.

Section 12. BE IT FURTHER ORDAINED AND ENACTED, by the Mayor and Council of the City of Mount Rainier, Maryland, that:

(a) For the purpose of paying the principal of and interest on the Bond when due, the City shall impose or cause to be imposed in all fiscal years in which the Bond is outstanding, upon all real and tangible personal property in the City that is subject to assessment for unlimited municipal taxation, ad valorem taxes at a rate or rates and in an amount sufficient to provide for the payment of the principal of and interest on the Bond due in each such fiscal year. If the proceeds from the taxes so imposed in any such fiscal year are inadequate for such payment, additional taxes shall be imposed in the succeeding fiscal year to make up such deficiency.

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(b) The full faith and credit and unlimited taxing power of the City are pledged to the prompt payment of the principal of and interest on the Bond as and when they become due and payable and to the imposition of the taxes hereinabove described as and when such taxes may become necessary in order to provide sufficient funds to meet the debt service requirements of the Bond. The City hereby covenants and agrees with the registered owner of the Bond to impose the taxes hereinabove described and to take any further action that lawfully may be appropriate from time to time during the period that the Bond remains outstanding and unpaid to provide the funds necessary to pay promptly the principal thereof and the interest due thereon.

(c) Subject to the provisions of Section 13 hereof, the foregoing provisions shall not be construed so as to prohibit the City from paying the principal of and interest on the Bond from the proceeds of the sale of any other obligations of the City or from any other funds legally available for that purpose. Subject to the provisions of Section 13 hereof, the City may apply to the payment of the principal of or interest on the Bond any funds received by it from the State of Maryland or the United States of America, or any governmental agency or instrumentality, or from any other source, if the funds are granted or paid to the City for the purpose of assisting the City in accomplishing the Project or are otherwise available for such purpose, and to the extent of any such funds received or receivable in any fiscal year, the taxes hereby required to be levied may be reduced proportionately.

Section 13. BE IT FURTHER ORDAINED AND ENACTED, by the Mayor and Council of the City of Mount Rainier, Maryland, that:

(a) The Bond is being issued with the expectation that interest thereon shall be excludable from gross income of the registered owner thereof for purposes of the Code and the U.S. Treasury Regulations (the "Treasury Regulations"). Pursuant to the provisions of Section 19-232 of the Local Government Article of the Annotated Code of Maryland, as replaced, supplemented or amended, each of the Mayor and the City Manager is an official of the City who may be responsible for the issuance of the Bond within the meaning of Section 1.148-2(b)(2) of the Treasury Regulations (defined below). One or both of the Mayor and the City Manager also shall be the official(s) of the City responsible for the execution and delivery (on the date of the issuance of the Bond) of a certificate of the City (the "Section 148 Certificate") that complies with the requirements of Section 148 of the Code and the Treasury Regulations; and one or both of such officials are hereby authorized and directed to execute and deliver the Section 148 Certificate to counsel rendering an opinion on the validity of the Bond on the date of the issuance of the Bond.

(b) The City shall set forth in the Section 148 Certificate its reasonable expectations as to relevant facts, estimates and circumstances relating to the use of the proceeds of the Bond or of any monies, securities or other obligations to the credit of any account of the City which may be deemed to be proceeds of the Bond pursuant to Section 148 of the Code or the Treasury Regulations (collectively, the "Bond Proceeds"). The City covenants with the registered owner of the Bond that the facts, estimates and circumstances set forth in the Section 148 Certificate will be based on the City's reasonable expectations on the date of issuance of the Bond and will be, to the best of the certifying official's or officials' knowledge, true and correct as of that date.

(c) The City covenants with the registered owner of the Bond that it will not make, or (to the extent that it exercises control or direction) permit to be made, any use of the Bond Proceeds

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that would cause the Bond to be an “arbitrage bond” within the meaning of Section 148 of the Code and the Treasury Regulations, and that it will comply with those provisions of Section 148 of the Code and the Treasury Regulations as may be applicable to the Bond on the date of issuance and which may subsequently lawfully be made applicable to the Bond as long as the Bond remains outstanding and unpaid.

(d) The Mayor and/or the City Manager may set forth in, or provide for in, the Section 148 Certificate and/or the IRS Form 8038-G to be filed in connection with the issuance of the Bond, any issue elections, designations, determinations, allocations, representations or certifications deemed necessary or desirable following consultation with bond counsel to the City, including, without limitation, any applicable representations or certifications to the extent the City qualifies for the exception as a small issuer from the arbitrage rebate requirement provided for in Section 148(f)(4)(D) of the Code; provided that, only one of such identified officials must sign the IRS Form 8038-G.

(e) The City covenants that it will comply with the provisions of the Code and the Treasury Regulations applicable to the Bond, including, without limitation, compliance with provisions regarding the timing of the expenditure of the proceeds of the Bond, the use of such proceeds and the Project financed with such proceeds, the restriction of investment yields, the filing of information with the Internal Revenue Service, and the rebate of certain earnings resulting from the investment of the proceeds of the Bond or payments in lieu thereof. The City further covenants that it shall make such use of the proceeds of the Bond, regulate the investment of the proceeds thereof and take such other and further lawful actions as may be required to maintain the exemption from federal income taxation of interest on the Bond. All appropriate officials and agents of the City are hereby authorized and directed to provide such certifications of facts and estimates regarding the amount and use of the proceeds of the Bond as may be necessary or appropriate.

(f) In the event of a pending adjustment in the interest rate borne by the Bond pursuant to this Ordinance, City officials shall promptly consult with nationally recognized bond counsel to determine if such interest rate adjustment will result in a reissuance of the Bond for purposes of the Code and the Treasury Regulations under then applicable law. In the event the implementation of any such provision of this Ordinance is so determined to result in a reissuance of the Bond for purposes of the Code and the Treasury Regulations, in order that the tax-exempt status of interest payable on the Bond shall continue to remain excludable from gross income of the registered owner thereof for federal income tax purposes, to the extent applicable, and with the advice of nationally recognized bond counsel, (i) the City Manager, on behalf of the City, is hereby authorized, empowered and directed to (A) negotiate, approve, execute and deliver any documents, agreements or instruments deemed necessary or desirable in connection therewith, and to take any appropriate actions in connection therewith, and (B) make any determinations, designations, elections or filings provided for in the Code and the Treasury Regulations in connection therewith, and (ii) the Mayor and/or the City Manager, on behalf of the City, are hereby authorized, empowered and directed to negotiate, approve, execute and deliver (A) any supplement to the Section 148 Certificate executed and delivered in connection with the original issuance and delivery of the Bond or any new Section 148 Certificate determined to be necessary or desirable

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in connection with such reissuance and (B) any amendment to the Form 8038-G executed and delivered in connection with the original issuance and delivery of the Bond or any new Form 8038-G determined to be necessary or desirable in connection with such reissuance. The powers delegated to the identified City officials in this subsection (f) in connection with a reissuance of the Bond upon the implementation of any such provision of this Ordinance shall be broadly construed in order to ensure compliance with the provisions of the Code and the Treasury Regulations; provided that, such delegation shall not prevent the Council, at its option, from making or otherwise providing for any necessary or desirable determinations or actions in connection with any such reissuance of the Bond.

Section 14. BE IT FURTHER ORDAINED AND ENACTED, by the Mayor and Council of the City of Mount Rainier, Maryland, that the City hereby designates the Bond as a “qualified tax-exempt obligation” within the meaning of Section 265(b)(3) of the Code (relating to the exception from the disallowance of the deduction for that portion of a financial institution’s interest expense which is allocable to tax-exempt interest), and, in connection therewith, represents and certifies that (i) the Bond is not a “private activity bond” within the meaning of Section 141 of the Code, (ii) the reasonably anticipated amount of tax-exempt obligations (excluding private activity bonds other than “qualified 501(c)(3) bonds” within the meaning of Section 145 of the Code), which will be issued by the City (and all on-behalf-of issuers and subordinate entities of the City) during calendar year 2022 does not exceed Ten Million Dollars (\$10,000,000), and (iii) not more than Ten Million Dollars (\$10,000,000) of obligations issued by the City (and all on-behalf-of issuers and subordinate entities of the City) during calendar year 2022, including the Bond, have been designated or, except as permitted by Section 265(b)(3) of the Code, will be designated, qualified tax-exempt obligations of the City.

Section 15. BE IT FURTHER ORDAINED AND ENACTED, by the Mayor and Council of the City of Mount Rainier, Maryland, that to the extent any provisions of this Ordinance and the transactions contemplated by or provided for by this Ordinance are not in conformity with any existing debt policy of the City, the provisions of this Ordinance shall control and the inconsistent or conflicting provisions of such existing debt policy shall be deemed to be overridden.

Section 16. BE IT FURTHER ORDAINED AND ENACTED, by the Mayor and Council of the City of Mount Rainier, Maryland, that the title of this Ordinance shall be deemed to be, and is, a fair summary of this Ordinance for publication and all other purposes; provided that the applicable City official(s), working with bond counsel to the City, may provide for publication of a fair summary of this Ordinance in some format other than the title hereto.

Section 17. BE IT FURTHER ORDAINED AND ENACTED, by the Mayor and Council of the City of Mount Rainier, Maryland, that this Ordinance may be executed (i) in counterparts and/or (ii) to the extent not prohibited by applicable law, by electronic, digital, stamped or facsimile signature, and all executed counterparts of this Ordinance shall be treated as one and the same instrument.

Section 18. BE IT FURTHER ORDAINED AND ENACTED, by the Mayor and Council of the City of Mount Rainier, Maryland, that the provisions of this Ordinance shall be liberally construed in order to effectuate the transactions contemplated by this Ordinance.

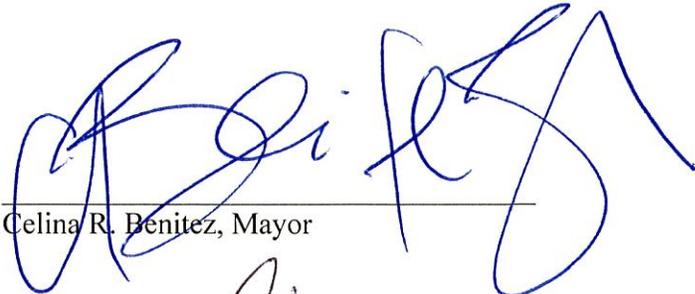
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Section 19. BE IT FURTHER ORDAINED AND ENACTED, by the Mayor and Council of the City of Mount Rainier, Maryland, that this Ordinance shall become effective immediately following its passage, provided that a fair summary of this Ordinance has been read at the meetings at which it was introduced and passed, that a copy shall be posted at City Hall for at least two weeks after it becomes effective, and that a fair summary is published at least once in a newspaper of general circulation in the City.

Attest:

M Sam
Melissa Sam, City Clerk


Celina R. Benitez, Mayor


Luke Chesek, Councilmember Ward 1


Jarrett Stoltzfus, Councilmember Ward 2


James Tarlau, Councilmember Ward 1


Valerie Woodall, Councilmember Ward 2

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EXHIBIT A
FORM OF BOND

Note: This form shall be completed prior to delivery of the Bond to reflect matters determined in accordance with the provisions of this Ordinance, including, without limitation, Sections 2, 3, 4, or 10 thereof.

THIS BOND IS SUBJECT TO THE TRANSFER RESTRICTIONS PROVIDED FOR IN THE ORDINANCE (AS DEFINED HEREIN).

CITY OF MOUNT RAINIER
HAS DESIGNATED THIS BOND A QUALIFIED TAX-EXEMPT OBLIGATION WITHIN
THE MEANING OF SECTION 265(b)(3) OF THE INTERNAL REVENUE CODE OF 1986,
AS AMENDED.

No. R-__

\$_____

REGISTERED

UNITED STATES OF AMERICA
STATE OF MARYLAND
CITY OF MOUNT RAINIER

PUBLIC IMPROVEMENTS BOND OF 2022

<u>Maturity Date</u>	<u>Interest Rate</u>	<u>Dated Date</u>
_____, 2032	3.27% (subject to increase as provided herein)	_____, 2022

Registered Owner: _____

Principal Sum: _____

IT CANNOT BE DETERMINED FROM THE FACE OF THIS BOND WHETHER ALL OR ANY PORTION OF THE PRINCIPAL SUM HAS BEEN PAID OR PREPAID. EACH PAYMENT OF A PRINCIPAL INSTALLMENT OR THE PREPAYMENT OF THIS BOND IN WHOLE SHALL BE NOTED BY THE REGISTERED OWNER OF THIS BOND ON

ITS BOOKS AND RECORDS, WHICH NOTATION WHEN MADE WILL BE PRESUMED CORRECT ABSENT MANIFEST ERROR. THE REGISTERED OWNER'S FAILURE TO MAKE APPROPRIATE NOTATION OF ANY SUCH PAYMENT OR PREPAYMENT IN WHOLE SHALL NOT LIMIT OR OTHERWISE AFFECT THE OBLIGATIONS OF THE CITY HEREUNDER AND SHALL NOT AFFECT THE VALID PAYMENT AND DISCHARGE OF SUCH OBLIGATION EFFECTED BY SUCH PAYMENT OR PREPAYMENT IN WHOLE.

City of Mount Rainier, a municipal corporation organized and existing under the Constitution and laws of the State of Maryland and a municipality within the meaning of the Enabling Act identified below (the "City"), hereby acknowledges itself indebted for value received and promises to pay to the Registered Owner shown above, or registered assigns or legal representatives, the Principal Sum shown above as provided herein, plus interest on the unpaid balance as set forth herein. The principal of this bond shall be payable in semi-annual installments on _____ and _____ in each year to and including the Maturity Date, commencing on _____, 2023, as provided on Schedule 1 hereto, subject to prior prepayment in whole only as hereinafter provided.

Subject to the further provisions of this bond, this bond shall bear interest on the unpaid outstanding principal balance from the Dated Date set forth above at an annual rate that is equal to three and twenty-seven hundredths of one percent (3.27%) per annum (the "Tax-Exempt Rate"); provided that, from and after a Bank-Qualified Adjustment Date (as defined below), this bond shall bear interest at the Bank-Qualified Adjustment Rate (as defined below), and from and after a Taxable Date (as defined below), this bond shall bear interest at the Taxable Rate (as defined below).

Notwithstanding the Tax-Exempt Rate provided for above, the following clauses (i) through (vi) shall apply to this bond:

(i) In the event a Taxable Date (as defined in clause (vi) below) occurs, in addition to any other amounts required to be paid pursuant to this bond, the City hereby agrees to pay to the Registered Owner and any prior Registered Owner, as applicable, of this bond on demand therefor (1) an amount equal to the difference between (A) the amount of interest on this bond paid to the Registered Owner and any such prior Registered Owner during the period (the "Taxable Period") in which interest on this bond is includable in the gross income for federal income tax purposes of the Registered Owner or such prior Registered Owner beginning on the Taxable Date and (B) the amount of interest that would have been paid to the Registered Owner and any such prior Registered Owner during such Taxable Period had this bond borne the Taxable Rate (as defined in clause (vi) below), and (2) an amount equal to any interest, penalties or charges owed by the Registered Owner and any such prior Registered Owner as a result of interest on this bond becoming includable in the gross income for federal income tax purposes of the Registered Owner or such prior Registered Owner, together with any and all attorneys' fees, court costs, or other out-

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of-pocket costs incurred by the Registered Owner or such prior Registered Owner in connection therewith.

(ii) In the event a Bank-Qualified Adjustment Date (as defined in clause (vi) below) occurs, in addition to any other amounts required to be paid pursuant to this bond, the City hereby agrees to pay to the Registered Owner and any prior Registered Owner, as applicable, of this bond on demand therefor (1) an amount equal to the difference between (A) the amount of interest on this bond paid to the Registered Owner and any such prior Registered Owner during the period in which this bond no longer qualifies as a “qualified tax-exempt obligation” under Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the “Code”), beginning on the Bank-Qualified Adjustment Date (the “Disqualified Period”), and (B) the amount of interest that would have been paid to the Registered Owner and any such prior Registered Owner during such Disqualified Period had this bond borne the Bank-Qualified Adjustment Rate, and (2) an amount equal to any interest, penalties or charges owed by the Registered Owner and any such prior Registered Owner as a result of this bond no longer qualifying as a “qualified tax-exempt obligation” under Section 265(b)(3) of the Code, together with any and all attorneys’ fees, court costs, or other out-of-pocket costs incurred by the Registered Owner or any such prior Registered Owner in connection therewith.

(iii) Subject to the provisions of clauses (iv) and (v) below, the Registered Owner or any prior Registered Owner, as applicable, of this bond shall afford the City the opportunity, at the City’s sole cost and expense, to contest in good faith any challenge to the validity of the tax exemption for federal income tax purposes with respect to the interest on this bond or the “qualified tax-exempt obligation” status of this bond under Section 265(b)(3) of the Code, including the right to direct the necessary litigation contesting such challenge (including administrative audit appeals).

(iv) The following shall constitute conditions precedent to the exercise by the City of its right to contest set forth in clause (iii): the City shall, on demand, promptly reimburse the Registered Owner and any prior Registered Owner, as applicable, of this bond for any and all expenses (including attorneys’ fees for services that may be required or desirable, as determined by the Registered Owner and any such prior Registered Owner, as applicable, in their sole discretion) that may be incurred by the Registered Owner and any such prior Registered Owner, as applicable, in connection with any such contest, and shall, on demand, promptly reimburse the Registered Owner and any such prior Registered Owner, as applicable, for any and all penalties or other charges payable by the Registered Owner and any such prior Registered Owner, as applicable, for failure to include such interest in its gross income for federal income tax purposes or the inability to treat this bond as a “qualified tax-exempt obligation” under Section 265(b)(3) of the Code.

(v) The obligations of the City set forth in clauses (i) through (iv) above shall survive the prepayment or payment in full of this bond. The obligations of the City set forth in clauses (i) through (vi) are subject to any applicable law and to applicable public policy as determined by a court of competent jurisdiction.

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(vi) For purposes of the foregoing clauses (i) through (iv), the following terms shall have the meanings set forth below:

“Bank-Qualified Adjustment Date” means the date of (1) any determination, decision, decree or advisement by the Commissioner of Internal Revenue or any District Director of Internal Revenue (or any other government official or agent exercising the same or a substantially similar function from time to time) or any court of competent jurisdiction to the effect that this bond no longer qualifies as a “qualified tax-exempt obligation” under Section 265(b)(3) of the Code, or (2) the delivery to the Registered Owner or any prior Registered Owner of this bond of a written opinion of nationally recognized bond counsel to the effect that this bond no longer qualifies as a “qualified tax-exempt obligation” under Section 265(b)(3) of the Code. Notwithstanding the foregoing, a Bank-Qualified Adjustment Date shall not be deemed to have occurred due to any retroactive revocation of Section 265(b)(3) of the Code and any related U.S. Treasury Regulations in whole or in part.

“Bank-Qualified Adjustment Rate” means, upon a Bank-Qualified Adjustment Date, an interest rate equal to three and thirty-two hundredths of one percent (3.32%) per annum.

“Determination of Taxability” means and shall be deemed to have occurred with respect to this bond on the first to occur of the following:

(1) on the date when the City files any statement, supplemental statement or other tax schedule, return or document which discloses that an Event of Taxability has occurred;

(2) on the date when the Registered Owner or any prior Registered Owner of this bond notifies the City that it has received a written opinion by a nationally recognized firm of attorneys of substantial expertise on the subject of tax-exempt municipal finance to the effect that an Event of Taxability shall have occurred unless, within one hundred eighty (180) days after receipt by the City of such notification from such Registered Owner or such prior Registered Owner, as applicable, the City shall deliver to such Registered Owner or such prior Registered Owner, as applicable, a ruling or determination letter issued to or on behalf of the City by the Commissioner or any District Director of the Internal Revenue Service (or any other governmental official exercising the same or a substantially similar function from time to time) to the effect that, after taking into consideration such facts as form the basis for the opinion that an Event of Taxability has occurred, an Event of Taxability shall not have occurred;

(3) on the date when the City shall be advised in writing by the Commissioner or any District Director of the Internal Revenue Service (or any other government official or agent exercising the same or a substantially similar function from time to time) that, based upon filings of the City, or upon any review or audit of the City or upon any other ground whatsoever, an Event of Taxability shall have occurred; or

(4) on the date when the City shall receive notice from the Registered Owner or any prior Registered Owner of this bond that the Internal Revenue Service (or any other

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government official or agency exercising the same or a substantially similar function from time to time) has assessed the interest on this bond as includable in the gross income for federal income tax purposes of such Registered Owner or such prior Registered Owner due to the occurrence of an Event of Taxability;

provided, however, no Determination of Taxability shall occur under subclauses (3) or (4) above unless the City has been afforded the reasonable opportunity, at its expense, to contest in good faith any such assessment, and, further, no Determination of Taxability shall occur until such contest, if made, has been finally determined; provided further, however, that upon demand from the Registered Owner or any such prior Registered Owner of this bond, the City shall promptly reimburse such Registered Owner or prior Registered Owner for any payments, including any taxes, interest, penalties or other charges, such Registered Owner (or prior Registered Owner) shall be obligated to make as a result of the Determination of Taxability.

“Event of Taxability” means a (1) the occurrence or existence of any fact, event or circumstance (including, without limitation, the taking of any action by the City, or the failure to take any action by the City, or the making by the City of any misrepresentation in this bond or in any certificate required to be given in connection with the issuance, sale or delivery of this bond) which has the effect of causing interest paid or payable on this bond to become includable, in whole or in part, in the gross income of the Registered Owner or any prior Registered Owner for federal income tax purposes or (2) the entry of any decree or judgment by a court of competent jurisdiction, or the taking of any official action by the Internal Revenue Service or the United States Department of the Treasury, which decree, judgment or action shall be final under applicable procedural law, in either case, which has the effect of causing interest paid or payable on this bond to become includable, in whole or in part, in the gross income of such Registered Owner or such prior Registered Owner for federal income tax purposes. Notwithstanding the foregoing, an “Event of Taxability” shall not include the repeal in whole or in part of the tax-exempt status of interest payable on this bond implemented by applicable federal authorities and not based on the action or inaction of the City.

“Taxable Date” means the date on which interest on this bond is first includable in gross income for federal income tax purposes of the Registered Owner (including, without limitation, any prior Registered Owner) hereof as a result of an Event of Taxability as such date is established pursuant to a Determination of Taxability.

“Taxable Rate” shall mean, upon a Determination of Taxability, the interest rate of four and nineteen hundredths of one percent (4.19%) per annum.

Interest on this bond shall be payable semi-annually on _____ and _____ in each year to and including the Maturity Date, commencing on _____, 2023, subject to prior prepayment in whole of this bond. This bond shall bear interest from the most recent date to which interest has been paid or, if no interest has been paid, from its Dated Date.

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Subject to the further provisions of this bond, the amortization schedule for this bond is set forth on Schedule 1 hereto. No adjustments will be made to the principal installments due on this bond if the interest rate is adjusted as provided for herein.

Interest shall be computed on the basis of a 360-day year comprised of 12 30-day months. For purposes of calculating the interest due on this bond, unpaid outstanding principal on any date shall be an amount equal to the original principal amount of this bond, less any principal installment paid as provided for on Schedule 1 hereto. The Registered Owner of this bond shall provide reasonable prior written notice to the City Manager of the City (the "City Manager") of the interest and principal due on this bond on each semi-annual payment date, but failure to provide such notice shall not affect the amount of, or the City's obligation to pay, principal or interest due on this bond.

Principal of and interest on this bond shall be payable in lawful money of the United States of America. The Registered Owner of this bond shall not be required to surrender this bond in order to receive payment hereon. Principal of and interest on this bond will be payable by check or draft mailed to the Registered Owner hereof at the address designated by the Registered Owner in writing to the City Manager unless the City Manager and the Registered Owner agree on a different manner of payment. If a semi-annual payment date falls on a Saturday, a Sunday or a day on which the City, banks in the State of Maryland and/or banks in the state in which the Registered Owner of this bond is located are not required to be open, payment may be made on the next succeeding day that is not a Saturday, a Sunday or a day on which the City, banks in the State of Maryland and/or banks in the state in which the Registered Owner of this bond is located are not required to be open, and no interest shall accrue on the amount owed as of such regularly scheduled payment date for the intervening period.

This bond is the duly authorized bond of the City, issued in the original principal amount of \$_____, dated the date of its delivery and designated "City of Mount Rainier Public Improvements Bond of 2022." This bond is issued pursuant to and in full conformity with the provisions of Sections 19-301 to 19-309, inclusive, of the Local Government Article of the Annotated Code of Maryland, as replaced, supplemented or amended (the "Enabling Act"), Section 708 of the Charter of City of Mount Rainier, as replaced, supplemented or amended (the "Charter"), and by virtue of due proceedings had and taken by the Mayor and City Council of the City (the "Council"), particularly Ordinance No. ___-2022, which was passed by the Council on _____, 2022 and became effective on _____, 2022 (the "Ordinance").

This bond is transferable only upon the books kept for that purpose at the office of the City Manager, by the Registered Owner hereof in person, or by his duly authorized attorney, upon surrender hereof, together with a written instrument of transfer in the form attached hereto and satisfactory to the City Manager and duly executed by the Registered Owner or his duly authorized attorney, and evidence satisfactory to the City Manager of compliance with Sections 7 and 9(b) of the Ordinance.

This bond may be transferred or exchanged at the office of the City Manager. Upon any such transfer or exchange, the City shall issue a new registered bond in denomination equal to the

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unpaid principal amount of the bond surrendered, and with the same maturity date, principal and interest installment payment dates and principal installment payment amounts and bearing interest at the same rate (subject to adjustment as provided herein). In each case, the City Manager may require payment by the Registered Owner of this bond requesting transfer or exchange hereof of any tax, fee or other governmental charge, shipping charges and insurance that may be required to be paid with respect to such transfer or exchange, but otherwise no charge shall be made to the Registered Owner hereof for such transfer or exchange.

The City may deem and treat the party in whose name this bond is registered as the absolute owner hereof for the purpose of receiving payment of or on account of the principal hereof and interest due hereon and for all other purposes.

This bond shall be subject to prepayment prior to maturity at the option of the City *in whole only* on any date on and after _____, 2027, at a prepayment price of 100% of the outstanding principal amount of this bond, plus accrued interest on such outstanding principal amount to the date fixed for prepayment, without premium or penalty. Notice of optional prepayment shall be given by the City at least fifteen (15) days prior to the date fixed for prepayment (or such fewer number of days as is acceptable to the Registered Owner) by mailing or otherwise giving to the Registered Owner a notice fixing the prepayment date. Any such notice may be conditioned upon receipt of funds sufficient to effect such prepayment. In the event this bond is not prepaid on any stated date for which a prepayment notice has been given, such prepayment notice shall be considered void and this bond shall continue in full force and effect.

The full faith and credit and unlimited taxing power of City of Mount Rainier are hereby pledged to the payment of the principal of and interest on this bond according to its terms, and the City does hereby covenant and agree to pay punctually the principal of and the interest on this bond, at the dates and in the manner mentioned herein, according to the true intent and meaning hereof.

It is hereby certified and recited that each and every act, condition and thing required to exist, to be done, to have happened or to be performed precedent to and in the issuance of this bond, does exist, has been done, has happened and has been performed in full and strict compliance with the Constitution and laws of the State of Maryland, the Charter and the Ordinance, and that this bond, together with all other indebtedness of the City, is within every debt and other limit prescribed by the Constitution and laws of the State of Maryland and the Charter, and that due provision has been made for the imposition of an annual ad valorem tax or taxes upon all the legally assessable property within the corporate limits of the City at a rate or rates and in an amount sufficient to provide for the payment, when due, of the principal of and interest on this bond.

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IN WITNESS WHEREOF, City of Mount Rainier has caused this bond to be executed in its name by the _____ signature of the City Manager and its corporate seal to be [affixed hereto or impressed or imprinted hereon], attested by the _____ signature of the City Clerk, all as of the Dated Date set forth above.

(SEAL)

ATTEST:

CITY OF MOUNT RAINIER

By: _____
City Clerk

By: _____
City Manager

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AMORTIZATION SCHEDULE FOR
CITY OF MOUNT RAINIER
PUBLIC IMPROVEMENTS BOND OF 2022

[See Attached]

Note: Final principal amortization schedule prepared by the Lender will be attached to the Bond; such amortization schedule may also reflect the semi-annual interest installments, calculated at the Tax-Exempt Rate.

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(Form of Instrument of Transfer)

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto

PLEASE INSERT SOCIAL SECURITY OR OTHER
IDENTIFYING NUMBER OF ASSIGNEE

(PLEASE PRINT OR TYPEWRITE NAME AND ADDRESS,
INCLUDING ZIP CODE OF ASSIGNEE)

the within bond and all rights thereunder and does hereby constitute and appoint _____

attorney to transfer the within bond on the books kept for the registration thereof, with full power of substitution in the premises.

Dated: _____

Signature Guaranteed:

Notice: Signatures must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank or trust company.

Notice: The signature to this assignment must correspond with the name as it appears upon the face of the within bond in every particular, without alteration or enlargement or any change whatsoever.

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