

The Common Council of the City of La Crosse, La Crosse County, Wisconsin, met in open public, session at its regular meeting place at the City Hall in La Crosse, Wisconsin, on April 8, 2021, at 6:00 o'clock P.M., with the following members present: _____

and the following members absent: _____

* * *

(Other Business)

The Mayor then reported that a proposal was received from _____ for the purchase of not to exceed \$4,250,000 aggregate principal amount of Note Anticipation Notes, Series 2021, of the City of La Crosse, La Crosse County, Wisconsin, at a price of \$ _____ plus accrued interest to the date of delivery, which was the best bid submitted for the Anticipation Notes.

Thereupon the following resolution was introduced by Mayor Kabat, and was read in full, and pursuant to motion made by Council Member _____ and seconded by Council Member _____, was adopted by the following vote:

Aye: _____

Nay: _____

Absent or Not Voting: _____

RESOLUTION confirming the sale, determining the rate of interest and other details in connection with the issuance of not to exceed \$4,250,000 aggregate principal amount of Note Anticipation Notes, Series 2021, of the City of La Crosse, La Crosse County, Wisconsin.

WHEREAS, cities are authorized by the provisions of Chapter 67, *Wisconsin Statutes*, as supplemented and amended (the “*Statute*”), and particularly Section 67.12(1)(b), *Wisconsin Statutes*, as supplemented and amended, to issue its municipal obligations in anticipation, among other things, in receiving proceeds from general obligation bonds or notes that have been authorized or for which a covenant to issue has been made under the Statute; and

WHEREAS; pursuant to the Statute, cities may issue their general obligation bonds and notes for any “public purposes”; and

WHEREAS, the term “*public purpose*” is defined in the Statute as “the performance of any power or duty of the issuing municipality;” and

WHEREAS, cities are empowered by the *Wisconsin Statutes*, as supplemented and amended, to finance projects within tax increment financing districts; and

WHEREAS, the City of La Crosse, La Crosse County, Wisconsin (the “*City*”) now wishes to finance projects within tax increment financing districts, in particular, Tax Increment District No. 13 (the “*Project*”); and

WHEREAS, the Common Council of the City intends to issue general obligation promissory notes of the City (the “*Notes*”) for the purpose of financing the Project; and

WHEREAS, in anticipation of the issuance of the Notes, it is considered necessary and desirable by the Common Council of the City that the City borrow not to exceed \$4,250,000 for the purposes aforesaid and that the City issue its Note Anticipation Notes, Series 2021 (the “*Anticipation Notes*”) to evidence the obligation thereby incurred; and

WHEREAS, the City received a proposal from _____ for the purchase of the Anticipation Notes at a price of \$ _____ plus accrued interest to the date of delivery, which was the best bid submitted for the Anticipation Notes;

NOW, THEREFORE, Be It Resolved by the Common Council of the City of La Crosse, La Crosse County, Wisconsin, as follows:

Section 1. Definitions. For all purposes of this Resolution, except as otherwise expressly provided or unless the context otherwise requires, the terms defined in this Section 1 shall have the meanings set forth below, and shall include the plural as well as the singular.

“*Anticipation Note*” or “*Anticipation Notes*” shall mean one or more of the Note Anticipation Notes, Series 2021, authorized to be issued by the terms of this Resolution.

“*City*” shall mean the City of La Crosse, La Crosse County, Wisconsin, and any successor to the duties or functions of the City.

“*Code*” shall mean the Internal Revenue Code of 1986, as amended.

“*Governing Body*” shall mean the Common Council of the City, or such other council, board, commission or body, by whatever name known, which shall succeed to its powers.

“*Note Register*” shall mean the books of the City kept by the Note Registrar to evidence the registration and transfer of the Anticipation Notes.

“*Note Registrar*” shall mean the City Director of Finance.

“*Resolution*” shall mean this resolution as adopted by the Governing Body of the City.

“*Statute*” shall mean Chapter 67 of the *Wisconsin Statutes*, as supplemented and amended.

Section 2. Authorization. The issuance of not to exceed \$4,250,000 aggregate principal amount of Anticipation Notes is hereby authorized for the purpose of providing funds in the amount of \$ _____ for the following public purpose: financing capital projects within tax increment financing districts.

The Anticipation Notes shall be designated “Note Anticipation Notes, Series 2021,” shall be dated May 3, 2021, and shall also bear the date of authentication, shall be in fully registered form, shall be in denominations of \$100,000 each and authorized integral multiples of \$5,000 in excess thereof (but no single Anticipation Note shall represent installments of principal maturing on more than one date), shall be appropriately lettered and numbered, and shall mature on April 1, 2026, and shall bear interest at the rate of _____ percent (____%) per annum.

Section 3. Interest; Payment Provisions. The Anticipation Notes shall bear interest from their date or from the most recent interest payment date to which interest has been paid or duly provided for, at the rate set out above, such interest (computed upon the basis of a 360-day

year consisting of twelve 30-day months) being payable on the first day of April and October each year, commencing on April 1, 2022. Interest on each Anticipation Note shall be paid by check or draft of the Note Registrar to the person in whose name such Anticipation Note is registered at the close of business on the fifteenth day of the calendar month next preceding the applicable interest payment date. The principal of the Anticipation Notes shall be payable in lawful money of the United States of America only at the principal corporate trust office of the Note Registrar.

Section 4. Execution; Authentication. The Anticipation Notes shall be executed on behalf of the City with the manual or facsimile signature of the Mayor of the City and with the manual or facsimile signature of the City Clerk of the City, and sealed with the official seal of the City or a printed facsimile thereof. In case any officer whose signature shall appear on any Anticipation Note shall cease to be such officer before the delivery of such Anticipation Note, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery.

All Anticipation Notes shall have thereon a certificate of authentication substantially in the form hereinafter set forth duly executed by the Note Registrar as authenticating agent of the City and showing the date of authentication. No Anticipation Note shall be valid or obligatory for any purpose or be entitled to any security or benefit under this Resolution unless and until such certificate of authentication shall have been duly executed by the Note Registrar by manual signature, and such certificate of authentication upon any such Anticipation Note shall be conclusive evidence that such Anticipation Note has been authenticated and delivered under this Resolution. The certificate of authentication on any Anticipation Note shall be deemed to have been executed by the Note Registrar if signed by an authorized officer of the Note Registrar, but it shall not be necessary that the same officer sign the certificate of authentication on all of the Anticipation Notes issued under this Resolution.

Section 5. Registration of Anticipation Notes; Persons Treated as Owners. The City shall cause books (the "Note Register") for the registration and for the transfer of the Anticipation Notes as provided in this Resolution to be kept at the principal office of the Note Registrar, which is hereby constituted and appointed the registrar of the City. Upon surrender for transfer of any Anticipation Note at the principal office of the Note Registrar duly endorsed by, or accompanied by a written instrument or instruments of transfer in form satisfactory to the Note Registrar duly executed by, the registered owner or his attorney duly authorized in writing, the City shall execute and the Note Registrar shall authenticate, date and deliver in the name of the transferee or transferees a new fully registered Anticipation Note or Anticipation Notes of the same maturity and interest rate of authorized denominations, for a like aggregate principal amount. Any fully registered Anticipation Note or Anticipation Notes may be exchanged at said office of the Note Registrar for a like aggregate principal amount of Anticipation Note or Anticipation Notes of the same maturity and interest rate of other authorized denominations. The execution by the City of any fully registered Anticipation Note shall constitute full and due authorization of such Anticipation Note and the Note Registrar shall thereby be authorized to authenticate, date and deliver such Anticipation Note. The Note Registrar shall not be required to transfer or exchange any Anticipation Note during the period of fifteen (15) days next preceding any interest payment date on such Anticipation Note, nor to transfer or exchange any Anticipation Note after notice

calling such Anticipation Note for prepayment has been mailed nor during the period of fifteen (15) days next preceding mailing of a notice of prepayment of any Anticipation Notes.

The person in whose name any Anticipation Note shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes, and payment of the principal of or interest on any Anticipation Note shall be made only to or upon the order of the registered owner thereof or his legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Anticipation Note to the extent of the sum or sums so paid.

No service charge shall be made for any transfer or exchange of Anticipation Notes, but the City or the Note Registrar may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any transfer or exchange of Anticipation Notes, except in the case of the issuance of an Anticipation Note or Anticipation Notes for the unpaid portion of an Anticipation Note surrendered for prepayment.

Section 6. Prepayment. The Anticipation Notes shall be subject to prepayment at the option of the City as a whole, or in part (less than all of the Anticipation Notes of a single maturity to be selected by the Note Registrar as hereinafter provided), on any date, at a prepayment price of 100% of the principal amount thereof being prepaid plus accrued interest to the date fixed for prepayment.

The Anticipation Notes shall be prepaid only in the principal amount of \$5,000 each and integral multiples thereof. At least thirty (30) days prior to the date fixed for prepayment (unless a shorter notice shall be satisfactory to the Note Registrar), the City shall notify the Note Registrar of such date fixed for prepayment and of the principal amount of the Anticipation Notes to be prepaid. For purposes of any prepayment of less than all of the outstanding Anticipation Notes, the particular Anticipation Notes or portions of Anticipation Notes to be prepaid shall be selected by the Note Registrar from the outstanding Anticipation Notes by such method as the Note Registrar shall deem fair and appropriate, and which may provide for the selection for prepayment of Anticipation Notes or portions of Anticipation Notes in principal amounts of \$5,000 and integral multiples thereof.

The Note Registrar shall promptly notify the City in writing of the Anticipation Notes or portions of Anticipation Notes selected for prepayment and, in the case of any Anticipation Note selected for partial prepayment, the principal amount thereof to be prepaid.

Section 7. Prepayment Procedure. Unless waived by any registered owner of the Anticipation Notes (or portions thereof) to be prepaid, notice of the call for any such prepayment shall be given by the Note Registrar on behalf of the City by mailing the prepayment notice by registered or certified mail, postage prepaid, not less than fifteen (15) days prior to the date fixed for prepayment to the registered owner of the Anticipation Note or Anticipation Notes to be so prepaid at the address shown on the Note Register or at such other address as is furnished in writing by such registered owner to the Note Registrar. Failure to give such notice by mailing to any owner of any Anticipation Note, or any defect therein, shall not affect the validity of any proceedings for the prepayment of any other Anticipation Notes.

All notices of prepayment shall state:

- (1) the date fixed for prepayment,
- (2) the prepayment price,
- (3) if less than all outstanding Anticipation Notes are to be prepaid, the identification (and, in the case of a partial prepayment, the principal amounts) of the Anticipation Notes to be prepaid,
- (4) that on the date fixed for prepayment the prepayment price will become due and payable upon each such Anticipation Note or portion thereof called for prepayment, and that interest thereon shall cease to accrue from and after said date, and
- (5) the place where such Anticipation Notes are to be surrendered for payment of the prepayment price, which place of payment shall be the principal office of the Note Registrar.

Prior to any date fixed for prepayment, the City shall deposit with the Note Registrar an amount of money sufficient to pay the prepayment price of all the Anticipation Notes or portions of Anticipation Notes which are to be prepaid on that date. With respect to an optional prepayment of the Anticipation Notes, unless moneys sufficient to pay the principal of and interest on the Anticipation Notes to be prepaid shall have been received by the Note Registrar prior to the giving of such notice of prepayment, such notice may, at the option of the City, state that said prepayment shall be conditional upon the receipt of such moneys by the Note Registrar on or prior to the date fixed for prepayment. If such moneys are not received, such notice shall be of no force and effect, the City shall not prepay the Anticipation Notes or portion thereof and the Note Registrar shall give notice, in the same manner in which the notice of prepayment was given, that such moneys were not so received and that the Anticipation Notes or portion thereof will not be prepaid.

Notice of prepayment having been given as aforesaid, the Anticipation Notes or portions of Anticipation Notes so to be prepaid shall, on the date fixed for prepayment, become due and payable at the prepayment price therein specified, and from and after such date (unless the City shall default in the payment of the prepayment price) such Anticipation Notes or portions of Anticipation Notes shall cease to bear interest. Upon surrender of such Anticipation Notes for prepayment in accordance with said notice, such Anticipation Notes shall be paid by the Note Registrar at the prepayment price. Installments of interest due on or prior to the date fixed for prepayment shall be payable as herein provided for the payment of interest. Upon surrender for any partial prepayment of any Anticipation Note, there shall be prepared for the registered owner a new Anticipation Note or Anticipation Notes of the same maturity in the amount of the unpaid principal. All Anticipation Notes which have been prepaid shall be cancelled and destroyed by the Note Registrar and shall not be reissued.

Section 8. Form of Anticipation Notes. The Anticipation Notes, the certificate of authentication to be endorsed thereon and the form of assignment are all to be in substantially the

following forms with necessary and appropriate variations, omissions and insertions as permitted or required by this Resolution:

[Form of Note - Front Side]

UNITED STATES OF AMERICA

STATE OF WISCONSIN

COUNTY OF LA CROSSE

CITY OF LA CROSSE

NOTE ANTICIPATION NOTE, SERIES 2021

See Reverse Side for
Additional Provisions

No. R- _____ \$ _____

DATED DATE	MATURITY DATE	RATE OF INTEREST
April 1, 2021	April 1, 2026	_____%

Registered Owner:

Principal Amount:

KNOW ALL MEN BY THESE PRESENTS: That the City of La Crosse, in the County of La Crosse and the State of Wisconsin (the “City”), hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner hereinabove identified, or registered assigns as hereinafter provided, on the Maturity Date hereinabove identified, the Principal Amount hereinabove identified and to pay interest (computed on the basis of a 360-day year consisting of twelve 30-day months) on said Principal Amount from the Dated Date hereinabove identified or from the most recent interest payment date to which interest has been paid at the Rate of Interest per annum hereinabove identified, payable on the first day of April and October of each year, commencing on April 1, 2022, until said Principal Amount is paid, except as the provisions hereinafter set forth with respect to prepayment may be and become applicable to this Anticipation Note.

The principal of this Anticipation Note is payable in lawful money of the United States of America only at the principal office of the City Director of Finance, as note registrar and paying agent, and its successors (the “Note Registrar”). Payment of each installment of interest shall be made to the Registered Owner hereof who shall appear on the registration books of the City maintained by the Note Registrar at the close of business on the fifteenth day of the calendar month next preceding the interest payment date, and shall be paid by check or draft of the Note Registrar mailed to such Registered Owner at his address as it appears on such registration books or at such other address as may be furnished in writing by such Registered Owner to the Note Registrar.

Reference is hereby made to the further provisions of this Anticipation Note set forth on the reverse side hereof and such further provisions shall for all purposes have the same effect as if set forth on the front side of this Anticipation Note.

It is hereby certified, recited and declared that all acts, conditions and things required to be done, exist, happen and be performed precedent to and in the issuance of this Anticipation Note have been done, have existed, have happened and have been performed in regular form and manner as required by the Constitution and the laws of the State of Wisconsin; and that the City has covenanted to issue its general obligation notes, in order to pay the interest hereon and also to pay and discharge the principal hereof at maturity or upon earlier prepayment.

This Anticipation Note shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been signed by the Note Registrar.

IN WITNESS WHEREOF the City of La Crosse, La Crosse County, Wisconsin, by its Common Council, has caused this Anticipation Note to be executed with the duly authorized manual or facsimile signature of its Mayor and with the duly authorized manual or facsimile signature of its City Clerk, and its official seal or a facsimile thereof to be impressed or reproduced hereon, as of the Dated Date hereinabove identified.

City Clerk

Mayor

[SEAL]

CERTIFICATE OF AUTHENTICATION

This Anticipation Note is one of the Anticipation Notes described in the within mentioned Resolution and is one of the Note Anticipation Notes, Series 2021, of the City of La Crosse, La Crosse County, Wisconsin.

Date of Authentication:

DIRECTOR OF FINANCE, CITY OF LA CROSSE,
as Note Registrar

By _____
Authorized Officer

[Form of Note - Reverse Side]

This Anticipation Note is one of an authorized issue of Note Anticipation Notes, Series 2021, aggregating the principal amount not to exceed \$4,250,000 (the “*Anticipation Notes*”), issued for the public purpose of financing projects within tax increment financing districts, and in anticipation of the issuance of not less than a like aggregate principal amount of general obligation bonds or notes of the City for such purpose and to retire this Anticipation Note, pursuant to and in all respects in compliance with Chapter 67 of the *Wisconsin Statutes*, as supplemented and amended, and particularly Section 67.12(1)(b) of the *Wisconsin Statutes*, as supplemented and amended, and a resolution adopted by the Common Council of the City on April 8, 2021. The principal of and interest on this Anticipation Note are payable only from the proceeds derived from the sale of said general obligation bonds or notes of the City in anticipation of the issuance of which this Anticipation Note is authorized to be issued and, in the case of interest, from the proceeds of the Anticipation Notes. This Anticipation Note does not constitute an indebtedness of the City within the meaning of any constitutional or statutory limitation or provision, and no lien may be created or attached with respect to any property of the City as a consequence of the issuance of this Anticipation Note. Reference is hereby made to said resolution for a more complete statement of the sources from which and conditions under which this Anticipation Note is payable, and the general covenants and provisions pursuant to which this Anticipation Note has been issued.

This Anticipation Note is transferable by the Registered Owner hereof in person or by his attorney duly authorized in writing at the principal office of the Note Registrar, but only in the manner, subject to the limitations and upon payment of the charges provided in the authorizing resolution, and upon surrender and cancellation of this Anticipation Note. Upon such transfer a new Anticipation Note or Anticipation Notes of authorized denominations of the same maturity and interest rate and for the same aggregate principal amount will be issued to the transferee in exchange for this Anticipation Note.

The Anticipation Notes are issued in fully registered form in denominations of \$100,000 each and authorized integral multiples of \$5,000 in excess thereof. This Anticipation Note may be exchanged at the principal office of the Note Registrar for a like aggregate principal amount of Anticipation Notes of the same maturity and interest rate of other authorized denominations, upon the terms set forth in the authorizing resolution.

The City and the Note Registrar may deem and treat the Registered Owner as the absolute owner hereof for the purpose of receiving payment of or on account of principal hereof and interest due hereon and for all other purposes, and neither the City nor the Note Registrar shall be affected by any notice to the contrary.

Anticipation Notes of the issue of which this Anticipation Note is one are subject to prepayment at the option of the City as a whole, or in part in integral multiples of \$5,000, less than all the Anticipation Notes to be selected by the Note Registrar in such manner as it shall deem fair and appropriate on any date, at a prepayment price of 100% of the principal amount thereof being prepaid plus accrued interest to the date fixed for prepayment.

Notice of any intended prepayment shall be sent by registered or certified mail, postage prepaid, not less than fifteen (15) days prior to the date fixed for prepayment to the registered owner of each Anticipation Note to be prepaid (in whole or in part) at the address shown on the registration books of the City maintained by the Note Registrar or at such other address as is furnished in writing by such registered owner to the Note Registrar. Such notice of prepayment may be conditional as provided in the authorizing resolution. When so called for prepayment, this Anticipation Note, or the portion hereof being so called for prepayment, will cease to bear interest on the specified prepayment date, provided funds for prepayment are on deposit at the place of payment on that date, and shall not be deemed to be outstanding.

* * * *

The following abbreviations, when used in the inscription on the face of the within Anticipation Note, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM	—	as tenants in common		UNIF TRANS MIN ACT-
TEN ENT	—	as tenants by the entirety		UNIF GIFT MIN ACT-
JT TEN	—	as joint tenants with right of	_____ Custodian _____	
		survivorship and not as	(Cust)	(Minor)
		tenants in common	under Uniform Gifts/Transfers to Minors Act	

			(State)	

Additional abbreviations may also be used though not listed above.

(ASSIGNMENT)

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

(Name and Address of Assignee)

the within Anticipation Note and does hereby irrevocably constitute and appoint _____

_____,

attorney, to transfer the said Anticipation Note on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____

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

Signature guaranteed:

NOTICE: Signature(s) must be guaranteed by an “eligible guarantor institution” meeting the requirements of the Note Registrar, which requirements include membership or participation in STAMP or such other “signature guaranty program” as may be determined by the Note Registrar in addition to or in substitution for STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

Section 9. Sale of Anticipation Notes. The sale of the Anticipation Notes to _____, of _____, _____, and, at a price of \$ _____, and accrued interest to the date of delivery thereof, is hereby confirmed, the same being the best bid submitted.

Section 10. Payable Solely from Bonds or Notes. The Anticipation Notes, together with interest thereon, shall be payable out of the proceeds of general obligation bonds or the Notes to be issued by the City in anticipation of which the Anticipation Notes are issued, and, in the case of interest, from the proceeds of the Anticipation Notes. The Anticipation Notes do not constitute an indebtedness of the City within the meaning of any constitutional or statutory limitation or provision, and no lien may be created or attached with respect to any property of the City as a consequence of the issuance of the Anticipation Notes.

The City, acting by and through the Governing Body, does hereby covenant that: (i) it will issue its general obligation bonds or the Notes in anticipation of the sale of which the Anticipation Notes are herein authorized as soon as practicable and apply a sufficient amount of the proceeds thereof to the retirement of the Anticipation Notes by depositing such amount into the Note Anticipation Notes, Series 2021 Debt Service Fund, (ii) it will segregate the proceeds derived from the sale of the Notes into the special trust fund herein created and establish and will permit such special trust fund to be used for no purpose other than the payment of principal of and interest on the Anticipation Notes until paid. After the payment of principal of and interest on the Anticipation Notes in full, said special trust fund may be used for such other purposes as the Governing Body may direct in accordance with law and (iii) it will maintain a debt limit capacity such that its combined outstanding principal amount of general obligation bonds or notes or certificates of indebtedness and the Notes shall at no time exceed its constitutional debt limit.

Section 11. Establishment of Debt Service Fund. There is hereby established in the City Treasury a fund separate and distinct from all other funds of the City to be designated “Note Anticipation Notes, Series 2021 Debt Service Fund,” which fund shall be used solely for the purpose of paying the principal of and interest on the Anticipation Notes. There shall be deposited in said fund all premium, if any, and accrued interest paid on the Anticipation Notes at the time the Anticipation Notes are delivered to the purchaser, certain proceeds of the Anticipation Notes, all proceeds of the general obligation bonds or the Notes issued by the City pursuant to Section 10 hereof, all moneys appropriated by the Governing Body to pay interest on the Anticipation Notes, and such other sums as may be necessary to pay interest on the Anticipation Notes when the same shall become due and to retire the Anticipation Notes at their respective maturity dates, as provided in this Resolution

Section 12. Use of Proceeds; Anticipation Notes to Remain in Registered Form; Compliance with Federal Law; Execution of Tax Exemption Certificate and Agreement. The principal proceeds of the Anticipation Notes shall be irrevocably deposited in a special fund, to be held by _____ as project escrow agent (the “Escrow Agent”) and used solely for the purposes for which the Anticipation Notes are hereby authorized. The proceeds of the Anticipation Notes and lawfully available funds on hand in the amount not to exceed \$1,813,000 deposited with the Escrow Agent shall be invested and disbursed pursuant to the project escrow agreement (the “Escrow Agreement”) entered into by the City and the Escrow Agent, such Escrow Agreement to be substantially in the form as set forth in *Exhibit A* hereto.

The City recognizes that the purchasers and owners of the Anticipation Notes will have accepted them on, and paid therefor a price which reflects, the understanding that interest thereon is excludible from Federal gross income of the owners thereof under laws in force at the time the Anticipation Notes shall have been delivered. In this connection the City agrees that it shall take no action which may render the interest on any of the Anticipation Notes includible in Federal gross income of the owners thereof. The City agrees that, to the extent possible under state law, it will comply with whatever Federal law is adopted in the future which applies to the Anticipation Notes and affects the tax-exempt status of the interest on the Anticipation Notes.

The Mayor, the City Clerk and the City Treasurer of the City, or any of them, are hereby authorized to execute on behalf of the City a Tax Exemption Certificate and Agreement (the “Tax

Exemption Certificate”) to assure the purchasers and owners of the Anticipation Notes that the proceeds of the Anticipation Notes are not expected to be used in a manner which would or might result in the Anticipation Notes being “arbitrage bonds” under Section 148 of the Code, or the regulations of the United States Treasury Department currently in effect or proposed. Such Tax Exemption Certificate shall constitute a representation, certification and agreement of the City, and no investment of Anticipation Note proceeds or of moneys accumulated to pay the Anticipation Notes herein authorized shall be made in violation of the expectations prescribed by said Tax Exemption Certificate. Such Tax Exemption Certificate shall constitute an agreement of the City to follow certain covenants which may require the City to take certain actions (including the payment of certain amounts to the United States Treasury) or which may prohibit certain actions (including the establishment of certain funds) under certain conditions as specified in such Tax Exemption Certificate.

The City further recognizes that Section 149(a) of the Code requires the Anticipation Notes to be issued and to remain in fully registered form in order that the interest thereon is excludible from Federal gross income of the owners thereof under laws in force at the time the Anticipation Notes are delivered. In this connection, the City agrees that it will not take any action to permit the Anticipation Notes to be issued in, or converted into, bearer or coupon form.

Section 13. Duties of Note Registrar. If requested by the Note Registrar, the Mayor of the City is authorized to execute and the City Clerk of the City is authorized to attest the Note Registrar’s standard form of agreement between the City and the Note Registrar with respect to the obligations and duties of the Note Registrar hereunder which may include the following:

- (a) to act as note registrar, authenticating agent, paying agent and transfer agent as provided herein;
- (b) to give notice of prepayment of Anticipation Notes as provided herein;
- (c) to cancel and destroy Anticipation Notes which have been paid at maturity or upon earlier prepayment or submitted for exchange or transfer;
- (d) to furnish the City at least annually a certificate of destruction with respect to Anticipation Notes cancelled and destroyed; and
- (e) to furnish the City at least annually an audit confirmation of Anticipation Notes paid, Anticipation Notes outstanding and payments made with respect to interest on the Anticipation Notes.

The City Clerk of the City is hereby directed to file a certified copy of this Resolution with the Note Registrar.

The City covenants that it shall at all times retain a Note Registrar with respect to the Anticipation Notes, that it will maintain at the designated office of such Note Registrar a place or places where Anticipation Notes may be presented for payment or registration of transfer or exchange, and that it shall require that the Note Registrar properly maintain the Note Register and

perform the other duties and obligations imposed upon it by this Resolution in a manner consistent with the standards, customs and practices of the municipal securities industry.

The Note Registrar shall signify its acceptance of the duties and obligations imposed upon it by this Resolution by executing the certificate of authentication on any Anticipation Note, and by such execution the Note Registrar, shall be deemed to have certified to the City that it has all requisite power to accept and has accepted such duties and obligations. The Note Registrar is the agent of the City, and shall not be liable in connection with the performance of its duties, except for its own negligence or willful wrongdoing. The Note Registrar shall, however, be responsible for any representation in its certificate of authentication on the Anticipation Notes.

The Note Registrar may be removed at any time by the City by an instrument in writing delivered to the Note Registrar. In case the Note Registrar shall be removed or otherwise become incapable of acting hereunder, a successor may be appointed by the City by an instrument in writing, a copy of which shall be delivered to the retiring Note Registrar, the successor Note Registrar and the registered owners of the Anticipation Notes.

Section 14. Severability. If any section, paragraph or provision of this Resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Resolution.

Section 15. Ordinances, Resolutions Superseded. All ordinances and resolutions in conflict herewith are hereby superseded to the extent of such conflict, and this Resolution shall take effect from and after its passage.

Adopted: April 8, 2021.

Approved: April 8, 2021.

Recorded: April 8, 2021.

/s/ _____
Mayor

Attest:

/s/ _____
City Clerk

* * *

(Other Business)

There being no further business to come before the Common Council, it was moved, seconded and unanimously carried that the Common Council adjourn.

Mayor

Attest:

City Clerk

EXHIBIT A

CITY OF LA CROSSE, LA CROSSE COUNTY, WISCONSIN AND _____
BANK ESCROW AGREEMENT TO ASSURE DISTRIBUTION OF EXPENDED
FUNDS.

This Escrow Agreement is made and entered into as of this ____ day of _____, 2021, by and between _____, _____, Wisconsin (“*Escrow Agent*”), and the City of La Crosse, La Crosse County, Wisconsin (“*Municipality*”).

R E C I T A L S

WHEREAS, pursuant to a tax increment financing plan under Section 66.1105 Wis. Stats., the Municipality is pursuing certain public infrastructure improvements and other eligible expenditures including (a) Campbell Cemetary improvements, (b) street improvements (Commerce Street; Rublee Street; Kramer Street; Onalaska Avenue; and Moore Street), (c) alley paving, (d) pedestrian lighting and (e) Floodplain Relief Fund (collectively, the “*Projects*”); and

WHEREAS, the Municipality has entered or will enter into the contracts described in Schedule A hereto (referred to collectively as the “*Contracts*”) to complete the Projects; and

WHEREAS, _____, the Municipality’s engineer supervising the Projects (the “*Engineer*”) and staff of the Municipality have estimated that the cost of completion of the Projects is not to exceed \$5,995,300; and

WHEREAS, in order to expend funds for the purpose of paying costs of the Projects prior to _____, 20__, the Municipality has decided to deposit lawfully available funds into an escrow account for disbursement while the Projects are being completed; and

WHEREAS, in order to provide for a portion of the lawfully available funds to be deposited with the Escrow Agent for the Projects pursuant to this Agreement, pursuant to Resolution No _____ duly adopted by the governing body of the Municipality, at a meeting held on April 8, 2021, the Municipality has approved the issuance of Note Anticipation Notes, Series 2021 (the “*Note Anticipation Notes*”) in the amount of not to exceed \$4,250,000 and appointed the Escrow Agent to hold and administer the Escrow Account herein established with the funds of the Municipality generated through the issuance of the Note Anticipation Notes and from lawfully available funds on hand at the Municipality.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. *Escrow Deposit.* Concurrently with the execution of this Agreement, the Municipality has deposited \$ _____ of funds of the Municipality (\$ _____ from lawfully available funds on hand and \$ _____ from funds of the Municipality generated through the issuance of the Note Anticipation Notes), to be held and used by Escrow Agent, together with any investment income accruing thereto, in escrow only as herein set forth for the express purpose of paying for all materials, labor and other expenses towards satisfaction of the monetary obligation the Municipality has under the terms of the Contracts.

The funds are irrevocably deposited with the Escrow Agent, and the Municipality relinquishes any and all claim it may have to the funds constituting the escrow deposit or to the return of said funds deposited into the Escrow Account prior to the termination of this Agreement, and thereby the Municipality is deemed to have expended funds toward the payment of costs of the Projects herein described. The Municipality agrees that if at any time it shall appear to Escrow Agent that such escrow deposit will not be sufficient to make a payment required under the terms of the Contracts, the Municipality will, upon notice by the Escrow Agent, make such payment out of its funds on hand to the extent necessary to meet fully the payments required under the Contracts.

2. *Acceptance of Escrow.* The Escrow Agent acknowledges receipt of the escrow deposit hereunder and accepts the responsibilities imposed on it, as Escrow Agent, by this Agreement.

3. *Application of Escrow Deposit.* There is hereby created by the Municipality and ordered established with the Escrow Agent an account hereby designed “City of La Crosse-Escrow Account” (the “*Escrow Account*”).

The Escrow Agent shall deposit the amount described above in the Escrow Account to be distributed and invested as follows:

a. *Investment of Escrow Deposit.* The Escrow Agent shall hold the deposit in a non-interest bearing account for such period of time as there are monies left in the Escrow Account and under the terms and conditions herein.

b. *Distribution of Escrow Account With Respect to the Contracts.* (i) The Escrow Agent shall look only to the Engineer for an indication that payment on the Contracts is due and that release and distribution of funds in the Escrow Account is to be made.

(ii) The Engineer will indicate that payment is due in accordance with the payment terms and conditions of the Contracts. The Contracts are incorporated in their entirety into this Escrow Agreement and made a part hereof. The Escrow Agent shall have no responsibility for the terms of the Contracts other than to release and distribute the funds in accordance therewith as indicated by the Engineer.

(iii) The Engineer will perform their obligations for inspection and approval of the performance on the Projects as provided for in the Contracts. Upon observation and in accordance with the schedule of payments agreed to in the Contracts, the Engineer will determine whether the performance is in accordance with the Contract documents. The Engineer will submit to the Escrow Agent a Certificate for Payment (the “*Certificate*”) a form of which is attached hereto as Schedule B for such amount as the Engineer determine is properly due. If, upon receipt of the Certificate, the Escrow Agent concludes that the Certificate is a genuine and valid original or copy thereof, the Escrow Agent shall release and distribute appropriate funds to the parties who are entitled thereto under the terms and conditions of the Contracts as indicated by the Engineer.

(iv) When the Projects have been completed under the terms of the Contracts and the proper time for retainage, if any, has expired, the Engineer will, unless there is any failure of performance, submit a final Certificate for Payment to the Escrow Agent when such payment is due and the Escrow Agent shall release and distribute funds accordingly.

c. *Miscellaneous.* (i) The governing body of the Municipality has authorized and approved by Resolution the manner in which releases and distributions are to be made under the terms of this Agreement and no further approval or authorization is required by the Municipality. Neither the governing body nor the officers of the Municipality shall have powers of any form or nature that would affect the release and distribution of the funds under the terms of this Agreement and the Contracts.

(ii) If, due to interest income, a decrease in the scope of the Projects or for any other reason resulting from the terms of the Contracts, any funds remain in the Escrow Account after full payment of the completion of the Projects, such funds will be sent to [the Municipality's Director of Finance] to be held for the benefit of the City. Any funds so returned will be considered not to have been expended under Section 66.1105 Wis. Stats. and will not qualify as TIF eligible costs. The Municipality waives any previous or future claim to reimbursement through TIF in the amount of the funds returned plus interest earned thereon.

4. *The Escrow Agent.*

(a) *Escrow Agent's Fee.* The Escrow Agent will charge an annual fee of \$ _____ for the performance of its services hereunder.

(b) *Reporting.* The Escrow Agent shall, in the month of [February] of each year while this Agreement is in effect and as soon as practicable after the termination of this Agreement, forward to the Municipality a report of the receipts, income, if any, and payments of and from all of the Escrow Account during the preceding calendar year, including in such report a statement, as of the end of the preceding calendar year, regarding the manner in which it has carried out the requirements of this Agreement. The Municipality shall have the right, at any time during business hours, to examine all of the Escrow Agent's records regarding the status and details of the Escrow Account.

(c) *Separate Funds: Accountability.* The Escrow Agent shall keep all monies deposited hereunder, and all interest thereon and profits therefrom, if any, at all times in the special fund and separate trust account, wholly segregated from all other funds and on deposit with it; shall never commingle such deposits with other funds or of Escrow Agent; and shall never at any time use, loan or borrow the same in any way. Nothing herein contained shall be construed as requiring Escrow Agent to keep the identical monies, or any part thereof, received from or for the Municipality's account, on hand, but monies of any equal amount shall always be maintained on hand as funds held by Escrow Agent and a special account thereof, evidencing such fact, shall at all times be maintained on the books of Escrow Agent. In the event Escrow Agent is unable or fails to account for any property held hereunder, such property shall be and remain the property designated to be used as herein described and if, for any reason, such property cannot be identified, all other assets of Escrow Agent shall be impressed with a trust for the amount thereof and the parties to the Contracts to whom the property is owing and due shall be entitled to the preferred claim upon such assets enjoyed by any trust beneficiary. Property held by the Escrow Agent hereunder shall not be deemed to be a banking deposit of the Municipality, and the Escrow Agent shall have no right or title with respect thereto (including any right of set-off) and the Municipality shall have no right of withdrawal thereof.

(d) *Liability and Indemnification.* The Escrow Agent shall be under no obligation to inquire into or be in any way responsible for the performance or nonperformance by the Municipality of any of

its obligations, or to protect any of the Municipality's rights under any of the Municipality's contracts with or franchises or privileges from any state, county, municipality or other governmental agency or with any person. The Escrow Agent shall not be liable for any act done or step taken or omitted by it, as Escrow Agent, or for any mistake of fact or law, or for anything which it may do or refrain from doing in good faith and in the exercise of reasonable care and believed by it to be within the discretion or power conferred upon it by this Agreement, except for its negligence or its default in the performance of any obligation imposed upon it hereunder. The Escrow Agent is authorized to act upon any document believed by it to be genuine and purporting to be signed by the proper party or parties and will incur no liability in so acting. The Escrow Agent shall not be responsible in any manner whatsoever for the recitals or statements contained herein, including without limitation those as to the sufficiency of the escrow deposit to accomplish the purposes hereof or in any proceedings taken in connection therewith, but they are made solely by the Municipality. The Municipality does hereby and shall indemnify and save harmless the Escrow Agent from any and all loss or damage of whatsoever kind and from any suits, claims, or demands, including the Escrow Agent's reasonable legal fees and expenses, on account of any matter or thing arising out of this Agreement or in connection herewith or on account of any act or omission to act by the Escrow Agent in connection with this Agreement. Such obligation shall survive completion of the Project.

(e) *Resignations: Successor Escrow Agent.* The Escrow Agent may at any time resign by giving not less than 60 days written notice to the Municipality. Upon giving such notice of resignation, the resigning the Escrow Agent may petition any court of competent jurisdiction for the appointment of a successor escrow agent. Such court may thereupon, after such notice, if any, as it may deem proper and prescribes, appoint a successor escrow agent of comparable qualifications to those of the resigning Escrow Agent. The resignation of the Escrow Agent shall take effect only upon the appointment of a successor escrow agent and such successor escrow agent's acceptance of such appointment. Any successor escrow agent shall be a state or national bank, have full banking and trust powers, and have a combined capital and surplus of at least \$5,000,000. Any successor escrow agent shall execute, acknowledge and deliver to the Municipality and to its predecessor escrow agent an instrument accepting such appointment hereunder, and thereupon the resignation of the predecessor escrow agent shall become effective and such successor escrow agent, without any further act, deed or conveyance, shall become vested with all the rights, powers, duties and obligations of its predecessor hereunder, with like effect as if originally named as escrow agent herein: but nevertheless, on written request of the Municipality or on the request of the successor escrow agent, the escrow agent ceasing to act shall execute and deliver an instrument transferring to such successor escrow agent, upon the terms herein expressed, all the rights, power, and duties of the escrow agent so ceasing to act. Upon the request of any such successor escrow agent, the Municipality shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor escrow agent all such rights, powers and duties. Any predecessor escrow agent shall pay over to its successor escrow agent a proportional part of the escrow agent's fee hereunder.

5. *Miscellaneous.*

(a) *Third-Party Beneficiary.* This Agreement has been entered into by the Municipality and the Escrow Agent for the benefit of the Municipality and the parties to the Contracts and is not revocable by the Municipality or the Escrow Agent. The Escrow Account has been irrevocably pledged to the payment the costs of completion of the Projects in accordance with this Agreement. Notwithstanding the

foregoing, this Agreement shall not be construed as creating any rights in or obligations to any person other than the parties hereto.

(b) *Severability.* If any section, paragraph, clause or provision of this Agreement shall be invalid or ineffective for any reason, the remainder of this Agreement shall remain in full force and effect, it being expressly hereby agreed that the remainder of this Agreement would have been entered into by the parties hereto notwithstanding any such invalidity.

(c) *Termination.* This Agreement shall terminate on the earlier of (i) the date when all funds in the Escrow Account have been disbursed, or (ii) within three (3) business days after the Escrow Agent receives a Termination Certificate a form of which is attached hereto as Schedule C from the Engineer certifying that the Projects have been fully completed as set forth in the Contracts and the final payments thereunder have been distributed. The parties realize that any funds as shall remain in the Escrow Account upon termination shall be returned to Bond Trust Services Corporation, as described in Section 3 (c)(ii) herein, after payment of any unpaid fees or expenses of the Escrow Agent. The Termination of this Agreement shall not, of itself, have any effect on the Municipality's obligation to pay the sums set forth in the Contracts in accordance with the terms thereof.

(d) *Execution in Counterparts.* This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their duly authorized officers on the date first above written.

CITY OF LA CROSSE, LA CROSSE COUNTY,
WISCONSIN

By: _____
Mayor

(SEAL)

By: _____
City Clerk

_____,
_____, Wisconsin,
as Escrow Agent

By: _____

(SEAL)

SCHEDULE A

**SCHEDULE OF CONTRACTS
(ATTACHED)**

SCHEDULE B

CERTIFICATE FOR PAYMENT

Dated

To: _____ Bank Attention: _____
Phone Number: _____
Fax Number: _____
Email: _____

From: [City Engineer]

Pursuant to Section 3(b)(ii) of the Escrow Agreement dated _____, 2021 entered into between the City of La Crosse, La Crosse County, Wisconsin and _____ (the "*Agreement*"), I have performed my obligations for inspection and approval of the performance of certain contractors on certain Projects (as defined in the Agreement) as provided for in certain Contracts (as defined in the Agreement). I have determined that said performance is in accordance with the Contract for the Project.

Pursuant to the Agreement and the Contracts, I request _____ to make a check payable to _____ in the amount of \$ _____ from the funds in the City of La Crosse – Escrow Account and send to _____ at _____.

Respectfully submitted,

City of La Crosse Engineer

SCHEDULE C

TERMINATION CERTIFICATE

To: _____ Attention: _____
Phone Number: _____
Fax Number: _____
Email: _____

From: [City Engineer]

I have performed my obligations for inspection and approval of the performance of certain contractors on certain Projects as defined in the Escrow Agreement dated _____, 2021 entered into between the City of La Crosse, La Crosse County, Wisconsin and _____ (the "*Agreement*") and I have determined that said performance is in accordance with the Contract for the Project and final payment on all Contracts have been distributed.

Pursuant to Section 3(c)(ii) of the Agreement, any remaining funds in the City of La Crosse - Escrow Account should be sent to the City of La Crosse Director of Finance for the benefit of the City.

Pursuant to Section 5(c) of the Agreement, the Agreement shall terminate within 3 days of receipt of this Certificate.

Respectfully submitted,

City Engineer

STATE OF WISCONSIN)
) SS.
COUNTY OF LA CROSSE)

I, Nikki Elsen, hereby certify that I am the duly qualified and acting City Clerk of the City of La Crosse, La Crosse County, Wisconsin, and as such official I further certify that attached hereto is a copy of excerpts from the minutes of the meeting of the Common Council of said City held on April 8, 2021, and of a resolution adopted at said meeting; that I have compared said copy with the original minute record of said meeting in my official custody; and that said copy is a true, correct and complete transcript from said original minute record insofar as said original record relates to \$_____ aggregate principal amount of Note Anticipation Notes, Series 2021, of said City, dated May 3, 2021.

I further certify that a true and correct statement of every step or proceeding had or taken to date in connection with the authorization of said notes has been recorded by me in a separate record book pursuant to the provisions of Section 67.05(12), Wisconsin Statutes, as supplemented and amended.

Witness my official signature and the official seal of said City this ____ day of April, 2021.

City Clerk

[SEAL]