THE CITY OF ASHEVILLE

STAFF REPORT

Council Meeting Date: May 26, 2020

Subject: 2020 General Obligation Bond (draw program) - Resolution Approval

Staff Resource: Barbara Whitehorn, CFO & Director of Finance and Management Services

Action Requested: Adoption of a resolution directing the City Manager and Chief Financial Officer to pursue debt financing for capital projects with a draw program that includes the issuance of interim, variable rate General Obligation Bonds (GOs) in an amount not to exceed $25,000,000. The interim GOs will provide construction financing for projects which, upon completion, will be permanently financed through longer-term, fixed rate GOs.

Background - Timeline:

- In 2016, the voters of Asheville approved a GO bond referendum for $74 million.
- In June 2018, the City entered into a GO bond draw program in an amount not to exceed $23 million.
- In March 2020, the City refunded the interim GO bonds ($22.2 million) by issuing 20 year, fixed rate bonds.
- In June 2020, the City wishes to enter into its second GO bond draw program in an amount not to exceed $25 million, and in keeping with the 2016 referendum mandate.

Background - Draw Program:

- The City uses a draw program to minimize the cost of debt. The program allows the City to draw down funds as they are needed during the construction of projects (24-59 months). This short-term debt is then “refunded,” or refinanced with longer-term, fixed rate debt (20 years).
- This approach minimizes the interest the City pays on debt during construction and ensures that the City’s debt capacity is used most efficiently.

Council Goal:

- Financially Resilient City

Committee(s):

- None

Pro(s):

- Allows the City to move forward with the Capital Improvement Program as funds are spent

Con(s):

- None

Fiscal Impact:

- The initial draw on the GO bonds for costs incurred to date is $5.1 million. At current variable rates associated with this facility (roughly 1.92%), the annualized interest expense on the initial draw is $98 thousand. As further draws are made on the bonds, the interest expense will increase accordingly. Funds are included in the City’s FY 2020-2021 proposed debt service budget to cover these costs. They are also included in the City’s multi-year capital improvements debt model.

Suggested Motion:

- Motion to approve the proposed General Obligation Bond resolution.

Attachment(s):

- Resolution

RESOLUTION 20-___

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ASHEVILLE, NORTH CAROLINA PROVIDING FOR THE ISSUANCE, SALE AND DELIVERY OF $25,000,000 GENERAL OBLIGATION BOND OF THE CITY OF ASHEVILLE, NORTH CAROLINA

WHEREAS, the Bond Orders (as defined in Appendix A) have been adopted, and it is desirable to make provision for the issuance of the Bond authorized by the Bond Orders;

WHEREAS, the City of Asheville, North Carolina (the *"City"*) desires to issue its General Obligation Bond, Series 2020 in an aggregate principal amount of $25,000,000 (the "*Bond*") and to request that the Local Government Commission (the "*Commission*") sell the Bond to Bank of America, N.A. (the *"Purchaser"*), in accordance with the terms provided herein and in a Bond Purchase and Advance Agreement to be dated on or about June 10, 2020 (the *"Purchase Agreement"*) between the City and the Purchaser;

WHEREAS, the City Council has determined that it is in the best interest of the City to continue to have a short-term borrowing program to finance capital costs of projects authorized by the Bond Orders;

WHEREAS, the City Council has determined to authorize the Bond to evidence its short-term borrowing program to finance capital costs of projects authorized by the Bond Orders;

WHEREAS, the City Council has considered and recognizes that variable interest rate debt instruments may subject the City to the risk of higher interest rates but believes that utilizing the short-term financing as an interim source of funding for paying costs of the projects authorized by the Bond Orders lowers the City's overall cost of capital and therefore is superior to issuing fixed rate bonds for such purpose at this time;

WHEREAS, the City Council finds and determines that (i) the issuance of the Bond is necessary and expedient and (ii) the budget estimates of the taxes are reasonable;

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

Section 1. For purposes of this Bond Resolution, all capitalized, undefined words have the meanings ascribed to them in Appendix A hereto.

Section 2. The City is hereby authorized to issue not to exceed $25,000,000 in total aggregate principal amount of its Bond. The Chief Financial Officer of the City, and her designees, with advice from the City Attorney and bond counsel, is hereby authorized, directed and designated to provide such information as the North Carolina Local Government Commission requests related to the application for approval of the Bond and the authorization and issuance of the Bond.

Although the Bond will be issued in a nominal principal amount of $25,000,000, because proceeds of the Bond are being drawn down over time and the total principal amount may not be used, it will be the amount of each Advance that will be used for purposes of determining the amount of bonds issued under and against the Bond Orders. The Chief Financial Officer, or her designee, will indicate as part of each request for an Advance the amount to be applied against each Bond Order.

Section 3. The Bond shall be issued on the terms, in the form and in the manner set forth in this Bond Resolution, including Appendix A hereto. The Bond is being issued to provide funds to pay the capital costs of the Projects authorized by the Bond Orders.

Section 4. Each of the Mayor, the City Manager, the City Attorney, the Chief Financial Officer, the Treasurer and the City Clerk, including anyone serving in an interim capacity, or their respective designees (the "*Authorized Officers*") are hereby authorized, empowered and directed to do any and all other acts and to execute any and all other documents, which they, in their discretion, deem necessary and appropriate in order to consummate the transactions contemplated by this Bond Resolution and the Purchase Agreement except that none of the above is authorized or empowered to do anything or execute any document which is in contravention, in any way, of (a) the specific provisions of this Bond Resolution, (b) any agreement to which the City is bound, (c) any rule or regulation of the City or (d) any applicable law, statute, ordinance, rule or regulation of the United States of America or the State of North Carolina.

From the adoption of this Bond Resolution until the date of the first issuance of the Bond hereunder, the City Manager and the Chief Financial Officer are each hereby authorized, empowered and directed to make any changes, modifications, additions or deletions to Appendix A hereto as shall to them seem necessary, desirable or appropriate and that in their opinion may be necessary to implement the intent of this Bond Resolution. Such changes, modifications, additions or deletions to Appendix A shall be set forth in a certificate executed by the City Manager or the Chief Financial Officer on the date of issuance of the Bond hereunder.

Section 5. The Commission is hereby requested to sell the Bond by private sale without advertisement to the Purchaser at such prices as the Commission determines to be in the best interest of the City and in accordance with the provisions of the Purchase Agreement. The Bond will be sold at 100% of the principal amount thereof in accordance with the provisions hereof and will bear interest at the variable interest rates set forth in this Bond Resolution and the Purchase Agreement. The Authorized Officers are hereby authorized and directed to cause the Bond to be prepared and, when it shall have been duly sold by the Commission, to execute the Bond for delivery to the Purchaser.

Section 6. The form and content of the Purchase Agreement be and the same hereby is in all respects approved and confirmed, and each of the Authorized Officers be and they hereby are authorized, empowered, and directed to execute and deliver the Purchase Agreement for and on behalf of the City, including necessary counterparts, in substantially the form and content presented to the City, but with such changes, modifications, additions or deletions therein as shall to them seem necessary, desirable or appropriate, the execution thereof to constitute conclusive evidence of his or her approval of any and all such changes, modifications, additions or deletions therein.

Section 7. From and after the execution and delivery of the documents hereinabove authorized, the Authorized Officers are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of said documents as executed, and are further authorized to take any and all further actions to execute and deliver any and all other documents as may be necessary in the issuance of the Bond and administering the Purchase Agreement and other related documents such that they continue to serve the purpose for which they were executed and delivered.

The Authorized Officers and the City Clerk are each hereby authorized and directed to prepare and furnish, when the Bond is issued, certified copies of all the proceedings and records of the City Council relating to the Bond, and such other affidavits, certificates and documents as may be required to show the facts relating to the legality and marketability of the Bond as such facts appear on the books and records in such party's custody and control or as otherwise known to them; and all such certified copies,

certificates, affidavits and documents, including any heretofore furnished, shall constitute representations of the City as to the truth of all statements contained therein.

All acts and doings of the Authorized Officers that are in conformity with the purposes and intents of this Bond Resolution and in the furtherance of the issuance of the Bond are in all respects approved and confirmed. Any provision in this Bond 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.

Section 8. 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 Bond authorized hereunder.

Section 9. 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 10. That this Bond Resolution is effective on the date of its adoption.

_____ _____

City Clerk Mayor

APPROVED AS TO FORM:

_____

City Attorney

APPENDIX A

to

CITY OF ASHEVILLE, NORTH CAROLINA

RESOLUTION ADOPTED MAY 26, 2020

Relating to the Issuance of

$25,000,000
General Obligation Bond, Series 2020
(Draw Program)

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ARTICLE I.

DEFINITIONS

Section 1.01. ***Meaning of Words and Terms***

. The following terms, except where the context indicates otherwise, have the respective meanings set forth below:

"*Advance*" means all advances of the purchase price of the Bond made by the Purchaser under the Purchase Agreement on or before the Advance Termination Date.

"*Advance Termination Date*" has the meaning assigned to such term in Section 4.01.

"*Amortization Period*" means the period from the Full Funding Date until the Maturity Date.

"*Appendix A*" means this Appendix A which is attached to, and incorporated in, the Bond Resolution.

"*Bond*" means the up to $25,000,000 City of Asheville, North Carolina General Obligation Bond, Series 2020 issued pursuant to the Bond Resolution, including this Appendix A.

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

"*Bond Resolution*" means the Resolution adopted by the City Council of the City on May 26, 2020 with respect to the Bond, which includes this Appendix A, and any amendments or supplements thereto.

"*Business Day*" means, with respect to the Bond, any day other than a Saturday or Sunday or a legal holiday on which commercial banks are authorized or required by law to be closed for business in Asheville, North Carolina.

"*Chief Financial Officer*" means the Chief Financial Officer of the City, the person performing the duties of the Chief Financial Officer or the official succeeding to the Chief Financial Officer's principal functions, serving as the finance officer of the City.

"*Closing Date*" means the date of initial issuance of the Bond.

"*Code*" means the Internal Revenue Code of 1986, as from time to time amended.

"*Commission*" means the Local Government Commission of North Carolina.

"Day Count" means actual days elapsed in a 360-day year.

"Default Rate" means the Term Loan Interest Rate plus three percent (3%) per annum.

"*Determination of Taxability*" means, with respect to the Bond, a determination that all or a portion of the interest on the Bond is included in gross income of the Owner thereof for federal income tax purposes, as a result of an action, or failure to act, by the City, which determination shall be deemed to have been made upon the occurrence of the first to occur of the following: (1) the date on which such Owner is advised in writing by the Commissioner or any District Director of the Internal Revenue Service that, as a result of an action, or failure to act, by the City, all or a portion of the interest on the Bond is included in the gross income of the Owner for federal income tax purposes; (2) the date on which the City receives notice from such Owner that the Owner has been advised in writing that the Internal Revenue Service has issued a statutory notice of deficiency or similar notice to the Owner which asserts, in effect, that all or a portion of the interest with respect to the Bond received by the Owner is included in the gross income of the Owner for federal income tax purposes, as a result of an action, or failure to act, by the City; (3) the date on which the City is advised in writing by the Commissioner or any District Director of the Internal Revenue Service that there has been issued a public or private ruling of the Internal Revenue Service that all or a portion of the interest on the Bond is included in the gross income of the Owner thereof for federal income tax purposes as a result of an action, or failure to act, by the City; or (4) the date on which the City is advised in writing by counsel to the Owner of the Bond that a final determination, from which no further right of appeal exists, has been made by a court of competent jurisdiction in the United States of America in a proceeding with respect to which the City has been given written notice and an opportunity, at the expense of the City, to participate and defend that interest on the Bond is included in the gross income of such Owner for federal income tax purposes, as a result of an action, or failure to act, by the City.

"Event of Default" has the meaning set forth in the Purchase Agreement.

"Fed Funds Rate" means for any day, the rate per annum equal to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by federal funds brokers on such day, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) charged to the Owner on such day on such transactions, as determined by the Owner.

"*Full Funding Date*" means June 1, 2023.

"*Initial Term Interest Rate*" means with respect to each Interest Rate Period, a per annum rate of interest equal to the sum of (80% of the LIBOR Index) plus 1.38% per annum (138 bppa).

"*Initial Term Period*" means the period commencing on the Closing Date and ending on the Full Funding Date.

"*Interest Payment Date*" means the first Business Day of each month and any other date that interest is required to be paid on the Bond under the Purchase Agreement.

"*Interest Rate*" means, with respect to the Bond, (a) during the Initial Term Period, a per annum rate of interest equal to the Initial Term Interest Rate, and (b) during the Term Loan Period, the Term Loan Interest Rate; provided, however, that (1) upon a Determination of Taxability, the Bond will bear interest during the Taxable Period at a rate equal to the Taxable Rate, (2) upon the occurrence and during the continuation of an Event of Default (as defined in the Purchase Agreement), the Interest Rate shall be a per annum rate of interest equal to the Default Rate and (3) in no event shall the Interest Rate exceed the Maximum Rate.

"*Interest Rate Period*" means the period commencing on the Closing Date and ending on the day preceding the first LIBOR Index Reset Date, and thereafter commencing on each LIBOR Index Reset Date and ending on the day preceding the next succeeding LIBOR Index Reset Date.

"*LIBOR Index*" means for any date, the rate per annum equal to the London Interbank Offered Rate (or a comparable or successor rate which is approved by the Purchaser), as published by Bloomberg (or other commercially available source providing quotations of such rate as selected by the Purchaser from time to time) as determined for each LIBOR Index Reset Date at approximately 11:00 a.m. London time two (2) London Banking Days prior to such LIBOR Index Reset Date, for U.S. Dollar deposits (for delivery on the first day of such interest period) with a term of one month, as adjusted from time to time in the Purchaser's sole discretion for reserve requirements, deposit insurance assessment rates and other regulatory costs; provided that (i) to the extent a comparable or successor rate is approved by the Purchaser in connection herewith, the approved rate shall be applied in a manner consistent with market practice; and provided further that to the extent such market practice is not administratively feasible for the Purchaser, such approved rate shall be applied in a manner otherwise reasonably determined by the Purchaser and (ii) if the LIBOR Index shall be less than zero, such rate shall be deemed zero for purposes hereof. For purposes of this definition, a "London Banking Day" is a day on which banks in London are open for business and dealing in offshore dollars.

"*LIBOR Index Reset Date*" means the first Business Day of the calendar month.

"*Mail*" means first-class United States mail, postage prepaid.

"*Maturity Date*" means June 1, 2026.

"Maximum Rate" means the lesser of (a) 20% per annum and (b) the maximum rate of interest permitted by applicable law.

"*Owner*" means the registered owner of the Bond.

"Paying Agent" means the Chief Financial Officer of the City, or her designee, or any successor appointed pursuant to Section 2.05.

"*Prepayment Date*" means the date on which the Bond or any portion thereof has been called for prepayment or is to be prepaid pursuant to this Appendix A.

"*Prime Rate*" means on any day, the rate of interest in effect for such day as publicly announced from time to time by the Purchaser as its "prime rate." The "prime rate" is a rate set by the Purchaser based on various factors including the Purchaser's costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above,

or below such announced rate. Any change in such rate announced by the Purchaser shall take effect at the opening of business on the day specified in the public announcement of such change.

"*Principal Amount*" means the sum of all Advances less any prepayment of the Bond. Advances and prepayments shall be recorded (which records may be electronic) on the Table of Advances and Table of Partial Prepayments attached to the Bond, however failure to record an Advance or prepayment shall not affect the Principal Amount outstanding under the Bond.

"*Projects*" means the transportation projects and parks and recreation projects financed with the proceeds of the Bond in accordance with the authority provided under the respective Bond Orders.

"*Purchase Agreement*" means the Bond Purchase and Advance Agreement to be dated on or about June 10, 2020 among the City, the Purchaser and the Commission.

"*Purchaser*" means Bank of America, N.A., as the initial Owner of the Bond, and its successors and assigns.

"*Stated Principal Amount*" means $25,000,000.

"*Taxable Period*" means the period beginning on the date interest on the Bond first becomes subject to inclusion in gross income as a result of a Determination of Taxability, and ends on the date (if any) such interest is no longer included in gross income.

"*Taxable Rate*" means a per annum rate of interest equal to the product of the Interest Rate multiplied by the Taxable Rate Factor.

"*Taxable Rate Factor*" means 1.27.

"*Term Loan Period*" means the period, if any, commencing on June 1, 2023 and ending on the earlier of the Maturity Date or the date the Bond has been prepaid in whole prior to maturity.

"*Term Loan Interest Rate*" means the greater of (i) the Prime Rate plus 1.00%, (ii) the Fed Funds Rate plus 2.00% and (iii) 7.0%; provided that the Term Loan Interest Rate shall not exceed the Maximum Rate.

ARTICLE II.

AUTHORIZATION, FORM, ISSUANCE, DELIVERY AND REGISTRATION OF BOND

Section 2.01. ***Authorization of the Bond***

. There is hereby authorized the issuance of a general obligation bond, designated *"City of Asheville, North Carolina General Obligation Bond, Series 2020."* The Bond is being issued to provide funds to pay the costs of the Projects and costs of issuing the Bond, under and in accordance with the Bond Orders. No Bond may be issued under the provisions of the Bond Resolution, including this Appendix A, except in accordance with this Article. The total principal amount of the Bond that may be issued and Outstanding is hereby expressly limited to the Stated Principal Amount.

Section 2.02. ***Issuance of the Bond***

. The Bond will be issuable as fully registered bond in the Stated Principal Amount. The Bond will be numbered R-1 and will be substantially in the form set forth in Exhibit A with such appropriate variations, omissions and insertions as are permitted or required by this Appendix A. The execution and delivery of the Bond by the City under the Bond Resolution is conclusive evidence of the approval of the form of the Bond by the City Council, including any insertions, omissions, variations, notations, legends or endorsements authorized by the Bond Resolution. The Bond may be executed with the use of facsimile signatures and seals, if any, but at least one manual signature (which may be the signature of the representative of the Commission to the Commission's certificate) must appear on the Bond.

Section 2.03. ***Details of the Bond; Payment***

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(a) The Bond will mature, subject to prepayment as set forth herein, on the Maturity Date and will bear interest at the Interest Rate (computed on the basis of the Day Count). Interest payable on the Bond shall be determined based on the Principal Amount of the Bond. The amount of interest payable on each Interest Payment Date shall be calculated by the Purchaser. The Purchaser, or subsequent Owner of the Bond, will give written notice to the Paying Agent on or before each Interest Payment Date of the amount of interest payable on the Bond on such Interest Payment Date. Interest on the Bond will be payable in arrears. The Paying Agent may completely rely on Purchaser for interest rate calculations on the Bond.

If a Determination of Taxability occurs with respect to the Bond, to the extent the interest borne by such Bond becomes subject to inclusion in gross income, then the principal amount outstanding of such Bond will bear interest during the Taxable Period at the Taxable Rate, such rate not to exceed the Maximum Rate. In such an event, the City shall also be responsible for payment of any interest, penalties or charges owed by the Purchaser as a result of interest becoming includable in the gross income of the Purchaser, together with any and all reasonable attorneys' fees, court costs or other out-of-pocket costs incurred by the Purchaser in connection therewith.

Notwithstanding the foregoing provisions of this section, on the occurrence and continuation of an Event of Default under the Purchase Agreement with respect to the Bond, from and after the effective date of such Event of Default, the interest rate on the Bond will be established at all times equal to the Default Rate, such rate not to exceed the Maximum Rate.

(b) The faith and credit of the City is pledged for the payment of the Bond.

The Bond shall be registered as to principal and interest, and the Paying Agent, on behalf of the City, is directed to maintain the registration records with respect thereto. Principal of and interest on the Bond shall be payable to the registered owner appearing on the registration records by wire transfer or by check, mailed to such registered owner at its address or in accordance with the wire instructions, as applicable, as it appears on such registration books and shall be received by the registered owner on the date such payment is due.

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.

(c) Both the principal of and the interest on the Bond are payable in any lawful coin or currency of the United States of America which on the respective dates of payment thereof is legal tender for the payment of public and private debts. The Bond shall bear interest from its date until the Principal Amount has been paid, but if the Bond has matured or has been called for prepayment and the Prepayment Date has occurred and funds are available for the payment thereof in full in accordance with the terms of the Bond Resolution, such Bond shall then cease to bear interest as of the maturity date or Prepayment Date, as applicable. The Bond will be dated as of its date of issuance, except that a Bond issued in exchange for or on the registration of transfer of the Bond will be dated as of the Interest Payment Date next preceding the date of authentication thereof, unless (1) the date of such authentication precedes the first Interest Payment Date, in which case it will be dated as of the date of the initial issuance of the Bond or (2) the date of such authentication is an Interest Payment Date to which interest on the Bond has been paid in full or duly provided for in accordance with the terms of this Appendix A, in which case it will be dated as of such Interest Payment Date; except that if interest on the Bond is in default, the Bond executed and delivered in exchange for or on registration of transfer of the Bond will be dated as of the date to which interest on the Bond has been paid in full. If no interest has been paid on the Bond, the Bond executed and delivered in exchange for or on the registration of transfer of the Bond will be dated as of the initial issuance of the Bond.

Section 2.04. ***Restriction on Transfer of the Bond***

. The Bond is non-transferable, except to a bank, insurance company or similar financial institution or any other entity approved by the Commission. The Owner will give written notice to the City and the Paying Agent if any transfer of the ownership of the Bond occurs and the Paying Agent will record such new Owner on the registration books for the Bond. The City or the Paying Agent will have no obligation to pay any amounts due on the Bond to anyone other than the Owner of the Bond as shown on the registration books kept by the Paying Agent, on behalf of the City. The Paying Agent is not required to record a transfer of the ownership of the Bond unless it receives an opinion of counsel as to the qualification for transfer under Section 2.04.

Section 2.05. ***Paying Agent***

. The Chief Financial Officer of the City is hereby appointed as the initial Paying Agent for the Bond. The Chief Financial Officer of the City may appoint a successor Paying Agent at any time. The Paying Agent shall keep the books of the City for payment of the Bond as provided in this Appendix A. Such books shall be available at all reasonable times for inspection by the City. Certain provision of this Appendix A and the Bond will only be applicable to the extent a successor Paying Agent is appointed and the Paying Agent is not the Chief Financial Officer of the City, as the context may require.

The City will transfer the amount necessary, or otherwise cause such amount to be available, to the Paying Agent, if applicable, on or before the date required to pay principal of, premium, if any, and interest on the Bond and the Paying Agent will transfer to the Owner the payment of principal of, premium, if any, and interest on the Bond when due. The Paying Agent shall treat the Purchaser as the Owner of the Bond for all purposes under the Resolution and this Appendix A unless a transfer occurs in

accordance with Section 2.04. The Paying Agent will have no responsibility to make payment of principal of, premium, if any, and interest on, the Bond, other than to the Purchaser as the initial Owner of the Bond or any subsequent Owner of the Bond as shown on the registration books.

Any successor Paying Agent may at any time resign and be discharged of the duties and obligations created by this Appendix A by giving at least 60 days' written notice to the City. The successor Paying Agent may be removed by the City at any time and be discharged of the duties and obligations created by this Appendix A by the Chief Financial Officer of the City giving at least 60 days' written notice to the Paying Agent. Any resignation or removal of the successor Paying Agent shall take effect on the day another successor Paying Agent has been appointed by the City and has accepted such appointment. If no successor Paying Agent is appointed within 60 days after a notice of resignation, the resigning party may appoint a successor or petition any court of competent jurisdiction to appoint a successor.

The City agrees to indemnify a successor Paying Agent, to the extent permitted by law, against any liability which it may incur while acting in good faith in its capacity as Paying Agent except for its own negligence or willful misconduct, such indemnification including, but not limited to, any court costs and reasonable attorneys' fees. Any costs, fees or other expenses of a successor Paying Agent in the discharge of its duties under this Appendix A will be paid by the City.

ARTICLE III.

PREPAYMENT OF THE BOND

Section 3.01. ***Optional Prepayment of the Bond***

. The City may prepay the Bond, either in whole or in part, on any Business Day at a prepayment price equal to 100% of the principal amount thereof, without premium, plus the accrued interest thereon to the Prepayment Date.

Section 3.02. ***Mandatory Prepayment of the Bond***

. The City shall prepay the Bond in whole on the Full Funding Date at a prepayment price equal to 100% of the principal amount thereof, without premium, plus the accrued interest thereon to the Prepayment Date. If the City has provided to the Owner on a date that is not less than five (5) Business Days and not more than ten (10) Business Days prior to the Full Funding Date a certificate stating (A) no Event of Default, or any event which with the giving of notice or the passage of time or both would constitute an Event of Default shall have occurred and be continuing and (B) the representations and warranties set forth in the Purchase Agreement are true and correct on the Full Funding Date as if made on such date, then the City is eligible for the Amortization Period and shall instead pay to the Owner the outstanding Principal Amount of the Bond as of such date (the "*Amortization Amount*") in annual installments payable in semi-annual increments on the six-month anniversary of the Full Funding Date and semi-annually thereafter so that the Amortization Amount is repaid in approximately six (6) equal semi-annual principal payments by the end of the Amortization Period. Any Principal Amount remaining unpaid on the Maturity Date shall be due and payable on the Maturity Date. The Bond will bear interest during the Term Loan Period at the Term Loan Interest Rate.

Section 3.03. ***Notice of Prepayment***

. The City will provide written notice of the optional prepayment of the Bond not less than 35 days (or such lesser number of days as the Owner may accept), (1) to the Commission and the Paying Agent, if applicable, by Mail or electronic transmission, and (2) by Mail (or by such other means as may be permitted by the Owner) to the then-registered Owner of the Bond at the last address shown on the registration books kept by the City.

Failure to provide such notice to the Commission and the Paying Agent will not affect the validity of any proceedings for such prepayment.

Section 3.04. ***Record of Prepayment***

. The Owner will record any prepayments of the Bond on the Table of Partial Prepayments attached to the Bond (or otherwise kept on the Owner's official books and records, which may be electronic records). The Paying Agent may completely rely on the City and the Owner for any prepayments and notations thereof.

ARTICLE IV.

ADVANCES

Section 4.01. ***Advance of Bond Proceeds***

. The City acknowledges and agrees that prior to the earliest to occur of (a) the date when the sum of the aggregate Advances made hereunder equals the Stated Principal Amount, (b) the date on which the Purchaser's obligation to make Advances under the Purchase Agreement terminates (as reflected in a written notice delivered by the Purchaser to the City) or (c) the Full Funding Date (the "*Advance Termination Date*"), the proceeds of the Bond will be disbursed in installments through the making of Advances by the Purchaser in accordance with the Purchase Agreement. The Chief Financial Officer, or her designee, will indicate as part of each Advance the amount to be applied against each Bond Order. The date and amount of each Advance shall be noted on the Table of Advances attached to the Bond (or otherwise kept on the Purchaser's official books and records, which may be electronic records); *provided* that the failure to record any such Advance on the Table of Advances shall not affect the Principal Amount due. In no event may the total amount of all Advances exceed the Stated Principal Amount. Following the Advance Termination Date, no additional Advances may be made. On the Advance Termination Date, the positive difference, if any, between the Stated Principal Amount and the aggregate principal amount of all Advances made under the Purchase Agreement shall be deemed to have been prepaid automatically and without any further notice or act by the City or any other Person. Any such automatic prepayment of principal shall not be taken into consideration in determining the Principal Amount of the Bond and shall not be recorded on the Table of Partial Prepayment attached to the Bond. The City will give written notice to the Paying Agent, if applicable, of each Advance. The Paying Agent may completely rely on the City and the Purchaser for dates and amounts of Advances.

Section 4.02. ***Application of Bond Proceeds***

. The Chief Financial Officer, or her designee, is hereby directed to create and establish a special fund into which the proceeds from the sale of the Bond will be deposited (the *"Project Fund"*). The

proceeds from each Advance will be deposited by the Purchaser with the City, and the City shall deposit such amounts in the Project Fund. The Chief Financial Officer or her designee, will invest and reinvest any moneys held in the Project Fund 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 Fund and applied with the proceeds of the Bond to pay the costs of the Projects. The Chief Financial Officer will ensure that the proceeds of an Advance (or portion thereof) relating to the Bond Order authorizing the City to issue general obligation bonds to finance certain transportation projects (and any earnings thereon) will be spent only on such transportation projects and that the proceeds of an Advance (or portion thereof) relating to the Bond Order authorizing the City to issue general obligation bonds to finance certain parks and recreation projects will be spent only on such parks and recreation projects. The Paying Agent, on behalf of the City, shall keep and maintain adequate records pertaining to the Project Fund 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 expends the proceeds of the Advances in accordance with the Bond Orders and maintains its covenants with respect to the exclusion of the interest on the Bond from gross income for purposes of federal income taxation. The proceeds of the Bond in the Project Fund, including the investment earnings thereon, if any, will be applied to the payment of costs of the Projects.

ARTICLE V.

AMENDMENTS

Section 5.01. ***Amendments to Bond Resolution***

. After the issuance of the Bond, portions of the Bond Resolution, including this Appendix A, may be amended or supplemented, from time to time, without the consent of the Owner of the Bond if, in the opinion of nationally recognized bond counsel, such amendment or supplement would not adversely affect the interests of the Owner of the Bond and would not cause the interest on the Bond to be included in the gross income of a recipient thereof for federal income tax purposes; provided, however, if the Purchaser is the sole Owner of the Bond, any amendment to the Bond Resolution, including this Appendix A, requires the prior written consent of the Purchaser. All other amendments or supplements to this Resolution require the consent of the Owner of the Bond, including any amendment or supplement that would reduce the principal amount of the 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.

Any act done pursuant to a modification or amendment consented to by the Owner of the Bond is binding on all Owners of the Bond and will not be deemed an infringement of any of the provisions of the Bond 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 the Bond Resolution, and after consent has been given, no Owner of the 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 a successor Paying Agent has been appointed, the Bond Resolution, including Appendix A, may not be amended to expand the duties of Paying Agent or that are otherwise adverse to the Paying Agent without the prior written consent of the Paying Agent.

ARTICLE VI.

MISCELLANEOUS PROVISIONS

Section 6.01. ***Headings***

. Any heading preceding the text of the several articles hereof, and any table of contents or marginal notes appended to copies hereof, are solely for convenience of reference and does not constitute a part of this Appendix A or affect its meaning, construction or effect.

Section 6.02. ***Holidays***

. Except as otherwise provided herein, whenever any payment or action to be made or taken hereunder is stated to be due on a day which is not a Business Day, such payment or action will be made or taken on the next following Business Day, and such extension of time will be included in computing interest, if any, in connection with such payment or action.

Section 6.03. ***Report to the Commission***

. The City agrees to provide the Commission staff with notification of each Advance from the bond authorization under the Bond Orders and submit to Commission staff written confirmation within four Business Days of a Request for Advance pursuant to the Purchase Agreement. The City may provide such notification by submitting a copy of the Request for Advance to the Commission staff. As of June 30 of each year the City will provide to the Commission a report showing the outstanding Principal Amount of the Bond. On request, the City will send a report to the Commission demonstrating anticipated cash flow requirements for the Projects that the City anticipates financing with proceeds of the Bond during the next fiscal year.

Section 6.04. ***No Recourse Against Members, Officers or Employees of the City or the Commission***

. No recourse under, or on, any statement, obligation, covenant, or agreement contained in the Bond Resolution, in any Bond, or in any document or certification relating to the Bond, or under any judgment obtained against the City or the Commission or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise or under any circumstances, is to be had against any member, officer or employee, as such, of the City or the Commission, either directly or through the City, the Commission, or otherwise, for the payment for or to the City or the Commission or any receiver of the City or the Commission, or for, or to, any Owner or otherwise, of any sum that may be due and unpaid on any such Bond. Any and all personal liability of every nature, whether at common law or in equity or by statute or by constitution or otherwise, of any such member, officer or employee, as such, to respond by reason of any act or omission on his or her part or otherwise, for the payment for, or to, the City or the Commission or any receiver of the City or the Commission, or for, any Owner or otherwise, of any sum that may remain due and unpaid on the Bond hereby secured or any of them, is hereby expressly waived and released as an express condition of, and in consideration for, the adoption of the Bond Resolution and the issuance of the Bond.

Section 6.05. ***Governing Law***

. The Bond Resolution, including this Appendix A, is governed by and to be construed in accordance with the laws of the State of North Carolina.

[End of Appendix A]

EXHIBIT A

FORM OF BOND

NO OFFERING CIRCULAR OR MEMORANDUM, OFFICIAL STATEMENT OR OTHER DISCLOSURE DOCUMENT HAS BEEN PREPARED OR PROVIDED BY THE CITY IN CONNECTION WITH THE OFFERING AND SALE OF THIS BOND. THIS BOND, EXCEPT FOR PERMITTED TRANSFERS AS SET FORTH HEREIN, IS NON-TRANSFERABLE

CITY OF ASHEVILLE, NORTH CAROLINA
GENERAL OBLIGATION BOND, SERIES 2020

No. R-1 **$25,000,000**

INTEREST RATE	DATED DATE	MATURITY DATE
Variable	**June 10, 2020**	**June 1, 2026**

REGISTERED OWNER: BANK OF AMERICA, N.A.

STATED PRINCIPAL AMOUNT: TWENTY FIVE MILLION DOLLARS

The City of Asheville, North Carolina (the "*City*"), a municipal corporation of the State of North Carolina (the "*State*"), for value received, promises to pay, but solely from the sources and in the manner hereinafter provided, to the Owner named above the Stated Principal Amount set forth above or the Principal Amount (as hereinafter defined), whichever is less, on the Maturity Date set forth above (or earlier as hereinafter described). This Bond is issued in accordance with the Registered Public Obligations Act, Chapter 159E of the General Statutes of North Carolina, and under The Local Government Finance Act (the *"Act"*), and the following bond orders: the Bond Order authorizing the City to issue general obligation bonds to finance certain transportation projects and the Bond Order authorizing the City to issue general obligation bonds to finance certain parks and recreation projects, each adopted by the City Council on August 9, 2016 and approved by a majority of voters at a referendum held on November 8, 2016. This Bond is being issued to provide funds to pay the capital costs of the projects authorized under the above-described Bond Orders. The Bond is issued under a Resolution (as amended or supplemented from time to time, the *"Bond Resolution"*), adopted on May 26, 2020, by the City Council of the City. Reference is hereby made to the Bond Resolution for the rights, duties and obligations of the City and the rights of the Owner of the Bond, and, by the acceptance of this Bond, the Owner hereof assents to all of the provisions of the Bond Resolution. Capitalized terms used herein and not defined have the meaning ascribed to them in the Bond Resolution.

The City further promises to pay such Owner at the address as it appears on the registration books kept by the Paying Agent, which is initially the Chief Financial Officer of the City and subsequently any successor appointed in accordance with the Bond Resolution, interest at the Interest Rate described in the Bond Resolution and the Purchase Agreement on the lesser of (1) the Stated Principal Amount or (2) the sum of the Advances made by the Purchaser pursuant to the Bond Resolution and the Purchase Agreement (less any amount of the Bond prepaid) and as reflected in the "Table of Advances" attached hereto or kept in the Owner's records (which may be electronic records) (the "*Principal Amount*"). Interest on this Bond will be payable on the first Business Day of each month (each an "*Interest Payment*

Date") from the Interest Payment Date next preceding the date of authentication (unless (1) the date of such authentication precedes the first Interest Payment Date, in which case interest with respect thereto shall be payable from the date of issuance of this Bond or (2) the date of such authentication is an Interest Payment Date to which interest on this Bond has been paid in full or duly provided for in accordance with the terms of the Bond Resolution, in which case interest with respect thereto shall be payable from such Interest Payment Date) until the Principal Amount shall have been paid or provided for in accordance with the Bond Resolution.

The City may prepay this Bond, either in whole or in part, on any Business Day at a prepayment price equal to 100% of the principal amount thereof, without premium, plus the accrued interest thereon to the Prepayment Date.

The City shall prepay this Bond in whole on the Full Funding Date at a prepayment price equal to 100% of the principal amount thereof, without premium, plus the accrued interest thereon to the Prepayment Date. However, if the City has provided to the Owner on a date that is not less than five (5) Business Days and not more than ten (10) Business Days prior to the Full Funding Date a certificate stating (A) no Event of Default, or any event which with the giving of notice or the passage of time or both would constitute an Event of Default shall have occurred and be continuing and (B) the representations and warranties set forth in the Purchase Agreement are true and correct on the Full Funding Date as if made on such date, then the City is eligible for the Amortization Period and shall instead pay to the Owner the outstanding Principal Amount of the Bond as of such date (the "*Amortization Amount*") in annual installments payable in increments on the six-month anniversary of the Full Funding Date and semi-annually thereafter so that the Amortization Amount is repaid in approximately six (6) equal semi-annual principal payments by the end of the Amortization Period. Any Principal Amount remaining unpaid on the Maturity Date shall be due and payable on the Maturity Date. The Bond will bear interest during the Term Loan Period at the Term Loan Interest Rate.

The City will provide written notice of the optional prepayment of this Bond not less than 35 days (or such lesser number of days as the Owner may accept), (1) to the Commission and the Paying Agent, if applicable, by Mail or electronic transmission, and (2) by Mail (or by such other means as may be permitted by the Owner) to the then-registered Owner of this Bond at the last address shown on the registration books kept by the City.

Failure to provide such notice to the Commission and the Paying Agent will not affect the validity of any proceedings for such prepayment.

The Owner will record any prepayments of this Bond on the Table of Partial Prepayment attached to this Bond (or otherwise kept on the Owner's official books and records, which may be electronic).

This Bond is non-transferable, except to a bank, insurance company or similar financial institution or any other entity approved by the Commission. The City or the Paying Agent will have no obligation to pay any amounts due on this Bond to anyone other than the Owner of this Bond as shown on the registration books kept by the Paying Agent.

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 is not valid or obligatory for any purpose until the certification hereon has been signed by an authorized representative of the Local Government Commission.

IN WITNESS WHEREOF, the City of Asheville, North Carolina has caused this Bond to be executed with the manual or facsimile signatures of the Mayor and the City Clerk.

CITY OF ASHEVILLE, NORTH CAROLINA

By: _____
Mayor

[Seal]

By: _____
City Clerk

The issue hereof has been approved under the
provisions of The Local Government Bond Act.

_____
GREG C. GASKINS
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 of 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 MY BE REQUIRED

TABLE OF ADVANCES

Upon the making of any Advance described in Section 4.01 of the Bond Resolution, the Owner shall make the appropriate notation on the table below (or otherwise keep on the Owner's official books and records, which may be electronic):

Date	Amount of Advance	Total Principal Amount (following an Advance)	Signature of Representative of Owner

TABLE OF PARTIAL PREPAYMENTS

Date	Amount Prepaid	Remaining Unpaid Principal Amount	Signature of Representative of Owner