

**RESOLUTION OF THE CITY OF HENDERSONVILLE, NORTH CAROLINA, APPROVING AN
INSTALLMENT FINANCING CONTRACT AND DELIVERY THEREOF AND PROVIDING FOR
CERTAIN OTHER RELATED MATTERS**

WHEREAS, the City of Hendersonville, North Carolina (the “City”) is a municipal corporation of the State of North Carolina (the “State”), validly existing under the Constitution, statutes and laws of the State;

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

WHEREAS, the City Council of the City (the “City Council”) has previously held a public hearing and approved a resolution on August 4, 2022 regarding an installment financing in an amount of approximately \$18,500,000 to pay the costs of (1)(a) constructing and improving fire and emergency services facilities, including (i) demolishing, clearing and grading the existing fire station site of Fire Station 1 and constructing and furnishing a new fire station on the site and (ii) renovating a facility to relocate the fire department staff and administration to serve as temporary space for emergency service use (the “*Fire Facilities Projects*”), (b) relocating the Laura-Corn mini-golf course to Edwards Park, including constructing the new mini-golf course and upgrading public restrooms, concession and playground facilities and installing public art (the “*Parks and Recreation Project*” and collectively with the Fire Facilities Projects, the “*Projects*”) and (c) the acquisition of new fire fighting vehicles and equipment, including new fire ladder and fire engine vehicles (the “*Vehicles*” and together with the Projects, the “*2022 Projects*”);

WHEREAS, the City has since received the bids and selected the contractor for the Projects and has received proposals from lenders for the installment financing for the 2022 Projects;

WHEREAS, based on the bids for the Projects and total expected costs of the 2022 Projects and the proposals received from lenders, the City Council has determined that it is in the best interest of the City to receive an advance of funds in an aggregate principal amount of not more than \$18,815,000 under an installment financing contract (the “*Contract*”) with Truist Commercial Equity, Inc. (the “*Lender*”) in order to pay (1) the costs of the 2022 Projects and (2) the costs related to execution and delivery of the Contract;

WHEREAS, the obligation of the City to make Installment Payments under the Contract is a limited obligation of the City payable solely from currently budgeted appropriations of the City and does not constitute a pledge of the faith and credit of the City within the meaning of any constitutional debt limitation;

WHEREAS, in order to provide security for the City’s obligations under the Contract, the City will grant to the Lender a security interest under a deed of trust, security agreement and fixture filing (the “*Deed of Trust*”) in all or a portion of the City’s fee simple interest in the sites of Fire

Station 1, together with all improvements and fixtures located thereon (collectively, the “*Mortgaged Property*”);

WHEREAS, the City has submitted an application to the Local Government Commission of North Carolina (the “*LGC*”) to consider and approve the Contract as described above and expects to be on the LGC’s agenda at its September 22, 2022 meeting;

WHEREAS, there has been made available to the City Council the form of the Contract and the Deed of Trust, which the City proposes to approve, enter into and deliver, as applicable, to effectuate the proposed financing;

WHEREAS, in order to provide for the proceeds of the advance to be deposited and disbursed to pay for the 2022 Projects as set forth under the Contract, the City will enter into a custody agreement (the “*Custody Agreement*”) with the Lender and/or its affiliate, Truist Bank, and in order to prevent unauthorized or fraudulent wire transfers through cyber fraud and other means, the City will acknowledge, accept and execute a statement of the Lender’s standard wire transfer agreement (the “*Wire Transfer Agreement*”), each of which will be in the form made available to the City Council or a substantially similar form as may be required by the Lender; and

WHEREAS, it appears that each of the Contract, the Deed of Trust, the Custody Agreement and the Wire Transfer Agreement (collectively, the “*Instruments*”) is in appropriate form and is an appropriate instrument for the purposes intended;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hendersonville, North Carolina, as follows:

Section 1. ***Approval, Authorization and Execution of Instruments.*** The City Council hereby approves the financing of the 2022 Projects in accordance with the terms of the Instruments, which will be valid, legal and binding obligations of the City in accordance with their respective terms. The City Council hereby approves the amount to be advanced by the Lender to the City pursuant to the Contract in an aggregate principal amount not to exceed \$18,815,000 at an interest rate not to exceed 2.99% per annum, such amount to be repaid by the City to the Lender as provided in the Contract. The term of the Contract will not exceed April 1, 2043. The form, terms and content of the Instruments are in all respects authorized, approved and confirmed, and the Mayor, the City Manager, the Assistant City Manager and the Finance Director, and their respective designees (the “*Authorized Officers*”) are authorized, empowered and directed to execute and deliver the Instruments for and on behalf of the City, including necessary counterparts, in substantially the forms presented to the City Council, 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, and that from and after the execution and delivery of the Instruments, each of 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 Instruments as executed. The Contract is subject to the approval of the LGC.

Section 2. **Further Actions.** Each of the Authorized Officers are hereby designated as the City's representatives to act on behalf of the City in connection with the transactions contemplated by the Instruments, and each of the Authorized Officers are authorized and directed to proceed with the financing of the 2022 Projects in accordance with the terms of the Instruments and to seek opinions on matters of law from the City Attorney, which the City Attorney is authorized to furnish on behalf of the City, and opinions of law from such other attorneys for all documents contemplated hereby as required by law. Each of the Authorized Officers are hereby authorized to designate one or more employees of the City to take all actions which each of the Authorized Officers are authorized to perform under this Resolution, and each of the Authorized Officers, including their designees, are in all respects authorized on behalf of the City to supply all information pertaining to the transactions contemplated by the Instruments. Each of the Authorized Officers and the City Clerk are authorized to execute and deliver for and on behalf of the City any and all additional certificates, documents, opinions or other papers and perform all other acts as may be required by the Instruments or as they may deem necessary or appropriate in order to implement and carry out the intent and purposes of this Resolution. Any and all acts of the Authorized Officers may be done individually or collectively.

Section 3. **Related Actions.** All acts and doings of officers, employees and agents of the City, whether taken prior to, on, or after the date of this Resolution, that are in conformity with and in furtherance of the purposes and intents of this Resolution as described above shall be, and the same hereby are, in all respects ratified, approved and confirmed.

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

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

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

Adopted by the City Council of the City of Hendersonville, North Carolina on this 1st day of September, 2022.

Attest:

Barbara G. Volk, Mayor, City of Hendersonville

Angela L. Reece, City Clerk

Approved as to form:

Angela S. Beeker, City Attorney