THE CITY OF ASHEVILLE

STAFF REPORT

Council Meeting Date: August 22, 2023

Subject: General Obligation Bonds Series 2023B and Series 2023C - Adoption of Bond Resolution.

Staff Resource(s): Tony McDowell, Finance Director

Actions Requested: Adoption of the Bond Resolution that provides for the issuance of: 1) General Obligation Public Improvement Bonds, Series 2023B in an aggregate principal amount not to exceed $9,925,000, and 2) Taxable General Obligation Housing Bonds, Series 2023C in an aggregate principal amount not to exceed $16,895,000.

Background:

- On November 8, 2016, Asheville voters approved a $74 million General Obligation (GO) Bond Referendum which included $32 million for Transportation improvements, $25 million for Affordable Housing initiatives and $17 million for Parks and Recreation improvements.
- To date the City has already issued approximately $39.1 million of the $49 million approved for Transportation and Parks and Recreation improvements (Public Improvement Bonds), and approximately $8.1 million of the $25 million for Affordable Housing.
- As prescribed in NC State Statute 159-64, Bonds may be issued under a bond order at any time within seven years after the bond order takes effect.
- In order to meet this seven-year statutory requirement, the City has requested that the Local Government Commission sell the 2023 Bonds through a competitive sale on September 26, 2023.
- In order to facilitate this sale, staff is seeking Council approval of the Bond Resolution that provides for the issuance of: 1) General Obligation Public Improvement Bonds, Series 2023B in an aggregate principal amount not to exceed $9,925,000, and 2) Taxable General Obligation Housing Bonds, Series 2023C in an aggregate principal amount not to exceed $16,895,000.

Council Goal(s):

- A Financially Resilient City

Pro(s):

- Approves the issuance of all of the remaining General Obligation Bond debt approved by voters in November 2016 within the seven-year time period prescribed in state statutes.
- Utilizing long-term debt spreads capital costs over a longer term to better match assets' lives.

Con(s):

- None

Fiscal Impact:

- In June 2017, City Council approved a 3.5 cent increase to the property tax rate to fund future debt service associated with voter passage of the GO Bond referendum.
- The debt service payments for this bond refunding are already included in the multi-year Capital Improvement Program (CIP)/Debt Financial Model.

Suggested Motions:

- Motion to adopt the Bond Resolution that provides for the issuance of the City of Asheville, North Carolina: 1) General Obligation Public Improvement Bonds, Series 2023B in an aggregate

principal amount not to exceed $9,925,000, and 2) Taxable General Obligation Housing Bonds, Series 2023C in an aggregate principal amount not to exceed $16,895,000.

Attachment(s)

- Bond Resolution

RESOLUTION NO. 23-_____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ASHEVILLE, NORTH CAROLINA PROVIDING FOR THE ISSUANCE OF CITY OF ASHEVILLE, NORTH CAROLINA GENERAL OBLIGATION BONDS

WHEREAS, the Bond Orders hereinafter described has been adopted, and it is desirable to make provision for the issuance of the bonds authorized by said Bond Orders;

WHEREAS, the City of Asheville, North Carolina (the "*City*") desires to issue its General Obligation Public Improvement Bonds, Series 2023B in an aggregate principal amount not to exceed $9,925,000 (the "*2023B Bonds*");

WHEREAS, the City desires to issue its Taxable General Obligation Housing Bonds, Series 2023C in an aggregate principal amount not to exceed $16,895,000 (the "*2023C Bonds*" and collectively with the 2023B Bonds, the *"2023 Bonds"*);

WHEREAS, the City requests that the Local Government Commission sell the 2023 Bonds through a competitive sale;

WHEREAS, copies of the forms of the following documents relating to the transactions described above have been filed with the City and have been made available to the City Council:

1. the Notice of Sale for the competitive sale of the 2023B Bonds and the Notice of Sale for the competitive sale of the 2023C Bonds (collectively, the *"Notices of Sale*"); and

2. a Preliminary Official Statement with respect to the 2023 Bonds (the *"Preliminary Official Statement*");

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Asheville, North Carolina (the *"City Council"*) as follows:

Section 1. For purposes of this Resolution, the following words will have the meanings ascribed to them below:

"Bond Orders" means the Housing Bond Order, the Parks and Recreation Bond Order and the Transportation Bond Order.

"City" means the City of Asheville, North Carolina.

"Code" means the Internal Revenue Code of 1986, as amended. Each reference to a section of the Code herein will be deemed to include the United States Treasury Regulations proposed or in effect with respect thereto.

"Federal Securities" means, to the extent permitted by laws of the State for the defeasance of local government bonds, (a) direct obligations of the United States of America for the timely payment of which the full faith and credit of the United States of America is pledged; (b) obligations, the timely payment of the principal of and interest on which is fully guaranteed as full faith and credit obligations of the United States of America (including any securities described in (a) or (b) issued or held in the name of a trustee

in book-entry form on the books of the Department of Treasury of the United States of America), which obligations, in either case, are held in the name of a trustee and are not subject to redemption or purchase prior to maturity at the option of anyone other than the holder; (c) any bonds or other obligations of the State of North Carolina or of any agency, instrumentality or local governmental unit of the State of North Carolina which are (i) not callable prior to maturity or (ii) as to which irrevocable instructions have been given to the trustee or escrow agent with respect to such bonds or other obligations by the obligor to give due notice of redemption and to call such bonds for redemption on the date or dates specified, and which are rated by Moody's, if the bonds are rated by Moody's, S&P, if the bonds are rated by S&P and Fitch Ratings, if the bonds are rated by Fitch Ratings, within the highest rating category and which are secured as to principal, redemption premium, if any, and interest by a fund consisting only of cash or bonds or other obligations of the character described in clause (a) or (b) hereof which fund may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate; (d) direct evidences of ownership of proportionate interests in future interest and principal payments on specified obligations described in (a) held by a bank or trust company as custodian, under which the owner of the investment is the real party in interest and has the right to proceed directly and individually against the obligor on the underlying obligations described in (a), and which underlying obligations are not available to satisfy any claim of the custodian or any person claiming through the custodian or to whom the custodian may be obligated; or (e) any other obligations permitted under State law for the defeasance of local government bonds.

"Finance Officer" means the City's Finance Director or any successor to the function of the City's statutory finance officer, or her designee.

"Fitch Ratings" means Fitch Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and their assigns, and, if such corporation for any reason no longer performs the functions of a securities rating agency, "Fitch Ratings" will refer to any other nationally recognized securities rating agency other than Moody's and S&P designated by the City.

"Housing Bond Order" means the Bond Order authorizing the City to issue general obligation bonds to finance certain housing projects adopted by the City Council on August 9, 2016 and approved by a majority of voters at a referendum held on November 8, 2016.

"Housing Projects" means the housing projects financed with the proceeds of the 2023C Bonds in accordance with the authority provided under the Housing Bond Order.

"Moody's" means Moody's Investors Service, a corporation organized and existing under the laws of the State of Delaware, its successors and their assigns and, if such corporation for any reason no longer performs the functions of a securities rating agency, *"Moody's"* will be deemed to refer to any other nationally recognized rating agency other than S&P and Fitch Ratings designated by the City.

"Parks and Recreation Bond Orders means the Bond Order authorizing the City to issue general obligation bonds to finance certain parks and recreation projects adopted by the City Council on August 9, 2016 and approved by a majority of voters at a referendum held on November 8, 2016.

"Parks and Recreation Projects" means the parks and recreation projects financed with the proceeds of the 2023B Bonds in accordance with the authority provided under the Parks and Recreation Bond Order.

"Pricing Certificate" means the certificate of the Finance Officer, or his designee, delivered in connection with the issuance of the 2023 Bonds which establishes the final principal amount, the final

maturity amounts, the payment dates, the provisions for redemption and other terms of the 2023 Bonds consistent with the pricing of the 2023 Bonds and this Resolution.

"S&P" means S&P Global Ratings, a division of Standard & Poor's Financial Services LLC, its successors and their assigns and, if such corporation for any reason no longer performs the functions of a securities rating agency, *"S&P"* will be deemed to refer to any other nationally recognized rating agency other than Moody's and Fitch Ratings designed by the City.

"Transportation Bond Order" means the Bond Order authorizing the City to issue general obligation bonds to finance certain transportation projects adopted by the City Council on August 9, 2016 and approved by a majority of voters at a referendum held on November 8, 2016.

"Transportation Projects" means the transportation projects financed with the proceeds of the 2023B Bonds in accordance with the authority provided under the Transportation Bond Order.

"2023 Bonds" means the 2023B Bonds and the 2023C Bonds.

"2023B Bonds" means the City's General Obligation Public Improvement Bonds, Series 2023B authorized under the Parks and Recreation Bond Order and the Transportation Bond Order.

"2023C Bonds" means the City's Taxable General Obligation Housing Bonds, Series 2023C authorized under the Housing Bond Order.

Section 2. The City will issue not to exceed $9,925,000 in total aggregate principal amount of its 2023B Bonds. The City will issue not to exceed $16,895,000 in total aggregate principal amount of its 2023C Bonds. The final principal amount of each series of the 2023 Bonds will be set forth in the Pricing Certificate.

Section 3. The 2023 Bonds shall be dated their date of issuance and pay interest semiannually on June 1 and December 1, beginning June 1, 2024, unless the Finance Officer establishes different dates in the Pricing Certificate. The 2023B Bonds are being issued to provide funds (1) to finance the capital costs of the Parks and Recreation Projects pursuant to and in accordance with the Parks and Recreation Bond Order, (2) to finance the capital costs of the Transportation Projects pursuant to and in accordance with the Transportation Bond Order, and (3) to pay the costs of issuing the 2023B Bonds. The 2023C Bonds are being issued to provide funds (1) to finance the capital costs of the Housing Projects pursuant to and in accordance with the Housing Bond Order and (2) to pay the costs of issuing the 2023C Bonds.

Section 4. The City Council has ascertained and hereby determines that the average period of usefulness of the capital projects being financed by the proceeds of the 2023 Bonds is not less than 20 years computed from the date of issuance of the 2023 Bonds.

Section 5. The 2023B Bonds are payable in annual installments on December 1 in each year beginning December 1, 2024 and ending on December 1, 2043 and the 2003C Bonds are payable in annual installments on December 1 in each year beginning December 1, 2024 and ending on December 1, 2037, unless otherwise established in the Pricing Certificate. The Finance Officer, in consultation with the Local Government Commission, is hereby authorized and directed to determine the amount of the annual installments related to the 2023 Bonds. The 2023 Bonds may be sold as term bonds and, if so, will be subject to mandatory sinking fund redemption as set forth in the Pricing Certificate.

Section 6. The 2023B Bonds are to be numbered from "RB-1" consecutively and upward. The 2023C Bonds are to be numbered from "RC-1" consecutively and upward. All 2023 Bonds shall bear interest from their date at a rate or rates which shall be hereafter determined on the sale thereof computed on the basis of a 360-day year, constituting twelve 30-day months.

Section 7. The 2023 Bonds are to be registered as to principal and interest, and the Finance Officer is directed to maintain the registration records with respect thereto. The City will make payments of principal and interest on the 2023 Bonds to the person shown as the owner of the 2023 Bonds on its registration books as of the record date, which is at the close of business on the 15th day of the month preceding an interest payment date or a bond payment date (the *"Record Date"*). The 2023 Bonds shall bear the original or facsimile signatures of the City Manager or the Mayor and the City Clerk or any Deputy City Clerk or their respective designees.

Section 8. The 2023 Bonds will initially be issued by means of a book-entry system with no physical distribution of bond certificates made to the public. One bond certificate for each maturity will be issued to The Depository Trust Company (*"DTC"*), and immobilized in its custody. A book-entry system will be employed, evidencing ownership of the 2023 Bonds in principal amounts of $5,000 or integral multiples thereof, with transfers of beneficial ownership effected on the records of DTC and its participants pursuant to rules and procedures established by DTC. Interest on the 2023 Bonds will be payable to DTC or its nominee as registered owner of the 2023 Bonds in immediately available funds. The principal of and interest on the 2023 Bonds will be payable to owners of 2023 Bonds shown on the records of DTC at the close of business on the Record Date. The City will not be responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants.

If (a) DTC determines not to continue to act as securities depository for the 2023 Bonds or (b) the Finance Officer determines that the continuation of the book-entry system of evidence and transfer of ownership of the 2023 Bonds would adversely affect the interests of the beneficial owners of the 2023 Bonds, the City will discontinue the book-entry system with DTC in accordance with the rules and procedures of DTC. If the City fails to identify another qualified securities depository to replace DTC, the City will authenticate and deliver replacement bonds in accordance with the rules and procedures of DTC.

Section 9. The 2023 Bonds maturing on or before December 1, 2033 will not be subject to redemption before maturity. The 2023 Bonds maturing on and after December 1, 2034 will be subject to redemption before maturity, at the option of the City, from any moneys that may be made available for such purpose, either in whole or in part on any date on or after December 1, 2033, at the redemption price of the principal amount of 2023 Bonds to be so redeemed, plus accrued interest to the redemption date. Different redemption provisions may be established by the Pricing Certificate.

If less than all of the 2023 Bonds are called for redemption, the City shall select the maturity or maturities of the 2023 Bonds to be redeemed in such manner as the City in its discretion may determine and DTC and its participants shall determine which of the 2023 Bonds within a maturity are to be redeemed in accordance with its rules and procedures (or if the 2023 Bonds are not in book-entry, the City will determine by lot); provided, however, that the portion of any 2023 Bond to be redeemed shall be in principal amount of $5,000 or integral multiples thereof and that, in selecting 2023 Bonds for redemption, each 2023 Bond will be considered as representing that number of 2023 Bonds which is obtained by dividing the principal amount of such 2023 Bond by $5,000. Whenever the City elects to redeem 2023 Bonds, notice of such redemption of 2023 Bonds, stating the redemption date, redemption price and any

conditions to the redemption and identifying the 2023 Bonds or portions thereof to be redeemed and further stating that on such redemption date there shall become due and payable on each 2023 Bond or portion thereof so to be redeemed, the principal thereof, and interest accrued to the redemption date and that from and after such date interest thereon shall cease to accrue, shall be given not less than 30 days nor more than 60 days before the redemption date in writing to DTC or its nominee as the registered owner of the 2023 Bonds, by prepaid certified or registered United States mail (or by such other means as permitted by DTC's rules and procedures), at the address provided to the City by DTC, but any failure or defect in respect of such mailing will not affect the validity of the redemption. If DTC, or its nominee, is not the registered owner of the 2023 Bonds, the City will give notice at the time set forth above by prepaid first class United States mail, to the then-registered owners of the 2023 Bonds or portions thereof to be redeemed at the last address shown on the registration books kept by the City. The City will also mail or transmit by facsimile or in electronic format a copy of the notice of redemption within the time set forth above (1) to the Local Government Commission of North Carolina (the *"Local Government Commission"*) and (2) to the Municipal Rulemaking Securities Board through the EMMA system.

If at the time of mailing of the notice of redemption there is not on deposit money sufficient to redeem the 2023 Bonds called for redemption, such notice may state that it is conditional on the deposit of money for the redemption on the date of redemption as set forth in the notice. Any notice, once given, may be withdrawn by notice delivered in the same manner as the notice of redemption was given.

If moneys sufficient to pay the redemption price of the 2023 Bonds or portions thereof to be redeemed, plus accrued interest thereon to the date fixed for redemption, are held by the City, or on the City's behalf, in trust for the registered owners of the 2023 Bonds or portions thereof to be redeemed, interest on the 2023 Bonds or portions thereof called for redemption shall cease to accrue, and to the extent permitted by law, such 2023 Bonds or portions thereof shall cease to be entitled to any benefits or security hereunder or to be deemed outstanding, and the registered owners of such 2023 Bonds or portions thereof shall have no rights in respect thereof except to receive payment of the redemption price thereof, plus accrued interest thereon to such redemption date. If a portion of a 2023 Bond shall have been selected for redemption, a new 2023 Bond or 2023 Bonds of the same maturity, of any authorized denomination or denominations and bearing interest at the same rate shall be delivered for the unredeemed portion of the principal amount of such 2023 Bond.

Section 10. The 2023 Bonds and the provisions for the registration of the 2023 Bonds and for the approval of the 2023 Bonds by the Secretary of the Local Government Commission are to be in substantially the form set forth in Exhibit A hereto.

Section 11. The Finance Officer, or his designee, is hereby authorized to execute a non-arbitrage certificate with respect to the 2023B Bonds in order to comply with Section 148 of the Code and the applicable Income Tax Regulations thereunder.

Section 12. The Finance Officer is hereby directed to create and establish a special funds or accounts (the *"2023B Bonds Project Fund"*) and may establish separate accounts or subaccounts within the 2023B Project Fund to track the expenditures related to each of the Parks and Recreation Projects and the Transportation Projects. The Finance Officer will deposit the proceeds from the sale of the 2023B Bonds in the 2023B Bonds Project Fund to be used to pay the capital costs of the Parks and Recreation Projects in accordance with the Parks and Recreation Bond Order, to pay the capital costs of the Transportation Projects in accordance with the Transportation Bond Order and costs of issuance of the 2023B Bonds.

The Finance Officer is hereby directed to create and establish a special funds or accounts (the *"2023C Bonds Project Fund"* and collectively with the 2023B Bonds Project Fund, the *"Project Funds"*) and may establish separate accounts or subaccounts within the 2023C Project Fund to track the expenditures

related to each of the Housing Projects. The Finance Officer will deposit the proceeds from the sale of the 2023C Bonds in the 2023C Bonds Project Fund to be used to pay the capital costs of the Housing Projects in accordance with the Housing Bond Order and costs of issuance of the 2023C Bonds.

The Finance Officer will invest and reinvest any moneys held in the Project Funds as permitted by the laws of the State of North Carolina and the income, to the extent permitted by the Code, is to be retained in the Project Funds and applied with the proceeds of the 2023 Bonds as permitted by the respective Bond Orders, as directed by the Finance Officer. The Finance Officer will keep and maintain adequate records pertaining to the Project Funds and all disbursements therefrom so as to satisfy the requirements of the laws of the State of North Carolina and to assure that the City maintains its covenants with respect to the exclusion of the interest on the 2023B Bonds from gross income for purposes of federal income taxation.

Section 13. Actions taken by officials of the City to select paying and transfer agents, and a bond registrar, or alternate or successor agents and registrars pursuant to Section 159E-8 of the Registered Public Obligations Act, Chapter 159E of the General Statutes of North Carolina, are hereby authorized and approved.

Section 14. The Local Government Commission is hereby requested to sell the 2023 Bonds through a competitive sale to the bidder whose bid results in the lowest interest cost to the City, determined on the basis of the true interest cost method or such other basis as may be determined by the Local Government Commission.

Section 15. The Mayor, the City Manager, the City Clerk and the Finance Officer, or their respective designees, individually and collectively, are hereby authorized and directed to cause the 2023 Bonds to be prepared and, when they shall have been duly sold by the Local Government Commission, to execute the 2023 Bonds and to turn the 2023 Bonds over to the registrar and transfer agent of the City, if any, for delivery through the facilities of DTC to the purchaser or purchasers to whom they may be sold by the Local Government Commission.

Section 16. The form and content of the Notices of Sale and the Preliminary Official Statement together with the final Official Statement related to the 2023 Bonds are in all respects authorized, approved and confirmed, and the Mayor, the City Manager, the City Clerk and the Finance Officer, or their respective designees, individually and collectively, are authorized, empowered and directed to execute and deliver the final Official Statement in substantially the form and content of the Preliminary Official Statement made available to the City Council, but with such changes, modifications, additions or deletions therein as shall to such officers seem necessary, desirable or appropriate, their execution thereof to constitute conclusive evidence of the approval of the City Council of any and all changes, modifications, additions or deletions therein from the form and content of the Preliminary Official Statement made available to the City Council.

Section 17. The Mayor, the City Manager, the City Clerk, the Finance Officer and the City Attorney, or their respective designees, individually and collectively, are authorized and directed 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 documents contemplated hereinabove or as may be deemed necessary or appropriate in order to implement and carry out the intent and purposes of this Resolution. All actions previously taken by any officer of the City related to the 2023 Bonds and the proceedings therefor are hereby ratified and approved. Any provision in this Resolution that authorizes more than one officer of the City to take certain actions shall be read to permit such officers to take the authorized actions either individually or collectively and any action authorized may be taken by anyone designated to act on their behalf.

Section 18. The City agrees, in accordance with Rule 15c2-12 (the *"Rule"*) promulgated by the Securities and Exchange Commission (the *"SEC"*) and for the benefit of the beneficial owners of the 2023 Bonds, to provide as follows:

(1) by not later than seven months after the end of each fiscal year to the Municipal Securities Rulemaking Board (the *"MSRB"*) in an electronic format as prescribed by the MSRB, the audited financial statements of the City for the preceding fiscal year, if available, prepared in accordance with Section 159-34 of the General Statutes of North Carolina, as it may be amended from time to time, or any successor statute, or if such audited financial statements are not then available, unaudited financial statements of the City for such fiscal year to be replaced subsequently by audited financial statements of the City to be delivered within 15 days after such audited financial statements become available for distribution;

(2) by not later than seven months after the end of each fiscal year to the MSRB, the financial and statistical data as of a date not earlier than the end of the preceding fiscal year for the type of information included under the captions **"THE CITY--DEBT INFORMATION"** and **"--TAX INFORMATION"** (excluding information on overlapping or underlying units) in the Official Statement referred to in Section 16, to the extent such items are not included in the audited financial statements referred to in clause (1) above;

(3) in a timely manner not in excess of 10 business days after the occurrence of the event, to the MSRB, notice of any of the following events with respect to the 2023 Bonds:

(a) principal and interest payment delinquencies;

(b) non-payment related defaults, if material;

(c) unscheduled draws on the debt service reserves reflecting financial difficulties;

(d) unscheduled draws on any credit enhancements reflecting financial difficulties;

(e) substitution of any credit or liquidity providers, or their failure to perform;

(f) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the 2023 Bonds or other material events affecting the tax status of the 2023 Bonds;

(g) modification of the rights of the beneficial owners of the 2023 Bonds, if material;

(h) call of any of the 2023 Bonds, other than mandatory sinking fund redemptions, if any, if material, and tender offers;

(i) defeasance of any of the 2023 Bonds;

(j) release, substitution or sale of any property securing repayment of the 2023 Bonds, if material;

(k) rating changes;

(l) bankruptcy, insolvency, receivership or similar event of the City;

(m) the consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to such actions, other than pursuant to its terms, if material;

(n) the appointment of a successor or additional trustee, or the change in the name of a trustee, if material;

(o) incurrence of a financial obligation of the City, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the City, any of which affect security holders, if material; and

(p) default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the City, any of which reflect financial difficulties.

(4) in a timely manner to the MSRB, notice of the failure by the City to provide the required annual financial information described in (1) and (2) above on or before the date specified.

For purposes of this Section, "*financial obligation*" means (a) a debt obligation, (b) a derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation, or (c) a guarantee of either clause (a) or (b) above. The term "*financial obligation*" shall not include municipal securities as to which a final official statement has been provided to the MSRB consistent with the Rule.

The City agrees that its undertaking under this Section is intended to be for the benefit of the beneficial owners of the 2023 Bonds and is enforceable by any of the beneficial owners of the 2023 Bonds, including an action for specific performance of the City's obligations under this Section, but a failure to comply will not be an event of default and will not result in acceleration of the payment of the 2023 Bonds. An action must be instituted, had and maintained in the manner provided in this Section for the benefit of all of the beneficial owners of the 2023 Bonds.

All documents provided to the MSRB as described in this Section shall be provided in an electronic format as prescribed by the MSRB and accompanied by identifying information as prescribed by the MSRB. The City may discharge its undertaking described above by providing such information in a manner the SEC subsequently authorizes in lieu of the manner described above.

The City may modify from time to time, consistent with the Rule, the information provided or the format of the presentation of such information, to the extent necessary or appropriate in the judgment of the City, but:

(1) any such modification may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law or change in the identity, nature or status of the City;

(2) the information to be provided, as modified, would have complied with the requirements of the Rule as of the date of the Official Statement, after taking into account any amendments or interpretations of the Rule as well as any changes in circumstances;

(3) any such modification does not materially impair the interest of the beneficial owners, as determined by parties unaffiliated with the City (such as bond counsel) or by the approving vote of the registered owners of a majority in principal amount of the 2023 Bonds at the time of the amendment.

Any annual financial information containing modified operating data or financial information will explain, in narrative form, the reasons for the modification and the impact of the change in the type of operating data or financial information being provided.

The provisions of this Section terminate on payment, or provision having been made for payment in a manner consistent with the Rule, in full of the principal of and interest on the 2023 Bonds.

Section 19. Those portions of this Resolution other than Paragraph 18 may be amended or supplemented, from time to time, without the consent of the owners of the 2023 Bonds if in the opinion of nationally recognized bond counsel, such amendment or supplement would not materially adversely affect the interests of the owners of the 2023 Bonds and would not cause the interest on the 2023B Bonds to be included in the gross income of a recipient thereof for federal income tax purposes, including, without limitation, amendments which may be necessary to maintain the book-entry system. This Resolution may be amended or supplemented with the consent of the owners of a majority in aggregate principal amount of the outstanding 2023 Bonds, exclusive of 2023 Bonds, if any, owned by the City, but a modification or amendment (1) may not, without the express consent of any affected owner of 2023 Bonds, reduce the principal amount of any 2023 Bond, reduce the interest rate payable on it, extend its maturity or the times for paying interest, change the monetary medium in which principal and interest is payable, or reduce the percentage of consent required for amendment or modification and (2) as to an amendment to Paragraph 18, must be limited as described therein.

Any act done pursuant to a modification or amendment consented to by the owners of the 2023 Bonds is binding on all owners of the 2023 Bonds and will not be deemed an infringement of any of the provisions of this Resolution, whatever the character of the act may be, and may be done and performed as fully and freely as if expressly permitted by the terms of this Resolution, and after consent has been given, no owner of a 2023 Bond has any right or interest to object to the action, to question its propriety or to enjoin or restrain the City from taking any action pursuant to a modification or amendment.

If the City proposes an amendment or supplemental resolution to this Resolution requiring the consent of the owners of the 2023 Bonds, the registrar for the 2023 Bonds shall, on being satisfactorily indemnified with respect to expenses, cause notice of the proposed amendment to be sent to each owner of the 2023 Bonds then outstanding by first-class mail, postage prepaid, to the address of such owner as it appears on the registration books (or by such other means acceptable to the registered owner); but the failure to receive such notice by mailing by any owner, or any defect in the mailing thereof, will not affect the validity of any proceedings pursuant hereto. Such notice shall briefly set forth the nature of the proposed amendment and shall state that copies thereof are on file at the principal office of the registrar for the 2023 Bonds for inspection by all owners of the 2023 Bonds. If, within 60 days or such longer period as shall be prescribed by the City following the giving of such notice, the owners of a majority in aggregate principal amount of 2023 Bonds then outstanding have consented to the proposed amendment, the amendment will be effective as of the date stated in the notice.

Section 20. Nothing in this Resolution precludes (a) the payment of the 2023 Bonds from the proceeds of refunding bonds or (b) the payment of the 2023 Bonds from any legally available funds.

If the City causes to be paid, or has made provisions to pay, on maturity or on redemption before maturity, to the owners of any of the 2023 Bonds the principal of such 2023 Bonds (including interest to become due thereon), through setting aside trust funds or setting apart in a reserve fund or special trust account created pursuant to this Resolution or otherwise, or through the irrevocable segregation for that purpose in some sinking fund or other fund or trust account with an escrow agent or otherwise, moneys sufficient therefor, including, but not limited to, interest earned or to be earned on Federal Securities, then, to the extent permitted by law, such 2023 Bonds shall be considered to have been discharged and satisfied, and the principal of such 2023 Bonds (including premium, if any, and interest thereon) shall no longer be deemed to be outstanding and unpaid; provided, however, that nothing in this Resolution requires the deposit of more than such Federal Securities as may be sufficient, taking into account both the principal amount of such Federal Securities and the interest to become due thereon, to implement any such defeasance.

If such a defeasance occurs and after the City receives an opinion of a nationally recognized accounting or verification firm that the segregated moneys or Federal Securities together with interest earnings thereon are sufficient to effect a defeasance, the City shall execute and deliver all such instruments as may be necessary to effect such a defeasance and desirable to evidence such release, discharge and satisfaction. The City shall make provisions for the mailing of a notice to the owners of the 2023 Bonds that such moneys are so available for such payment.

Section 21. If any one or more of the agreements or provisions herein contained 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 for any reason whatsoever is held invalid, then such covenants, agreements or provisions are null and void and separable from the remaining agreements and provisions and will in no way affect the validity of any of the other agreements and provisions hereof or of the 2023 Bonds authorized hereunder.

Section 22. 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.

Section 23. This Bond Resolution is effective on its adoption.

Read, approved and adopted this 22nd day of August, 2023

_____ _____

City Clerk Mayor

Approved as to form:

_____

City Attorney

STATE OF NORTH CAROLINA)

)

CITY OF ASHEVILLE)

I, Magdalen Burleson, City Clerk of the City of Asheville, North Carolina, *DO HEREBY CERTIFY* the attached to be a true and correct copy of a portion of the Asheville City Council meeting minutes of August 22, 2023, regarding adoption of a resolution entitled **"RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ASHEVILLE, NORTH CAROLINA PROVIDING FOR THE ISSUANCE OF CITY OF ASHEVILLE, NORTH CAROLINA GENERAL OBLIGATION BONDS"** of the City Council of the City of Asheville, North Carolina.

_____(SEAL)

MAGDALEN BURLESON

City Clerk

City of Asheville, North Carolina

APPENDIX A

FORM OF 2023B BOND

No. RB- $

UNITED STATES OF AMERICA

STATE OF NORTH CAROLINA

CITY OF ASHEVILLE

INTEREST RATE	**MATURITY DATE**	**DATED DATE**	**CUSIP**
	DECEMBER 1,		

REGISTERED OWNER: **CEDE & CO.**

PRINCIPAL SUM: **DOLLARS**

GENERAL OBLIGATION PUBLIC IMPROVEMENT BOND, SERIES 2023B

THE CITY OF ASHEVILLE, NORTH CAROLINA (the *"City"*) acknowledges itself indebted and for value received hereby promises to pay to the Registered Owner named above, on the Maturity Date specified above, upon surrender hereof, the Principal Sum shown above and to pay to the Registered Owner hereof interest thereon from the date of this Bond until it shall mature at the Interest Rate per annum specified above, payable on June 1, 2024 and semiannually thereafter on June 1 and December 1 of each year, on the basis of a 360-day year, constituting twelve 30-day months. Principal of and interest on this Bond are payable in immediately available funds to The Depository Trust Company (*"DTC"*) or its nominee as registered owner of the Bonds and is payable to the owner of this Bond shown on the records of DTC at the close of business on the 15th day of the month preceding an interest payment date or

a bond payment date. The City is not responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants.

This Bond is issued in accordance with the Registered Public Obligations Act, Chapter 159E of the General Statutes of North Carolina, and pursuant to The Local Government Finance Act and Bond Orders adopted by the City Council on August 9, 2016 (the "*Bond Orders"*) and approved by a majority of voters at a referendum held on November 8, 2016. The Bond Orders and a resolution adopted by the City Council of the City on August 22, 2023 (the *"Bond Resolution"*) authorize the 2023B Bonds to be issued to pay the costs of the Parks and Recreation Projects and the Transportation Projects as described in the Bond Resolution. Proceeds of the 2023B Bonds will also be used to pay the costs of issuing the 2023B Bonds. The 2023B Bonds will initially be issued by means of a book-entry system as described in the Bond Resolution. Capitalized terms used herein and not otherwise defined have the meaning set forth in the Bond Resolution.

The 2023B Bonds maturing on or before December 1, 2033 will not be subject to redemption prior to maturity. The 2023 Bonds maturing on and after December 1, 2034 will be subject to redemption prior to maturity, at the option of the City, from any moneys that may be made available for such purpose, either in whole or in part on any date on or after December 1, 2033. The 2023B Bonds called for redemption will be redeemed at the redemption price of the principal amount of 2023B Bonds to be so redeemed, plus accrued interest to the redemption date.

If less than all of the 2023B Bonds are called for redemption, the City shall select the maturity or maturities of the 2023B Bonds to be redeemed in such manner as the City in its discretion may determine and DTC and its participants shall determine which of the 2023B Bonds within a maturity are to be redeemed in accordance with its rules and procedures (or if the 2023B Bonds are not in book-entry, the City will determine by lot); provided, however, that the portion of any 2023B Bond to be redeemed shall be in principal amount of $5,000 or integral multiples thereof and that, in selecting 2023B Bonds for redemption, each 2023B Bond shall be considered as representing that number of 2023B Bonds which is obtained by dividing the principal amount of such 2023B Bond by $5,000. Whenever the City elects to redeem 2023B Bonds, notice of such redemption of 2023B Bonds, stating the redemption date, redemption price and any conditions to the redemption and identifying the 2023B Bonds or portions thereof to be redeemed and further stating that on such redemption date there shall become due and payable on each 2023B Bond or portion thereof so to be redeemed, the principal thereof, and interest accrued to the redemption date and that from and after such date interest thereon shall cease to accrue, shall be given not less than 30 days nor more than 60 days before the redemption date in writing to DTC or its nominee as the registered owner of the 2023B Bonds, by prepaid certified or registered United States mail (or by such other means as permitted by DTC's rules and procedures), at the address provided to the City by DTC, but any failure or defect in respect of such mailing will not affect the validity of the redemption. If DTC is not the registered owner of the 2023B Bonds, the City will give notice at the time set forth above by prepaid first class United States mail, to the then-registered owners of the 2023B Bonds or portions thereof to be redeemed at the last address shown on the registration books kept by the City.

It is hereby certified and recited that all conditions, acts and things required by the Constitution or statutes of the State of North Carolina to exist, be performed or happen precedent to or in the issuance of this Bond, exist, have been performed and have happened, and that the amount of this Bond, together with all

other indebtedness of the City, is within every debt and other limit prescribed by said Constitution or statutes. The faith and credit of the City are hereby pledged to the punctual payment of the principal of and interest on this Bond in accordance with its terms.

This Bond shall not be valid or become obligatory for any purpose until the certification hereon shall have been signed by an authorized representative of the Local Government Commission.

IN WITNESS WHEREOF, the City has caused this Bond to bear the original or facsimile of the signatures of the following officers of the City and an original or facsimile of the seal of the City to be imprinted hereon and this Bond to be dated its date of issuance.

(SEAL)

City Clerk

Mayor

Date of Execution: _____, 2023

The issue hereof has been approved under the

provisions of The Local Government Bond Act.

Secretary of the Local Government Commission

FORM OF ASSIGNMENT

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto

(Please print or typewrite Name and Address,

including Zip Code, and Federal Taxpayer Identification or

Social Security Number of Assignee)

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints

Attorney to register the transfer of the within Bond on the books kept for registration thereof,

with full power of substitution in the premises.

Dated: _____

Signature guaranteed by:

NOTICE: Signature must be guaranteed by a Participant in the Securities Transfer Agent Medallion Program ("Stamp") or similar program.

NOTICE: The signature to this assignment must correspond with the name as it appears on the face of the within Bond in every particular, without alteration, enlargement or any change whatever.

TRANSFER FEE MAY BE REQUIRED

FORM OF 2023C BOND

No. RC- $

UNITED STATES OF AMERICA

STATE OF NORTH CAROLINA

CITY OF ASHEVILLE

INTEREST RATE	**MATURITY DATE**	**DATED DATE**	**CUSIP**
	DECEMBER 1,		

REGISTERED OWNER: **CEDE & CO.**

PRINCIPAL SUM: **DOLLARS**

TAXABLE GENERAL OBLIGATION HOUSING BOND, SERIES 2023C

THE CITY OF ASHEVILLE, NORTH CAROLINA (the *"City"*) acknowledges itself indebted and for value received hereby promises to pay to the Registered Owner named above, on the Maturity Date specified above, upon surrender hereof, the Principal Sum shown above and to pay to the Registered Owner hereof interest thereon from the date of this Bond until it shall mature at the Interest Rate per annum specified above, payable on June 1, 2024 and semiannually thereafter on June 1 and December 1 of each year, on the basis of a 360-day year, constituting twelve 30-day months. Principal of and interest on this Bond are payable in immediately available funds to The Depository Trust Company (*"DTC"*) or its nominee as registered owner of the Bonds and is payable to the owner of this Bond shown on the records of DTC at the close of business on the 15th day of the month preceding an interest payment date or

a bond payment date. The City is not responsible or liable for maintaining, supervising or reviewing the records maintained by DTC, its participants or persons acting through such participants.

This Bond is issued in accordance with the Registered Public Obligations Act, Chapter 159E of the General Statutes of North Carolina, and pursuant to The Local Government Finance Act and a Bond Orders adopted by the City Council on August 9, 2016 (the "*Bond Order"*) and approved by a majority of voters at a referendum held on November 8, 2016. The Bond Order and a resolution adopted by the City Council of the City on August 22, 2023 (the *"Bond Resolution"*) authorize the 2023C Bonds to be issued to pay the costs of the Housing Projects as described in the Bond Resolution. Proceeds of the 2023C Bonds will also be used to pay the costs of issuing the 2023C Bonds. The 2023C Bonds will initially be issued by means of a book-entry system as described in the Bond Resolution. Capitalized terms used herein and not otherwise defined have the meaning set forth in the Bond Resolution.

The 2023C Bonds maturing on or before December 1, 2033 will not be subject to redemption prior to maturity. The 2023 Bonds maturing on and after December 1, 2034 will be subject to redemption prior to maturity, at the option of the City, from any moneys that may be made available for such purpose, either in whole or in part on any date on or after December 1, 2033. The 2023C Bonds called for redemption will be redeemed at the redemption price of the principal amount of 2023C Bonds to be so redeemed, plus accrued interest to the redemption date.

If less than all of the 2023C Bonds are called for redemption, the City shall select the maturity or maturities of the 2023C Bonds to be redeemed in such manner as the City in its discretion may determine and DTC and its participants shall determine which of the 2023C Bonds within a maturity are to be redeemed in accordance with its rules and procedures (or if the 2023C Bonds are not in book-entry, the City will determine by lot); provided, however, that the portion of any 2023C Bond to be redeemed shall be in principal amount of $5,000 or integral multiples thereof and that, in selecting 2023C Bonds for redemption, each 2023C Bond shall be considered as representing that number of 2023C Bonds which is obtained by dividing the principal amount of such 2023C Bond by $5,000. Whenever the City elects to redeem 2023C Bonds, notice of such redemption of 2023C Bonds, stating the redemption date, redemption price and any conditions to the redemption and identifying the 2023C Bonds or portions thereof to be redeemed and further stating that on such redemption date there shall become due and payable on each 2023C Bond or portion thereof so to be redeemed, the principal thereof, and interest accrued to the redemption date and that from and after such date interest thereon shall cease to accrue, shall be given not less than 30 days nor more than 60 days before the redemption date in writing to DTC or its nominee as the registered owner of the 2023C Bonds, by prepaid certified or registered United States mail (or by such other means as permitted by DTC's rules and procedures), at the address provided to the City by DTC, but any failure or defect in respect of such mailing will not affect the validity of the redemption. If DTC is not the registered owner of the 2023C Bonds, the City will give notice at the time set forth above by prepaid first class United States mail, to the then-registered owners of the 2023C Bonds or portions thereof to be redeemed at the last address shown on the registration books kept by the City.

It is hereby certified and recited that all conditions, acts and things required by the Constitution or statutes of the State of North Carolina to exist, be performed or happen precedent to or in the issuance of this Bond, exist, have been performed and have happened, and that the amount of this Bond, together with all other indebtedness of the City, is within every debt and other limit prescribed by said Constitution or

statutes. The faith and credit of the City are hereby pledged to the punctual payment of the principal of and interest on this Bond in accordance with its terms.

This Bond shall not be valid or become obligatory for any purpose until the certification hereon shall have been signed by an authorized representative of the Local Government Commission.

IN WITNESS WHEREOF, the City has caused this Bond to bear the original or facsimile of the signatures of the following officers of the City and an original or facsimile of the seal of the City to be imprinted hereon and this Bond to be dated its date of issuance.

(SEAL)

City Clerk

Mayor

Date of Execution: _____, 2023

The issue hereof has been approved under the

provisions of The Local Government Bond Act.

Secretary of the Local Government Commission

FORM OF ASSIGNMENT

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto

(Please print or typewrite Name and Address,

including Zip Code, and Federal Taxpayer Identification or

Social Security Number of Assignee)

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints

Attorney to register the transfer of the within Bond on the books kept for registration thereof,

with full power of substitution in the premises.

Dated: _____

Signature guaranteed by:

NOTICE: Signature must be guaranteed by a Participant in the Securities Transfer Agent Medallion Program ("Stamp") or similar program.

NOTICE: The signature to this assignment must correspond with the name as it appears on the face of the within Bond in every particular, without alteration, enlargement or any change whatever.

Transfer Fee May Be Required