

RESOLUTION NO. 2023-05

A RESOLUTION OF THE CITY OF NEW PORT RICHEY, FLORIDA; AUTHORIZING THE ISSUANCE OF A NOT TO EXCEED \$3,000,000 TAXABLE NON-AD VALOREM REVENUE NOTE, SERIES 2022 OF THE CITY TO FINANCE THE COSTS OF ACQUISITION, CONSTRUCTION AND/OR EQUIPPING OF VARIOUS CAPITAL IMPROVEMENTS WITHIN THE REDEVELOPMENT AREA OF THE CITY OF NEW PORT RICHEY, FLORIDA COMMUNITY REDEVELOPMENT AGENCY AS DESCRIBED IN THE REDEVELOPMENT WORK PLAN, AS AMENDED FROM TIME TO TIME, INCLUDING WITHOUT LIMITATION THE ACQUISITION OF AN OFFICE BUILDING AND PAYING COSTS RELATED THERETO; PROVIDING THAT THE NOTE SHALL BE A LIMITED OBLIGATION OF THE CITY PAYABLE FROM NON-AD VALOREM REVENUES BUDGETED, APPROPRIATED AND DEPOSITED AS PROVIDED HEREIN; PROVIDING FOR THE RIGHTS, SECURITIES AND REMEDIES FOR THE OWNER OF THE NOTE; APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION OF AN AMENDED AND RESTATED INTERLOCAL AGREEMENT BETWEEN THE CITY AND THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY; MAKING CERTAIN COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NEW PORT RICHEY, FLORIDA IN SESSION DULY AND REGULARLY ASSEMBLED THAT:

**Section 1:** *Authority for this Resolution.* This resolution is adopted pursuant to the Constitution of the State of Florida (the "State"), Chapter 166, Florida Statutes, Chapter 163, Part III, Florida Statutes, the municipal charter of the City of New Port Richey, Florida (the "Issuer"), an ordinance enacted by the City Council of the Issuer on even date herewith, and other applicable provisions of law (collectively, the "Act").

**Section 2:** *Definitions.* The following words and phrases shall have the following meanings when used herein:

"Act" shall have the meaning ascribed thereto in Section 1 hereof.

"Ad Valorem Revenues" shall mean all revenues of the Issuer derived from the levy and collection of ad valorem taxes that are allocated to and accounted for in the General Fund.

*"Adjusted General Government and Public Safety Expenditures"* shall mean (i) General Government and Public Safety Expenditures, less (ii) General Government and Public Safety Expenditures which are paid from Ad Valorem Revenues.

*"Agency"* shall mean The City of New Port Richey, Florida Community Redevelopment Agency.

*"Amended and Restated Interlocal Agreement"* shall mean, that certain Amended and Restated Debt Service Reimbursement Interlocal Agreement, the form of which is attached hereto as Exhibit D between the Issuer and the Agency.

*"Available Non-Ad Valorem Revenues"* shall mean Non-Ad Valorem Revenues less Adjusted General Government and Public Safety Expenditures.

*"Business Day"* shall mean any day except any Saturday or Sunday or day on which the Owner is lawfully closed.

*"City Attorney"* shall mean the City Attorney or assistant City Attorney of the Issuer, or any special counsel appointed by the City Council of the Issuer.

*"City Manager"* shall mean the City Manager or assistant, deputy, interim or acting City Manager of the Issuer.

*"Clerk"* shall mean the City Clerk or assistant or deputy City Clerk of the Issuer, or such other person as may be duly authorized by the City Council of the Issuer to act on his or her behalf.

*"Code"* shall mean the Internal Revenue Code of 1986, as amended, and any Treasury Regulations, whether temporary, proposed or final, promulgated thereunder or applicable thereto.

*"Debt Service Fund"* shall mean the Debt Service Fund established with respect to the Note pursuant to Section 8 hereof.

*"Default Rate"* shall mean the lesser of (i) the Interest Rate plus 2% per annum, or (ii) the maximum rate allowed by applicable law.

*"Finance Director"* shall mean the Finance Director of the Issuer, or such other person as may be duly authorized by the City Manager of the Issuer to act on his or her behalf.

*"Fiscal Year"* shall mean the period commencing on October 1 of each year and continuing through the next succeeding September 30, or such other period as may be prescribed by law.

*"General Fund"* shall mean the "General Fund" of the Issuer as described and identified in the Comprehensive Annual Financial Report of the Issuer.

*"General Government and Public Safety Expenditures"* means general governmental and public safety services provided by the Issuer in the General Fund, the expenditures for which are currently set forth as the line items entitled "General Government," and "Public Safety" in the Issuer's Comprehensive Annual Financial Report for the Fiscal Year ended September 30, 2021, and any equivalent line items in any future financial statements of the Issuer.

*"Interest Rate"* shall have the meaning set forth in Section 5(A) hereof and in the Note, the form of which is attached hereto as Exhibit A.

*"Issuer"* shall mean the City of New Port Richey, Florida, a municipal corporation of the State of Florida.

*"Lender"* shall mean with respect to the Note, Truist Bank.

*"Maturity Date"* shall mean, for the Note, October 1, 2024, or such other date as set forth in the Note, the form of which is attached hereto as Exhibit A.

*"Mayor"* shall mean the Mayor of the Issuer, or in his or her absence or inability to act, the Vice Mayor of the Issuer or such other person as may be duly authorized by the City Council to act on his or her behalf.

*"Non-Ad Valorem Revenues"* shall mean all revenues of the Issuer other than Ad Valorem Revenues, and which are lawfully available to be used to pay debt service on the Note.

*"Note"* shall mean the Issuer's Taxable Non-Ad Valorem Revenue Note, Series 2022 authorized by Section 4 hereof.

*"Owner"* shall mean the Person in whose name the Note shall be registered on the books of the Issuer kept for that purpose in accordance with provisions of this Resolution. The Lender shall be the initial Owner.

*"Permitted Lender"* shall mean any affiliate of the Lender or any bank, trust company, savings institution, insurance company, qualified institutional buyer under Rule 144A promulgated under the Securities Act of 1933, or an "accredited investor" as such term is defined in the Securities Act of 1933, as amended, and Regulation D thereunder.

*"Person"* shall mean natural persons, firms, trusts, estates, associations, corporations, partnerships and public bodies.

"*Pledged Revenues*" shall mean the Non-Ad Valorem Revenues budgeted, appropriated and deposited as provided herein.

"*Project*" shall mean the acquisition, construction and/or equipping of various capital improvements within the Redevelopment Area of the City of New Port Richey, Florida Community Redevelopment Agency as described in the Redevelopment Work Plan adopted on April 2, 2019, as amended from time to time, including without limitation the acquisition of an office building.

"*Project Fund*" shall mean the Project Fund established with respect to the Note pursuant to Section 9 hereof.

"*Redevelopment Area*" shall mean the Community Redevelopment Area as declared by the Issuer in Resolution No. 89-7 adopted by the City Council of the Issuer on June 20, 1989, as amended by Resolution No. 01-05 adopted by the City Council of the Issuer on June 5, 2001 and by Resolution No. 2020-28 adopted by the City Council of the Issuer on July 7, 2020.

"*Resolution*" shall mean this Resolution, pursuant to which the Note is authorized to be issued, including any Supplemental Resolution(s).

"*State*" shall mean the State of Florida.

**Section 3: Findings.**

(A) For the benefit of its inhabitants, the Issuer finds, determines and declares that it is necessary for the continued preservation of the welfare, convenience and safety of the Issuer and its inhabitants to finance the costs of the Project. Issuance of the Note to finance the Project satisfies a paramount public purpose.

(B) Debt service on the Note will be secured by the Issuer's covenant to budget, appropriate and deposit Non-Ad Valorem Revenues in the manner and to the extent described herein, and by a pledge of the Pledged Revenues as provided herein.

(C) Debt service on the Note and all other payments hereunder shall be payable from and secured solely by moneys deposited in the manner and to the extent provided herein. The Issuer shall never be required to levy ad valorem taxes or use the proceeds thereof to pay debt service on the Note or to make any other payments to be made hereunder or to maintain or continue any of the activities of the Issuer which generate user service charges, regulatory fees or any other Non-Ad Valorem Revenues. The Note shall not constitute a lien on any property owned by or situated within the limits of the Issuer.

(D) It is estimated that the Non-Ad Valorem Revenues will be available after satisfying funding requirements for obligations having an express lien on or pledge thereof and after

satisfying funding requirements for essential governmental services of the Issuer, in amounts sufficient to provide for the payment of the principal of and interest on Note and all other payment obligations hereunder.

(E) The Issuer, after soliciting proposals for financing the costs of the Project and receiving two responses complying with the structure described in such request, has selected the Lender to purchase the Note.

**Section 4: Authorization of Note.** There is hereby authorized to be issued under and secured by this Resolution an obligation of the Issuer to be known as City of New Port Richey, Florida, Taxable Non-Ad Valorem Revenue Note, Series 2022, in the principal amount of not to exceed \$3,000,000 for the purpose of financing the costs of the Project and paying the costs of issuing the Note. Because of the characteristics of the Note, prevailing market conditions, and additional savings to be realized from an expeditious sale of the Note, it is in the best interest of the Issuer to accept the offer of the Lender to purchase the Note at a private negotiated sale. Prior to the issuance of the Note, the Issuer shall receive from the Lender a Lender's Certificate, the form of which is attached hereto as Exhibit B and the Disclosure Letter containing the information required by Section 218.385, Florida Statutes, a form of which is attached hereto as Exhibit C.

In consideration of the purchase and acceptance of the Note authorized to be issued hereunder by those who shall be the Owner thereof from time to time, this Resolution shall constitute a contract between the Issuer and the Owner.

**Section 5: Description of the Note.**

The Note shall be dated the date of its execution and delivery, which shall be a date agreed upon by the Issuer and the Lender, subject to the following terms:

- (A) Interest Rate. The Note shall have an initial fixed interest rate equal to 5.16% per annum (subject to adjustment upon the occurrence of certain events as provided in the Note) calculated on a 30/360-day basis.
- (B) Principal and Interest Payment Dates. Interest on the Note shall be paid annually on each October 1, commencing October 1, 2023. Principal on the Note shall be paid in the amounts and on the dates set forth in the Note with a final maturity date of the Maturity Date.
- (C) Prepayment of the Note. The Note shall be subject to prepayment as described in the Note.
- (D) Form of the Note. The Note is to be in substantially the form set forth in Exhibit A attached hereto, together with such non-material changes as

shall be approved by the Mayor, such approval to be conclusively evidenced by the execution thereof by the Mayor.

- (E) Original Denomination of the Note. The Note shall originally be issued in a single denomination equal to the original principal amount authorized hereunder.

The Note shall be executed on behalf of the Issuer with the manual or facsimile signature of the Mayor and the official seal of the Issuer, be attested with the manual or facsimile signature of the Clerk and be approved as to legal form and correctness by the City Attorney. In case any one or more of the officers who shall have signed or sealed the Note or whose facsimile signature shall appear thereon shall cease to be such officer of the Issuer before the Note so signed and sealed have been actually sold and delivered, the Note may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed the Note had not ceased to hold such office. The Note may be signed and sealed on behalf of the Issuer by such person who at the actual time of the execution of the Note shall hold the proper office of the Issuer, although, at the date of the Note, such person may not have held such office or may not have been so authorized. The Issuer may adopt and use for such purposes the facsimile signatures of any such persons who shall have held such offices at any time after the date of the adoption of this Resolution, notwithstanding that either or both shall have ceased to hold such office at the time the Note shall be actually sold and delivered.

**Section 6:** *Registration and Exchange of Note; Person Treated as Owner.* The Note is initially registered to the Lender. So long as the Note shall remain unpaid, the Issuer will keep books for the registration and transfer of the Note. The Note shall be transferable only upon such registration books. Notwithstanding anything herein to the contrary, the Lender may in the future make transfers, in whole and not in part, or enter into participation agreements or securitization transactions with respect to the Note; provided, however, such transfers shall be only to Permitted Lenders.

The Person in whose name the Note shall be registered shall be deemed and regarded as the absolute Owner thereof for all purposes, and payment of principal and interest on the Note shall be made only to or upon the written order of the Owner. All such payments shall be valid and effectual to satisfy and discharge the liability upon the Note to the extent of the sum or sums so paid.

**Section 7:** *Payment of Principal and Interest; Limited Obligation.* The Issuer promises that it will promptly pay the principal of and interest on the Note at the place, on the dates and in the manner provided therein according to the true intent and meaning hereof and thereof. The Note shall not be or constitute a general obligation or indebtedness of the Issuer as a "bond" within the meaning of Article VII, Section 12 of the Constitution of Florida, but shall be payable from and secured solely by the Pledged Revenues in accordance with the terms hereof. No Owner shall ever have the right to compel the exercise of any ad valorem taxing power or taxation of any real

or personal property thereon or the use or application of ad valorem tax revenues to pay the Note, or be entitled to payment of the Note from any funds of the Issuer except from the Pledged Revenues as described herein.

**Section 8: Covenant to Budget and Appropriate.**

(A) Subject to the next paragraph, the Issuer covenants and agrees and has a positive and affirmative duty to appropriate in its annual budget, by amendment, if necessary, from Non-Ad Valorem Revenues, and to deposit into the Debt Service Fund hereinafter created, amounts sufficient to pay principal of and interest on the Note and all other payments due hereunder not being paid from other amounts as the same shall become due. Such covenant and agreement on the part of the Issuer to budget, appropriate and deposit such amounts of Non-Ad Valorem Revenues shall be cumulative to the extent not paid, and shall continue until such Non-Ad Valorem Revenues or other legally available funds in amounts sufficient to make all such required payments shall have been budgeted, appropriated, deposited and actually paid. No lien upon or pledge of such budgeted Non-Ad Valorem Revenues shall be in effect until such monies are budgeted, appropriated and deposited as provided herein. The Issuer further acknowledges and agrees that the obligations of the Issuer to include the amount of such amendments in each of its annual budgets and to pay such amounts from Non-Ad Valorem Revenues may be enforced in a court of competent jurisdiction in accordance with the remedies set forth herein.

Until such monies are budgeted, appropriated and deposited as provided herein, such covenant to budget and appropriate does not create any lien upon or pledge of such Non-Ad Valorem Revenues, nor does it preclude the Issuer from pledging in the future its Non-Ad Valorem Revenues (except as provided in Section 16 hereof), nor does it require the Issuer to levy and collect any particular Non-Ad Valorem Revenues, nor does it give the Owner of the Note a prior claim on the Non-Ad Valorem Revenues as opposed to claims of general creditors of the Issuer. Such covenant to budget and appropriate Non-Ad Valorem Revenues is subject in all respects to the prior payment of obligations secured by a lien on and pledge of specific components of the Non-Ad Valorem Revenues heretofore or hereafter entered into (including the payment of debt service on bonds and other debt instruments). Anything in this Resolution to the contrary notwithstanding, it is understood and agreed that all obligations of the Issuer hereunder shall be payable solely from the portion of Non-Ad Valorem Revenues budgeted, appropriated and deposited as provided for herein and nothing herein shall be deemed to pledge ad valorem tax power or ad valorem taxing revenues or to permit or constitute a mortgage or lien upon any assets owned by the Issuer and no Owner nor any other person, may compel the levy of ad valorem taxes on real or personal property within the boundaries of the Issuer or the use or application of ad valorem tax revenues in order to satisfy any payment obligations hereunder or to maintain or continue any of the activities of the Issuer which generate user service charges, regulatory fees, or any other Non-Ad Valorem Revenues. Notwithstanding any provisions of this Resolution or the Note to the contrary, the Issuer shall never be obligated to maintain or continue any of the activities of the Issuer which generate user service charges, regulatory fees or any Non-Ad Valorem Revenues. The Issuer is prohibited by law from expending moneys not

appropriated or in excess of its current budgeted revenues and surpluses. Until such monies are budgeted, appropriated and deposited as provided herein, neither this Resolution nor the obligations of the Issuer hereunder shall be construed as a pledge of or a lien on all or any Non-Ad Valorem Revenues of the Issuer, but shall be payable as provided herein subject to the availability of Non-Ad Valorem Revenues after satisfaction of funding requirements for obligations having an express lien on or pledge of such revenues and funding requirements for essential governmental services of the Issuer.

There is hereby created and established the "City of New Port Richey, Florida Taxable Non-Ad Valorem Revenue Note, Series 2022 Debt Service Fund," which fund shall be a trust fund held by the Finance Director, which shall be held solely for the benefit of the Owner. The Debt Service Fund shall be deemed to be held in trust for the purposes provided herein for such Debt Service Fund. The money in such Debt Service Fund shall be continuously secured in the same manner as state and municipal deposits are authorized to be secured by the laws of the State. The designation and establishment of the Debt Service Fund in and by this Resolution shall not be construed to require the establishment of a completely independent, self-balancing fund as such term is commonly defined and used in governmental accounting, but rather is intended solely to constitute an earmarking of certain revenues and assets of the Issuer for certain purposes and to establish certain priorities for application of such revenues and assets as herein provided. The Issuer may at any time and from time to time appoint one or more depositories to hold, for the benefit of the Owner, the Debt Service Fund established hereby. Such depository or depositories shall perform at the direction of the Issuer the duties of the Issuer in depositing, transferring and disbursing moneys to and from such Debt Service Fund as herein set forth, and all records of such depository in performing such duties shall be open at all reasonable times to inspection by the Issuer and its agent and employees. Any such depository shall be a bank or trust company duly authorized to exercise corporate trust powers and subject to examination by federal or state authority, of good standing, and having a combined capital, surplus and undivided profits aggregating not less than fifty million dollars (\$50,000,000).

(B) Non-Ad Valorem Revenues in an amount sufficient to pay the debt service on the Note shall be deposited into the Debt Service Fund at least three (3) Business Days prior to each date payment is due. Until applied in accordance with this Resolution, the Non-Ad Valorem Revenues of the Issuer on deposit in the Debt Service Fund and other amounts on deposit from time to time therein, plus any earnings thereon, are pledged to the repayment of the Note.

**Section 9: Application of Proceeds of Note.** The proceeds received from the sale of the Note shall be deposited by the Issuer simultaneously with the delivery of the Note to the Lender, in the Project Fund hereinafter created, and used to pay (i) all costs and expenses in connection with the preparation, issuance and sale of the Note, and (ii) costs of the Project.

The Issuer covenants and agrees to establish a special fund to be designated "City of New Port Richey, Florida Taxable Non-Ad Valorem Revenue Note, Series 2022 Project Fund" (the

"Project Fund"). The designation and establishment of the Project Fund by this Resolution shall not be construed to require the establishment of a completely independent, self-balancing funds as such term is commonly defined and used in governmental accounting, but rather is intended solely to constitute an earmarking of certain assets of the Issuer for certain purposes and to establish certain priorities for application of such assets as herein provided. Amounts on deposit from time to time in the respective Project Fund, plus any earnings thereon, are pledged to the repayment of the Note.

**Section 10:** *Amendment.* This Resolution shall not be modified or amended in any respect subsequent to the issuance of the Note except with the written consent of the Owner.

**Section 11:** *Limitation of Rights.* With the exception of any rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Resolution or the Note is intended or shall be construed to give to any Person other than the Issuer and the Owner any legal or equitable right, remedy or claim under or with respect to this Resolution or any covenants, conditions and provisions herein contained; this Resolution and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the Issuer and the Owner.

**Section 12:** *Note Mutilated, Destroyed, Stolen or Lost.* In case the Note shall become mutilated, or be destroyed, stolen or lost, the Issuer shall issue and deliver a new Note, in exchange and in substitution for the mutilated, destroyed, stolen or lost Note, or in lieu of and in substitution for the Note, mutilated, destroyed, stolen or lost and upon the Owner furnishing the Issuer proof of ownership thereof and indemnity reasonably satisfactory to the Issuer and complying with such other reasonable regulations and conditions as the Issuer may prescribe and paying such expenses as the Issuer may incur. The Note so mutilated, destroyed, stolen or lost shall be canceled and shall be of no further force and effect.

**Section 13:** *Impairment of Contract.* The Issuer covenants with the Owner that it will not, without the written consent of the Owner, enact any ordinance or adopt any resolution which repeals, impairs or amends in any manner adverse to the Owner the rights granted to the Owner hereunder. Nothing hereunder shall be construed to limit the Issuer from being able to unilaterally change the boundaries of the Agency and/or reducing the term of the Agency, either of which could have the effect of reducing collections of tax increment revenues, or from relieving the Agency of any contractually obligation to reimburse the Issuer for any debt service paid by the Issuer on the Note, subject, however, in all respects to the terms of the Amended and Restated Interlocal Agreement.

**Section 14:** *Budget and Financial Information.* At no cost to the Owner, the Issuer shall provide the Owner with annual financial statements for each Fiscal Year of the Issuer when available and in no event later than 270 days after the close of such Fiscal Year, prepared in accordance with applicable law and generally accepted accounting principles and audited by an independent certified public accountant. In addition, the Issuer shall provide to the Owner (at

no cost to the Owner) a copy of its annual budget within 30 days of its adoption, and such other financial and budget information as may be reasonably requested by the Owner from time to time. All accounting terms not specifically defined or specified herein shall have the meanings attributed to such terms under generally accepted accounting principles as in effect from time to time, consistently applied.

**Section 15: Events of Default; Remedies of Owner.** The following shall constitute Events of Default: (a) if the Issuer fails to pay any payment of principal of or interest on the Note as the same becomes due and payable and such failure continues for five (5) Business Days (a "Payment Default"); (b) if the Issuer defaults in the performance or observance of any covenant or agreement contained in this Resolution or the Note (other than set forth in (a) above) and fails to cure the same within 30 days of knowledge of such event; (c) filing of a petition by or against the Issuer relating to bankruptcy, reorganization, arrangement or readjustment of debt of the Issuer or for any other relief relating to the Issuer under the United States Bankruptcy Code, as amended, or any other insolvency act or law now or hereafter existing, or the involuntary appointment of a receiver or trustee for the Issuer, and the continuance of any such event for 30 days undismissed or undischarged (collectively, a "Bankruptcy"); (d) any representation or warranty made in writing by or on behalf of the Issuer in this Resolution shall prove to have been false or incorrect in any material respect on the date made or reaffirmed; or (e) the Issuer shall fail to promptly remove any execution, garnishment or attachments of such consequence as will materially impair its ability to carry out its obligations hereunder and under the Note.

Upon the occurrence and during the continuation of any Event of Default, the Owner may have a receiver appointed, and in addition to any other remedies set forth in this Resolution or the Note, either at law or in equity, by suit, action, mandamus or other proceeding in any court of competent jurisdiction, protect and enforce any and all rights under the laws of the State, or granted or contained in this Resolution, and may enforce and compel the performance of all duties required by this Resolution, or by any applicable statutes to be performed by the Issuer or by any officer thereof, including, without limitation, the ability to petition the court to enforce and compel the performance by the Issuer of all duties of the Issuer under an ordinance enacted by the City Council of the Issuer on the date hereof, this Resolution and the Note.

In the event of a Payment Default, any amount due on the Note and not paid when due shall bear interest at the Default Rate for so long as such nonpayment continues.

**Section 16: Anti-Dilution Test.** As a condition precedent to the issuance of any debt or the incurrence of any other obligations which are secured by and/or payable from Non-Ad Valorem Revenues, the Issuer agrees to certify that it is in compliance with the following: the Available Non-Ad Valorem Revenues (for this purpose, the average of actual receipts over the prior two Fiscal Years) are not less than 1.50 times the maximum annual debt service on all debt and other obligations secured by and/or payable solely from such Non-Ad Valorem Revenues (taking into account such proposed debt or the incurrence of any other such obligations). Non-Ad Valorem Revenues may include, for this purpose, any amounts that the Agency is contractually obligated

to pay and actually paid to the Issuer as a reimbursement of debt service payments made by the Issuer on the Note; provided, however, any such reimbursement amounts are not pledged hereunder. For purposes of calculating "maximum annual debt service" for purposes of this Section 16, balloon indebtedness shall be assumed to amortize in up to 20 years on a level debt service basis. For purposes of this Section 16, "balloon indebtedness" includes indebtedness if 25% or more of the principal amount thereof comes due in any one year. As used in this Section 16, the term "maximum annual debt service" shall only include debt service that the Issuer reasonably expects to apply Non-Ad Valorem Revenues to actually pay; provided however, notwithstanding the foregoing, maximum annual debt service shall include any debt which has pledged any of the Issuer's Non-Ad Valorem Revenues or is secured solely by a covenant to budget and appropriate Non-Ad Valorem Revenues. For the purpose of calculating maximum annual debt service for purposes of this Section 16 on any indebtedness which bears interest at a variable rate or is proposed to bear interest at a variable rate, such indebtedness shall be deemed to bear interest at the greater of (a) 7% per annum or (b) the actual interest rate borne by the variable rate debt for the month immediately preceding such calculation.

**Section 17:** *Description of the Amended and Restated Interlocal Agreement.* The Amended and Restated Interlocal Agreement is to be substantially in the form set forth in Exhibit D attached hereto, together with such non-material changes as shall be approved by the Issuer, such approval to be conclusively evidenced by the execution thereof by the Issuer. The Amended and Restated Interlocal Agreement shall be executed on behalf of the Issuer with the manual signature of the Mayor and the official seal of the Issuer, be attested with the manual signature of the Clerk and be approved as to form and correctness by the City Attorney. In case any one or more of the officers who shall have signed or sealed the Amended and Restated Interlocal Agreement shall cease to be such officer of the Issuer before the Amended and Restated Interlocal Agreement so signed and sealed has been actually delivered, the Amended and Restated Interlocal Agreement may nevertheless be delivered as herein provided and may be issued as if the person who signed or sealed the Amended and Restated Interlocal Agreement had not ceased to hold such office. The Amended and Restated Interlocal Agreement may be signed and sealed on behalf of the Issuer by such person who at the actual time of the execution of the Amended and Restated Interlocal Agreement shall hold the proper office of the Issuer, although, at the date of the Amended and Restated Interlocal Agreement, such person may not have held such office or may not have been so authorized. The Issuer may adopt and use for such purposes the facsimile signatures of any such persons who shall have held such offices at any time after the date of the adoption of this Resolution, notwithstanding that either or both shall have ceased to hold such office at the time the Amended and Restated Interlocal Agreement shall be actually delivered.

**Section 18:** *Severability.* If any provision of this Resolution shall be held or deemed to be or shall, in fact, be illegal, inoperative, or unenforceable in any context, the same shall not affect any other provision herein or render any other provision (or such provision in any other context) invalid, inoperative, or unenforceable to any extent whatever.

**Section 19:** *Business Days.* In any case where the due date of interest on or principal of the Note is not a Business Day, then payment of such principal or interest need not be made on such date but may be made on the next succeeding Business Day, provided that credit for payments made shall not be given until the payment is actually received by the Owner.

**Section 20:** *Applicable Provisions of Law.* This Resolution and the Note shall be governed by and construed in accordance with the laws of the State of Florida.

**Section 21:** *Rules of Interpretation.* Unless expressly indicated otherwise, references to sections or articles are to be construed as references to sections or articles of this instrument as originally executed. Use of the words "herein," "hereby," "hereunder," "hereof," "hereinbefore," "hereinafter" and other equivalent words refer to this Resolution and not solely to the particular portion in which any such word are used.

**Section 22:** *Captions.* The captions and headings in this Resolution are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Resolution.

**Section 23:** *City Council Members of the Issuer Exempt from Personal Liability.* No recourse under or upon any obligation, covenant or agreement of this Resolution or the Note or for any claim based thereon or otherwise in respect thereof, shall be had against any City Council members of the Issuer, as such, of the Issuer, past, present or future, either directly or through the Issuer it being expressly understood (a) that no personal liability whatsoever shall attach to, or is or shall be incurred by, the City Council members of the Issuer, as such, under or by reason of the obligations, covenants or agreements contained in this Resolution or implied therefrom, and (b) that any and all such personal liability, either at common law or in equity or by constitution or statute, of, and any and all such rights and claims against, every such City Council members of the Issuer, as such, are waived and released as a condition of, and as a consideration for, the execution of this Resolution and the issuance of the Note, on the part of the Issuer.

**Section 24:** *Authorizations.* The Mayor and any member of the City Council, the City Manager, the City Attorney, the Clerk, the Finance Director and such other officials and employees of the Issuer as may be designated by the Issuer are each designated as agents of the Issuer in connection with the issuance and delivery of the Note and are authorized and empowered, collectively or individually, to take all action and steps and to execute all instruments, documents, and contracts on behalf of the Issuer that are necessary or desirable in connection with the execution and delivery of the Note, and which are specifically authorized or are not inconsistent with the terms and provisions of this Resolution. Such instruments include a Wire Transfer Agreement in substantially the form attached hereto as Exhibit E.

**Section 25:** *Repealer.* All resolutions or parts thereof in conflict herewith are hereby repealed.

**Section 26. No Advisory or Fiduciary Relationship.** In connection with all aspects of each transaction contemplated hereunder (including in connection with any amendment, waiver or other modification hereof or of the Note), the Issuer acknowledges and agrees, that: (a) (i) the Issuer has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, (ii) the Issuer is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the Note, (iii) the Lender is not acting as a municipal advisor or financial advisor to the Issuer, and (iv) the Lender has no fiduciary duty pursuant to Section 15B of the Securities Exchange Act to the Issuer with respect to the transactions contemplated hereby and the discussions, undertakings and procedures leading thereto (irrespective of whether the Lender has provided other services or is currently providing other services to the Issuer on other matters); (b) (i) the Lender is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary, for the Issuer or any other Person and (ii) the Lender has no obligation to the Issuer, with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the Note; and (c) the Lender may be engaged in a broad range of transactions that involve interests that differ from those of the Issuer, and the Lender has no obligation to disclose any of such interests to the Issuer. The Note is entered into pursuant to and in reliance upon the bank exemption and/or the institutional buyer exemption provided under the municipal advisor rules of the Securities and Exchange Commission, Rule 15Ba1-1 *et seq.*, to the extent that such rules apply to the transaction contemplated hereunder.

**Section 27: Waiver of Jury Trial.** The Issuer and the Lender, by its acceptance of the Note, each knowingly, voluntarily, and intentionally waives any right it may have to a trial by jury, with respect to any litigation or legal proceedings based on or arising out of this Resolution or the Note, including any course of conduct, course of dealings, verbal or written statement or actions or omissions of any party which in any way relates to this Resolution or the Note.

[Remainder of page intentionally left blank]

**Section 28: *Effective Date.*** This Resolution shall take effect immediately upon its adoption by the City Council.

The above and foregoing Resolution was read and adopted at a duly convened meeting of the City Council of the City of New Port Richey, Florida, this 20<sup>th</sup> day of December, 2022.

(SEAL)

ATTEST

**CITY OF NEW PORT RICHEY, FLORIDA**

---

Judy Meyers, CMC  
City Clerk

---

Rob Marlowe, Mayor

REVIEWED AND APPROVED:

---

Timothy P. Driscoll, City Attorney

**EXHIBIT A**

**[FORM OF NOTE]**

December 22, 2022

\$3,000,000

CITY OF NEW PORT RICHEY, FLORIDA  
TAXABLE NON-AD VALOREM REVENUE NOTE,  
SERIES 2022

Maturity Date: October 1, 2024

KNOW ALL MEN BY THESE PRESENTS that the City of New Port Richey, Florida (the "Issuer"), a municipal corporation created and existing pursuant to the Constitution and the laws of the State of Florida, for value received, promises to pay from the sources hereinafter provided, to the order of TRUIST BANK, or registered assigns (hereinafter, the "Owner"), the principal amount of \$3,000,000, together with interest at the Interest Rate (hereinafter defined). The Issuer shall pay interest upon the unpaid principal balance of this Note at the Interest Rate, subject to adjustment as provided herein. Interest shall be calculated on a 30/360 day basis. This Note shall have a final maturity date of October 1, 2024 (the "Maturity Date").

"Interest Rate" means an initial per annum rate equal to 5.16%, subject to adjustment as described herein.

Principal of and interest on this Note is payable in lawful money of the United States of America at such place as the Owner may designate to the Issuer in writing.

The Issuer promises to pay the Owner interest on amounts outstanding from the date of this Note at the Interest Rate, but in no event shall it exceed the maximum interest rate permitted by applicable law. Such interest shall be paid on an annual basis, commencing October 1, 2023, and on each October 1 thereafter until the Maturity Date.

Principal on this Note shall amortize on the following dates and in the following amounts:

<u>DATES</u>	<u>AMOUNTS</u>
10/01/2023	\$1,280,999
10/01/2024	1,719,001

The Issuer may prepay this Note in whole or in part at any time without penalty. Partial prepayments shall be applied in inverse order of maturity, unless agreed otherwise in writing by the Issuer and the Owner.

A final payment in the amount of the entire unpaid principal balance, together with all accrued and unpaid interest hereon, shall be due and payable in full on the Maturity Date.

If any date for the payment of principal and interest hereon shall fall on a day which is not a Business Day (as defined in the Resolution hereinafter defined) the payment due on such date shall be due on the next succeeding day which is a Business Day, but the Issuer shall not receive credit for the payment until it is actually received by the Owner.

All payments by the Issuer pursuant to this Note shall apply first to accrued interest, then to other charges due the Owner, and the balance thereof shall apply to principal.

THIS NOTE DOES NOT CONSTITUTE A GENERAL INDEBTEDNESS OF THE ISSUER WITHIN THE MEANING OF ANY CONSTITUTIONAL, STATUTORY OR CHARTER PROVISION OR LIMITATION, AND IT IS EXPRESSLY AGREED BY THE OWNER THAT SUCH OWNER SHALL NEVER HAVE THE RIGHT TO REQUIRE OR COMPEL THE EXERCISE OF THE AD VALOREM TAXING POWER OF THE ISSUER OR TAXATION OF ANY REAL OR PERSONAL PROPERTY THEREIN OR USE OR APPLICATION OF AD VALOREM TAX REVENUES OF THE ISSUER FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THIS NOTE OR THE MAKING OF ANY OTHER PAYMENTS PROVIDED FOR IN THE RESOLUTION.

This Note is issued pursuant to the Constitution of the State of Florida, Chapter 166, Florida Statutes, Chapter 163, Part III, Florida Statutes (as to the authorized use of proceeds only), the Charter of the Issuer, an ordinance enacted by the City Council of the Issuer on December 20, 2022, and other applicable provisions of law, and Resolution No. 2023-05 adopted by the City Council of the Issuer on December 20, 2022, as from time to time amended and supplemented (herein referred to as the "Resolution"), and is subject to all the terms and conditions of the Resolution. All terms, conditions and provisions of the Resolution including without limitation remedies in the Event of Default are by this reference thereto incorporated herein as a part of this Note. Terms used and not defined herein shall have the meaning ascribed to such terms in the Resolution. Payment of the Note is secured by a covenant to budget, appropriate and deposit Non-Ad Valorem Revenues of the Issuer and a pledge of and lien upon the Pledged Revenues, in the manner and to the extent described in the Resolution.

This Note may be exchanged or transferred by the Owner hereof to any Permitted Lender but only upon the registration books maintained by the Issuer and in the manner provided in the Resolution.

It is hereby certified, recited and declared that all acts, conditions and prerequisites required to exist, happen and be performed precedent to and in the execution, delivery and the issuance of this Note do exist, have happened and have been performed in due time, form and manner as required by law, and that the issuance of this Note is in full compliance with and does not exceed or violate any constitutional or statutory limitation.

Upon a Payment Default, this Note shall bear interest at the Default Rate.

IN WITNESS WHEREOF, the City of New Port Richey, Florida has caused this Note to be executed in its name by the manual signature of its Mayor, attested by the manual signature of its City Clerk and approved as to form and correctness by its City Attorney, and its seal to be impressed hereon, all as of this 22<sup>nd</sup> day of December, 202.

CITY OF NEW PORT RICHEY, FLORIDA

(SEAL)

By: \_\_\_\_\_

Name: Rob Marlowe

Title: Mayor

ATTEST:

By: \_\_\_\_\_

Name: Judy Meyers, CMC

Title: City Clerk

APPROVED AS TO LEGAL FORM AND  
CORRECTNESS:

By: \_\_\_\_\_

Name: Timothy P. Driscoll

Title: City Attorney

## EXHIBIT B

### FORM OF LENDER'S CERTIFICATE

This is to certify that Truist Bank (the "Lender") has made a loan (the "Loan") to the City of New Port Richey, Florida (the "Issuer"). The Loan is evidenced by the Issuer's Taxable Non-Ad Valorem Revenue Note, Series 2022 (the "Note"). The Lender acknowledges that the Loan is being made as direct Loan and not through the purchase of municipal securities and that the Issuer will not make a filing with the Municipal Securities Rulemaking Board's Electronic Municipal Market Access repository. Any capitalized terms not otherwise defined herein shall have the meanings set forth in Resolution No. 2023-05 adopted by the City Council of the Issuer on December 20, 2022, as amended and supplemented from time to time (the "Resolution").

We are aware that investment in the Loan involves various risks, that the Note is not payable from ad valorem tax revenues, does not represent a general obligation of the Issuer, is not secured by a pledge of the faith and credit of the Issuer, Pasco County, Florida, or the State of Florida or of any political subdivision thereof and does not create indebtedness of the State of Florida or any political subdivision thereof and that the repayment of the Loan is secured solely from the sources described in the Resolution (the "Loan Security"). We are engaged in the business of investing in securities similar to the Loan, or in the business of entering into loan transactions evidenced by securities similar to the Loan.

We are not requiring the Issuer to prepare and deliver any offering document in connection with the Loan. We have made such independent investigation of the Loan Security as we, in the exercise of sound business judgment, consider to be appropriate under the circumstances. In making our lending decision, we have relied upon the accuracy of information which has been provided to us by the Issuer and Ford & Associates, Inc. (the "Financial Advisor"). We acknowledge that the Financial Advisor is not acting as a placement agent. We have received all financial and other information regarding the Issuer that we have requested and which we consider relevant or necessary to make an informed decision to invest in the Loan. We have made our own inquiry into the creditworthiness of the Issuer, we have received all the information that we have requested from the Issuer or any agents or representatives thereof, and we have been afforded a reasonable opportunity to ask questions about the terms and conditions of the offering, the Loan, the Loan Security, and the Issuer.

We have sufficient knowledge and experience in financial and business matters, including the purchase and ownership of tax-exempt and taxable obligations, to be capable of evaluating the merits and risks of our investment in the Loan. We are able to bear the economic risk of our investment in the Loan.

The Lender has conducted its own investigation, to the extent it deems satisfactory or sufficient, into matters relating to business affairs or conditions (either financial or otherwise) of the Issuer in connection with the Loan and no inference should be drawn that the Lender, in the

acceptance of said Note, is relying on Note Counsel or Issuer's Counsel as to any such matters other than the legal opinion rendered by Note Counsel, Bryant Miller Olive P.A., and by Issuer's Counsel, Timothy P. Driscoll, Esq.

We acknowledge that no CUSIP numbers or credit ratings have been obtained with respect to the Note. We further acknowledge that we are making the Loan for our own account, we do not currently intend to syndicate the Loan, we will take no action to cause the Note to be characterized as a security, we will not treat the Loan as a municipal security for purposes of the securities law, the Loan will not be used in the future on a securitized transaction and is not a municipal security.

We understand, acknowledge, and agree that the Loan has not been and will not be registered under the 1933 Act or the securities or Blue Sky laws of any state and are not listed on any stock or securities exchange.

We understand that no offering statement, prospectus, offering circular, official statement or other disclosure document containing material information with respect to the Issuer and the Loan is being or has been prepared, and that, with due diligence, we have made our own inquiry and analysis with respect to the Issuer, the Loan, and the Loan Security.

We are purchasing the Loan for our own account (or the account(s) of our banking affiliates) for investment purposes and not for resale; provided, however, provided, however, the Loan may only be transferred to Permitted Lenders (as defined in the Resolution) and may only be transferred in whole. The interest rate represented by the Loan was negotiated pursuant to an arms-length transaction. In the opinion of the undersigned, the fair market value of the Loan is at least equal to the stated principal amounts represented by the Loan. The full principal amount represented by the Loan will be advanced by the Lender on this date to the Issuer. We are a bank as contemplated by Section 517.061(7), Florida Statutes. We are not purchasing the Note for the direct or indirect promotion of any scheme or enterprise with the intent of violating or evading any provision of Chapter 517, Florida Statutes.

[Remainder of page intentionally left blank]

This Certificate is furnished by us as Lender based solely on our knowledge on the day hereof and is solely for the benefit of the Issuer and may not be relied upon by, or published or communicated to, any other person without our express written consent. We disclaim any obligation to supplement this letter to reflect any facts or circumstances that may hereafter come to our attention.

DATED this 22<sup>nd</sup> of December, 2022.

TRUIST BANK

By: \_\_\_\_\_

Name: Andrew G. Smith

Title: Managing Director

## EXHIBIT C

### FORM OF DISCLOSURE LETTER

The undersigned, as purchaser, proposes to negotiate with the City of New Port Richey, Florida (the "Issuer"), for the private purchase of its \$3,000,000 Taxable Non-Ad Valorem Revenue Note, Series 2022 (the "Note"). Prior to the award of the Notes, the following information is hereby furnished to the Issuer:

1. Set forth is an itemized list of the nature and estimated amounts of expenses to be incurred for services rendered to us (the "Lender") in connection with the issuance of the Note (such fees and expenses to be paid by the Issuer):

Greenspoon Marder LLP  
Lender Counsel Fee -- \$7,500

2. (a) No other fee, bonus or other compensation is estimated to be paid by the Lender in connection with the issuance of the Note to any person not regularly employed or retained by the Lender (including any "finder" as defined in Section 218.386(1)(a), Florida Statutes), except as specifically enumerated as expenses to be incurred by the Lender, as set forth in paragraph (1) above.

(b) No person has entered into an understanding with the Lender, or to the knowledge of the Lender, with the Issuer, for any paid or promised compensation or valuable consideration, directly or indirectly, expressly or implied, to act solely as an intermediary between the Issuer and the Lender or to exercise or attempt to exercise any influence to effect any transaction in the purchase of the Note.

3. The amount of the underwriting spread expected to be realized by the Lender is \$0.

4. The management fee to be charged by the Lender is \$0.

5. Truth-in-Bonding Statement:

The Note is being issued primarily to finance the costs of the acquisition, construction and/or equipping of various capital improvements within the Redevelopment Area of the City of New Port Richey, Florida Community Redevelopment Agency as described in the Redevelopment Work Plan adopted on April 2, 2019, as amended from time to time, including without limitation the acquisition of an office building.

Unless earlier prepaid by the Issuer prior to its scheduled maturity date, the Note is expected to be repaid on October 1, 2024. At an interest rate of 5.16% (which assumes that the

interest rate is never adjusted during the life of the Note), total interest paid over the life of the Note is estimated to be \$208,670.45.

The Note will be payable solely from a covenant to budget and appropriate from Non-Ad Valorem Revenues sufficient to make such payments, appropriated and deposited as described in Resolution No. 2023-05 adopted by the City Council of the Issuer on December 20, 2022 (the "Resolution"). See the Resolution for a definition of Non-Ad Valorem Revenues. Based on the above assumptions, issuance of the Note is estimated to result in an annual maximum of approximately \$1,807,701.45 of revenues of the Issuer not being available to finance the other services of the Issuer during the life of the Note.

6. The name and address of the Lender is as follows:

Truist Bank  
5130 Parkway Plaza Boulevard  
Charlotte, North Carolina 28217

This Disclosure Letter is for informational purposes only and shall not affect or control the actual terms and conditions of the Note.

IN WITNESS WHEREOF, the undersigned has executed this Disclosure Letter on behalf of the Lender this 22<sup>nd</sup> day of December, 2022.

TRUIST BANK

By: \_\_\_\_\_  
Name: Andrew G. Smith  
Title: Managing Director

**EXHIBIT D**

**FORM OF AMENDED AND RESTATED INTERLOCAL AGREEMENT**

**AMENDED AND RESTATED  
DEBT SERVICE REIMBURSEMENT INTERLOCAL AGREEMENT  
BETWEEN  
CITY OF NEW PORT RICHEY, FLORIDA  
AND  
THE CITY OF NEW PORT RICHEY, FLORIDA  
COMMUNITY REDEVELOPMENT AGENCY**

This Amended and Restated Debt Service Reimbursement Interlocal Agreement (the "Agreement") is entered into as of the 22<sup>nd</sup> day of December, 2022, by and between the CITY OF NEW PORT RICHEY, FLORIDA, a Florida municipal corporation (the "City"), and THE CITY OF NEW PORT RICHEY, FLORIDA COMMUNITY REDEVELOPMENT AGENCY, a body corporate and politic (the "Community Redevelopment Agency").

WITNESSETH:

WHEREAS, the City Council of the City created the Community Redevelopment Agency on November 15, 1988, by adopting Resolution No. 88-26 and established the funding of a Redevelopment Trust Fund through the enactment of Ordinance No. 1202 on June 29, 1989, as amended and supplemented from time to time (collectively, the "Trust Fund Ordinance") for the purpose of carrying out redevelopment pursuant to Chapter 163, Part III, Florida Statutes (the "Redevelopment Act"); and

WHEREAS, the City has found areas within its boundaries to be blighted, and in need of redevelopment; and

WHEREAS, the relevant blighted areas for purposes of this Agreement is known as the "Community Redevelopment Area" as designated by Resolution No. 89-7 adopted by the City Council of the City on June 20, 1989; and

WHEREAS, the City has adopted a community redevelopment plan for redevelopment of the Community Redevelopment Area (as amended from time to time, the "Redevelopment Work Plan); and

WHEREAS, the City amended the "Community Redevelopment Area" by Resolution 01-05 adopted by the City Council of the City on June 5, 2001 and Resolution No. 2020-28 adopted by the City Council of the City on July 7, 2020; and

WHEREAS, such community redevelopment plan does not expire until September 30, 2049, which is after the final maturity of the City's Taxable Non-Ad Valorem Revenue Note, Series 2022 (the "2022 Note") being issued on the date hereof and the 2016 Note and the 2020 Notes hereinafter defined; and

WHEREAS, the City has expended resources from its General Fund in furtherance of community redevelopment, and to assist the Community Redevelopment Agency in carrying out its responsibilities; and

WHEREAS, the Community Redevelopment Agency previously issued its Redevelopment Refunding Revenue Note, Series 2005A and Redevelopment Revenue Note, Series 2005B (collectively, the "2005 Notes"); and

WHEREAS, the City previously issued its Non-Ad Valorem Refunding Revenue Note, Series 2016 (the "2016 Note") to refinance the 2005 Notes; and

WHEREAS, the City previously issued its Taxable Non-Ad Valorem Revenue Note, Series 2020A and its Tax-Exempt Non-Ad Valorem Revenue Note, Series 2020B (collectively, the "2020 Notes"); and

WHEREAS, a portion of the 2020 Notes was allocable to a City-owned parking garage (the "CRA Portion of the 2020 Notes"); and

WHEREAS, the City and the Community Redevelopment Agency entered into an Interlocal Agreement dated as of July 21, 2010 (the "2010 Interlocal Agreement"), and the City and the Community Redevelopment Agency entered into an Amended and Restated Interlocal Agreement dated as of July 18, 2012 (the "2012 Interlocal Agreement") which amended and restated the 2010 Interlocal Agreement in its entirety, and the City and the Community Redevelopment Agency entered into an Amended and Restated Interlocal Agreement dated as of January 25, 2016 (the "2016 Interlocal Agreement") which amended and restated the 2012 Interlocal Agreement in its entirety and in connection with the issuance of the 2020 Notes, and the City and the Community Redevelopment Agency entered into an Amended and Restated Interlocal Agreement dated as of November 10, 2020 (the "2020 Interlocal Agreement") which amended and restated the 2016 Interlocal Agreement in its entirety; and

WHEREAS, on the date hereof, pursuant to an ordinance enacted by the City Council of the City (the "City Council") on December 20, 2022, as supplemented by resolution (collectively, the "Ordinance"), the City is issuing the 2022 Note to finance, amongst other capital projects, the costs of the acquisition, construction and/or equipping of various capital improvements within

the Redevelopment Area of the City of New Port Richey, Florida Community Redevelopment Agency as described in the Redevelopment Work Plan, including without limitation the acquisition of an office building; and

WHEREAS, as a result of the issuance of the 2022 Note, the City hereby amends and restates the 2020 Interlocal Agreement in its entirety; and

WHEREAS, pursuant to the Ordinance, the 2022 Note is payable solely from Pledged Revenues (as such term is defined in the Ordinance); and

WHEREAS, the obligations of the Community Redevelopment Agency with respect to the 2022 Note will be on parity and equal status with the obligations of the Community Redevelopment Agency with respect to the 2016 Note and the CRA Portion of the 2020 Notes; and

WHEREAS, on November 10, 2020, the parties hereto entered into an Amended and Restated Advance Reimbursement Interlocal Agreement (the "Advance Reimbursement Interlocal Agreement") whereby the Community Redevelopment Agency agreed to reimburse the City for such costs incurred by the City on behalf of the Community Redevelopment Agency in furtherance of community redevelopment, which financial obligation is treated as indebtedness for purposes of applicable law; and

WHEREAS, this Agreement constitutes the "Original Interlocal Agreement" for all intents and purposes pursuant to the Advance Reimbursement Interlocal Agreement; and

WHEREAS, the provisions of this Agreement and the obligations of the Community Redevelopment Agency hereunder shall be senior and superior in all respects to the rights of the City to receive tax increment revenues pursuant to the Advance Reimbursement Interlocal Agreement; and

WHEREAS, except with regard to the Community Redevelopment Agency's obligations pursuant to the Advance Reimbursement Interlocal Agreement, tax increment revenues are not subject to any other pledge or lien, and are free from all encumbrances; and

WHEREAS, the parties hereto desire to memorialize the terms under which the Community Redevelopment Agency shall reimburse the City for costs incurred by the City in furtherance of community redevelopment.

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the parties agree as follows:

1. Incorporation of Recitals. The above set forth recitals are hereby incorporated into the terms of this Agreement.

2. Obligation to Repay City. To the extent permitted by the Redevelopment Act, the Community Redevelopment Agency shall reimburse the City for all costs incurred by the City on behalf of the Community Redevelopment Agency in connection with the issuance of the 2016 Note, the CRA Portion of the 2020 Notes and the 2022 Note as described in Section 3.C. hereof. In the event tax increment revenues are not sufficient to immediately reimburse the City for these payments, then, in addition to the amounts due the City as described in the immediately preceding sentence, the Community Redevelopment Agency shall pay the same interest rates due on the 2016 Note, the CRA Portion of the 2020 Notes and the 2022 Note on amounts paid by the City from the date paid by the City until and including the date reimbursed by the Community Redevelopment Agency.

The Community Redevelopment Agency shall have no repayment obligations hereunder with respect to the portion of the 2020 Notes which are allocable to the fire station capital project or the library renovation capital project, which capital projects are also financed with a portion of the proceeds of the 2020 Notes.

3. Financing.

A. The City issued the 2016 Note, the CRA Portion of the 2020 Notes and the 2022 Note, and financing, amongst other capital projects, the costs of the acquisition, construction, and/or equipping of various capital improvements within the Redevelopment Area of the City of New Port Richey, Florida Community Redevelopment Agency as described in the Redevelopment Work Plan, as amended from time to time, including without limitation the acquisition of an office building. The debt service on the 2016 Note, the CRA Portion of the 2020 Notes and the 2022 Note, is not secured by any amounts pledged to the City hereunder.

B. In consideration of the payment of the tax increment revenues by the Community Redevelopment Agency to the City to pay the 2016 Note, the CRA Portion of the 2020 Notes and the 2022 Note, the City has authorized the issuance of the 2016 Note, the CRA Portion of the 2020 Notes and the 2022 Note.

C. Upon execution of this Agreement the Community Redevelopment Agency shall immediately deposit or cause to be deposited tax increment revenues received by the Community Redevelopment Agency with the City in amounts sufficient to pay the following (the "CRA Obligations"):

- (i) all amounts paid or payable pursuant to the Ordinance, by reason of the issuance of the 2016 Note, the CRA Portion of the 2020 Notes and the 2022 Note, including without limitation the costs of issuing the 2016 Note, the CRA Portion of the 2020 Notes and the 2022 Note; and

(ii) all amounts necessary to reimburse the City for amounts expended by it to pay any of the items mentioned in clause (i) above and any interest thereon as prescribed in Section 2 hereof.

The obligation to transfer the tax increment revenues to the City to pay the CRA Obligations specified in clauses (i) and (ii) above shall survive the date on which the 2016 Note, the CRA Portion of the 2020 Notes and the 2022 Note is no longer due and owing.

Any amounts received by the Community Redevelopment Agency in excess of the amount necessary to pay the CRA Obligations set forth above may be retained by the Community Redevelopment Agency and used for any lawful purpose of the Community Redevelopment Agency.

D. In order to secure its indebtedness to the City for the CRA Obligations, the Community Redevelopment Agency hereby pledges to the City the tax increment revenues which pledge shall be prior and superior to all other pledges thereof; provided, however, that the tax increment revenues which derive from any other redevelopment areas subsequently established by the Community Redevelopment Agency are not pledged in any manner to secure the CRA Obligations.

E. The Community Redevelopment Agency shall not pledge tax increment revenues to any entity other than the City, without the prior written consent of the owner or owners of the 2016 Note. The City shall not pledge amounts received pursuant to this Agreement to any entity, without the prior written consent of the owner or owners of the 2016 Note. The City and the Community Redevelopment Agency shall not amend (i) this Section 3.E. in any manner, or (ii) any other provision of this Agreement in a manner that would reduce transfers from the Community Redevelopment Agency to the City, if such reduction would cause the City to drop below the 1.50 times coverage requirement described in Section 17.B. of Resolution 2016-06 adopted by the City Council of the City on January 19, 2016, in either case, without the prior written consent of the owner or owners of the 2016 Note. Notwithstanding anything herein to the contrary, tax increment revenues and/or amounts payable hereunder to the City are not pledged in favor of the owner or owners of the 2016 Note, the CRA Portion of the 2020 Notes or the 2022 Note. The owner or owners of the 2016 Note are third party beneficiaries of this Agreement.

F. The Community Redevelopment Agency is presently entitled to receive the tax increment revenues to be deposited in the Redevelopment Trust Fund, and has taken all action required by law to entitle it to receive such tax increment revenues, and the Community Redevelopment Agency will diligently enforce the obligation of any "Taxing Authority" (as defined in Section 163.340(2), Florida Statutes) to appropriate its proportionate share of the tax increment revenues and will not take, or consent to or

adversely permit, any action which will impair or adversely affect the obligation of each such Taxing Authority to appropriate its proportionate share of such tax increment revenues, impair or adversely affect in any manner the deposit of such tax increment revenues in the Redevelopment Trust Fund, or the pledge of such tax increment revenues hereby to the extent as described herein. The Community Redevelopment Agency and the City shall be unconditionally and irrevocably obligated so long as the 2016 Note, the CRA Portion of the 2020 Notes and/or the 2022 Note are outstanding, and until the payment in full by the Community Redevelopment Agency of its indebtedness to the City for the CRA Obligations, to take all lawful action necessary or required in order to ensure that each such Taxing Authority shall appropriate its proportionate share of the tax increment revenues as now or later required by law, and to make or cause to be made any deposits of tax increment revenues or other funds required by this Agreement.

G. The Community Redevelopment Agency does hereby authorize and consent to the exercise of full and complete control and custody of the Redevelopment Trust Fund, and any and all moneys therein, by the City for the purpose provided in the Ordinance and this Agreement, including payment of the CRA Obligations.

4. Severability. If any provision of this Agreement shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable in any context, the same shall not affect any other provision herein or render any other provision (or such provision in any other context) invalid, inoperative or unenforceable to any extent whatever.

5. Applicable Provisions of Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

6. Rules of Interpretation. Unless expressly indicated otherwise, references to sections or articles are to be construed as references to sections or articles of this instrument as originally executed. Use of the words "herein," "hereby," "hereunder," "hereof," "hereinbefore," "hereinafter" and other equivalent words refer to this Agreement and not solely to the particular portion in which any such word is used.

7. Captions. The captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

8. City Council Members of the City Exempt from Personal Liability. No recourse under or upon any obligation, covenant or agreement of this Agreement, the 2016 Note, the CRA Portion of the 2020 Notes or the 2022 Note or for any claim based thereon or otherwise in respect thereof, shall be had against any City Council members of the City, as such, of the City, past, present or future, either directly or through the City it being expressly understood (a) that no personal liability whatsoever shall attach to, or is or shall be incurred by, the City Council

members of the City, as such, under or by reason of the obligations, covenants or agreements contained in this Agreement or implied therefrom, and (b) that any and all such personal liability, either at common law or in equity or by constitution or statute, of, and any and all such rights and claims against, every such City Council member of the City, as such, are waived and released as a condition of, and as a consideration for, the execution of this Agreement and the issuance of the 2022 Note, on the part of the City.

9. Board Members of the Community Redevelopment Agency Exempt from Personal Liability. No recourse under or upon any obligation, covenant or agreement of this Agreement, the 2016 Note, the CRA Portion of the 2020 Notes or the 2022 Note or for any claim based thereon or otherwise in respect thereof, shall be had against any board members of the Community Redevelopment Agency, as such, of the Community Redevelopment Agency, past, present or future, either directly or through the Community Redevelopment Agency it being expressly understood (a) that no personal liability whatsoever shall attach to, or is or shall be incurred by, the board members of the Community Redevelopment Agency, as such, under or by reason of the obligations, covenants or agreements contained in this Agreement or implied therefrom, and (b) that any and all such personal liability, either at common law or in equity or by constitution or statute, of, and any and all such rights and claims against, every such board member of the Community Redevelopment Agency, as such, are waived and released as a condition of, and as a consideration for, the execution of this Agreement.

10. Obligations Limited. By execution of this Agreement, the Community Redevelopment Agency hereby consents to all the provisions hereof. The obligation to pay to the City the CRA Obligations shall not be deemed to constitute a debt of the Community Redevelopment Agency or a pledge of the faith and credit of the Community Redevelopment Agency, but subject to Section 3.F. hereof, such CRA Obligations shall be payable from and secured solely by the tax increment revenues to be received by the Community Redevelopment Agency pursuant to the Redevelopment Act. The Community Redevelopment Agency has no taxing power.

11. Eligibility to Receive Tax Increment Revenues. The Community Redevelopment Agency shall comply with all applicable requirements set forth in the Redevelopment Act which are necessary in order for it to receive tax increment revenues and shall take all lawful action necessary or required to continue to receive such tax increment revenues so long as the 2016 Note, the CRA Portion of the 2020 Notes and the 2022 Note are outstanding and shall not allow an impairment of its receipt of the tax increment revenues to the detriment of the City or the owner or owners of the 2016 Note, the CRA Portion of the 2020 Notes and the 2022 Note.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed and their signatures to be affixed hereto.

Date: December 22, 2022

CITY OF NEW PORT RICHEY, FLORIDA

[Seal]

\_\_\_\_\_  
Mayor

ATTEST:

APPROVED AS TO FORM AND  
CORRECTNESS:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Attorney

[Seal]

THE CITY OF NEW PORT RICHEY,  
FLORIDA COMMUNITY  
REDEVELOPMENT AGENCY

ATTEST:

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
City Clerk - Secretary

APPROVED AS TO FORM AND  
CORRECTNESS:

\_\_\_\_\_  
General Counsel

**EXHIBIT E**

**FORM OF WIRE TRANSFER AGREEMENT**

## WIRE TRANSFER AGREEMENT

This Wire Transfer Agreement is dated as of December 22, 2022 (this "Agreement") and is by and between the CITY OF NEW PORT RICHEY, FLORIDA, a Florida municipal corporation (the "Borrower") and TRUIST BANK ("Lender").

### RECITALS

The Borrower is, simultaneously with the execution and delivery of this Agreement, executing and delivering its Taxable Non-Ad Valorem Revenue Note, Series 2022 (the "Bond") to the Lender. The purpose of the Bond is to provide for Lender's advance of \$3,000,000 to the Borrower to enable the Borrower to the costs of the acquisition, construction and/or equipping of various capital improvements within the Redevelopment Area of the City of New Port Richey, Florida Community Redevelopment Agency as described in the Redevelopment Work Plan adopted on April 2, 2019, as amended from time to time, including without limitation the acquisition of an office building.

In order to prevent unauthorized or fraudulent wire transfers through cyber fraud and other means, Lender and the Borrower hereby agree to the following:

**Section 1. Wire Transfer Requirements.** In the event a wire transfer is made by Lender to disburse funds in connection with the issuance of the Bond (a "Disbursement"), said wire transfer shall be delivered as directed in a written "Disbursement Authorization" provided to Lender by a representative of the Borrower, subject to the terms and conditions set forth herein. For the purposes of this Agreement, a representative of the Borrower shall include employees and elected and/or appointed officials of the Borrower, bond counsel, the Borrower's legal counsel, Borrower's financial advisor, or other designated representative.

**Section 2. Verification Procedures.** Prior to making any Disbursement pursuant to a Disbursement Authorization not delivered to Lender in person by a representative of the Borrower, Lender shall verify such Disbursement Authorization verbally via telephone communication with a representative of the Borrower. The Borrower shall ensure that a representative of the Borrower will provide such verification to Lender. The Borrower shall not disclose, or allow to be disclosed, such Lender verification procedures to any third party unless there is a legitimate business need to make such disclosure or such disclosure is required by law, and the Borrower accepts the risk of such third party knowledge of the security procedures. If the Borrower has reason to believe that a security procedure has been obtained by or disclosed to an unauthorized person or learns of any unauthorized transfer or of any discrepancy in a transfer request, then the Borrower shall notify Lender immediately.

**Section 3. Payee Identification.** The Borrower is solely responsible for accurately identifying the wire transfer information contained in the Disbursement Authorization delivered to Lender by a representative of the Borrower, including but not limited to the bank

name and its ABA number, beneficiary's account name and account number and beneficiary's physical address, together with other information requested by Lender (collectively, "Remittance Instructions"). If the Remittance Instructions describe a beneficiary inconsistently by name and account number, the Borrower acknowledges that Lender may make payment on the basis of the account number alone, that Lender is not obligated to detect such errors, and that the Borrower assumes the risk of any loss resulting therefrom.

**Section 4. Duty to Reconcile Written Confirmation.** Upon request from a representative of the Borrower, Lender shall use its best efforts to send a representative of the Borrower written confirmation of the Disbursement in the form of a reference number, beneficiary name and wire amount. A representative of the Borrower shall promptly review and reconcile the written confirmation of the Disbursement sent by Lender, and shall report to Lender in writing, promptly, but in no event later than ten (10) business days after the date of such written confirmation, any unauthorized, erroneous, unreceived or improperly executed payment. Lender and the Borrower agree that ten (10) business days is a reasonable time for the detection and reporting to Lender of such information. After that time, all items on the written confirmation will be considered correct and the Borrower will be precluded from recovering from Lender if such wire transfer identified in the written confirmation was actually made by Lender. For the avoidance of doubt, any such writings can be provided electronically.

**Section 5. Unauthorized Payments.** Notwithstanding any other provision herein, if a Disbursement has been verified by a representative of the Borrower pursuant to Section 2, it shall be binding on the Borrower if Lender acted in good faith in making such Disbursement.

**Section 6. Recordation.** Lender may record any telephone conversation between Lender and a representative of the Borrower in order to reduce the risk of unauthorized or erroneous transfers. Lender may retain such recordings for as long as Lender may deem necessary.

**Section 7. Indemnification and Hold Harmless.** If Lender complies with the provisions of this Agreement, the Borrower agrees that Lender shall not be responsible for any communication or miscommunication by a representative of the Borrower, and the Borrower further agrees to indemnify, to the extent allowed by law, Lender and hold Lender harmless from and against any and all losses, claims, expenses, suits, costs or damages, demands or liabilities of whatever kind or nature, whether now existing or hereafter relating in any way to a wire transfer made pursuant to the Bond; provided, however, that the Borrower shall not be required to indemnify Lender against Lender's own negligence or willful misconduct.

**Section 8. Applicable Law.** All wire transfer orders are governed by Article 4A of the Uniform Commercial Code, except as any provisions thereof that may be and are modified by the terms hereof. If any part of the applicable wire transfer order involves the use of the Fedwire, the rights and obligations of Lender and the Borrower regarding that wire transfer order are governed by Regulation J of the Federal Reserve Board.

**Section 9. Choice of Law.** The parties intend that Florida law shall govern this Agreement.

**Section 10. Amendments.** This Agreement may not be modified or amended unless such amendment is in writing and signed by Lender and the Borrower.

**Section 11. No Third-Party Beneficiaries.** There are no parties intended to be or which shall be deemed to be third-party beneficiaries of this Agreement.

**Section 12. Successors and Assigns.** All of the covenants and conditions of this Agreement shall be binding upon and inure to the benefit of the parties to this Agreement and their respective successors and assigns.

**Section 13. Severability.** If any court of competent jurisdiction shall hold any provision of this Agreement invalid or unenforceable, such holding shall not invalidate or render unenforceable any other provision of this Agreement.

**Section 14. Counterparts.** This Agreement may be executed in any number of counterparts, including separate counterparts, each executed counterpart constituting an original but all together only one agreement.

**Section 15. Termination.** This Agreement shall cease and terminate when the Bond is no longer outstanding.

[Remainder of page intentionally left blank]

**IN WITNESS WHEREOF**, each of the parties has caused this Wire Transfer Agreement to be signed and delivered by a duly authorized officer, all as of the date first above written.

**CITY OF NEW PORT RICHEY, FLORIDA**

By: \_\_\_\_\_

Name: Rob Marlowe

Title: Mayor

**TRUIST BANK**

By: \_\_\_\_\_

Name: Andrew G. Smith

Title: Managing Director

WIRE TRANSFER AGREEMENT, DATED AS OF DECEMBER 22, 2022