

68
RESOLUTION 15-59

RESOLUTION ADOPTING THE BOND ORDER AUTHORIZING THE ISSUANCE OF
WATER SYSTEM REVENUE REFUNDING BONDS OF THE CITY OF ASHEVILLE,
NORTH CAROLINA

WHEREAS, the City of Asheville, North Carolina (the "City") is authorized by The State and Local Government Revenue Bond Act, General Statutes of North Carolina, Section 159-80 *et seq.* (the "Act") to issue, subject to the approval of the Local Government Commission of North Carolina (the "LGC"), at one time or from time to time, revenue bonds and revenue refunding bonds of the City for the purposes as specified in the Act;

WHEREAS, the City has determined to issue its Water System Revenue Refunding Bonds, Series 2015 (the "2015 Bonds") to provide funds to (1) refund all or a portion of the City's Water System Refunding Revenue Bonds, Series 2005 maturing on and after August 1, 2016 (the "Refunded 2005 Bonds") and Water System Revenue Bonds, Series 2007 maturing on and after August 1, 2018 (the "Refunded 2007 Bonds" and together with the Refunded 2005 Bonds, the "Refunded Bonds") and (2) pay the costs of issuing the 2015 Bonds;

WHEREAS, the City will issue the 2015 Bonds under the General Trust Indenture dated as of December 1, 2005 (the "General Indenture"), between the City and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee") and Series Indenture, Number 3, dated as of May 1, 2015 (the "Series Indenture"), between the City and the Trustee;

WHEREAS, the City and the LGC have arranged for the sale of the 2015 Bonds to Merrill Lynch, Pierce, Fenner & Smith Incorporated, PNC Capital Markets LLC and Wells Fargo Bank, National Association (collectively, the "Underwriters"), under the terms of a Bond Purchase Agreement to be dated on or about May 12, 2015 (the "Purchase Agreement");

WHEREAS, an application has been filed with the LGC requesting approval of the 2015 Bonds as required by the Act, and the Secretary of the LGC has notified the City Council (the "City Council") that the application has been received by the LGC.

NOW, THEREFORE BE IT ORDERED BY THE CITY COUNCIL OF THE CITY, as follows:

Section 1. In order to raise the money required to refund the Refunded Bonds and to pay the costs of issuance of the 2015 Bonds, in addition to any funds which may be made available for such purpose from any other source, the 2015 Bonds are hereby authorized and shall be issued pursuant to the Act.

Section 2. The aggregate principal amount of the 2015 Bonds authorized by this order shall not exceed \$60,000,000. The 2015 Bonds hereby authorized shall be special obligations of the City, secured by and paid solely from the proceeds thereof or from revenues, income, receipts and other money received or accrued by or on behalf of the City from or in connection with the operation of the City's Water System (as defined in the General Indenture).

Section 3. The issuance of the 2015 Bonds by the City, in substantially the form to be set forth in the Series Indenture, be and the same hereby is in all respects approved and confirmed. The form and content of the 2015 Bonds and the provisions of the Series Indenture with respect to the 2015 Bonds (including without limitation the maturity dates and rates of interest) shall be approved and confirmed in a resolution of the City Council.

The principal of, premium, if any, and interest on the 2015 Bonds shall not be payable from the general funds of the City, nor shall they constitute a legal or equitable pledge, charge, lien or encumbrance upon any of its property or upon any of its income, receipts or revenues except the funds which are pledged under the General Indenture. Neither the credit nor the taxing power of the State of North Carolina or the City are pledged for the payment of the principal of, premium, if any, purchase price or interest on the 2015 Bonds, and no holder of the 2015 Bonds has the right to compel the exercise of the taxing power by the

State of North Carolina or the City or the forfeiture of any of its property in connection with any default thereon.

Section 4. The 2015 Bonds are to be sold to the Underwriters under the terms of the Purchase Agreement, as shall be approved in a resolution of the City Council.

Section 5. The proceeds from the sale of the 2015 Bonds are to be deposited in accordance with the Series Indenture.

Section 6. 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 are to be deemed separable from the remaining agreements and provisions and in no way affect the validity of any of the other agreements and provisions hereof or of the 2015 Bonds authorized hereunder.

Section 7. 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 8. This Bond Order is effective immediately on its adoption and pursuant to §159-88 of the General Statutes of North Carolina, as amended, need not be published or subjected to any procedural requirements governing the adoption of ordinances or resolutions by the City Council other than the procedures set out in the Act.

Read, approved and adopted this 14th day of April, 2015.

Magdalena Bourleson
City Clerk

Edwin G. Mc
Mayor

APPROVED AS TO FORM:

[Signature]
City Attorney

Magdalena Bourleson
City Clerk

70

RESOLUTION 15- 60

RESOLUTION OF THE CITY OF ASHEVILLE, NORTH CAROLINA, PROVIDING FOR
THE ISSUANCE, SALE AND DELIVERY OF WATER SYSTEM REVENUE REFUNDING
BONDS.

WHEREAS, the City Council (the "*City Council*") of the City of Asheville, North Carolina (the "*City*"), hereby determines that it is desirable to refund all or a portion of the City's Water System Refunding Revenue Bonds, Series 2005 maturing on and after August 1, 2016 (the "*Refunded 2005 Bonds*") and Water System Revenue Bonds, Series 2007 maturing on and after August 1, 2018 (the "*Refunded 2007 Bonds*") and together with the Refunded 2005 Bonds, the "*Refunded Bonds*") in order to achieve debt service savings;

WHEREAS, City is authorized by The State and Local Government Revenue Bond Act, General Statutes of North Carolina, Section 159-80 et seq. (the "*Act*"), to issue, subject to the approval of the Local Government Commission of North Carolina, at one time or from time to time revenue bonds and revenue refunding bonds of the City for the purposes as specified in the Act;

WHEREAS, the City Council is considering the issuance of the City's Water System Revenue Refunding Bonds, Series 2015 (the "*2015 Bonds*") in an aggregate principal amount not to exceed \$60,000,000 to refund the Refunded Bonds;

WHEREAS, the City Council wants to (1) retain Parker Poe Adams & Bernstein LLP, as bond counsel; (2) retain Merrill Lynch, Pierce, Fenner & Smith Incorporated, PNC Capital Markets LLC and Wells Fargo Bank, National Association, as underwriters for the 2015 Bonds (collectively, the "*Underwriters*"); (3) approve the selection by the Underwriters of Womble Carlyle Sandridge & Rice, LLP, as underwriters' counsel; (4) retain DEC Associates Inc., as financial advisor; and (5) retain The Bank of New York Mellon Trust Company, N.A., as trustee for the 2015 Bonds and as escrow agent for the Refunded Bonds (collectively, the "*Financing Team*");

WHEREAS, the Finance Director of the City will file with the Local Government Commission of North Carolina (the "*Commission*") an application for its approval of the 2015 Bonds, requesting that the Commission approve (1) the negotiation of the sale of the 2015 Bonds to the Underwriters and (2) the City's use of the Financing Team in connection with the issuance of the 2015 Bonds, and in connection with such application, the Finance Director will provide the Commission with such facts and information in regard to the 2015 Bonds and to the City and its financial condition as the Commission may require and take all other action necessary for the issuance of the 2015 Bonds;

WHEREAS, the City, subject to the approval of the Commission, will issue the 2015 Bonds under the General Trust Indenture dated as of December 1, 2005 (the "*General Indenture*"), between the City and The Bank of New York Mellon Trust Company, N.A., as trustee (the "*Trustee*") and Series Indenture, Number 3, dated as of May 1, 2015 (the "*Series Indenture*"), between the City and the Trustee;

WHEREAS, the City desires to execute and deliver a Bond Purchase Agreement to be dated on or about May 12, 2015 (the "*Purchase Agreement*"), among the City, the Commission and the Underwriters pursuant to which the City and the Commission will sell the 2015 Bonds to the Underwriters in accordance with the terms and conditions set forth therein; and

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

1. the Series Indenture;
2. the Purchase Agreement;

3. the Escrow Agreement dated as of May 1, 2015 (the "Escrow Agreement") between the City and The Bank of New York Mellon Trust Company, N.A., as escrow agent, related to the Refunded Bonds; and

4. the Preliminary Official Statement (the "Preliminary Official Statement") related to the 2015 Bonds.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY, as follows:

Section 1. The 2015 Bonds are to be issued by the City for the purpose of providing funds (a) to refund the Refunded Bonds and (b) to pay the costs of issuing the 2015 Bonds. The use of the proceeds of the 2015 Bonds to refund the Refunded Bonds, as described above, is necessary in order to achieve debt service savings for the City.

Section 2. The Financing Team is hereby approved in connection with the City's issuance of the 2015 Bonds. The Finance Director is authorized to engage other professionals as she deems necessary to consummate the transactions contemplated by this resolution.

Section 3. The filing of the application with the Commission for its approval of the issuance of the 2015 Bonds is hereby ratified and approved. The Finance Director, with advice from the City Manager, the City Attorney and bond counsel, is hereby authorized, directed and designated to provide such information to the Commission as may be required for the Commission's approval of such application.

Section 4. The City Council finds and determines and asks the Commission to find and determine from the City's application and supporting documentation as follows:

- (a) the issuance of the 2015 Bonds is necessary or expedient;
- (b) the maximum stated principal amount of the 2015 Bonds will be sufficient but is not excessive, when added to other moneys available for such purpose, to refinance the projects financed and refinanced with the Refunded Bonds and achieve debt service savings for the benefit of the users of the City's water system;
- (c) the City's water system as now constituted is feasible;
- (d) the City's debt management procedures and policies are excellent; and
- (e) the 2015 Bonds can be marketed at a reasonable interest cost to the City.

Section 5. The issuance of the 2015 Bonds by the City in the principal amount not to exceed \$60,000,000, in substantially the form and content set forth in the Series Indenture, subject to appropriate insertions and revisions in order to comply with the provisions of the General Indenture and the Series Indenture, be and the same hereby are in all respects approved and confirmed, and the form and content of the 2015 Bonds set forth in the Series Indenture be and the same hereby are in all respects approved and confirmed, and the provisions of the General Indenture and the Series Indenture with respect to the 2015 Bonds (including without limitation the maturity dates and rates of interest to be inserted in the Series Indenture) be and the same hereby are approved and confirmed and are incorporated herein by reference.

The City Council requests that the Commission sell the 2015 Bonds through negotiation to the Underwriters on such terms as may be agreed on but at a true interest cost not exceeding 4.00%.

The 2015 Bonds shall be special obligations of the City. The principal of, premium, if any, and interest on the 2015 Bonds shall not be payable from the general funds of the City, nor shall they constitute a legal or equitable pledge, charge, lien or encumbrance upon any of its property or upon any of its income, receipts or revenues except the funds which are pledged under the General Indenture and the Series Indenture. Neither the credit nor the taxing power of the State of North Carolina or the City are pledged for

72
the payment of the principal of, premium, if any, or interest on the 2015 Bonds, and no holder of 2015 Bonds has the right to compel the exercise of the taxing power by the State of North Carolina or the City or the forfeiture of any of its property in connection with any default thereon.

Section 6. That the form and content of the Series Indenture and the Escrow Agreement and the exhibits thereto be and the same hereby are in all respects approved and confirmed, and the Mayor, the City Manager, the Finance Director and City Clerk of the City, or their respective designees, individually or collectively (the "*Authorized Officers*"), be and they hereby are authorized, empowered and directed to execute and deliver the Series Indenture 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, their execution thereof to constitute conclusive evidence of their approval of any and all such changes, modifications, additions or deletions therein, and that from and after the execution and delivery of the Series Indenture and the Escrow Agreement, 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 the General Indenture and the Series Indenture as executed. The Trustee is hereby appointed as Registrar and Paying Agent thereunder.

Section 7. That the 2015 Bonds shall be sold to the Underwriters pursuant to the terms of the Purchase Agreement. The form and content of the Purchase Agreement is in all respect approved and confirmed, and the Authorized Officers are hereby 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 him or her seem necessary, desirable or appropriate, his or her execution thereof to constitute conclusive evidence of his or her approval of any and all such changes, modifications, additions or deletions therein, and that from and after the execution and delivery of the Purchase Agreement, 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 the Purchase Agreement as executed.

Section 8. The form, terms and content of the Preliminary Official Statement are in all respects authorized, approved and confirmed, and the use of it by the Underwriters, in connection with the sale of the 2015 Bonds is hereby in all respects authorized, approved and confirmed. The use of the final Official Statement to be dated on or about May 12, 2015 (the "*Official Statement*"), in substantially the form of the Preliminary Official Statement, by the Underwriters in connection with the sale of the 2015 Bonds is hereby in all respects authorized, approved and confirmed. The Mayor, the City Manager or Finance Director of the City is authorized to execute the Official Statement, if necessary, on behalf of the City.

Section 9. The City Manager or the Finance Director of the City is hereby authorized to execute a no-arbitrage certificate in order to comply with Section 148 of the Internal Revenue Code of 1986, as amended, and the applicable regulations promulgated thereunder.

Section 10. No stipulation, obligation or agreement herein contained or contained in the 2015 Bonds, the General Indenture, the Series Indenture, the Purchase Agreement, the Escrow Agreement or any other instrument related to the issuance of the 2015 Bonds shall be deemed to be a stipulation, obligation or agreement of any officer, agent or employee of the City in his or her individual capacity, and no such officer, agent or employee shall be personally liable on the 2015 Bonds or be subject to personal liability or accountability by reason of the issuance thereof.

Section 11. 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 Resolution, the General Indenture, the Series Indenture, the Escrow Agreement and the Purchase Agreement (collectively, the "*Instruments*"), except that none of the above shall be authorized or empowered to do anything or execute any document which is in contravention, in any way, of the specific provisions of the Instruments, any agreement to which the City is bound, any rule or regulation of the City or any applicable law, statute, ordinance, rule or regulation of the United States of America or the State of North Carolina.

Section 12. All acts and doings of the Authorized Officers that are in conformity with the purposes and intent of this Resolution and in the furtherance of the issuance of the 2015 Bonds and the execution, delivery and performance of the Instruments shall be, and the same hereby are, in all respects authorized, approved and confirmed.

Section 13. If any one or more of the agreements or provisions herein contained shall be 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 shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining agreements and provisions and shall in no way affect the validity of any of the other agreements and provisions hereof or of the 2015 Bonds authorized hereunder.

Section 14. 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 15. This Resolution shall take effect upon its adoption.

Read, approved and adopted this 14th day of April, 2015.

Magdalen Bureson
City Clerk

Edwin G. Murr
Mayor

APPROVED AS TO FORM:

Bill Cline
City Attorney

Magdalen Bureson
City Clerk

RESOLUTION NO. 15-61

RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH CODE STUDIO TO DEVELOP A FORM BASED CODE FOR THE GREATER RIVER ARTS DISTRICT

WHEREAS, the City of Asheville has authority pursuant to Article 3 of Chapter 160A of the North Carolina General Statutes to enter into contracts for services with other entities; and

WHEREAS, The City of Asheville desires to improve development regulation and review processes to better reflect the community's vision for the greater River Arts District; and

WHEREAS, the amount of the contract is \$ 100,000 and the monies have been budgeted in the Planning Department's FY 2015 Fiscal Year Budget;

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

The City Manager is hereby authorized to enter into a contract on behalf of the City of Asheville with Code Studio for \$100,000 to develop a form based code for the greater River Arts District and further authorized to execute any change orders to said contract or documents which may arise during construction of said project up to the budgeted amount.

Read, approved and adopted this 14th day of April, 2015.

Magdalen Boulleson
City Clerk

Steve E. Hall
Mayor

Approved as to form:

[Signature]
City Attorney

Magdalen Boulleson
City Clerk

RESOLUTION NO. 15-62

RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH THRESHOLD ACOUSTICS LLC TO PROVIDE PROFESSIONAL SERVICES AT THE US CELLULAR CENTER

WHEREAS, the City of Asheville has authority pursuant to Article 3 of Chapter 160A of the North Carolina General Statutes to enter into contracts for services with other entities; and

WHEREAS, the US Cellular Center is pursuing alternatives to improvements to acoustics in the Thomas Wolfe Auditorium; and

WHEREAS, the US Cellular Center issued a request for qualifications for acoustical and structural analysis of the Auditorium in December of 2014; and

WHEREAS, the contract with Threshold Acoustics. will have a not to exceed cost of \$60,000, and the monies have been transferred into the Civic Center's Fiscal Year Budget;

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

The City Manager is hereby authorized to enter into a contract on behalf of the City of Asheville with Threshold Acoustics .LLC., for Professional Services at a cost not to exceed \$60,000. The City Manager is further authorized to approve and execute any change orders to said contract or documents which may arise during the term of said contract up to the budgeted amount.

Read, approved and adopted this the 14th day of April, 2014.

Magdalen Paulson
City Clerk

Eric E. Mer
Mayor

Approved as to form:

Bob Orr
City Attorney

Magdalen Paulson
City Clerk

RESOLUTION NO. 15-63

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY TO AMEND THE INTERLOCAL AGREEMENT WITH HENDERSON COUNTY AND EFFECTUATE THE SALE OF THE FERRY ROAD PROPERTY TO BUNCOMBE COUNTY

WHEREAS, the parties have the authority pursuant to Article 20 of NCGS Chapter 160A to enter into Interlocal Agreements; and

WHEREAS, the City of Asheville has authority pursuant to NCGS 160A-274 to convey interests in real property to other governments upon such terms and conditions as it deems wise; and

WHEREAS, the City of Asheville and Henderson County are parties to several agreements regarding regional water issues, including the "First Amended and Restated Water Supply and Water Service Agreement" (the "1995 Agreement"), an "Extension of Condition" recorded June 14, 2012 in Buncombe County deed book 4990 at Page 1259, a "Second Extension of Condition" recorded June 25, 2014 in Buncombe County deed book 5219 at Page 1089, and an "Interlocal Agreement" dated April 16, 2014; and

WHEREAS, among the terms of the aforementioned Interlocal Agreement are provisions regarding the sale of approximately 137.21 acres of real property located on Ferry Road in Buncombe County previously owned by the City and currently owned by Henderson County as more particularly described in Deed Book 2852, Page 775 in Buncombe County; and

WHEREAS, Buncombe County has offered to purchase the Ferry Road Property from Henderson County for an economic development project at the fair market value of \$6.8 Million, consistent with the provisions of the Interlocal Agreement; and

WHEREAS, the City wishes to acknowledge that the proposed purchase meets the terms of the Interlocal Agreement and to approve the sale of the Property to Buncombe County; and

WHEREAS, Henderson County has requested a minor amendment to the provisions of the Interlocal Agreement which would allow the County to use its share of the proceeds of the sale of the Property for any lawful purpose, including but not limited to the purchase and construction of a local law enforcement training center, rather than only be allowed to use the proceeds for a training center as was required by the original Interlocal Agreement; and

WHEREAS, the City is in agreement with allowing the Interlocal Agreement to be amended as requested;

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

The Mayor is hereby authorized to execute any and all documents necessary to give effect to this resolution, subject to approval by the City Attorney, and compliance with applicable North Carolina law.

Read and approved and adopted this 14th day of April 2015.

Magdalen Boulton
CITY CLERK

E. Gene E. Harker
MAYOR

Approved as to form:
[Signature]
CITY ATTORNEY

Magdalen Boulton
City Clerk