THE CITY OF ASHEVILLE

STAFF REPORT

Council Meeting Date: November 14, 2023

Subject: Fiscal Year 2023-24 Installment Loan Financing

Staff Resource(s): Tony McDowell, Finance Director

Action Requested: Adoption of a resolution authorizing execution of an installment financing contract with TD Equipment Finance for Capital Improvement Program (CIP) vehicles and equipment in an amount not to exceed $8,300,000.

Background:
- The City annually budgets for the purchase of necessary vehicles and equipment and typically finances these purchases through an installment loan program.
- The Covid-19 pandemic and supply chain issues have slowed the purchase and delivery of new vehicles and equipment over the last several years.
- As a result, the City has cash funded some purchases and delayed entering into any new installment loans; with the last installment loan being approved by City Council in June 2020.
- As the pace of vehicle and equipment expenditures has returned to a more normal level, the City moved ahead in October with a Request for Proposal (RFP) seeking competitive bids for a new installment loan financing totaling $8,300,000.
- Six proposals were received and reviewed.
- The most favorable proposal was submitted by TD Equipment Finance at interest rates not to exceed 4.30% per annum.
- Most of the expenses associated with this loan have already been incurred, and the proceeds will be used to reimburse the City for those expenses.

Council Goal(s):
- Financially Resilient City

Pro(s):
- Provides funding of capital expenditures at a favorable interest rate.
- Spreads capital costs over the purchased asset life.

Con(s):
- Increases the lifetime cost of acquisition through interest and cost of debt issuance expenses.

Fiscal Impact:
- Debt service payments on this loan are already accounted for in the City's multi-year Capital Improvement (CIP) and Debt model.

Suggested Motion:
- Motion to adopt the resolution authorizing the City Manager to execute the installment loan contract with TD Equipment Finance for the acquisition of vehicles and equipment.

Attachment(s):
- Resolution

RESOLUTION 23-___

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ASHEVILLE, NORTH CAROLINA, APPROVING AN INSTALLMENT FINANCING AGREEMENT TO FINANCE VEHICLES AND EQUIPMENT AND DELIVERY THEREOF AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS

WHEREAS, the City of Asheville, North Carolina (the "City") is a validly existing municipal corporation, existing as such under and by virtue of the Constitution, statutes and laws of the State of North Carolina (the "State");

WHEREAS, the City has the power, pursuant to the General Statutes of North Carolina to (1) enter into installment contracts in order to purchase, or finance or refinance the purchase of, real or personal property and to finance or refinance the construction or repair of fixtures or improvements on real property and (2) create a security interest in some or all of the property financed or refinanced to secure repayment of the purchase price;

WHEREAS, the City Council of the City (the "City Council") has determined that it is in the best interest of the City to enter into an installment financing agreement (the "Contract") with TD Equipment Finance, Inc. (the "Lender") in order to pay the capital costs of the acquisition and installation of vehicles and equipment (collectively, the "Projects"), and to put a security interest in the Projects in favor of the Lender in order to provide security for the City's obligations under the Contract;

WHEREAS, the City will enter into the Contract in an aggregate principal amount of not to exceed $8,300,000;

WHEREAS, there has been made available to the City Council in the office of the City's Chief Financial Officer the form of the Contract which the City proposes to approve, enter into and deliver, as applicable, to effectuate the proposed financing; and

WHEREAS, it appears that the Contract is in appropriate form and is an appropriate instrument for the purposes intended;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE, NORTH CAROLINA, AS FOLLOWS:

Section 1. Ratification of Prior Actions. All actions of the City, the City Manager, the Assistant City Manager, the City Attorney, the City Purchasing Director, the City Finance Director, the City Assistant Finance Director and the City Clerk and their respective designees in effectuating the proposed financing are hereby approved, ratified and authorized pursuant to and in accordance with the transactions contemplated by the Contract.

Section 2. Approval, Authorization and Execution of Contract. The City hereby approves the Projects in accordance with the terms of the Contract, which will be a valid, legal and binding obligation of the City in accordance with its terms. The City hereby approves the amount advanced by the Lender to the City pursuant to the Contract in an aggregate principal amount not to exceed $8,300,000 at interest rates not to exceed 4.30% per annum, such amount to be repaid by the City to the Lender as provided in the Contract. The form, terms and content of the Contract are in all respects authorized, approved and confirmed, and the City Manager, the Assistant City Manager, the City Attorney, the City Finance Director, the City Assistant Finance Director and the City Clerk, including anyone serving in an interim capacity, or their respective designees (each a "Designated Representative"), individually or collectively, are authorized, empowered and directed to execute and deliver the Contract for and on behalf of the City, including necessary counterparts, in substantially the form made available to the City Council, 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 their approval of any and all such

changes, modifications, additions or deletions, and that from and after the execution and delivery of the Contract, each Designated Representative is 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 Contract as executed.

Section 3. Further Actions. Each Designated Representative is hereby designated as the City's representative to act on behalf of the City in connection with the transactions contemplated by the Contract, and the Designated Representatives are authorized and directed to proceed with the Projects in accordance with the terms of the Contract, and to seek opinions on matters of law from the City Attorney, which the City Attorney is authorized to furnish on behalf of the City, and opinions of law from such other attorneys for all documents contemplated hereby as required by law. The Designated Representatives are hereby authorized to designate one or more employees of the City to take all actions which they are authorized to perform under this Resolution, and each is in all respects authorized on behalf of the City to supply all information pertaining to the transactions contemplated by the Contract. The Designated Representatives, individually or collectively, are authorized to execute and deliver for and on behalf of the City any and all additional certificates, documents, opinions or other papers and perform all other acts as may be required by the Contract or as they may deem necessary or appropriate to implement and carry out the intent and purposes of this Resolution and the Contract, including the on-going administration thereof.

Section 4. Repealer. All motions, orders, resolutions, ordinances and parts thereof, in conflict herewith are hereby repealed.

Section 5. Severability. If any section, phrase or provision of this Resolution is for any reason declared to be invalid, such declaration will not affect the validity of the remainder of the sections, phrases or provisions of this Resolution.

Section 6. Effective Date. This Resolution is effective on the date of its adoption.

Read, approved and adopted this 14th day of November, 2023.

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City Clerk Mayor

APPROVED AS TO FORM:

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City Attorney