THE CITY OF ASHEVILLE

STAFF REPORT

Council Meeting Date: March 23, 2021

Subject: Bond Counsel Contract with Parker Poe Adams & Bernstein, LLP

Staff Resource(s): Tony McDowell, Interim Finance & Management Services Director/CFO

Action Requested: Adoption of a resolution approving contract for bond counsel

Background:

- The City of Asheville requires the legal services of bond counsel to review, prepare, and assist the City in matters related to bond issuance. These services include:
    - participation in meetings with City staff and, to the extent deemed necessary by the City staff, with the City Council;
    - preparation of the amendments and supplements to the Indenture, Installment Financing Contract and the Deed of Trust, as necessary, under which the Bonds will be issued and various resolutions and notices, relating to the authorization, execution and delivery of the Bonds;
    - preparation of all other papers required as a condition precedent to the execution and delivery of the Bonds;
    - assistance to the City with respect to matters before the Local Government Commission;
    - participation with the underwriter and its counsel in the review of the documents for the sale of the Bonds;
    - preparation of necessary resolutions and documentation for approval by the Asheville Public Financing Corporation ("APFC") and participation with counsel to the APFC related to the closing for the Bonds;
    - and delivery of an opinion as to the validity of the Bonds and the federal and state tax treatment of the interest on the Bonds, subject to usual and customary exceptions.
- Parker Poe has a long-standing client relationship with the City, providing necessary bond counsel services to the City of Asheville with satisfactory results.
- Per State statute and City policy, this type of contract is exempt from competitive bidding.
- North Carolina law prohibits the City Attorney, or any assistant city attorney from performing this function, therefore external counsel is required.

Council Goal(s):

- A Financially Resilient City

Committee(s):

- None

Pro(s):

- Contracting with this firm provides necessary outside expertise that enhances the City's financial management; and
- Statute requires outside bond counsel when issuing debt.

Con(s):

- None.

Fiscal Impact:

- This not-to-exceed $500,000, multi-year contract, will be funded each year as needed, based on the services to be rendered to each department. Funding for this contract is included as part of the Capital Improvement Program (CIP)/Debt program.

Suggested Motion:

- Motion authorizing the City Manager to enter into a not-to-exceed contract in the amount of $500,000 with Parker Poe Adams & Bernstein, LLP to provide bond counsel services for the City of Asheville.

Attachment:

- Resolution

RESOLUTION NO. 21- _____

RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH PARKER POE ADAMS & BERNSTEIN, LLP TO PROVIDE BOND COUNSEL SERVICES FOR THE CITY OF ASHEVILLE

WHEREAS, the City of Asheville ("the City") has authority pursuant to Article 2 of Chapter 160A of the North Carolina General Statutes to enter into contracts for services with other entities; and

WHEREAS, the City requires the legal services of bond counsel to review, prepare, and assist the City in matters related to bond issuance.; and

WHEREAS, Parker Poe Adams & Bernstein, LLP has a long-standing client relationship with the City, providing necessary bond counsel services to the City of Asheville with satisfactory results; and

WHEREAS, the City desires to award a contract to Parker Poe Adams & Bernstein, LLP for bond counsel services for the City of Asheville;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

The City Manager is hereby authorized to execute a contract with Parker Poe Adams & Bernstein, LLP for financial advisory services for the City of Asheville, in the amount of $500,000, as well as any change orders, provided no change order causes the total amount of expenditures to exceed $500,000.

Read, approved and adopted this, the 23rd day of March 2021.

_____ _____

City Clerk Mayor

Approved as to form:

_____

City Attorney