

Ordinance No. 459

AN ORDINANCE of the Mayor and Council of Pocomoke City, authorizing the issuance by and upon the full faith and credit of Pocomoke City, a municipal corporation of the State of Maryland (the "City") of its (i) general obligation installment bond, in the principal amount not to exceed One Million Fifty-Six Thousand Dollars (\$1,056,000), to be designated "Pocomoke City General Obligation Bond (Pump Station Upgrade Project)," as such designation may be supplemented and modified (the "Bond"), and (ii) a general obligation note in the principal amount not to exceed One Million Fifty-Six Thousand Dollars (\$1,056,000) to be designated "Pocomoke City General Obligation Note (Pump Station Upgrade Project), Series 2021" as such designation may be supplemented and modified (as amended, modified and/or renewed from time to time, the "Note"); all under the authority of Sections 19-207 and 19-301 *et seq.* of the Local Government Article of the Annotated Code of Maryland (2013 Replacement Volume and 2020 Supplement) and Section C-61A of the Charter of Pocomoke City, as replaced, supplemented or amended; the net proceeds of the sale of the Bond and the Note are to be used and applied for the public purpose of financing and refinancing, respectively, a portion of the costs of construction, repair and rehabilitation of the City's Pump Station Upgrade project, which include the replacement of four obsolete pump stations in the City's sewer system, such pump stations being located at 10th & Market Street, Dorchester Avenue, Payne Avenue, and Cedar Street, together with the acquisition of all necessary property rights and equipment, together with any related construction, architectural, financial, fiscal, legal, design, planning and engineering expenses; prescribing the form and tenor of the Bond and the Note and the terms and conditions for the issuance and sale the Bond and the Note; providing for the levy and collection of any taxes necessary for the prompt payment of the maturing principal of and interest on the Bond and the Note and that the full faith and credit and taxing power of the City be irrevocably and unconditionally pledged to the payment of the principal and interest on the Bond and the Note.

RECITALS

Sections 19-207 and 19-301 *et seq.* of the Local Government Article of the Annotated Code of Maryland (2013 Replacement Volume and 2020 Supplement) (the "Enabling Act") and Section C-61A of the Charter of Pocomoke City, as replaced, supplemented or amended (the "Charter"), authorize Pocomoke City (the "City") to issue its general obligation bonds for any proper public purpose.

The City has received one written commitment from the United States of America, acting through the Rural Utilities Service, United States Department of Agriculture (the "USDA") for a loan in the maximum principal amount of One Million Fifty-Six Thousand Dollars (\$1,056,000) to finance and refinance a portion of the costs of construction, repair and rehabilitation of the City's Pump Station Upgrades project, which include the replacement of four obsolete pump stations in the City's sewer system, such pump stations being located at 10th & Market Street, Dorchester Avenue, Payne Avenue, and Cedar Street, including (without limitation) the costs of acquisition and development of property rights and the acquisition and installation of equipment, together with

any related architectural, financial, fiscal, legal, design, planning and engineering expenses (collectively, the "Project").

The City has received a written commitment from Calvin B. Taylor Banking Co. of Berlin, Maryland (the "Bank") to provide interim financing for the Project in the aggregate principal amount of One Million Fifty-Six Thousand Dollars (\$1,056,000) (the "Bank Loan"). The City will issue its general obligation note to evidence its obligation to the Bank with respect to the Bank Loan. Upon completion of the Project, the City intends to repay the Bank Loan with the proceeds of the Bond (as defined herein) to be issued to USDA and, as necessary or appropriate, other available funds.

NOW, THEREFORE, BE IT ENACTED BY THE MAYOR AND COUNCIL OF POCOMOKE CITY (the "City"), That;

Section 1. All terms used herein which are defined in the above recitals (the "Recitals") shall have the meanings given such terms therein. The Recitals are incorporated into the terms of this Ordinance as material terms of the Ordinance.

Section 2. Acting pursuant to the authority of the Enabling Act and Section C-61A of the Charter, the City hereby determines to borrow money and incur indebtedness for the public purpose of (i) financing or refinancing a portion of the cost of the Project and (ii) paying the cost of issuing such indebtedness.

Section 3. To evidence the borrowing and indebtedness authorized in Section 2 of this Ordinance, the City, acting pursuant to the authority of the Enabling Act and the Charter, shall issue and sell, upon its full faith and credit, one or more series of its general obligation installment bonds in the aggregate principal amount not to exceed One Million Fifty-Six Thousand Dollars (\$1,056,000) to be known as the "Pocomoke City General Obligation Bond (Pump Station Upgrade Project)" (the "Bond"). There shall be added to the title of the Bond a designation corresponding to the year in which the Bond is issued so that, if the Bond is issued on or after January 1, 2022 and before January 1, 2023, the Bond shall be known as the "Pocomoke City General Obligation Bond (Pump Station Project), Series 2022". The City shall add such other or additional designation, or supplement the designation, as it deems necessary or appropriate to distinguish the Bond. The Bond shall be dated the date of delivery and shall be issued in the form of a single fully registered installment bond, without coupons attached.

The Bond shall bear interest at a rate not to exceed 1.80% per annum from the date of issuance of the Bond. The principal of and interest on the Bond shall be paid in equal quarterly installments and the final payment of the Bond shall be paid on a date not later than forty (40) years from the date of issuance, except that prepayments may be made at the option of the City in accordance with the USDA rules and regulations in effect from time to time, in the event that USDA is the purchaser of the Bond.

Section 4. The Bond shall be executed in the name of the City and on its behalf by the Mayor of the City (the "Mayor"). The corporate seal of the City shall be affixed to the Bond, attested by the manual signature of the City Clerk (the "Clerk"). The principal of and interest on the Bond shall be paid by the City by electronic funds transfer (including without limitation, any pre-authorized debit payment process pursuant to which the City authorizes payments to be withdrawn electronically from an account of the City's on or about the day that principal or interest is due) to the registered owner of the Bond at the address of such owner as it appears on the books kept for the registration of the Bond at the office of the Clerk in Pocomoke City, Maryland, or by such other payment method as is agreed to by the holder of the Bond. In the event any official whose signature appears on the any of the Bond ceases to be an official prior to the delivery of such Bond or shall have become such official after the date of this Ordinance, the Bond shall, nonetheless, be a valid and legally binding obligation of the City in accordance with its terms.

Section 5. The Bond shall be transferable only upon the books kept for that purpose at the office of the Clerk by the registered owner in person or by his duly authorized attorney, upon surrender thereof, together with a written instrument of transfer satisfactory to the Clerk, duly executed by such registered owner or duly authorized attorney.

Section 6. Except as provided hereinafter or in a resolution or resolutions of the City adopted prior to the issuance of the Bond, the Bond shall be issued in substantially the registered installment bond form as provided in Exhibit A. Appropriate variations and insertions shall be made to provide dates, numbers and amounts, and modifications not materially altering its substance may be made by the Mayor as deemed necessary, appropriate or convenient. The covenants contained in the bond form as provided in Exhibit A are hereby adopted by the City as and for the form of obligations to be incurred by the City, and the covenants and conditions

contained therein are hereby made binding upon the City, including the promise to pay therein contained.

Section 7. The Bond may be sold at private, negotiated sale to the USDA (or a bank or financial institution), public advertisement and sale of the Bond not being required by the terms of the Enabling Act or the Charter and the best interests of the City being hereby declared to be served by such private sale.

Section 8. The Clerk is hereby designated to receive payment on behalf of the City of the proceeds of the sale of the Bond. Such proceeds shall be deposited in the proper accounts of the City and shall be used and applied by the City exclusively and solely for the public purposes described in this Ordinance. If the proceeds received from the sale of the Bond exceeds the amount needed for such public purposes, the unexpended excess shall be applied in the manner required by United States regulations, practices and policies applicable from time to time, provided such application is not prohibited by any provision of the statutes of the State of Maryland, the Charter or this Ordinance.

Section 9. Acting pursuant to the authority of the Enabling Act and Section C-61A of the Charter, the City hereby determines to borrow money and incur indebtedness for the public purpose of providing interim financing for a portion of the costs of the Project.

Section 10. To evidence the borrowing and indebtedness authorized in Section 9 of this Ordinance and acting pursuant to the authority of the Enabling Act and the Charter, the City shall issue and sell, upon its full faith and credit, a general obligation note in principal amount not to exceed One Million Fifty-Six Thousand Dollars (\$1,056,000) to be known as the "Pocomoke City General Obligation Note (Pump Station Upgrade Project)" (as amended, modified and/or renewed, the "Note"). There shall be added to the title of the Note a designation corresponding to the year in which the Note is issued so that, if the Note is issued on or after January 1, 2021 and before January 1, 2022, the Note shall be known as the "Pocomoke City General Obligation Note (Pump Station Upgrade Project), Series 2021." The Note shall be dated the delivery date and shall be issued in the form of a single fully registered note, without coupons attached. The Note shall bear interest on the outstanding principal balance at the rate not to exceed 2.93% per annum in the case of at tax-exempt obligation and 4.00% per annum in the case of taxable obligation. The principal of and interest on the Note shall be due on the date of maturity of the Note. The final maturity date

of the Note shall be not later than eighteen (18) months following the date of issuance of the Note and may be extended upon the prior written consent of the Mayor and the registered owner of the Note in the event that completion of the Project or issuance of the Bond is delayed. Prepayments may be made at the option of the City without penalty or premium. The Note shall have such other terms and condition as are set forth in the form of Note included as Exhibit B.

Section 11. The Note shall be executed in the name of the City and on its behalf by the Mayor. The corporate seal of the City shall be affixed to the Note, attested by the manual signature of the Clerk. The principal of and interest on the Note shall be paid by the City by electronic funds transfer (including without limitation, any pre-authorized debit payment process pursuant to which the City authorizes payments to be withdrawn electronically from an account of the City's on or about the day that principal or interest is due) or check or draft mailed (by depositing such check or draft, correctly addressed and postage prepaid, in the United States mail on or before the payment date) to the registered owner thereof at the address of such owner as it appears on the books kept for the registration of the Note at the office of the Clerk in Pocomoke City, Maryland. In the event any official whose signature appears on the Note ceases to be an official prior to the delivery of the Note or shall have become such official after the date of this Ordinance, the Note shall, nonetheless, be a valid and legally binding obligation of the City in accordance with its terms.

Section 12. The Note shall be transferable only upon the books kept for that purpose at the office of the Clerk by the registered owner in person or by his duly authorized attorney, upon surrender thereof, together with a written instrument of transfer satisfactory to the Clerk, duly executed by such registered owner or duly authorized attorney.

Section 13. Except as provided hereinafter or in an ordinance or ordinances of the City adopted prior to the issuance of the Note, the Note shall be issued in substantially the registered note form as provided in Exhibit B. Appropriate variations and insertions shall be made to provide dates, numbers and amounts, and modifications not materially altering its substance may be made by the Mayor as deemed necessary, appropriate or convenient. The covenants contained in the note form as provided in Exhibit B are hereby adopted by the City as and for the form of obligation to be incurred by the City, and the covenants and conditions contained therein are hereby made binding upon the City, including the promise to pay therein contained.

Section 14. The Note shall be sold at private, negotiated sale for cash at par, to the Bank, public advertisement and sale of the Note not being required by the terms of the Enabling Act or the Charter and the best interests of the City being hereby declared to be served by such private sale. The Mayor is expressly authorized and empowered to take any and all action necessary to complete and close the award, sale and delivery of the Note to the Bank.

Section 15. The Clerk is hereby designated to receive payment on behalf of the City of the proceeds of the sale of the Note. Proceeds received or drawn under the Note shall be deposited in the proper accounts of the City and shall be used and applied by the City exclusively and solely for the public purposes described in this Ordinance. If the proceeds received from the sale of the Note exceed the amount needed for such public purposes, the unexpended excess shall be applied to prepay a portion of the Note.

Section 16. The City shall levy or cause to be levied upon all real and tangible personal property within its boundaries subject to assessment for taxation ad valorem taxes in rate and amount sufficient in each and every fiscal year in which any of the Note or the Bond are outstanding to provide for the prompt payment, when due, of the principal of and interest on such Note or Bond, in each such fiscal year; and if the proceeds from the taxes so levied in any fiscal year should be inadequate for such payment, additional taxes shall be levied in the succeeding fiscal year to make up such deficiency. The full faith and credit and unlimited taxing power of the City are hereby irrevocably and unconditionally pledged to the prompt payment of the principal of and interest on the Bond and the Note as and when each such Note or Bond shall become due and payable and to the levy and collection of the taxes hereinabove described as and when such taxes may become necessary in order to provide sufficient funds to pay the debt service requirements on the Bond and the Note. The City hereby covenants and agrees with the registered owner or owners of the Bond and the Note, to levy and collect the taxes hereinabove described and to take any further action that may be appropriate from time to time during the period that any Note or Bond remains outstanding and unpaid to provide the funds necessary to pay promptly the principal thereof and the interest due thereon. The City may apply to the payment of the principal of or interest on any of the Note or 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 such funds are granted for the purpose of assisting the City in accomplishing the type of project

or projects which the Note or the Bond is issued to finance, 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 17. (a) The Mayor and the Clerk shall be the officials of the City responsible for the issuance of the Note within the meaning of Section 1.148-2 of the Arbitrage Regulations (defined below). The Mayor and the Clerk shall also be the officials of the City responsible for the execution and delivery on the respective dates of the issuance of the Note of a certificate or certificates of the City (a "Tax and Section 148 Certificate") that complies with the requirements of Section 148 of the Internal Revenue Code of 1986, as amended ("Section 148"), and the applicable regulations thereunder (the "Arbitrage Regulations"), and such officials are hereby authorized and directed to execute and deliver a Tax and Section 148 Certificate to counsel rendering any opinion on the validity of the Note on its date of issuance.

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

(c) The City covenants and agrees with the registered owner or owners of the Note 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 that would cause the Note to be an "arbitrage bond" within the meaning of Section 148 and the Arbitrage Regulations. The City further covenants that it will comply with Section 148 and the Arbitrage Regulations which are applicable to the Note on the respective dates of issuance thereof and which may subsequently be made applicable thereto as long as the Note remains outstanding and unpaid. The Mayor and the Clerk are hereby authorized and directed to prepare or cause to be prepared and to execute any certification, opinion or other document, including, without limitation, a Tax and Section 148 Certificate, which may be required to assure that the Note will not be deemed to be an "arbitrage bond" within the meaning of Section

148 and the Arbitrage Regulations. All officers, employees and agents of the City are hereby authorized and directed to take such actions, and to provide such certifications of facts and estimates regarding the amount and use of the proceeds of the Note as may be necessary or appropriate from time to time to comply with, or to evidence the City's compliance with, the covenants set forth in this Section.

(d) The City further covenants that it shall make such use of the proceeds of the Note, regulate the investment of the proceeds thereof, and take such other and further actions as may be required to maintain the excludability from gross income for federal income tax purposes of interest thereon.

(e) The City further covenants with the registered owner or owners of the Note (i) that it will not take any action or (to the extent that it exercises control or direction) permit any action to be taken that would cause the Note or any portion of the Note to be "federally guaranteed" within the meaning of Section 149(b) of the Internal Revenue Code of 1986, as amended (the "Code"), and (ii) that it will not make, or (to the extent that it exercises control or direction) permit to be made, any use of the proceeds of the Note or a portion of such proceeds that would cause the Note or a portion of the Note to be a "private loan bond" within the meaning of Section 141(c) of the Internal Revenue Code of 1986, as amended.

(f) The Mayor may make such covenants or agreements in connection with the issuance of the Note or any series thereof as he shall deem advisable in order to assure the registered owner or owners of the Note that interest thereon shall be and remain excludable from gross income for federal income tax purposes, and such covenants or agreements shall be binding on the City so long as the observance by the City of any such covenants or agreements is necessary in connection with the maintenance of the exclusion of the interest on the Note from gross income for federal income tax purposes. The foregoing covenants and agreements may include such covenants or agreements on behalf of the City regarding compliance with the provisions of the Internal Revenue Code of 1986, as amended, as the Mayor shall deem advisable in order to assure the registered owner or owners of the Note that the interest thereon shall be and remain excludable from gross income for federal income tax purposes, including (without limitation) covenants or agreements relating to the investment of Bond Proceeds, the payment of certain earnings resulting from such investment to the United States, limitations on the times within which, and the purpose

for which Bond Proceeds may be expended, or the use of specified procedures for accounting for and segregating Bond Proceeds. Such covenants and agreements may be set forth in a Tax and Section 148 Certificate.

Section 18. The Mayor of the City and any other authorized official of the City are hereby authorized to enter into any additional agreements which they deem to be necessary or desirable in connection with the issuance of the Note and the Bond and in order to otherwise carry out the provisions of this Ordinance.

Section 19. The City is authorized to designate the Note as bank qualified under Section 265(b)(3) of the Code.

Section 20. This Ordinance shall not be codified and pursuant to the provisions of Section C-12 of the Charter shall take effect on the date of its approval by the Mayor.

PASSED this ____ day of _____, 2022.

ATTEST:

CITY COUNCIL OF POCOMOKE CITY

K. Michelle Beckett-El Soloh, City Clerk

Esther Troast, First Vice President

Diane Downing

Todd J. Nock

R. Scott Holland

Daniel J. Tarr

APPROVED this ____ day of _____, 2022

Susan Marshall-Harrison, Mayor

FORM OF BOND

R-1

\$ _____

REGISTERED

**UNITED STATES OF AMERICA
STATE OF MARYLAND**

**POCOMOKE CITY
GENERAL OBLIGATION BOND
(PUMP STATION UPGRADE PROJECT), SERIES 20__**

Dated Date: _____

PAYMENTS OF PRINCIPAL OF AND INTEREST ON THIS BOND ARE MADE BY ELECTRONIC FUNDS TRANSFER TO THE REGISTERED OWNER AND IT CANNOT BE DETERMINED FROM THE FACE OF THIS BOND WHETHER ALL OR ANY PART OF THE PRINCIPAL OF OR INTEREST ON THIS BOND HAS BEEN PAID

POCOMOKE CITY, a municipal corporation organized under the laws of the State of Maryland (the "City"), hereby acknowledges itself indebted and for value received promises to pay to the UNITED STATES OF AMERICA, acting through the Rural Utilities Service, United States Department of Agriculture ("USDA" or "Holder"), the registered owner, the principal amount of _____ Dollars (\$ _____) plus interest on the unpaid principal balance from the date hereof at the rate of ____ percent (___%) per annum. The principal of and interest on this bond shall be paid in [quarterly] installments of _____ Dollars (\$ _____) on the ____ day of _____, and the ____ day of each _____, _____, _____ and _____ thereafter until the principal of and interest on this bond are fully paid, except that the final installment of the entire indebtedness evidenced by this bond, if not sooner paid, shall be payable on _____, 20__ and except that prepayments may be made as provided below. Each and every [quarterly] installment shall include a payment of a portion of the principal of this bond.

Both the principal of and interest on this bond will be paid in lawful money of the United States of America, at the time of payment, and will be paid by electronic funds transfer (including without limitation, any pre-authorized debit payment process pursuant to which the City authorizes payments to be withdrawn electronically from an account of the City's on or about the day that principal or interest is due) to the registered owner hereof at the address as it appears on the books kept for the registration and registration of transfers of the bond at the office of the City Clerk (the "Clerk") in Pocomoke City, Maryland, or by such other payment method as is agreed to by the holder of the Bond.

This bond is issued pursuant to and in full conformity with the provisions of Sections 19-207 and 19-301 *et seq.* of the Local Government Article of the Annotated Code of Maryland (2013 Replacement Volume, as amended) (the "Enabling Act") and Section C-61A of the Charter of Pocomoke City, as replaced, supplemented or amended (the "Charter"), and by virtue of due proceedings had and taken by the City, particularly Ordinance No. _____ enacted on _____, 20__, (the "Ordinance").

The City has covenanted in the Ordinance to levy upon all real and tangible personal property within its boundaries subject to assessment for unlimited taxation, ad valorem taxes in rate and amount sufficient in each year in which this Bond is outstanding to pay the principal and interest on this Bond when due. If the proceeds from the taxes so levied in any fiscal year should be inadequate for such purpose, the City has covenanted to levy additional taxes in the succeeding fiscal year to make up any deficiency.

The full faith and credit and unlimited taxing power of the City are hereby irrevocably pledged to the prompt 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 interest on this bond at the dates and in the manner prescribed herein.

This Bond is transferable only upon the books of the City at the office of the Clerk by the registered owner hereof in person or by the attorney of such registered owner duly authorized in writing, upon surrender hereof together with a written instrument of transfer satisfactory to the Clerk, duly executed by the registered owner or the duly authorized attorney. At the expense of any transferor other than the United States of America, the City shall, within a reasonable time, issue in the name of the transferee a new registered bond or bonds, in denominations of One Thousand Dollars (\$1,000.00) or such other denominations as the City shall by ordinance approve, in an aggregate principal amount equal to the unpaid principal amount of the bond or bonds surrendered and with the same maturities and interest rate. If more than one bond is issued upon any such transfer, the installment of principal and interest to be paid on each such bond on each payment date shall be equal to the product of the following formula: the total installment due on each payment date multiplied by a fraction, the numerator of which shall be the unpaid principal amount of such bond and the denominator of which shall be the aggregate principal amount of bonds then outstanding and unpaid. Except for transfers made by the United States of America, the new bond or bonds shall be delivered to the transferee only after payment of any taxes on and any shipping or insurance expenses relating to such transfer. 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.

The City has the right to prepay scheduled installments, or any portion thereof, at any time at par without premium or penalty in accordance with the rules and regulations of the USDA.

It is hereby certified and recited that all conditions, acts and things required by the Constitution or statutes of the State of Maryland, the Enabling Act, the Charter and the Ordinance to exist, to have happened or to have been performed precedent to or in the issuance of this Bond, exist, have happened and have been performed, and that the issuance of this bond together with all

other indebtedness of the City, is within every debt and other limit prescribed by said Constitution or statutes.

IN WITNESS WHEREOF, this Bond has been executed by the manual signature of the Mayor of Pocomoke City and the corporate seal of the City has been affixed hereto, attested by the manual signature of the City Clerk, all as of the Dated Date.

(SEAL)

ATTEST:

POCOMOKE CITY

City Clerk

By: _____
Mayor

(Form of Transfer)

FOR VALUE RECEIVED, _____
hereby sells, assigns and transfers the within Bond to
_____ and hereby authorizes the City
Clerk to transfer this Bond on the books of the City.

Dated: _____ (SEAL)

Witness:

PAYMENT GRID

Date of Payment	Principal Amount Paid	Principal Amount Outstanding	Holder's Signature

FORM OF NOTE

THIS NOTE HAS BEEN DESIGNATED AS "BANK QUALIFIED TAX EXEMPT" UNDER SECTION 265(B)(3) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED.

IT CANNOT BE DETERMINED FROM THE FACE OF THIS NOTE WHETHER A PART OF THE PRINCIPAL OF THIS NOTE HAS BEEN PAID

R-1

\$ _____

REGISTERED

**UNITED STATES OF AMERICA
STATE OF MARYLAND**

**POCOMOKE CITY
GENERAL OBLIGATION NOTE
(PUMP STATION UPGRADE PROJECT), SERIES 20__**

Reference Date
_____, 20__

Maturity Date
_____, 20__

Registered Owner: [_____]

Principal Sum: _____ Dollars

POCOMOKE CITY, a body politic and corporate and a municipal corporation organized under the laws of the State of Maryland (the "City"), hereby acknowledges itself indebted and for value received promises to pay to Calvin B. Taylor Banking Co. of Berlin, Maryland and its successors and assigns (the "Holder"), the maximum principal amount of _____ (\$ _____) (or such lesser amount as shall be outstanding hereunder from time to time), plus interest on the outstanding and unpaid principal balance from the date hereof at the rate of _____ percent (____%) per annum in the event the obligations hereunder are tax-exempt obligations or (ii) _____ percent (____%) per annum in the event the obligations hereunder are not tax-exempt obligations. Interest on the Note shall be paid on the ____ day of each month commencing _____. The outstanding and unpaid principal on this Note shall be paid on _____, together with interest on the Note accrued and unpaid to that date.

The full faith and credit and unlimited taxing power of the City are hereby unconditionally pledged to the payment of this Note and of the interest payable hereon according to its terms, and

the City does hereby covenant and agree to pay punctually the principal of this Note and the interest hereon on the dates and in the manner prescribed herein, according to the true intent and meaning hereof. The City has covenanted in the Ordinance to levy upon all real and tangible personal property within its boundaries subject to assessment for unlimited taxation ad valorem taxes in rate and amount sufficient in each year in which this Note is outstanding to provide for such payments. If the proceeds from the taxes so levied in any fiscal year should be inadequate for such purpose, the City has covenanted to levy additional taxes in the succeeding fiscal year to make up any deficiency.

1. **Ordinance.**

This Note is issued pursuant to (i) the Constitution and laws of the State of Maryland, particularly Sections 19-301 *et seq.* of the Local Government Article of the Annotated Code of Maryland (2013 Replacement Volume, as amended) (the "Enabling Act"), (ii) Section C-61A of the Charter of Pocomoke City, as replaced, supplemented or amended (the "Charter") and (iii) an Ordinance adopted by the City on _____, 20__ (the "Ordinance"). The terms of this Note include those stated in the Ordinance, and this Note is subject to all such terms. The registered owner of this Note is referred to the Ordinance (a copy of which is on file with the City) for a complete statement of such terms, to which the owner hereof, by acceptance of this Note, assents.

2. **Interest.**

This Note shall bear interest at the rate of __% per annum. All interest on this Note shall be calculated on a [365/365] basis by applying the ratio of the interest rate over a year of 365 days, multiplied by the outstanding principal balance, multiplied by the actual number of days the principal balance is outstanding.

3. **Method of Payment.**

The principal of and interest and premium (if any) on this Note will be payable by electronic funds transfer or check mailed to the Registered Owner or by wire transfer to the Registered Owner's account, as specified by the Registered Owner upon at least five days' written notice to the City, *provided* that the final payment of the principal hereof shall be payable upon presentation and surrender of this Note to the City. The principal of and interest and premium (if any) on this Note will be paid in any money of the United States that at the time of payment is legal tender for payment of public and private debts or by checks payable in such money. If any payment of the principal of or interest on this Note is due on a day that is not a Business Day, such payment will be made on the next Business Day, *provided* that interest will accrue on the amount of such payment during the intervening period. "Business Day" means any day other than a Saturday, Sunday or day on which banking institutions under the laws of the state of Maryland are authorized or obligated by law or required by executive order to remain closed. Upon receipt of each payment or prepayment of principal on this Note, the Registered Owner shall make a notation indicating the principal amount paid or prepaid and the date thereof on the Payment Grid attached hereto. For all purposes, the principal amount of this Note outstanding at any time shall be equal to the Principal Sum shown above reduced by the principal amount of so paid or prepaid. The failure of the Registered Owner to note the principal amount of any such payment or prepayment on the

Payment Grid attached hereto, or any inaccuracy therein, shall not affect the payment obligation of the City hereunder. THEREFORE, IT CANNOT BE DETERMINED FROM THE FACE OF THIS NOTE WHETHER A PART OF THE PRINCIPAL OF THIS NOTE HAS BEEN PAID.

4. **Prepayment.**

This Note shall be subject to prepayment at the option of the City, without penalty or premium.

5. **Line of Credit.**

This Note evidences a straight line of credit. Once the maximum principal amount has been advanced, the City is not entitled to further loan advances. Advances under this Note may be requested orally by the City, as provided in this section or as otherwise agreed by the Holder. All oral requests shall be confirmed in writing on the day of the request. All communications, instructions, or directions by telephone or otherwise to the Holder are to be directed to the Holder at [24 North Main Street, Berlin, MD 21811], or such other address as is communicated by the Holder of this Note. Holder shall have no obligation to advance sums under this Note if there is a default by the City under the terms of this Note or any other agreement between the City and the Holder hereof relating to the loan evidenced by the Note. Upon a default in payment of any amounts due hereunder, the Holder shall have the right to accelerate and demand payment of all amounts then due hereunder. Upon a default in the payment of any amounts due hereunder, the City agrees to pay to the Holder all costs incurred by the Holder in seeking collection of amounts owed hereunder including but not limited to reasonable attorneys' fees and court costs.

6. **Extension of Maturity.**

The Maturity Date of this Note may be extended upon the prior written consent of the Mayor and the Holder in the event that completion of the Project (as defined in the Ordinance) or permanent financing therefor is delayed.

7. **Modifications.**

Modifications or alterations of the Note may be made only to the extent and in the circumstances permitted by the Ordinance.

8. **Persons Deemed Owners.**

The Registered Owner of this Note shall be treated as the owner and holder of this Note for all purposes.

9. **Notices.**

When the City is required to give notice to the owner of this Note, such notice shall be mailed by first-class mail to the Registered Owner of this Note at such Registered Owner's address as it appears on the registration books maintained by the City. Any notice mailed as provided

herein will be conclusively presumed to have been given, whether or not actually received by the addressee.

All acts, conditions and things required by the Constitution and laws of the State of Maryland and the rules and regulations of the City to happen, exist and be performed precedent to and in the issuance of this Note and the execution and delivery of the Ordinance have happened, exist and have been performed as so required.

No recourse shall be had for the payment of the principal of and interest on this Note or for any claims based thereon or on the Ordinance against any member or other officer of the City or any person executing this Note, all such liability, if any, being expressly waived and released by the Registered Owner by the acceptance of this Note.

IN WITNESS WHEREOF, this Note has been executed by the manual signature of the Mayor of Pocomoke City and the corporate seal of the City has been affixed hereto, attested by the manual signature of the City Clerk, all as of the Dated Date.

POCOMOKE CITY

[Seal]

By: _____
Mayor

Attest:

City Clerk

Damian J. Mark

401 East Pratt Street, Suite 2600
Baltimore, Maryland 21202
(410) 843-3540
damian.mark@mshllp.com



June 21, 2021

Ms. Susan Marshall-Harrison, Mayor
Pocomoke City, Maryland
P.O. Box 29
Pocomoke City, Maryland 21851

Re: Engagement of Legal Services

Dear Madam Mayor:

1. Introduction and Scope of Engagement. McKennon Shelton & Henn LLP (the "Firm") is pleased to have the opportunity to represent Pocomoke City, Maryland (the "City") as Bond Counsel in connection with the financing of certain infrastructure projects of the City. We understand that the financing transactions will consist of (i) a draw-down, tax-exempt bank financing from Taylor Bank (the "Bank Financing") and (ii) permanent financing through one or more loans from the U.S. Department of Agriculture (collectively, the "USDA Loan" and, together with the Bank Financing, the "Financing Transactions"). In this letter, the words "you" and "your" refer to the City, and the words "we," "us" and "our" refer to our Firm.

We will assist and represent the City in connection with the Financing Transactions, which representation will consist of (among other activities): (i) preparation of the required authorizing legislation to issue the City's notes and bonds for the Financing Transactions; (ii) tax due diligence and compliance review; (iii) preparation of closing certificates, promissory notes, bonds and other financing documents; (iv) preparing and filing of required governmental information filings with the IRS; (v) review of loan and other documentation prepared by Taylor Bank and USDA, respectively; (vi) preparation of the legal opinions regarding the validity of the bonds and notes and other customary opinions required by Taylor Bank and USDA, respectively; (vii) conference calls with City, Taylor Bank representatives, USDA representatives and other parties; and (viii) if necessary, attendance, on the City's behalf, at the closing of one or both of the Financing Transactions.

I will serve as your principal administrative contact. My office direct dial number is (410) 843- 3540, but my preferred (mobile) number is (410) 262-1973.

You may ask us to perform additional services beyond the engagement described above. If you do request such services, we may need to clear conflicts of interest and enter into a separate

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& HENN LLP
BALTIMORE, MD · WASHINGTON, DC

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Pocomoke City, Maryland

June 21, 2021

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engagement with you. If the scope of our engagement changes, the terms set out in this agreement will apply unless we enter into a subsequent agreement with you; otherwise, the Firm will proceed in reliance upon the description and terms set forth in this agreement. This engagement may be terminated by either party upon notice to the other, subject to the applicable Rules of Professional Conduct. To avoid any misunderstandings, it is the Firm's standard policy to set out the terms of our engagement at the outset of representation.

2. Progress and Reporting. We will keep you reasonably informed concerning the representation and will communicate information and advice about significant developments in the matter. We may communicate via letter, telephone, cellular telephone, facsimile transmission, video call or e-mail. You should feel free to communicate with us regarding any issue or matter that you feel deserves attention and we will endeavor to respond promptly. In order for us to assist you effectively and efficiently, we assume that you will continue to provide us with the factual information which relates to the subject matter of our engagement, and that you will make any appropriate business or technical decisions.

3. Fees and Costs. The Firm has assigned hourly billing rates for each attorney and paralegal for this matter. The assigned hourly rates are: \$305 for attorneys and \$150 for paralegals.

We anticipate that our fees for the issuance and closing with respect to the Bank Financing will not exceed **\$13,000**; and with respect to the USDA Financing, we anticipate that our fees for such transaction will not exceed **\$9,500**. Our fees for the Financing Transactions will not exceed these limits without your consent. These fee caps are based upon the customary requirements for similar transactions and the current hourly rates set forth above.

Our customary out-of-pocket expenses will be paid by you in addition to the payment of our legal fees.

We assign work to lawyers and paralegals that can provide the necessary services efficiently. We will bill you **quarterly** for our services and we will provide you with our final invoice on or shortly after the closing date of each transaction.

The above rates and fee caps shall be effective for a two-year period from the date hereof. Should a transaction fail to close within the two-year period, (i) the fee caps for such transaction shall increase by \$500 per year for each year after the expiration of the original fee cap period, and (ii) the hourly rates for attorneys and paralegals shall increase by 5%.

4. Retainer. The Firm does not require a retainer in this matter at this time.

5. Records Retention and Disposal. At the conclusion of the legal services described in the first paragraph above, you may request that your file in this matter be sent to you. If so, the Firm reserves the right at its own discretion and expense to retain a copy of all or part of the files you request. If you do not request your file, then the Firm will store the file at its expense for a period of time that it deems is reasonable. Thereafter, unless we receive written instructions from you to the contrary, the Firm will destroy the file to maintain confidentiality.

Pocomoke City, Maryland

June 21, 2021

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6. Arbitration of Disputes. We anticipate a harmonious and satisfactory attorney-client relationship. If any disputes arise between us, we shall submit them to binding arbitration, which shall proceed pursuant to the Commercial Arbitration Rules of the American Arbitration Association. If you do not wish to agree to arbitrate any disputes with us, you should not sign this letter. Your agreement to arbitrate is not necessarily a condition of our agreement to represent you, and upon request, we will consider deleting the arbitration provision.

7. Privacy Policy. We are required by a federal law, the Financial Modernization Act of 1999, also known as the Gramm-Leach-Bliley Act, Pub. Law 106-102 (1999), to inform our clients of our policies regarding the privacy of non-public client information. As attorneys, we are bound by professional standards of confidentiality that are even more stringent than those required by this law. In the course of providing our legal services, we may receive significant non-public personal information from you. Please be advised that all information that we receive from you will be held in the strictest confidence, and will not be released to people outside this firm, except as agreed to by you or as required under an applicable law or ethical code.

If you have questions regarding any aspect of our arrangement or invoices, feel free to discuss those questions with me.

If the scope of the services we are to provide you and the terms of the engagement are satisfactory, please confirm your agreement by executing the consent form below and returning one copy to me.

Sincerely,



Damian J. Mark, Esq.

I have read the engagement agreement on behalf of the City and, on behalf of the City, accept the terms and conditions set forth above.

POCOMOKE CITY, MARYLAND

By: Susan Marshall Harrison
Name:
Title: Mayor

Date: June 23, 2021

This form is available electronically.

OMB Control No. 0505-0027
Expiration Date: 04/30/2022



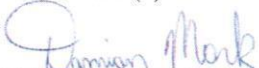
**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion AD-1048
Lower Tier Covered Transactions**

The following statement is made in accordance with the Privacy Act of 1974 (5 U.S.C. § 552a, as amended). This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, and 2 C.F.R. §§ 180.300, 180.335, Participants' responsibilities. The regulations were amended and published on August 31, 2005, in 70 Fed. Reg. 51865-51880. Copies of the regulations may be obtained by contacting the Department of Agriculture agency offering the proposed covered transaction.

According to the Paperwork Reduction Act of 1995 an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0505-0027. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The provisions of appropriate criminal, civil, fraud, privacy, and other statutes may be applicable to the information provided.

(Read instructions on page two before completing certification.)

- A. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency;
- B. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

ORGANIZATION NAME McKennon Shelton & Henn LLP	PR/AWARD NUMBER OR PROJECT NAME 2021 Pump Station Upgrades
NAME(S) AND TITLE(S) OF AUTHORIZED REPRESENTATIVE(S) Damian J. Mark	
SIGNATURE(S) 	DATE July 23, 2021

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at [How to File a Program Discrimination Complaint \(https://www.ascr.usda.gov/filing-program-discrimination-complaint-usda-customer\)](https://www.ascr.usda.gov/filing-program-discrimination-complaint-usda-customer) and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442.

Instructions for Certification

- (1) By signing and submitting this form, the prospective lower tier participant is providing the certification set out on page 1 in accordance with these instructions.
- (2) The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.
- (3) The prospective lower tier participant shall provide immediate written notice to the person(s) to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- (4) The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549, at 2 C.F.R. Parts 180 and 417. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
- (5) The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
- (6) The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- (7) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the System for Award Management (SAM) database.
- (8) Nothing contained in the foregoing shall be construed to require establishment of a system of records to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- (9) Except for transactions authorized under paragraph (5) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.