

**ORDINANCE NO. 22-0781**

**AN ORDINANCE AUTHORIZING THE ISSUANCE OF “CITY OF MCKINNEY, TEXAS TAX INCREMENT REVENUE BONDS, SERIES 2022 (CITY OF MCKINNEY TAX INCREMENT REINVESTMENT ZONE NO. 1)”;** PROVIDING THE TERMS AND CONDITIONS OF SUCH BONDS AND RESOLVING OTHER MATTERS INCIDENT AND RELATING TO THE ISSUANCE, PAYMENT, SECURITY AND DELIVERY OF SUCH BONDS; DELEGATING MATTERS RELATING TO THE SALE AND ISSUANCE OF SUCH BONDS TO AN AUTHORIZED CITY OFFICIAL WITHIN CERTAIN SPECIFIED PARAMETERS; ENACTING PROVISIONS INCIDENT AND RELATED TO THE PURPOSES AND SUBJECT OF THIS ORDINANCE, AND PROVIDING AN EFFECTIVE DATE

**WHEREAS**, on September 21, 2010, the City Council of the City of McKinney, Texas (the “City”), pursuant to Chapter 311 of the Texas Tax Code, as amended (“Chapter 311”) approved Ordinance No. 2010-09-034 designating a contiguous geographic area within the City as Reinvestment Zone Number 1, City of McKinney, Texas and has subsequently adopted ordinances expanding the zone in accordance with, and as permitted by, Chapter 311 (as subsequently amended, the “Zone”); and

**WHEREAS**, in connection with the creation of the Zone, the City created a Pledged Revenue Fund to deposit thereto tax increments derived from taxable real property in the Zone (“Tax Increments”) during the term of the Zone; and

**WHEREAS**, the City Council of the City (the “Council”) approved a Project and Financing Plan for the Zone, as amended from time to time (such plan, as amended, the “Plan”); and

**WHEREAS**, pursuant to the Plan and upon recommendation of the board of directors of the Zone, the Council has determined that it should issue its “City of McKinney, Texas Tax Increment Revenue Bonds, Series 2022 (City of McKinney Tax Increment Reinvestment Zone No. 1)” (the “Bonds”) in order to fund certain project costs of the Zone, including the costs of the acquisition of land within the Zone, financing costs and professional fees related thereto and the issuance of the Bonds, all as permitted by Chapter 311; and

**WHEREAS**, the Council by this Ordinance and in accordance with the provisions of Chapter 311 and Texas Government Code, Chapter 1371, as amended (“Chapter 1371”), now desires to issue the Bonds upon the terms and conditions and for the purposes herein provided and to delegate to a Pricing Officer (hereinafter designated) the authority to determine the principal amount of the Bonds to be issued and to negotiate the terms of sale thereof; now therefore,

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY:**

Section 1.1: Definitions. Capitalized terms used herein shall have the meanings provided for them in this Article unless otherwise defined herein or unless the context clearly indicates otherwise: “*Additional Obligations*” means obligations issued in accordance with the terms and conditions provided in Section 4.4 hereof.

“*Administrative Expenses*” means the fees, expenses and indemnification liabilities payable to the Persons to whom fees and expenses incurred in connection with the Obligations and Credit Agreement Obligations issued hereunder are owed, including but not limited to the fees and expenses of the Paying Agent/Registrars, the Credit Providers, the rebate analyst, the remarketing agents, the tender agents, and the broker-dealers, and of which the City is given actual notice at least thirty (30) days prior to the due date thereof.

“*Administrative Expenses Fund*” means the fund by that name established pursuant to Section 6.1(a).

“*Available Revenues*” shall mean the Pledged Revenues and the Available Sales Tax Revenues.

“*Available Sales Tax Revenues*” shall mean tax increment sales tax revenues of the City available to pay debt service on the Bonds and Additional Obligations, subject to annual appropriation of the City.

“*Audit*” shall mean the audited annual financial statements of the City prepared by an independent auditor.

“*Bonds*” shall mean all bonds of the City issued pursuant to authorization granted by this Ordinance, including the Bonds designated in Section 2.3 hereof and any applicable Pricing Certificate.

“*Bond Counsel*” shall mean Norton Rose Fulbright US LLP, or such other firm of nationally recognized bond attorneys experienced in the issuance of bonds and acceptable to the City.

“*Captured Appraised Value*” shall mean, with respect to each Taxing Unit in each year, the total appraised value of real property taxable by the Taxing Unit and located in the Zone for that year less the Tax Increment Base of the Taxing Unit.

“*Chapter 311*” shall mean Chapter 311 of the Texas Tax Code, as amended.

“*Chapter 1371*” means Chapter 1371 of the Texas Government Code, as amended.

“*City*” shall mean the City of McKinney, Texas.

“*City’s Financial Advisor*” means Estrada Hinojosa & Company, Inc.

“*Code*” shall mean the Internal Revenue Code of 1986, as amended, and all applicable Internal Revenue Service Regulations thereunder.

“*Council*” means the City Council of the City of McKinney, Texas.

“*Comptroller*” shall mean the Comptroller of Public Accounts of the State of Texas.

“*Computation Date*” has the meaning stated in Section 1.148-1(b) of the Regulations.

“*Costs of Issuance*” shall mean all charges, costs and expenses of the City incurred in connection with the authorization, issuance, sale and delivery of the Bonds including, but not limited to, legal fees, financial advisory fees, bond insurance premiums, fiscal or escrow agent fees, printing fees, accounting fees, consultant fees, verification fees, travel expenses, rating agency fees, fees of the Paying Agent/Registrar and its counsel and Attorney General fees.

“*County*” shall mean Collin County, Texas.

“*Credit Agreement Obligations*” mean amounts payable by the City under and pursuant to a Credit Agreement other than amounts payable as an Administrative Expense.

“*Credit Provider*” means the issuer or provider of a Credit Agreement.

“*Debt Service Fund*” means the fund established pursuant to Section 6.1

“*Debt Service Reserve Fund*” means the fund established pursuant to Section 6.1

“*Debt Service Reserve Fund Policy*” means any surety bond or insurance policy issued by a provider having a rating in the two highest generic rating categories (i.e., at least “AA-” or the equivalent) in effect at the time of issuance, issued to the City for the

benefit of the Owners of the Obligations to satisfy any part of the Debt Service Reserve Requirement, as provided in Section 1.1 herein.

*“Debt Service Reserve Requirement”* means, with respect to Outstanding Obligations, Maximum Annual Debt Service on the Outstanding Obligations as of the date of issuance; provided, however, that the Debt Service Reserve Requirement shall be recalculated each year on a date determined by the City and as a result of a redemption conducted pursuant to the provisions of a Supplemental Ordinance or the payment of principal due in a given year, the Debt Service Reserve Requirement may be reduced to the amount calculated above; provided, however, that such reduction of the Debt Service Reserve Requirement pursuant to such redemption, shall not reduce the amount on deposit in the Debt Service Reserve Fund below an amount equal to Maximum Annual Debt Service on the Outstanding Obligations.

*“Eligible Investments”* shall mean any investments permitted by the City’s written Investment Policy, as may be amended from time to time, adopted pursuant to the Public Funds Investment Act, Chapter 2256, Texas Government Code, as amended.

*“Governmental Obligations”* means direct obligations of, or obligations the timely payment of the principal of and interest on which are fully and unconditionally guaranteed by, the United States of America, only if such obligations may not be called for redemption prior to maturity.

*“Gross Proceeds”* means any proceeds as defined in Section 1.148-1(b) of the Regulations, and any replacement proceeds as defined in Section 1.148-1(c) of the Regulations, of the Bonds.

*“Interest Payment Date”* shall mean, with respect to the Bonds, the date or dates on which interest on or the principal of each series of Bonds is scheduled to be paid until their respective dates of maturity or prior redemption, such dates being August 15 and February 15, commencing February 15, 2023, or such other dates as specified in the Pricing Certificate.

*“Investment”* has the meaning stated in Section 1.148-1(b) of the Regulations.

*“Issuance Date”* means the date on which the Bonds are first authenticated and delivered to the initial purchaser against payment therefor.

*“Letter of Instructions”* means a written letter of instructions addressed to the Paying Agent/Registrar and signed by an Authorized Officer.

*“Maturity”* when used with respect to any Bond means the date on which the principal of such Bond becomes due and payable as therein provided, whether at the Stated Maturity, by call for redemption, or otherwise.

*“Maximum Annual Debt Service”* means an amount which, at the time of computation, is the maximum amount of Debt Service due on the specified Outstanding Obligations in any future fiscal year.

*“Nonpurpose Investment”* means any investment property, as defined in Section 148(b) of the Code, in which Gross Proceeds of the Bonds are invested and which is not acquired to carry out the governmental purposes of the Bonds.

*“Ordinance”* or *“Bond Ordinance”* shall mean this Ordinance authorizing the issuance of “City Of McKinney, Texas Tax Increment Revenue Bonds, Series 2022 (City of McKinney Tax Increment Reinvestment Zone No. 1)”; providing the terms and conditions of such bonds and resolving other matters incident and relating to the issuance, payment, security and delivery of such bonds; delegating matters relating to the sale and issuance of such bonds to an authorized City official within certain specified parameters; and providing an effective date; and all amendments hereof and supplements hereto.

*“Outstanding”* when used with reference to Bonds, shall mean, as of a particular date, all Bonds theretofore and thereupon delivered except: (a) any Bond canceled by or on behalf of the City at or before such date, (b) any Bond defeased or no longer considered Outstanding pursuant to the provisions of the Ordinance or otherwise defeased as permitted by applicable law, and (c) any such Bond in lieu of or in substitution for which another Bond shall have been delivered pursuant to the Ordinance.

*“Outstanding Obligations”* means any Additional Obligations issued pursuant to an Ordinance that are payable from Available Revenues and secured by a first and senior lien on and pledge of the Pledged Revenues.

*“Owner”* or *“Registered Owner,”* when used with respect to any Bond shall mean the person or entity in whose name such Bond is registered in the Register. Any reference to a particular percentage or proportion of the Owners shall mean the Owners at a particular time of the specified percentage or proportion in aggregate principal amount of all Bonds then Outstanding under the Ordinance.

*“Participant”* means Collin County and any other parties that may from time to time enter into a Participant Agreement with the City.

*“Participant Agreement”* means the agreement by and between the City and Collin County approved by the City by Ordinance No. \_\_\_\_\_, and any other agreement heretofore or from time to time hereafter entered into between the City and a Participant containing provisions with respect to the payment by such Participant of Tax Increments.

*“Paying Agency Agreement”* shall mean that certain Paying Agency Agreement dated as of July 19, 2022, between the City and the Paying Agent/Registrar, substantially in the form attached hereto as Exhibit A.

*“Paying Agent/Registrar”* shall mean U.S. Bank Trust Company, National Association and its successors in that capacity.

*“Payment Certificate”* means the certificate, received by the Paying Agent/Registrar and approved by the City for the payment or reimbursement of invoices relating to the Project Costs as set forth in Exhibit B attached hereto.

*“Person”* means any individual, corporation, partnership, joint venture, association, joint-stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof.

*“Pledged Revenues”* shall mean, during the entire period the Bonds or interest thereon remain unpaid, the Tax Increment produced by a Taxing Unit less property taxes produced from Tax Increments that are by agreement not required by a Taxing Unit to be paid into the Pledged Revenue Fund, moneys on deposit in the Pledged Revenue Fund, and interest earned on moneys deposited therein.

*“Pricing Certificate”* means collectively one or more pricing certificates that set forth the terms of one or more series of the Bonds in accordance with Section 2.4 of this Ordinance and executed by the Pricing Officer, all in accordance with the provisions of Chapter 1371.

*“Pricing Officer”* means the City Manager, Chief Financial Officer or the Director of Finance of the City, each acting in such capacity severally and not jointly.

*“Project Account”* means collectively or individually, one or more Project Accounts created within the Tax Increment Fund pursuant to Section 6.3 of this Ordinance.

*“Project and Financing Plan”* shall mean the final Project and Financing Plan of the Zone adopted by the Zone Board and approved by the City, as amended from time to time.

*“Project Costs”* shall mean all project costs identified in the Project and Financing Plan, as authorized by Chapter 311.

*“Rebate Amount”* has the meaning stated in Section 1.148-1(b) of the Regulations.

*“Record Date”* shall mean the last day of the month immediately preceding any Interest Payment Date as set forth in the applicable Pricing Certificate.

*“Refunding Obligations”* mean one or more series of bonds or other evidences of indebtedness issued by the City for the purpose of (i) refunding Outstanding Obligations or Credit Agreement Obligations or (ii) providing for the payment of amounts described in Section 10.2(b) pertaining to the termination of a Swap Agreement.

*“Regulations”* shall mean any proposed, temporary, or final Income Tax Regulations issued pursuant to Sections 103 and 141 through 150 of the Code, and 103 of the Internal Revenue Code of 1954, which are applicable to the Bonds. Any reference to any specific Regulation shall also mean, as appropriate, any proposed,

temporary or final Income Tax Regulation designed to supplement, amend or replace the specific Regulation referenced.

“*Sales Tax Revenues*” shall mean tax increment sales tax revenues of the city, subject to annual appropriation of the City Council.

“*Stated Maturity*” when used with respect to any Bond means the date specified in such Bond as the fixed date on which the principal of such Bond is due and payable.

“*Subordinate Lien Obligations*” shall any bonds, notes, or other obligations, including contractual obligations incurred by the Zone in accordance with the terms of the Project and Financing Plan, secured in whole or in part by liens on the Pledged Revenues that are junior and subordinate to the lien on the Pledged Revenues securing payment of the Bonds.

“*Supplemental Ordinance*” shall mean any ordinance of the City Council supplementing this ordinance for the purpose of providing the terms and provisions of Subordinate Lien Obligations.

“*Swap Agreement*” means a Credit Agreement with respect to a series of Obligations pursuant to which the City, with the consent of the Credit Provider, if any, for the related series of Obligations, has entered into an interest rate exchange agreement or other interest rate hedge agreement for the purpose of converting in whole or in part the City’s fixed or variable interest rate liability on all or a portion of the Obligations to a fixed or variable rate liability (including converting a variable rate liability to a different variable rate liability). For the purpose of this definition, a counterparty is not qualified unless it holds, on the date of execution of a Swap Agreement, a current rating by at least two of the following three rating agencies: Moody’s Investor Services, Inc., and by S&P Global Ratings, a Division of Standard & Poor’s Financial Services LLC, and by Fitch Ratings, or their respective successors, at least equal to the rating of each such rating agency assigned to the Obligations without reference to any Credit Agreement.

“*Tax Increment*” shall mean, with respect to each Taxing Unit in each year, the amount of property taxes levied and collected by the Taxing Unit for that year on the Captured Appraised Value of real property taxable by the Taxing Unit and located in the Zone.

“*Tax Increment Base*” shall mean the total appraised value of property in the Zone taxable by a Taxing Unit as determined on January 1 of the year in which such property was included in the Zone.

“*Tax Increment Fund*” shall mean the City’s Tax Increment Fund created and maintained for the Zone in accordance with Chapter 311.

“*Tax Increments*” shall mean the aggregate of the Tax Increment from time to time required to be deposited by the City into the Tax Increment Fund pursuant to Chapter 311.

“*Taxing Unit*” shall mean, in addition to the City, a special district or authority (including a junior college district, a hospital district, a navigation district, or other district created by or pursuant to the Texas Water Code), or any other political subdivision of the State of Texas, whether created by or pursuant to the Texas Constitution or a local, special, or general law, that is authorized to impose and is imposing ad valorem taxes on real property in the Zone, even if the governing body of another political unit determines the tax rate for the unit or otherwise governs its affairs.

“*Yield*” of

- (1) any Investment has the meaning set forth in section 1.148-5(b) of the Regulations; and
- (2) the Bonds has the meaning set forth in Section 1.148-4 of the Regulations.

“*Zone*” shall mean Reinvestment Zone Number 1, City of McKinney, Texas as enlarged from time to time.

“*Zone’s Financial Advisor*” means Estrada Hinojosa & Company, Inc.

Section 1.2: Interpretations. All terms defined herein and all pronouns used in this Ordinance shall be deemed to apply equally to singular and plural and to all genders. The titles and headings of the articles and sections of this Ordinance have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof. This Ordinance and all the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to sustain the validity of the Bonds and the validity of the lien on and pledge of the Pledged Revenues to secure the payment of the Bonds.

[END OF ARTICLE I]



## ARTICLE II

### TERMS OF THE BONDS

Section 2.1: Amount, Purpose, Authorization. The Bonds shall be and are hereby authorized to be issued, in one or more series, in the maximum aggregate principal amounts set forth in Section 2.4 hereof. The Bonds are authorized to be issued for the purposes of providing funds for (1) the construction of a new city hall; (2) ~~the construction of a parking garage~~; (3) street construction; (4) utility improvements; (5) a deposit to the Debt Service Reserve Fund; and (6) the Costs of Issuance, including financing costs and professional fees related to the issuance of the Bonds, all as provided in the applicable Pricing Certificate and in accordance with the authority conferred by and in conformity with the Constitution and laws of the State of Texas, including Chapter 311 and Chapter 1371.

Section 2.2: Authorization of Credit Agreements and Credit Agreement Obligations. The execution and delivery of Credit Agreements and the creation of Credit Agreement Obligations relating to a series of Obligations under and pursuant to this Ordinance are hereby authorized. The authorization of a Credit Agreement and Credit Agreement Obligations setting forth the terms and provisions of such Credit Agreement and Credit Agreement Obligations pertaining to a series of Obligations may be authorized pursuant to a Supplemental Ordinance. Each Credit Agreement shall be submitted to the Attorney General of the State of Texas for approval to the extent required by and in accordance with the provisions of Chapter 1371, Texas Government Code. Any Credit Agreement Obligation related to a Credit Agreement executed and delivered pursuant to the authority granted in this Section 2.2 shall be secured by and payable solely as provided in this Ordinance.

Section 2.3: Name, Designation, Date, and Interest Payment Dates. Unless otherwise specified in a Pricing Certificate, the Bonds shall be designated as the "CITY OF MCKINNEY, TEXAS TAX INCREMENT REVENUE BONDS, SERIES 2022 (CITY OF MCKINNEY TAX INCREMENT REINVESTMENT ZONE NO. 1)" Each series of Bonds shall be dated (the "Dated Date") as provided in the applicable Pricing Certificate. The title of the Bonds may be revised by the Pricing Officer as reflected in the applicable Pricing Certificate to reflect, among other things, the sequential number of the series of Bonds being issued and the status of the Bonds as tax-exempt or taxable, as applicable. The Bonds shall bear interest at the rate set forth in the Pricing Certificate from the later of the Issuance Date, or the most recent Interest Payment Date to which interest has been paid or duly provided for, calculated on the basis of a 360-day year of twelve 30-day months, payable, semiannually on each Interest Payment Date, until maturity or earlier redemption.Delegation of Authority to Pricing Officer. (a) As authorized by Chapter 1371, as applicable, each of the City Manager, Chief Financial Officer and Director of Finance of the City (either one of them, a "Pricing Officer") is hereby authorized to act on behalf of the City in selling and delivering the Bonds, in one or more series, and carrying out the other procedures specified in this Ordinance, including determining the aggregate original principal amount of the Bonds,

the Dated Date of the Bonds, any additional or different designation or title by which any series of Bonds shall be known, determining whether the Bonds shall be issued in one or more series and whether such series will be issued as taxable or tax-exempt bonds, the price at which the Bonds will be sold, the manner of sale (negotiated, privately placed or competitively bid), the years in which each series of the Bonds will mature, the principal amount or Maturity Amount to mature in each of such years, the rate of interest to be borne by each such maturity, the Interest Payment Dates, the record date, the compounding dates, the price and terms upon and at which the Bonds shall be subject to redemption prior to maturity at the option of the City, as well as any mandatory sinking fund redemption provisions, the terms of any bond insurance applicable to the Bonds, any amendments or modifications to the continuing disclosure undertaking set forth in Article X hereof, the designation of one or more funds for the payment of the Bonds, and all other matters relating to the issuance, sale, and delivery of the Bonds; all of which shall be specified in one or more applicable Pricing Certificates, provided that:

- (i) the aggregate original principal amount of any Bonds issued hereunder shall not exceed \$16,500,000;
- (ii) the aggregate true interest cost rate for any Bonds issued hereunder shall not exceed 6.00%; and
- (iii) the maximum maturity date for any series of Bonds issued hereunder shall not exceed August 15, 2052.

The execution of the applicable Pricing Certificate shall evidence the sale date of the applicable series of Bonds by the City to the purchasers of such Bonds as identified in the applicable Pricing Certificate (the "Purchasers").

If the Pricing Officer determines that bond insurance results in a net reduction of the City's interest costs associated with one or more series of the Bonds, then the Pricing Officer is authorized, in connection with effecting the sale of the Bonds, to obtain from a municipal bond insurance company (the "Insurer") a municipal bond insurance policy in support of one or more series of the Bonds. To that end, should the Pricing Officer exercise such authority and commit the City to obtain a municipal bond insurance policy, for so long as such policy is in effect, the requirements of the Insurer relating to the issuance of such policies are incorporated by reference into this Ordinance and made a part hereof for all purposes, notwithstanding any other provision of this Ordinance to the contrary. Each Pricing Officer shall have the authority to execute any documents to effect the issuance of such policy by the Insurer.

(b) In establishing the aggregate principal amount of each series of the Bonds, the Pricing Officer shall establish an amount for such series not exceeding the amount authorized in Subsection (a) above, which shall be sufficient in amount to provide for the purposes for which the Bonds are authorized and to pay costs of issuing the Bonds. The delegation made hereby shall expire if not exercised by the Pricing Officer within 180 days of the date of adoption of this Ordinance. The Pricing Officer may exercise such delegation on more than one occasion during such time period.

Section 2.5: Principal Amounts and Interest Rates; Numbers and Denomination.  
The Bonds shall be issued as fully registered obligations, without coupons, and shall be in denominations of \$5,000 or any integral multiple (within a Stated Maturity) thereof, and principal shall become due and payable on a date certain in each of the years and in amounts (the "Stated Maturities") and bear interest at the rate(s) per annum in accordance with the details of the Bonds as set forth in the applicable Pricing Certificate.

The Bonds shall bear interest on the unpaid principal amounts from the date specified in the applicable Pricing Certificate at the rate(s) per annum shown in the Pricing Certificate (calculated on the basis of a 360-day year consisting of twelve 30-day months). Interest on the Bonds shall be payable in each year, on the dates, and commencing on the date, set forth in the applicable Pricing Certificate.

Section 2.6: Execution and Registration of Bonds.

(a) The Bonds shall be signed by the Mayor or Mayor Pro Tem and countersigned by the City Secretary, by their manual, lithographed, or facsimile signatures. Such facsimile signatures on the Bonds shall have the same effect as if each of the Bonds had been signed manually and in person by each of such officers.

(b) If any officer of the City whose manual or facsimile signature shall appear on the Bonds shall cease to be such officer before the authentication of such Bonds or before the delivery of such Bonds, such manual or facsimile signature shall nevertheless be valid and sufficient for all purposes as if such officer had remained in such office.

(c) Except as provided below, no Bonds shall be valid or obligatory for any purpose or be entitled to any security or benefit of this Ordinance unless and until there appears thereon the Paying Agent/Registrar's Authentication Certificate substantially in the form provided herein, duly authenticated by manual execution by an officer or duly authorized signatory of the Paying Agent/Registrar. In lieu of the executed Paying Agent/Registrar's Authentication Certificate described above, the Initial Bond delivered at the Issuance Date shall have attached thereto the Comptroller's Registration Certificate substantially in the form provided herein, manually executed by the Comptroller, or by his duly authorized agent, which certificate shall be evidence that the Initial Bond has been duly approved by the Attorney General of the State of Texas and that it is a valid and binding obligation of the City, and has been registered by the Comptroller.

(d) The Mayor of the City is authorized and directed to submit the Initial Bond, together with the record of the proceedings authorizing the issuance thereof and any and all other necessary orders, certificates, and records, to the Attorney General of Texas for approval. After the Attorney General has approved such Bond, the Mayor of the City shall cause such Bond to be delivered to the Comptroller of Public Accounts of the State of Texas for registration. If requested by the Attorney General or its representatives, or if otherwise deemed necessary to properly evidence the intent of the

City in the adoption of this Ordinance, the Mayor or Mayor Pro Tem of the City may make such ministerial changes in the written text of this Ordinance as such officer determines are consistent with the intent and purposes of this Ordinance, which determination shall be final. Upon registration of the Bond, the Comptroller is authorized and directed to deliver the Bond in accordance with instructions of the Mayor of the City.

(e) On the Issuance Date, the Initial Bond, being a single bond representing the entire principal amount of the Bonds, payable in stated installments and executed by manual or facsimile signature of the Mayor or Mayor Pro Tem and City Secretary, approved by the Attorney General, and registered and manually signed by the Comptroller of Public Accounts, shall be delivered to the Purchaser or its designee. Upon payment for the Initial Bond, the Paying Agent/Registrar shall cancel the Initial Bond and deliver the definitive Bonds to the Purchaser.

Section 2.7: Payment of Principal and Interest. The Paying Agent/Registrar is hereby appointed as the registrar and paying agent for the Bonds. The principal of the Bonds shall be payable, without exchange or collection charges, in any coin or currency of the United States of America which, on the date of payment, is legal tender for the payment of debts due the United States of America, upon their presentation and surrender as they respectively become due and payable, whether at maturity or by prior redemption, at the designated office of the Paying Agent/Registrar. The interest on each Bond shall be payable by check on the Interest Payment Date, mailed by the Paying Agent/Registrar on or before each Interest Payment Date to the Owner of record as of the Record Date, to the address of such Owner as shown on the Register, or by such other method, acceptable to the Paying Agent/Registrar, requested by and at the risk and expense of the Owner. If the date for the payment of principal or interest on any Bond is not a Business Day, then the date for such payment shall be the next succeeding Business Day, and payment on such date shall have the same force and effect as if made on the original date such payment was due.

Section 2.8: Successor Paying Agent/Registrars. The City covenants that at all times while any Bonds are Outstanding it will provide a commercial bank, or trust company or other entity duly qualified and legally authorized to act as Paying Agent/Registrar for the Bonds. The City reserves the right to change the Paying Agent/Registrar for the Bonds on not less than 60 days written notice to the Paying Agent/Registrar, so long as any such notice is effective not less than 60 days prior to the next succeeding principal or interest payment date on the Bonds. Promptly upon the appointment of any successor Paying Agent/Registrar, the previous Paying Agent/Registrar shall deliver the Register or a copy thereof to the new Paying Agent/Registrar, and the new Paying Agent/Registrar shall notify each Owner, by United States mail, first class postage prepaid, of such change and of the address of the new Paying Agent/Registrar. Each Paying Agent/Registrar hereunder, by acting in that capacity, shall be deemed to have agreed to the provisions of this Section. Special Record Date. If interest on any Bond is not paid on any Interest Payment Date and continues unpaid for 30 days thereafter, the Paying Agent/Registrar shall establish a new record date for the payment of such interest, to be known as a "Special Record Date." The Paying Agent/Registrar shall establish a Special Record Date when funds to

make such interest payment are received from or on behalf of the City. Such Special Record Date shall be 15 days prior to the date fixed for payment of such past due interest, and notice of the date of payment and the Special Record Date shall be sent by United States mail, first class, postage prepaid, not later than five days prior to the Special Record Date, to each Owner of record of an affected Bond as of the close of business on the day prior to the mailing of such notice. Ownership; Unclaimed Principal and Interest. Subject to the further provisions of this Section, the City, the Paying Agent/Registrar and any other person may treat the person in whose name any Bond is registered as the absolute Owner of such Bond for the purpose of making and receiving payment of the principal of or interest on such Bond, and for all other purposes, whether or not such Bond is overdue, and neither the City nor the Paying Agent/Registrar shall be bound by any notice or knowledge to the contrary. All payments made to the person deemed to be the Owner of any Bond in accordance with this Section shall be valid and effectual and shall discharge the liability of the City and the Paying Agent/Registrar upon such Bond to the extent of the sums paid. Amounts held by the Paying Agent/Registrar which represent principal of and interest on the Bonds remaining unclaimed by the Owner after the expiration of three years from the date such amounts have become due and payable shall be remitted to the City, except to the extent that they are required by law to be reported and disposed of by the Paying Agent/Registrar in accordance with the applicable provisions of Texas law including, to the extent applicable, Title 6 of the Texas Property Code, as amended.

Section 2.11: Registration, Transfer, and Exchange. So long as any Bonds remain Outstanding, the Paying Agent/Registrar shall keep the Register at its designated office and, subject to such reasonable regulations as it may prescribe, the Paying Agent/Registrar shall provide for the registration and transfer of Bonds in accordance with the terms of this Ordinance. Each Bond shall be transferable only upon the presentation and surrender thereof at the designated office of the Paying Agent/Registrar, duly endorsed for transfer, or accompanied by an assignment duly executed by the Registered Owner or his authorized representative in form satisfactory to the Paying Agent/Registrar. Upon due presentation of any Bond in proper form for transfer, the Paying Agent/Registrar shall authenticate and deliver in exchange therefor, a new Bond or Bonds, registered in the name of the transferee or transferees, in authorized denominations and of the same maturity, aggregate principal amount, and Dated Date, and bearing interest at the same rate as the Bond or Bonds so presented.

All Bonds shall be exchangeable upon presentation and surrender thereof at the designated office of the Paying Agent/Registrar for a Bond or Bonds of the same maturity, Dated Date, and interest rate and in any authorized denomination, in an aggregate amount equal to the unpaid principal amount of the Bond or Bonds presented for exchange. The Paying Agent/Registrar shall be and is hereby authorized to authenticate and deliver exchange Bonds in accordance with the provisions of this Section. Each Bond delivered in accordance with this Section shall be entitled to the benefits and security of this Ordinance to the same extent as the Bond or Bonds in lieu of which such Bond is delivered.

The City or the Paying Agent/Registrar may require the Owner of any Bond to pay a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with the transfer or exchange of such Bond. Any fee or charge of the Paying Agent/Registrar for such transfer or exchange shall be paid by the City.

The Paying Agent/Registrar shall not be required to transfer or exchange any Bonds during the period beginning on a Record Date or a Special Record Date and ending on the next succeeding Interest Payment Date or to transfer or exchange any Bonds called for redemption during the period beginning forty-five (45) days prior to the date fixed for redemption and ending on the date fixed for redemption; provided, however, that this limitation shall not apply to the exchange by the Owner of the unredeemed portion of a Bond called for redemption in part.

Section 2.12: Cancellation of Bonds. All Bonds paid or redeemed in accordance with this Ordinance, and all Bonds in lieu of which exchange Bonds or replacement Bonds are authenticated and delivered in accordance herewith, shall be cancelled upon the making of proper records regarding such payment or redemption and retained in accordance with the Paying Agent/Registrar's document retention policy. Upon request of the City therefore, the Paying Agent/Registrar shall furnish the City with appropriate certificates of cancellation of such Bonds. Mutilated, Lost, or Stolen Bonds. Upon the presentation and surrender to the Paying Agent/Registrar of a mutilated Bond, the Paying Agent/Registrar shall authenticate and deliver in exchange therefor a replacement Bond of like maturity, Dated Date, interest rate and principal amount, bearing a number not contemporaneously Outstanding. The City or the Paying Agent/Registrar may require the Owner of such Bond to pay a sum sufficient to cover any tax or other governmental charge that may be imposed in connection therewith and any other expenses connected therewith, including the fees and expenses of the Paying Agent/Registrar. If any Bond is lost, apparently destroyed, or wrongfully taken, the City, pursuant to the applicable laws of the State of Texas and in the absence of notice or knowledge that such Bond has been acquired by a bona fide purchaser, shall execute and the Paying Agent/Registrar shall authenticate and deliver a replacement Bond of like maturity, Dated Date, interest rate and principal amount, bearing a number not contemporaneously Outstanding, provided that the Owner thereof shall have:

- (1) furnished to the City and the Paying Agent/Registrar satisfactory evidence of the ownership of and the circumstances of the loss, destruction or theft of such Bond;
- (2) furnished such security or indemnity as may be required by the Paying Agent/Registrar and the City to save them harmless;
- (3) paid all expenses and charges in connection therewith, including, but not limited to, printing costs, legal fees, fees of the Paying Agent/Registrar and any tax or other governmental charge that may be imposed; and
- (4) met any other reasonable requirements of the City and the Paying Agent/Registrar.

If, after the delivery of such replacement Bond, a bona fide purchaser of the original Bond in lieu of which such replacement Bond was issued presents for payment such original Bond, the City and the Paying Agent/Registrar shall be entitled to recover such replacement Bond from the person to whom it was delivered or any person taking therefrom, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost or expense incurred by the City or the Paying Agent/Registrar in connection therewith.

If any such mutilated, lost, apparently destroyed or wrongfully taken Bond has become or is about to become due and payable, the City in its discretion may, instead of issuing a replacement Bond, authorize the Paying Agent/Registrar to pay such Bond.

Each replacement Bond delivered in accordance with this Section shall be entitled to the benefits and security of this Ordinance to the same extent as the Bond or Bonds in lieu of which such replacement Bond is delivered.

Section 2.14: Book-Entry-Only Transfers and Transactions. Notwithstanding the provisions contained herein relating to the payment and transfer/exchange of the Bonds, the City hereby approves and authorizes the use of "Book-Entry-Only" securities clearance, settlement and transfer system provided by The Depository Trust Company, a limited purpose trust company organized under the laws of the State of New York ("DTC"), in accordance with the operational arrangements referenced in the Blanket Issuer Letter of Representations by and between the City and DTC (the "Depository Agreement"). In the event the Pricing Officer elects to utilize DTC's "Book-Entry-Only" System, which election shall be made by the Pricing Officer in the applicable Pricing Certificate, pursuant to the Depository Agreement and the rules of DTC, the Bonds shall be deposited with DTC who shall hold such Bonds for its participants (the "DTC Participants"). While the Bonds are held by DTC under the Depository Agreement, the Holder of the Bonds on the Security Register for all purposes, including payment and notices, shall be Cede & Co., as nominee of DTC, notwithstanding the ownership of each actual purchaser or owner of each Bond (the "Beneficial Owners") being recorded in the records of DTC and DTC Participants.

In the event DTC determines to discontinue serving as securities depository for the Bonds or otherwise ceases to provide book-entry clearance and settlement of securities transactions in general, or in the event the City decides to discontinue use of the system of book-entry transfers through DTC, the City covenants and agrees with the Holders of the Bonds to cause Bonds to be printed in definitive form and issued and delivered to DTC Participants and Beneficial Owners, as the case may be. Thereafter, the Bonds in definitive form shall be assigned, transferred and exchanged on the Security Register maintained by the Paying Agent/Registrar and payment of such Bonds shall be made in accordance with the provisions of this Article II.

Section 2.15: Redemption. The Bonds shall be subject to optional and mandatory sinking fund redemption as specified in the applicable Pricing Certificate.

Section 2.16: Limited Obligations. THE BONDS ARE LIMITED OBLIGATIONS OF THE CITY, PAYABLE SOLELY OUT OF THE AVAILABLE REVENUES. THE BONDS ARE NOT A

GENERAL OBLIGATION OF THE CITY AND DO NOT GIVE RISE TO A CHARGE AGAINST THE GENERAL CREDIT OR TAXING POWERS OF THE CITY AND ARE NOT PAYABLE EXCEPT AS PROVIDED IN CHAPTER 311, TEXAS TAX CODE.

Section 2.17: Subordinate Lien Obligations. The City reserves the right to issue, for any lawful purpose, bonds, notes or other obligations secured in whole or in part by liens on the Pledged Revenues that are junior and subordinate to the lien on Pledged Revenues securing payment of the Bonds. Such subordinate lien obligations may be further secured by any other source of payment lawfully available for such purposes.

[END OF ARTICLE II]

DRAFT



**ARTICLE III**

**INITIAL BOND, FORMS AND CERTIFICATES**

Section 3.1: Initial Bond. The Bonds herein authorized shall be initially issued as a single, fully registered Bond in the aggregate principal amount noted and principal installments to become due and payable as provided in the applicable Pricing Certificate and numbered T-1 (hereinafter called the "Initial Bond") and the Initial Bond shall be registered in the name of the initial purchaser(s) or the designee thereof. The Initial Bond shall be the Bond submitted to the Office of the Attorney General of the State of Texas for approval, certified and registered by the Office of the Comptroller and delivered to the initial purchaser(s). Any time after the delivery of the Initial Bond, the Paying Agent/Registrar, pursuant to written instructions from the initial purchaser(s), or the designee thereof, shall cancel the Initial Bond delivered hereunder and exchange therefor definitive Bonds of authorized denominations, Stated Maturities, principal amounts and bearing applicable interest rates for transfer and delivery to the Holders named at the addresses identified therefor; all pursuant to and in accordance with such written instructions from the initial purchaser(s), or the designee thereof, and such other information and documentation as the Paying Agent/Registrar may reasonably require.

Section 3.2: Forms. The form of the Bonds, including the form of the Paying Agent/Registrar's authentication certificate, the form of assignment, and the form of the Comptroller's Registration Certificate for the Bonds to be initially issued, shall be substantially as follows, with such additions, deletions and variations, as may be necessary or desirable and not prohibited by this Ordinance, including any legend regarding bond insurance if such insurance is obtained by the Purchaser:Form of Definitive Bond.

REGISTERED  
NO. R- \_\_\_\_\_

REGISTERED  
\$ \_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF TEXAS  
CITY OF MCKINNEY, TEXAS  
TAX INCREMENT REVENUE BOND  
SERIES 2022

(CITY OF MCKINNEY TAX INCREMENT REINVESTMENT ZONE NO. 1)

INTEREST RATE:

MATURITY DATE:

DATED DATE:

CUSIP NO.:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

REGISTERED OWNER:

PRINCIPAL AMOUNT:

DOLLARS

THE CITY OF MCKINNEY, TEXAS (the "City"), a body politic and municipal corporation duly organized and existing under and by virtue of the laws of the State of Texas, for value received, promises to pay, but solely from certain Pledged Revenues as hereinafter provided, to the Registered Owner identified above or registered assigns, on the Maturity Date specified above the Principal Amount stated above (or so much thereof as shall not have been paid upon prior redemption), and to pay, solely from such Pledged Revenues, interest on the unpaid principal amount hereof from the interest payment date next preceding the "Registration Date" of this Bond appearing below (unless this Bond bears a "Registration Date" as of an interest payment date, in which case it shall bear interest from such date, or unless the "Registration Date" of this Bond is prior to the initial interest payment date, in which case it shall bear interest from \_\_\_\_\_) at the per annum rate of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on \_\_\_\_\_ and \_\_\_\_\_ of each year, commencing \_\_\_\_\_, 20\_\_\_\_, until maturity or prior redemption of this Bond. Principal of this Bond is payable at its Stated Maturity or redemption to the registered owner hereof upon presentation and surrender at the Designated Payment/Transfer Office of the Paying Agent/Registrar executing the registration certificate appearing hereon, or its successor; provided, however, while the Bond is registered to Cede & Co., the payment of principal upon a partial redemption of the principal amount may be accomplished without presentation and surrender of this Bond. Interest is payable to the registered owner of this Bond (or one or more Predecessor Bonds, as defined in the Ordinance hereinafter referenced) whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date", which is the \_\_\_\_\_ day of the month next preceding each interest payment date and interest shall be paid by the Paying Agent/Registrar by check sent United States mail, first-class, postage prepaid, to the address of the registered owner recorded in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due. All payments of principal of, premium, if any, and interest on this Bond shall be without exchange or collection charges to the owner hereof and in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

This Bond is one of the series specified in the title to this Bond (the "Bonds") aggregating \$\_\_\_\_\_ and issued under and pursuant to the authority of Chapter 311, Texas Tax Code, Chapter 1371, Texas Government Code, and all other applicable

laws, and an Ordinance adopted by the City on July 19, 2022 (the "Ordinance") for the purpose of paying (1) the construction of a new city hall; (2) the construction of a parking garage; (3) street construction; (4) utility improvements; (5) a deposit to the Debt Service Reserve Fund; and (6) the Costs of Issuance, including financing costs and professional fees related to the issuance of the Bonds, including financing costs and professional fees related to the issuance of the Bonds.

THE BONDS ARE LIMITED OBLIGATIONS OF THE CITY, PAYABLE SOLELY OUT OF THE AVAILABLE REVENUES. THE BONDS ARE NOT A GENERAL OBLIGATION OF THE CITY AND DO NOT GIVE RISE TO A CHARGE AGAINST THE GENERAL CREDIT OR TAXING POWERS OF THE CITY AND ARE NOT PAYABLE EXCEPT AS PROVIDED IN CHAPTER 311, TEXAS TAX CODE.

The Bonds are payable from the Available Revenues, and are equally and ratably secured by a lien on the Pledged Revenues, which consist of the Tax Increments, moneys on deposit in the Tax Increment Fund, and interest earned on moneys deposited therein.

[The Bonds are subject to mandatory redemption prior to maturity in the following amounts on the following dates ("Mandatory Redemption Dates"), at a price equal to the principal amount redeemed plus accrued interest to each Mandatory Redemption Date, subject to the conditions set forth below:

<u>Mandatory Redemption</u>	<u>Principal Amount</u>
-----------------------------	-------------------------

On or before 30 days prior to each Mandatory Redemption Date set forth above, the Registrar shall (i) determine the principal amount of the Bonds that must be mandatorily redeemed on such Mandatory Redemption Date, (ii) select, by lot or other customary random method, the Bond or portions of the Bond of such maturity to be mandatorily redeemed on such Mandatory Redemption Date, and (iii) give notice of such redemption as provided in the Bond Ordinance.]

[The Bonds having Stated Maturities on and after \_\_\_\_\_, 20\_\_ may be redeemed prior to their Stated Maturities, at the option of the City, in whole or in part, in principal amounts of \$5,000 or any integral multiple thereof (and if within a Stated Maturity by lot by the Paying Agent/Registrar), on \_\_\_\_\_, 20\_\_, or on any date thereafter, at the redemption price of par, together with accrued interest to the date of redemption.

At least thirty (30) days prior to the date fixed for any redemption of Bonds, the City shall cause a written notice of such redemption to be sent by United States Mail, first class postage prepaid, to the registered owners of each Bond to be redeemed at the address shown on the Security Register and subject to the terms and provisions relating thereto contained in the Ordinance. If a Bond (or any portion of its principal sum) shall have been duly called for redemption and notice of such redemption duly

given, then upon such redemption date such Bond (or the portion of its principal sum to be redeemed) shall become due and payable, and interest thereon shall cease to accrue from and after the redemption date; provided moneys for the payment of the redemption price and the interest on the principal amount to be redeemed to the date of redemption are held for the purpose of such payment by the Paying Agent/Registrar.

In the event a portion of the principal amount of a Bond is to be redeemed and the registered owner is someone other than Cede & Co., payment of the redemption price of such principal amount shall be made to the registered owner only upon presentation and surrender of such Bond to the Designated Payment/Transfer Office of the Paying Agent/Registrar, and a new Bond or Bonds of like maturity and interest rate in any authorized denominations provided by the Ordinance for the then unredeemed balance of the principal sum thereof will be issued to the registered owner, without charge. If a Bond is selected for redemption, in whole or in part, the City and the Paying Agent/Registrar shall not be required to transfer such Bond to an assignee of the registered owner within forty-five (45) days of the redemption date; provided, however, such limitation on transferability shall not be applicable to an exchange by the registered owner of the unredeemed balance of a Bond redeemed in part.

With respect to any optional redemption of the Bonds, unless moneys sufficient to pay the principal of and premium, if any, and interest on the Bonds to be redeemed shall have been received by the Paying Agent/Registrar prior to the giving of such notice of redemption, such notice may state that such redemption may, at the option of the City, be conditional upon the receipt of such moneys by the Paying Agent/Registrar on or prior to the date fixed for such redemption, or upon the satisfaction of any prerequisites set forth in such notice of redemption; and, if sufficient moneys are not received, such notice shall be of no force and effect, the City shall not redeem such Bonds and the Paying Agent/Registrar shall give notice, in the manner in which the notice of redemption was given, to the effect that the Bonds have not been redeemed.

This Bond, subject to certain limitations contained in the Ordinance, may be transferred on the Security Register only upon its presentation and surrender at the Designated Payment/Transfer Office of the Paying Agent/Registrar, with the Assignment hereon duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Paying Agent/Registrar duly executed by, the registered owner hereof, or his duly authorized agent. When a transfer on the Security Register occurs, one or more new fully registered Bonds of the same Stated Maturity, of authorized denominations, bearing the same rate of interest, and of the same aggregate principal amount will be issued by the Paying Agent/Registrar to the designated transferee or transferees.

The City and the Paying Agent/Registrar, and any agent of either, shall treat the registered owner whose name appears on the Security Register (i) on the Record Date as the owner entitled to payment of interest hereon, (ii) on the date of surrender of this Bond as the owner entitled to payment of principal hereof at its Stated Maturity or upon its prior redemption, in whole or in part, and (iii) on any other date as the owner for all other purposes, and neither the City nor the Paying Agent/Registrar, or any agent of

either, shall be affected by notice to the contrary. In the event of nonpayment of interest on a scheduled payment date and for thirty (30) days thereafter, a new record date for such interest payment (a "Special Record Date") will be established by the Paying Agent/Registrar, if and when funds for the payment of such interest have been received from the City. Notice of the Special Record Date and of the scheduled payment date of the past due interest (which shall be fifteen (15) days after the Special Record Date) shall be sent at least five (5) business days prior to the Special Record Date by United States Mail, first class postage prepaid, to the address of each registered owner appearing on the Security Register at the close of business on the last business day next preceding the date of mailing of such notice.

THIS BOND shall not be valid or obligatory for any purpose or be entitled to any benefit under the Ordinance unless this Bond is either (i) registered by the Comptroller of Public Accounts of the State of Texas by registration certificate attached or affixed hereto or (ii) authenticated by the Paying Agent/Registrar by due execution of the authentication certificate endorsed hereon.

IT IS HEREBY DECLARED AND REPRESENTED that the Bonds have been duly and validly issued and delivered; that all acts, conditions, and things required or proper to be performed, exist, and be done precedent to or in the issuance and delivery of the Bonds have been performed, existed, and been done in accordance with law; that the Bonds do not exceed any statutory limitation; and that provision has been made for the payment of the principal of and interest on the Bonds by the creation of the aforesaid lien on and pledge of the Pledged Revenues.

IN WITNESS WHEREOF, the City has caused this Bond to be executed by the manual or facsimile signatures of the Mayor and City Secretary.

CITY OF MCKINNEY, TEXAS

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Secretary

(CITY SEAL)

(b) Form of Registration Certificate of Comptroller of Public Accounts.

COMPTROLLER'S REGISTRATION CERTIFICATE:

REGISTER NO. \_\_\_\_\_

I hereby certify that this Bond has been examined, certified as to validity, and approved by the Attorney General of the State of Texas, and that this Bond has been registered by the Comptroller of Public Accounts of the State of Texas.

WITNESS MY SIGNATURE AND SEAL this \_\_\_\_\_.

\_\_\_\_\_

(SEAL)

\_\_\_\_\_  
Comptroller of Public Accounts  
of the State of Texas

(c) Form of Paying Agent/Registrar's Authentication Certificate

**AUTHENTICATION CERTIFICATE**

It is hereby certified that this Bond has been delivered pursuant to the Bond Ordinance described in the text of this Bond, a Predecessor Bond for which has been approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of the State of Texas.

U.S. Bank Trust Company, National  
Association, as Paying Agent

By: \_\_\_\_\_  
Authorized Signatory

Date of Authentication: \_\_\_\_\_

(d) Form of Assignment

Assignment

For value received, the undersigned hereby sells, assigns, and transfers unto

\_\_\_\_\_  
(Please print or type name, address, and zip code of Transferee)

\_\_\_\_\_  
(Please insert Social Security or Taxpayer Identification Number of Transferee)  
the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_

\_\_\_\_\_  
attorney to transfer such Bond on the books kept for registration thereof, with full power of substitution in the premises.

DATED: \_\_\_\_\_

Signature Guaranteed: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Registered Owner

NOTICE: Signature(s) must be guaranteed by an institution which is a participant in the Securities Transfer Agent Medallion Program ("STAMP") or similar program.

NOTICE: The signature above must correspond to the name of the Registered Owner as shown on the face of this Bond in every particular, without any alteration, enlargement or change whatsoever.

(e) The Initial Bond shall be in the form set forth in paragraph (a) of this Section, except that the heading and first paragraph shall be modified as follows:

REGISTERED  
NO. R- \_\_\_\_\_

REGISTERED  
\$ \_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF TEXAS  
CITY OF MCKINNEY, TEXAS  
TAX INCREMENT REVENUE BOND  
SERIES 2022

(CITY OF MCKINNEY TAX INCREMENT REINVESTMENT ZONE NO. 1)

DATED DATE:  
\_\_\_\_\_, 2022

ISSUANCE DATE:  
\_\_\_\_\_, 2022



REGISTERED OWNER:

PRINCIPAL AMOUNT: \_\_\_\_\_ DOLLARS

THE CITY OF MCKINNEY, TEXAS (the "City"), a body politic and municipal corporation duly organized and existing under and by virtue of the laws of the State of Texas, for value received, promises to pay, but solely from certain Pledged Revenues as hereinafter provided, to the Registered Owner identified above or registered assigns, the above stated Principal Amount on \_\_\_\_\_ in each of the years and in principal installments in accordance with the following schedule:

<u>YEAR</u>	<u>PRINCIPAL INSTALLMENT (\$)</u>	<u>INTEREST RATE (%)</u>
-------------	---------------------------------------	------------------------------

(Information to be inserted from the applicable Pricing Certificate).

(or so much thereof as shall not have been redeemed prior to maturity) and to pay, solely from such Pledged Revenues, interest on the unpaid Principal Amount from the interest payment date next preceding the "Registration Date" of this Bond appearing below (unless this Bond bears a "Registration Date" as of an interest payment date, in which case it shall bear interest from such date, or unless the "Registration Date" of this Bond is prior to the initial interest payment date, in which case it shall bear interest from the \_\_\_\_\_) at the per annum rate(s) of interest specified above computed on the basis of a 360-day year of twelve 30-day months; such interest being payable on \_\_\_\_\_ and \_\_\_\_\_ of each year, commencing \_\_\_\_\_, 20\_\_\_\_, until maturity or prior redemption of this Bond. Principal installments of this Bond are payable at the year of maturity or on a redemption date to the registered owner hereof by \_\_\_\_\_, \_\_\_\_\_, Texas (the "Paying Agent/Registrar"), upon presentation and surrender at its designated offices in \_\_\_\_\_, \_\_\_\_\_, or, with respect to a successor paying agent/registrar, at the designated office of such successor (the "Designated Payment/Transfer Office"). Interest is payable to the registered owner of this Bond whose name appears on the "Security Register" maintained by the Paying Agent/Registrar at the close of business on the "Record Date", which is the \_\_\_\_\_ day of the month next preceding each interest payment date hereof and interest shall be paid by the Paying Agent/Registrar by check sent United States mail, first-class, postage prepaid, to the address of the registered owner recorded in the Security Register or by such other method, acceptable to the Paying Agent/Registrar, requested by, and at the risk and expense of, the registered owner. If the date for the payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, a legal holiday, or a day when banking institutions in the city where the Designated Payment/Transfer Office of the Paying Agent/Registrar is located are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not such a Saturday, Sunday, legal holiday, or day when banking institutions are authorized to close; and payment on such date shall have the same force and effect as if made on the original date payment was due. All payments of principal of, premium, if any, and interest on this Bond shall be without exchange or collection charges to the owner hereof and in any coin or currency of the

United States of America which at the time of payment is legal tender for the payment of public and private debts.

Section 3.3: CUSIP Registration. The City may secure identification numbers through the CUSIP Service Bureau Division of Standard & Poor's Corporation, New York, New York, and may authorize the printing of such numbers on the face of the Bonds. It is expressly provided, however, that the presence or absence of CUSIP numbers on the Bonds shall be of no significance or effect as regards the legality thereof and neither the City nor the attorneys approving such Bonds as to legality are to be held responsible for CUSIP numbers incorrectly printed on the Bonds.

Section 3.4: Legal Opinion. The approving legal opinion of Bond Counsel, may be attached to or printed on each Bond over the certification of the City Secretary, which certification may be executed in facsimile.

Section 3.5: Bond Insurance. A statement relating to a municipal bond insurance policy, if any, to be issued for the Bonds may be printed on or attached to each Bond.

[END OF ARTICLE III]

## ARTICLE IV

### COVENANTS OF THE CITY

Section 4.1: Payment of Bonds and Performance of Obligations. The City covenants to promptly pay or cause to be paid the principal of, redemption premium, if any, and interest on the Bonds as the same become due and payable, whether at maturity or by prior redemption, in accordance with the terms of the Bonds and the Bond Ordinance; to pay when due all fees, charges and other amounts due to the Paying Agent/Registrar for the discharge of their duties hereunder; and to faithfully keep and perform all of its covenants, undertakings and agreements contained in this Bond Ordinance and the Bonds; provided, however, the City has no obligation to provide payment from funds other than the Pledged Revenues. Title to Pledged Revenues. The City covenants that it has good and indefeasible title to the Tax Increments, subject only to the assignments and pledges contained herein. So long as any Bonds remain Outstanding, except as permitted by this Ordinance, the City covenants not to sell, transfer, assign, pledge, encumber, mortgage or otherwise dispose of, directly or indirectly, by merger or otherwise, or cause or suffer same, or create or allow to accrue or exist any lien upon, all or any part of its interest in the Pledged Revenues or any portion thereof. Pledged Revenues Not Encumbered. The City hereby pledges the Pledged Revenues to payment of the Bonds on an equal and ratable basis. The Pledged Revenues consist of the Tax Increments, moneys on deposit in the Tax Increment Fund, and interest earned on moneys deposited therein. The Pledged Revenues are not in any manner pledged to the payment of any debt or obligation of the City other than the Bonds; provided, however, the lien on, pledge of, and rights in and to the Tax Increments established, made, and granted in this Section is subject to the rights, if any, of the holders of bonds or other obligations that have been heretofore or are hereafter issued by a Participant that are payable from and secured by a general levy of ad valorem taxes throughout the taxing jurisdiction of the Participant. The City covenants that it will not in any manner pledge or further encumber the Pledged Revenues unless such pledge or encumbrance is junior and subordinate to the lien and pledge hereunder securing the Bonds.

Section 4.4: Issuance of Additional Obligations. The City hereby expressly reserves the right to hereafter issue Additional Obligations payable, in whole or in part, from the Pledged Revenues for the purposes set forth in the Project Plan and Financing Plan, as it may be amended from time to time and, to the extent provided, secured by a lien on and pledge of the Pledged Revenues of equal rank and dignity with the lien and pledge securing the payment of the Bonds. Prior to issuing Additional Obligations, the following conditions must be met: The City is not then in default as to any covenant, condition or obligation prescribed by any Ordinance authorizing the issuance of Outstanding Obligations or such Additional Obligations; and

- ii. The Director of Finance of the City has executed a certification that (A) the Available Revenues for either the completed fiscal year next preceding the date of issuance of the Additional Obligations or (B) the Property Tax

Increments billed (but not yet received) by the City to the Participants on the billing date that is immediately prior to the date of issuance of the Additional Obligations plus Available Sales Tax Revenues for any 12 consecutive months out of the previous 15 months, is equal to at least 1.35 times the Maximum Annual Debt Service (calculated on a fiscal year basis and net of capitalized interest to be used in that year, if any) of all Obligations which will be outstanding after the issuance of the proposed Additional Obligations.

Additional Subordinate Lien Obligations may be issued pursuant to the terms and conditions set forth in a Supplemental Ordinance authorizing Subordinate Lien Obligations.

The City reserves the right to issue Refunding Obligations under the Ordinance for the purpose of refunding Outstanding Obligations (of the same or lower priority) or related outstanding Credit Agreement Obligations in principal amount, after giving effect to any premiums received on the sale thereof, sufficient to provide for the payment thereof. Each series of Refunding Obligations shall be authorized and issued pursuant to a Supplemental Ordinance which shall prescribe the terms of such Refunding Obligations and the security therefor. Refunding Obligations shall not be subject to the provisions above if they produce a net present value savings or reduce the Maximum Annual Debt Service. The City may issue Refunding Obligations secured under the Ordinance for the purpose of obtaining funds to pay a Termination Payment due to the counterparty to a Swap Agreement in connection with the termination thereof. The lien of the Ordinance and payment of Refunding Obligations issued pursuant to this subparagraph (b) shall be subordinate to the lien and payment of Obligations or Credit Agreement Obligations issued under the Ordinance for any purpose specified in the Ordinance.

Section 4.5: Collection of Tax Increments. Subject to the provisions of applicable law, the City covenants and agrees to use its best efforts to cause each Participant to pay to the City, when due, all Tax Increments to provide for the payment of principal of and interest on the Bonds.Amendment of Participant Agreements. The City covenants not to cause any amendment of the Participant Agreements that will in any manner materially impair the rights of the Owners of the Bonds.Termination of Zone. To the extent permitted by law, the City covenants that it will not terminate the Zone earlier than the date of termination set forth in the ordinance creating the Zone if amounts remain outstanding under the Development and Financing Agreement that have not been paid or Bonds are Outstanding.Audit. The City agrees to provide annually to the Initial Purchaser (as defined herein) a copy of its audited financial statements within 180 days of the City's fiscal year end for so long as any of the Bonds are outstanding.

[END OF ARTICLE IV]

## ARTICLE V

### **THE ZONE BOARD**

Section 5.1: Delegation of Authority. To the fullest extent permitted by law, the City hereby delegates to the Zone Board the duty and authority to periodically review the funds held in the Tax Increment Fund to determine that they are being properly applied, to provide investment instructions to the Paying Agent/Registrar consistent with the City's investment policy, to work with the Collin County Appraisal District to make sure all property in the Zone is properly coded into the Zone, to correspond with City and County representatives regarding calculation and collection of Tax Increment payments, to retain a qualified entity to make arbitrage rebate calculations and to take such actions as are necessary to insure compliance with the covenants regarding the tax exemption for the Bonds.

Section 5.2: Performance of Duties. The Zone Board covenants to perform all the duties of the Zone or Zone Board stated in this Ordinance promptly and diligently.

[END OF ARTICLE V]

## ARTICLE VI

### FUNDS

Section 6.1: Creation of Funds. (a) The following Funds and accounts are hereby established:

- (i) Debt Service Fund
- (ii) Debt Service Reserve Fund
- (iii) Administrative Expenses Fund
- (iv) Pledged Revenue Fund
- (v) Surplus Fund

Section 6.2: Pledged Revenue Fund. Five (5) business days of receipt thereof, all Property Tax Increments received from the Participants shall be deposited, transferred and credited as pledged to the Pledged Revenue Fund. As Sales Taxes are received from the Comptroller, estimated Sales Tax Increments are deposited with a City depository. The City shall continue to maintain a Tax Increment Fund within a City depository into which Tax Increments shall be deposited upon receipt. Money deposited in the Pledged Revenue Fund and together with the Available Sales Tax Revenues shall be applied in the following manner and order of priority: First, to the Debt Service Fund, amounts necessary to make the amounts on deposit in the Debt Service Fund equal to the Debt Service due and payable with respect to the Bonds, any Additional Obligations, and the related Credit Agreement Obligations, as applicable, for the next Bond Year;

- (2) Second, to the Debt Service Reserve Fund, the amount required to cause the amount on deposit in the Debt Service Reserve Fund to be equal to the Debt Service Reserve Requirement, plus any amount required to restore or replenish any deficiencies in the Debt Service Reserve Fund to the Debt Service Reserve Requirement is on deposit therein when, as and in the amounts therein required;
- (3) Third, to the Administrative Expenses Fund, an amount necessary to pay Administrative Expenses of which the City has actual notice;
- (4) Fourth, to any funds and accounts established pursuant to a Supplemental Ordinance, for the benefit of Subordinate Lien Obligations;

Thereafter, until the following years Property Tax Increments are received, the City may use any remaining Available Revenues for any lawful purpose under Chapter 311.

Section 6.3: Project Account. There is hereby created for the Bonds, within the Tax Increment Fund, one or more project accounts (each, a "Project Account"). The name of each Project Account shall conform to the designated name of the applicable series of Bonds as determined in the applicable Pricing Certificate. Each Project Account shall be applied to pay costs in connection with the purposes for which the Bonds are being issued in accordance with this Ordinance. All interest earned on funds on deposit in a Project Account shall be available at the direction of the City to be maintained in the applicable Project Account to pay Project Costs or to be transferred to the Tax Increment Fund for the payment of principal of and interest on the Bonds next coming due, provided that once interest earnings have been transferred and deposited in such Tax Increment Fund, such interest earnings shall accrue therein for the benefit of the Owners of the Bonds.

Notwithstanding anything to the contrary herein, if it is determined at any time that the aggregate of all funds on deposit in the applicable Project Account exceeds the unexpended portion of costs to be paid in connection with the purposes for which the Bonds are being issued, then the City may transfer any additional interest earned on amounts in such Project Account to the Tax Increment Fund for application to the next payment coming due on the Bonds, provided that the amount so transferred shall not exceed the amount of such payment next coming due.

Section 6.4: Debt Service Reserve Fund. Moneys on deposit in the Debt Service Reserve Fund, shall be used solely and exclusively for the purposes of making transfers to the Debt Service Fund in the event that the moneys on deposit in said fund are not sufficient to pay Debt Service on the Bonds and any Additional Obligations when due, or to make payments to Credit Providers for the payment of Credit Agreement Obligations, on the dates and in the full amounts required by the Ordinance, by any Supplemental Ordinance, or by any Credit Agreement.

In lieu of funding the Debt Service Reserve Fund, from the proceeds of Obligations or with Available Revenues to the amount of the Debt Service Reserve Requirement pursuant to a Letter of Instructions, the City shall accept a Debt Service Reserve Fund Policy providing amounts up to the Debt Service Reserve Requirement. Such Debt Service Reserve Fund Policy must provide for the payment of the principal of and interest on the Bonds or any Additional Obligations when due, and in order to avoid a default thereof, up to an amount equal to the Debt Service Reserve Requirement to the extent cash and investment in the respective subaccounts of the Debt Service Reserve Fund do not equal such Debt Service Reserve Requirement. The total dollar amount of the Debt Service Reserve Fund Policy with respect to the payment of the Bonds or any Additional Obligations shall be deemed for all purposes of the Ordinance to satisfy a corresponding amount of the Debt Service Reserve Requirement. A determination by the City that the terms and provisions of a particular Debt Service

Reserve Fund Policy is in compliance with the requirements of this subsection shall be conclusive absent manifest error. To the extent Debt Service Reserve Fund Policies are entered into, the City shall pay, pursuant to a Letter of Instructions, the costs thereof from amounts that would otherwise be deposited to the Debt Service Reserve Fund. A Debt Service Reserve Fund Policy entered into for the purpose of providing all or a part of the amount equal to the Debt Service Reserve Requirement shall constitute a Credit Agreement under the Ordinance.

If, at any time, a transfer is required from the Debt Service Reserve Fund for the purposes stated above, the City shall make such transfer on the dates on which transfers are required to be made to the Paying Agent/Registrar under the Ordinance or a Supplemental Ordinance; provided, that cash and investments on deposit in the Debt Service Reserve Fund shall be applied for such purposes prior to making demand under a Credit Agreement for such purpose.

Amounts on deposit in the Debt Service Reserve Fund shall be calculated by the City as of September 1 in each fiscal year and upon the redemption of Outstanding Obligations pursuant to the provisions of a Supplemental Ordinance. After such calculations, any funds on deposit in the Debt Service Reserve Fund in excess of the Debt Service Reserve Requirement shall be transferred to the Pledged Revenue Fund for further deposits pursuant to; provided, however, that no transfers from the Debt Service Reserve Fund shall be made pursuant to this section that would reduce the amount on deposit in the Debt Service Reserve Fund to an amount that is less than the Maximum Annual Debt Service on the Outstanding Obligations.

Should the Debt Service Fund or any other fund or account contain less than the amount required to be on deposit in the accounts therein, then any such deficiency shall be restored from the first available Available Revenues pursuant to the priority set forth in the Ordinance and further transfers to any other accounts shall be suspended until such deficiency has been restored. If such amounts are insufficient to cure any deficiencies, amounts on deposit in the Surplus Fund, for which notice has not been given with respect to the redemption of Obligations, shall be transferred to the Debt Service Fund to restore any such deficiency.

Section 6.5: Release of Funds for Project Costs. The money and securities in the Project Fund shall be held by the City and applied as provided herein and until such application, the money and securities in such fund shall be subject to a lien and charge in favor of the Owners of the Bonds.

The City is authorized and directed to make disbursements from the Project Fund and to issue its checks therefor or otherwise pay upon receipt of a Payment Certificate in accordance with the Ordinance. The City shall keep and maintain adequate records pertaining to the Project Fund and all disbursements therefrom. The City shall use money in the Project Fund solely to pay or reimburse Project Costs allowable in the Project and Financing Plan including the repayment of any advances, loans, notes or other obligations used to finance Project Costs.



[END OF ARTICLE VI]

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## ARTICLE VII

### **PROVISIONS CONCERNING SALE**

Section 7.1: Sale. The Bonds authorized by this Ordinance are to be sold by the City to the Purchasers in accordance with one or more purchase agreements (each, a "Purchase Contract"), the terms and provisions of which Purchase Contract are to be determined by the Pricing Officer, in accordance with Section 2.4 hereof. With regard to such terms and provisions of the Purchase Contract, the Pricing Officer is hereby authorized to come to an agreement with the Purchasers on the following, among other matters:

- (1) The details of the purchase and sale of the Bonds;
- (2) The details of the public offering of the Bonds by the Purchasers;
- (3) The details of an Official Statement (and, if appropriate, any Preliminary Official Statement) relating to the Bonds and the City's Rule 15c2-12 compliance;
- (4) A security deposit for the Bonds;
- (5) The representations and warranties of the City to the Purchasers;
- (6) The details of the delivery of, and payment for, the Bonds;
- (7) The Purchasers' obligations under the Purchase Contract;
- (8) The certain conditions to the obligations of the City under the Purchase Contract;
- (9) Termination of the Purchase Contract;
- (10) Particular covenants of the City;
- (11) The survival of representations made in the Purchase Contract;
- (12) The payment of any expenses relating to the Purchase Contract;
- (13) Notices; and
- (14) Any and all such other details that are found by the Pricing Officer to be necessary and advisable for the purchase and sale of the Bonds.

The Pricing Officer is hereby authorized and directed to execute the Purchase Contract for and on behalf of the City and as the act and deed of this Council.

The Pricing Officer or the Mayor and City Secretary of the City are further authorized and directed to manually or electronically execute and deliver for and on behalf of the City copies of a Preliminary Official Statement and Official Statement, prepared in connection with the offering of the Bonds by the Purchasers, in final form as may be required by the Purchasers, and such final Official Statement in the form and content as approved by the Pricing Officer or as manually or electronically executed by such officials shall be deemed to be approved by the Council of the City and constitute the Official Statement authorized for distribution and use by the Purchasers.

Section 7.2: Application of Proceeds. Immediately following the delivery of the Bonds, the proceeds of sale (less those proceeds of sale designated to pay costs of issuance, amounts to pay municipal bond insurance premium, if any, any accrued interest received from the Purchasers of the Bonds) shall be deposited in the Project Account of the Tax Increment Fund to be applied as provided in the Pricing Certificate. The proceeds of sale of the Bonds not so deposited shall be disbursed from the Project Account of the Tax Increment Fund for payment of costs of issuance, or disbursed for the payment of municipal bond insurance premium, if any, all in accordance with the terms of the Pricing Certificate. Accrued interest and premium in the amount, if any, specified in the Pricing Certificate received from the sale of the Bonds shall be deposited to the credit of the Tax Increment Fund. Such proceeds of sale may be invested in authorized investments and any investment earnings realized may be (with respect to the accrued interest received from the Purchasers) deposited in the Tax Increment Fund as shall be determined by the Council of the City.

Pending expenditure for authorized projects and purposes, such proceeds of sale deposited to the Tax Increment Fund may be invested in authorized investments in accordance with the provisions of Texas Government Code, Chapter 2256, as amended, including guaranteed investment contracts permitted in Texas Government Code, Section 2256.015, et seq., and any investment earnings realized may be expended for such authorized projects and purposes or deposited in the Tax Increment Fund as shall be determined by the Council. Any excess bond proceeds, including investment earnings, remaining after completion of all authorized projects or purposes shall be deposited to the credit of the Tax Increment Fund. Costs of Issuance. The City approves the engagement of bond counsel and financial advisor for this transaction and their fees and expenses as Costs of Issuance in connection with the Bonds.

[END OF ARTICLE VII]

## ARTICLE VIII

### **COVENANTS TO MAINTAIN TAX EXEMPT STATUS**

This Article VIII applies with respect to each series of Bonds issued on a tax-exempt basis.

Section 8.1: Not to Cause Interest to Become Taxable. The City shall not use, permit the use of, or omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with Gross Proceeds) in a manner which if made or omitted would cause the interest on any Bond to become includable in the gross income, as defined in Section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the City receives a written opinion of counsel nationally recognized in the field of municipal bond law to the effect that failure to comply with such covenant will not adversely affect the exemption from federal income tax of the interest on any Bond, the City shall comply with each of the specific covenants in this Article. No Private Use or Private Payments. Except as permitted by Section 141 of the Code and the Regulations and rulings thereunder, the City shall at all times prior to the last Stated Maturity of Bonds: (1) exclusively own, operate and possess all property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with Gross Proceeds of the Bonds, and not use or permit the use of such Gross Proceeds (including all contractual arrangements with terms different than those applicable to the general public) or any property acquired, constructed or improved with such Gross Proceeds in any activity carried on by any person or entity (including the United States or any agency, department and instrumentality thereof) other than a state or local government, unless such use is solely as a member of the general public; and

(2) not directly or indirectly impose or accept any charge or other payment by any person or entity who is treated as using Gross Proceeds of the Bonds or any property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with such Gross Proceeds, other than taxes of general application within the City or interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.

Section 8.3: No Private Loan. Except to the extent permitted by Section 141 of the Code and the Regulations and rulings thereunder, the City shall not use Gross Proceeds of the Bonds to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, such Gross Proceeds are considered to be "loaned" to a person or entity if: (1) property acquired, constructed or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes; (2) capacity in or service from such property is committed to such person or entity under a take or pay, output or similar contract or arrangement; or (3) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or any property acquired, constructed or

improved with such Gross Proceeds are otherwise transferred in a transaction which is the economic equivalent of a loan. Not to Invest at Higher Yield. Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the City shall not at any time prior to the final Stated Maturity of the Bonds directly or indirectly invest Gross Proceeds in any Investment (or use Gross Proceeds to replace money so invested), if as a result of such investment the Yield from the Issuance Date of all Investments acquired with Gross Proceeds (or with money replaced thereby), whether then held or previously disposed of, exceeds the Yield of the Bonds. Not Federally Guaranteed. Except to the extent permitted by Section 149(b) of the Code and the Regulations and rulings thereunder, the City shall not take or omit to take any action which would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Code and the Regulations and rulings thereunder. Information Report. The City shall timely file the information required by Section 149(e) of the Code with the Secretary of the Treasury on Form 8038-G or such other form and in such place as the Secretary may prescribe. Payment of Rebate Amount. Except to the extent otherwise provided in Section 148(f) of the Code and the regulations and rulings thereunder: The City shall account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of accounting for at least six years after the day on which the last outstanding Bond is discharged. However, to the extent permitted by law, the City may commingle Gross Proceeds of the Bonds with other money of the City, provided that the City separately accounts for each receipt and expenditure of Gross Proceeds and the obligations acquired therewith.

- (2) Not less frequently than each Computation Date, the City shall calculate the Rebate Amount in accordance with rules set forth in Section 148(f) of the Code and the Regulations and rulings thereunder. The City shall maintain such calculations with its official transcript of proceedings relating to the issuance of the Bonds until six years after the final Computation Date.
- (3) As additional consideration for the purchase of the Bonds by the Purchasers and the loan of the money represented thereby and in order to induce such purchase by measures designed to insure the excludability of the interest thereon from the gross income of the owners thereof for federal income tax purposes, the City shall pay to the United States out of the Tax Increment Fund or its general fund, as permitted by applicable Texas statute, regulation or opinion of the Attorney General of the State of Texas, the amount that when added to the future value of previous rebate payments made for the Bonds equals (i) in the case of a Final Computation Date as defined in Section 1.148-3(e)(2) of the Regulations, one hundred percent (100%) of the Rebate Amount on such date; and (ii) in the case of any other Computation Date, ninety percent (90%) of the

Rebate Amount on such date. In all cases, the rebate payments shall be made at the times, in the installments, to the place, and in the manner as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder, and shall be accompanied by Form 8038-T or such other forms and information as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder.

- (4) The City shall exercise reasonable diligence to assure that no errors are made in the calculations and payments required by paragraphs (2) and (3), and if an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter (and in all events within one hundred eighty (180) days after discovery of the error), including payment to the United States of any additional Rebate Amount owed to it, interest thereon, and any penalty imposed under Section 1.148-3(h) of the Regulations.

Section 8.8: Not to Divert Arbitrage Profits. Except to the extent permitted by Section 148 of the Code and the Regulations and rulings thereunder, the City shall not, at any time prior to the earlier of the Stated Maturity or final payment of the Bonds, enter into any transaction that reduces the amount required to be paid to the United States pursuant to Section 8.7 of this Article because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the Yield of the Bonds not been relevant to either party. Elections. The City hereby directs and authorizes the Mayor, Mayor Pro Tem, City Manager, Chief Financial Officer, and Director of Finance, individually or jointly, to make elections permitted or required pursuant to the provisions of the Code or the Regulations, as they deem necessary or appropriate in connection with the Bonds, in the Certificate as to Tax Exemption or similar or other appropriate certificate, form, or document.

[END OF ARTICLE VIII]

## ARTICLE IX

### DEFEASANCE

Section 9.1: Discharge of Obligations. Any Bond shall be deemed to be paid and shall no longer be considered to be a Bond within the meaning of this Ordinance when payment of the principal of and interest on such Bond to the Stated Maturity thereof or (if notice of redemption shall have been duly given, irrevocably provided for, or waived as provided herein) to the Redemption Date shall have been made or shall have been provided for by deposit with the Paying Agent for such payment (or with any other bank or trust company which has agreed to hold the same for such purpose) (1) money sufficient to make such payment, (2) Governmental Obligations certified by an independent public accounting firm of national reputation or other qualified third party to be of such maturities and interest payment dates and to bear such interest as will, without further investment or reinvestment of either the principal amount thereof or the interest earnings therefrom, be sufficient to make such payment, or (3) a combination of money and Governmental Obligations together so certified sufficient to make such payment, *provided* that all the expenses pertaining to the Bonds with respect to which such deposit is made shall have been paid or the payment thereof provided for to the satisfaction of the Paying Agent (and to such other bank or trust company). Partial Defeasance. If such deposit is made for some but not all of the Bonds then Outstanding, the City shall designate the Stated Maturities of Bonds for which such deposit is made. If such deposit shall be sufficient to provide for the payment of the principal of and interest on some but not all Outstanding Bonds of a particular Stated Maturity so designated, the Paying Agent/Registrar shall treat such Bonds as representing the number of Bonds Outstanding, which is obtained by dividing the principal amount of such Bonds by \$5,000, and shall select by lot the Bonds to be redeemed within such Stated Maturity. Default. Notwithstanding anything herein to the contrary, no such deposit shall have the effect described in this Section if made during the subsistence of a default in the payment of any Bond unless made with respect to all of the Bonds then Outstanding. Investments. Any money and Governmental Obligations deposited for such purpose shall be held by the Paying Agent/Registrar (or other bank or trust company) with which such deposit is made in a segregated account in trust or escrow for the Owners of the Bonds with respect to which such deposit is made and, together with any investment income therefrom, shall be disbursed solely to pay the principal of and interest on such Bonds when due, *except* that cash receipts may be withdrawn and paid to the City provided the date and amount of such withdrawals are taken into account in the most recent verification of the accounting firm referred to in this Section. No money or Governmental Obligations so deposited shall be invested or reinvested unless in Governmental Obligations and unless such money and Governmental Obligations not invested and such new investments are together certified by an independent public accounting firm of national reputation to be of such amounts, maturities, and interest payment dates and to bear such interest as will, without further investment or reinvestment of either the principal amount thereof or the

interest earnings therefrom, be sufficient to make such payment. No Longer Outstanding. At such times as a Bond are deemed to be paid hereunder, as aforesaid, it shall no longer be entitled to the benefits of this Ordinance, except for the purposes of any such payment from such money or Governmental Obligations, and for the transfer, exchange, and replacement of Bonds and the covenants of the City contained in Article IX.

[END OF ARTICLE IX]

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## ARTICLE X

### **CONTINUING DISCLOSURE UNDERTAKING**

Section 10.1: Definitions. As used in this Article, the following terms have the meanings ascribed to such terms below:

“*Financial Obligation*” means a (a) debt obligation; (b) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (c) guarantee of a debt obligation or any such derivative instrument; provided that “financial obligation” shall not include municipal securities as to which a final official statement (as defined in the Rule) has been provided to the MSRB consistent with the Rule.

“*MSRB*” means the Municipal Securities Rulemaking Board.

“*Rule*” means SEC Rule 15c2 12, as amended from time to time.

“*SEC*” means the United States Securities and Exchange Commission.

Section 10.2: Annual Reports.

The City shall provide annually to the MSRB (1) within six months after the end of each fiscal year, financial information and operating data as described in the Pricing Certificate, and (2) if not provided as part of such financial information and operating data, audited financial statements of the City, within 12 months after the end of each fiscal year, when and if available (beginning with the fiscal year stated in the Pricing Certificate). Any financial statements to be provided shall be (1) prepared in accordance with the accounting principles described in the Pricing Certificate, or such other accounting principles as the City may be required to employ from time to time pursuant to state law or regulation and (2) audited, if the City commissions an audit of such statements and the audit is completed within the period during which they must be provided.

If the City changes its fiscal year, it will notify the MSRB of the change (and of the date of the new fiscal year end) prior to the next date by which the City otherwise would be required to provide financial information and operating data pursuant to this Section.

The financial information and operating data to be provided pursuant to this Section may be set forth in full in one or more documents or may be included by specific reference to any document available to the public on the MSRB’s Internet Web site or filed with the SEC.

Section 10.3: Notice of Certain Events.

The City shall provide notice of any of the following events with respect to the Bonds to the MSRB, in a timely manner and not more than ten (10) business days after the occurrence of the event:

1. Principal and interest payment delinquencies;
2. Non-payment related defaults, if material;
3. Unscheduled draws on debt service reserves reflecting financial difficulties;
4. Unscheduled draws on credit enhancements reflecting financial difficulties;
5. Substitution of credit or liquidity providers, or their failure to perform;
6. Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB), or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
7. Modifications to rights of holders of the Bonds, if material;
8. Bond calls, if material, and tender offers;
9. Defeasances;
10. Release, substitution, or sale of property securing repayment of the Bonds, if material; and
11. Rating changes.
12. Bankruptcy, insolvency, receivership, or similar event of the City, which shall occur as described below;
13. The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of its assets, other than in the ordinary course of business, the entry into of a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;
14. Appointment of a successor or additional trustee or the change of name of a trustee, if material;
15. Incurrence of a Financial Obligation of the City, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the City, any of which affect security holders, if material; and
16. Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the City, any of which reflect financial difficulties.

For these purposes, (a) any event described in the immediately preceding item 12 is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent, or similar officer for the City in a proceeding under the United States Bankruptcy Code or in any other proceeding under state or federal law in which a

court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the City, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement, or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the City and (b) the City intends the words used in the immediately preceding items 15 and 16 in this Section to have the meanings ascribed to them in SEC Release No. 34-83885, dated August 20, 2018.

The City shall notify the MSRB, in a timely manner, of any failure by the City to provide financial information or operating data in accordance with subsection (b) of this Section by the time required by such Section.

Section 10.4: Filings with the MSRB.

All financial information, operating data, financial statements, notices and other documents provided to the MSRB in accordance with this Section shall be provided in an electronic format prescribed by the MSRB and shall be accompanied by identifying information as prescribed by the MSRB.

Section 10.5: Limitations, Disclaimers, and Amendments.

The City shall be obligated to observe and perform the covenants specified in this Section for so long as, but only for so long as, the City remains an “obligated person” with respect to the Bonds within the meaning of the Rule, except that the City in any event will give the notice required by subsection (c) of this Section of any Bond calls and defeasance that cause the City to be no longer such an “obligated person.”

The provisions of this Section are for the sole benefit of the Holders and beneficial owners of the Bonds; and, nothing in this Section, express or implied, shall give any benefit or any legal or equitable right, remedy, or claim hereunder to any other person. The City undertakes to provide only the financial information, operating data, financial statements, and notices which it has expressly agreed to provide pursuant to this Section. Except as expressly provided within this Section, the City does not undertake to provide any other information, whether or not it may be relevant or material to a complete presentation of the City’s financial results, condition, or prospects; nor does the City undertake to update any information provided in accordance with this Section or otherwise. Furthermore, the City does not make any representation or warranty concerning such information or its usefulness to a decision to invest in or sell Bonds at any future date.

**UNDER NO CIRCUMSTANCES SHALL THE CITY BE LIABLE TO THE HOLDER OR BENEFICIAL OWNER OF ANY BOND OR ANY OTHER PERSON, IN CONTRACT OR TORT, FOR DAMAGES RESULTING IN WHOLE OR IN PART FROM ANY BREACH BY THE CITY, WHETHER NEGLIGENT OR WITHOUT FAULT**

**ON ITS PART, OF ANY COVENANT SPECIFIED IN THIS SECTION, BUT EVERY RIGHT AND REMEDY OF ANY SUCH PERSON, IN CONTRACT OR TORT, FOR OR ON ACCOUNT OF ANY SUCH BREACH SHALL BE LIMITED TO AN ACTION FOR MANDAMUS OR SPECIFIC PERFORMANCE.**

No default by the City in observing or performing its obligations under this Section shall constitute a breach of or default under this Ordinance for purposes of any other provision of this Ordinance.

Nothing in this Section is intended or shall act to disclaim, waive, or otherwise limit the duties of the City under federal and state securities laws.

Notwithstanding anything herein to the contrary, the provisions of this Section may be amended by the City from time to time to adapt to changed circumstances resulting from a change in legal requirements, a change in law, or a change in the identity, nature, status, or type of operations of the City, but only if (1) the provisions of this Section, as so amended, would have permitted an underwriter to purchase or sell Bonds in the primary offering of the Bonds in compliance with the Rule, taking into account any amendments or interpretations of the Rule to the date of such amendment, as well as such changed circumstances, and (2) either (a) the Holders of a majority in aggregate principal amount (or any greater amount required by any other provision of this Ordinance that authorizes such an amendment) of the Outstanding Bonds consent to such amendment or (b) a Person that is unaffiliated with the City (such as nationally recognized bond counsel) determines that such amendment will not materially impair the interests of the Holders and beneficial owners of the Bonds. The provisions of this Section may also be amended from time to time or repealed by the City if the SEC amends or repeals the applicable provisions of the Rule or a court of final jurisdiction determines that such provisions are invalid, but only if and to the extent that reservation of the City's right to do so would not prevent underwriters of the initial public offering of the Bonds from lawfully purchasing or selling Bonds in such offering. If the City so amends the provisions of this Section, it shall include with any amended financial information or operating data next provided pursuant to subsection (b) of this Section an explanation, in narrative form, of the reasons for the amendment and of the impact of any change in the type of financial information or operating data so provided.

[END OF ARTICLE X]

## ARTICLE XI

### MISCELLANEOUS

Section 11.1: Further Proceedings. Any one or more of the Mayor, Mayor Pro Tem, City Manager, Chief Financial Officer, Director of Finance and City Secretary are hereby expressly authorized, empowered and directed from time to time and at any time to do and perform all such acts and things and to execute, acknowledge and deliver in the name and on behalf of the City all agreements, instruments, certificates or other documents, whether mentioned herein or not, as may be necessary or desirable in order to carry out the terms and provisions of this Ordinance and the issuance of the Bonds. In addition, prior to the initial delivery of the Bonds, Mayor, Mayor Pro Tem, the City Manager, Chief Financial Officer, Director of Finance, or Bond Counsel to the City are each hereby authorized and directed to approve any changes or corrections to this Ordinance or to any of the documents authorized and approved by this Ordinance: (i) in order to cure any ambiguity, formal defect or omission in the Ordinance or such other document; or (ii) as requested by the Attorney General of the State of Texas or his representative to obtain the approval of the Bonds by the Attorney General and if such officer or counsel determines that such changes are consistent with the intent and purpose of the Ordinance, which determination shall be final. In the event that any officer of the City whose signature shall appear on any document shall cease to be such officer before the delivery of such document, such signature nevertheless shall be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery. Findings, Determinations and Recitals. The findings and determinations set forth in the preamble and recitals hereof are hereby found to be true and made a part hereof for all purposes and are adopted as part of the judgment and findings of the Council. Such findings and determinations are incorporated by reference and made a part of this Ordinance for all purposes as if the same were restated in full in this Section.

Section 11.3: Construction of Terms. If appropriate in the context of this Ordinance, words of the singular number shall be considered to include the plural, words of the plural number shall be considered to include the singular, and words of the masculine, feminine or neuter gender shall be considered to include the other genders.

Section 11.4: Severability. If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such Section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance. Public Meeting. It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public, and that public notice of the time, place and purpose of such meeting was given, all as required by the Texas Open Meetings Act. Benefits of Ordinance. Nothing in this Ordinance expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the City, the Paying Agent/Registrar, and the Owners of the Bonds, any right, remedy or claim, legal or equitable, under or by reason of this Ordinance or any covenant, condition or stipulation hereof, and all covenants,

stipulations, promises and agreements in this Ordinance shall be for the sole and exclusive benefit of the City, the Paying Agent/Registrar, and the Owners of the Bonds.Inconsistent Provisions. All ordinances, orders or resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict; and, the provisions of this Ordinance shall be and remain controlling as to the matters contained herein. Effect of Headings. The Section headings and table of contents set forth herein are for convenience of reference only and shall not affect the construction hereof.

Section 11.9: Governing Law. This Ordinance is to be construed in accordance with and governed by the laws of the State of Texas and the United States of America.Effective Date. This Ordinance shall take effect and be in force from and after its passage and approval in accordance with the provisions of Texas Government Code, Section 1201.028, as amended.

[Execution Page Follows]

PASSED AND APPROVED, this 19<sup>th</sup> day of July, 2022.

CITY OF MCKINNEY, TEXAS

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GEORGE C. FULLER  
Mayor

CORRECTLY ENROLLED:

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EMPRESS DRANE  
City Secretary

[CITY SEAL]

APPROVED AS TO FORM:

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MARK S. HOUSER  
City Attorney

**EXHIBIT A**

Paying Agency Agreement



**EXHIBIT B**

Payment Certificate