

BOND ORDER AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$7,100,000 CITY OF HENDERSONVILLE, NORTH CAROLINA WATER AND SEWER SYSTEM REVENUE BOND; AUTHORIZING THE APPROVAL, EXECUTION AND DELIVERY OF VARIOUS DOCUMENTS IN CONNECTION WITH THE ISSUANCE OF THE BOND; PROVIDING FOR THE ISSUANCE OF THE BOND; AND PROVIDING FOR CERTAIN OTHER MATTERS IN CONNECTION WITH THE ISSUANCE AND DELIVERY OF THE BOND

WHEREAS, the City of Hendersonville, North Carolina (the “*City*”) is authorized by the State and Local Government Revenue Bond Act, General Statutes of North Carolina, Section 159-80 *et seq.* (the “*Act*”), to issue, subject to the approval of the Local Government Commission of North Carolina (the “*LGC*”), at one time or from time to time, revenue bonds of the City for the purposes as specified in the Act; and,

WHEREAS, the City has determined to issue its Water and Sewer System Revenue Bond, Series 2022 (the “*2022 Bond*”) in an aggregate principal amount not to exceed \$7,100,000 to provide funds to (1) finance improvements to the City’s water and sewer system, including, without limitation, (a) the installation of an interceptor line along Clear Creek, (b) the replacement and improvement of water and sewer mains on Church Street, (c) the replacement and installation of water meters, (d) the rehabilitation of one of the City’s concrete water storage tanks and (e) payments to the North Carolina Department of Transportation related to the adjustment and relocation of certain city-owned water and sewer lines completed by the North Carolina Department of Transportation (the “*2022 Projects*”) and (2) pay the costs of issuing the 2022 Bond; and,

WHEREAS, the City has heretofore entered into a General Trust Indenture dated as of December 1, 2019 (as previously supplemented by Series Indenture Number 1 dated as of December 1, 2019, the “*General Indenture*”) between the City and The Bank of New York Mellon Trust Company, N.A., as trustee (the “*Trustee*”), authorizing the issuance of revenue bonds thereunder for the purpose of financing and refinancing the cost of improvements to the City’s water and sewer system; and,

WHEREAS, the City will issue the 2022 Bond under the General Indenture and Series Indenture, Number 2 to be dated as of February 1, 2022 (the “*Series Indenture*”) between the City and the Trustee; and,

WHEREAS, the City has filed with the LGC an application for the approval and private sale without advertisement of the 2022 Bond in accordance with Section 159-85 of the General Statutes of North Carolina, as amended; and,

WHEREAS, the City and the LGC have arranged for the issuance of the 2022 Bond to Pinnacle Public Finance, Inc. (the “*Lender*”); and,

WHEREAS, the General Indenture and a draft of the form of the Series Indenture are on file with the City and are available to the City Council; and,

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina that:

1. The 2022 Bond is hereby authorized and will be issued pursuant to the Act, the General Indenture, and the Series Indenture to raise the money required, in addition to any funds which may be made available for such purpose from any other source, to (1) finance the 2022 Projects and (2) pay the costs of issuing the 2022 Bond. The use of the proceeds of the 2022 Bond, as described, is necessary to meet the demands of the users of the City's Water and Sewer System (as defined in the General Indenture).
2. The aggregate principal amount of the 2022 Bond authorized by this order will not exceed \$7,100,000 and the interest rate on the 2022 Bond will not initially exceed 2.15% per annum (which rate may be adjusted in accordance with the Series Indenture, including, without limitation, upon an Event of Default or a Determination of Taxability). The 2022 Bond hereby authorized will be a special obligation of the City, secured by and paid solely from the proceeds thereof or from revenues, income, receipts and other money received or accrued by or on behalf of the City from or in connection with the operation of the City's Water and Sewer System.
3. The City requests that the 2022 Bond be sold at a private sale without advertisement to the Lender at such price as the LGC determines to be in the best interest of the City and as provided in the City's application to the LGC. The City Council approves the sale of the 2022 Bond to the Lender on the terms provided in the term sheet provided by the Lender and as provided in the Series Indenture. The Authorized Officers (as defined below), are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to consummate the issuance of the 2022 Bond.
4. The City's issuance of the 2022 Bond, in substantially the form to be provided in the Series Indenture, is hereby in all respects approved and confirmed. The provisions of the General Indenture and the Series Indenture with respect to the 2022 Bond are hereby approved and confirmed and are incorporated herein by reference. The proceeds from the issuance of the 2022 Bond will be deposited in accordance with the Series Indenture. The principal of, premium, if any, and interest on the 2022 Bond will not be payable from the general funds of the City, nor will the 2022 Bond constitute a legal or equitable pledge, charge, lien or encumbrance on any of the City's property or on any of its income, receipts or revenues except the funds which are pledged under the General Indenture. Neither the credit nor the taxing power of the State of North Carolina (the "State") or the City is pledged for the payment of the principal of, premium, if any, or interest on the 2022 Bond, and no holder of the 2022 Bond has the right to compel the exercise of the taxing power by the State or the City or the forfeiture of any of its property in connection with any default thereon.
5. The form and content of the Series Indenture, including the exhibits thereto, are hereby in all respects approved and confirmed. The Mayor, the City Manager, the Assistant City Manager, the City Attorney, the Finance Director and the City Clerk, including anyone serving as such in an interim capacity, or their respective designees (collectively, the "Authorized Officers") are hereby authorized, empowered and directed to execute and deliver the Series Indenture and the 2022 Bond for and on behalf of the City, including necessary counterparts, in substantially the

form and content presented to the City, but with such changes, modifications, additions or deletions therein as they may deem necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of the City Council's approval of any and all such changes, modifications, additions or deletions therein. From and after the execution and delivery of the Series Indenture, the Authorized Officers are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Series Indenture as executed. The Trustee is hereby appointed as Registrar and Paying Agent under the Series Indenture.

6. The City Manager, the Assistant City Manager or the Finance Director are each hereby authorized to execute a tax certificate to comply with Section 148 of the Internal Revenue Code of 1986, as amended, and the applicable regulations promulgated thereunder.
7. If any one or more of the covenants, agreements or provisions contained in this Bond Order is held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or is for any reason whatsoever held invalid, then such covenants, agreements or provisions will be null and void and will be deemed separable from the remaining agreements and provisions and will in no way affect the validity of any of the other agreements and provisions of this Bond Order or of the 2022 Bond authorized hereunder.
8. No stipulation, obligation or agreement contained in this Bond Order or contained in the 2022 Bond, the General Indenture, the Series Indenture or any other instrument related to the issuance of the 2022 Bond is a stipulation, obligation or agreement of any officer, agent or employee of the City in his or her individual capacity, and no such officer, agent or employee is personally liable on the 2022 Bond or subject to personal liability or accountability by reason of the issuance thereof.
9. The Authorized Officers are hereby authorized, empowered and directed to do any and all other acts and to execute any and all other documents which they, in their discretion, deem necessary and appropriate to consummate the transactions contemplated by this Bond Order, the General Indenture or the Series Indenture; except that none of the above is hereby authorized or empowered to do anything or execute any document which is in contravention, in any way, of (a) the specific provisions of this Bond Order, (b) the specific provisions of the General Indenture or the Series Indenture, (c) any agreement to which the City is bound, (d) any rule or regulation of the City or (e) any applicable law, statute, ordinance, rule or regulation of the United States of America or the State.
10. The Authorized Officers are hereby authorized, empowered and directed to prepare and furnish, when the 2022 Bond is issued, certified copies of all the proceedings and records of the City Council relating to the 2022 Bond, and such other affidavits, certificates and documents as may be required to show the facts relating to the legality and marketability of the 2022 Bond as such facts appear on the books and records in such party's custody and control or as otherwise known to them; and all such certified copies, certificates, affidavits and documents, including any heretofore furnished, constitute representations of the City as to the truth of all statements contained therein.

From and after the execution and delivery of the documents hereinabove authorized, the Authorized Officers, or their respective designees, are hereby authorized, empowered, and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of said documents as executed, and are further authorized to take any and all further actions to execute and deliver any and all other documents as may be necessary in the issuance and on-going administration of the 2022 Bond.

11. All acts and doings of the Authorized Officers that are in conformity with the purposes and intent of this Bond Order and in the furtherance of the issuance of the 2022 Bond and the execution, delivery and performance of the 2022 Bond, the General Indenture and the Series Indenture are hereby in all respects approved and confirmed. Any provision in this Bond Order that authorizes more than one Authorized Officer to take certain actions will apply to the respective designees of the Authorized Officers, including any person serving in an interim capacity, and will be read to permit such persons to take the authorized actions either individually or collectively.
12. All resolutions or parts thereof of the City Council in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.
13. This Bond Order is effective immediately on its adoption and, pursuant to Section 159-88 of the General Statutes of North Carolina, as amended, need not be published or subjected to any procedural requirements governing the adoption of ordinances or resolutions by the City Council other than the procedures set out in the Act.

Adopted by the City Council of the City of Hendersonville, North Carolina on this 26th day of January, 2022.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Angela L. Reece, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney

STATE OF NORTH CAROLINA)
) SS:
CITY OF HENDERSONVILLE)

I, *Angela Reece*, City Clerk of the City of Hendersonville, North Carolina, ***DO HEREBY CERTIFY*** that the foregoing is a true and exact copy of a bond order titled “**BOND ORDER AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$7,100,000 CITY OF HENDERSONVILLE, NORTH CAROLINA WATER AND SEWER SYSTEM REVENUE BOND; AUTHORIZING THE APPROVAL, EXECUTION AND DELIVERY OF VARIOUS DOCUMENTS IN CONNECTION WITH THE ISSUANCE OF THE BOND; PROVIDING FOR THE ISSUANCE OF THE BOND; AND PROVIDING FOR CERTAIN OTHER MATTERS IN CONNECTION WITH THE ISSUANCE AND DELIVERY OF THE BOND**” adopted by the City Council of the City of Hendersonville, North Carolina in a special meeting convened on the 26th day of January, 2022, as recorded in the minutes of the City Council of the City of Hendersonville, North Carolina.

WITNESS my hand and the seal of the City of Hendersonville, North Carolina, this the ____ day of _____, 2022.

(SEAL)

Angela Reece
City Clerk
City of Hendersonville, North Carolina