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RESOLUTION NO. 09-181

RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH C AND C BUSINESS, INC. TO PROVIDE CUSTODIAL SERVICES AND SUPPLIES FOR NINE MUNICIPAL BUILDINGS

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

WHEREAS, the City of Asheville has a need for custodial services and supplies for nine municipal buildings (Public Works, Fleet, Hunt Hill Purchasing and Central Stores, Economic Development, Municipal Building and four Asheville Police Department Resource Centers: West, North, East and Skyland); and

WHEREAS, the amount of the contract is $68,805.90 for contracted custodial services is budgeted in the City's FY 2009-2010 operating budget for public facilities.

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 with C and C Business, Inc. in the amount of $68,805.90 to provide custodial services and supplies for nine municipal buildings.

Read, approved and adopted this 25th day of August, 2009.

Magdalen Bouleson
City Clerk

Mayor

Approved as to form:

City Attorney

Magdalen Bouleson
City Clerk

RESOLUTION NO. 09-182

RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH OTIS ELEVATOR TO PROVIDE ELEVATOR MAINTENANCE AND REPAIR FOR THREE MUNICIPAL BUILDINGS

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

WHEREAS, the City of Asheville has a need for preventative maintenance and repair for elevators at City Hall, Municipal Building, and Stephens Lee Recreation Center; and

WHEREAS, the amount of the contract is $68,683.56 and is budgeted in the City's FY 2009-2010 operating budget for facilities maintenance.

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 with Otis Elevator in the amount of $68,683.56 to provide elevator maintenance and repair services for three municipal buildings.

Read, approved and adopted this the 25th day of August, 2009.

Magdalen Burleson
City Clerk

Mayor

Approved as to form:

City Attorney

Magdalen Burleson
City Clerk

189

RESOLUTION NO. 09-183

RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A NON MATCHING GRANT FROM THE NATIONAL TRANSCAER TO BE USED BY ASHEVILLE FIRE AND RESCUE

WHEREAS, the City has authority pursuant to N.C.G.S. §160A-17.1 to apply for and receive grants from the State and Federal government, and

WHEREAS, Asheville Fire and Rescue has been awarded a non-matching grant in the amount of $500.00 from the National TRANSCAER (Transportation Community Awareness and Emergency Response) Task Group for a Hazardous Material Commodity Flow Study to provide actual data on the hazardous materials that are transported through our city and region.

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

The City Manager is hereby authorized to enter into an agreement with the National TRANSCAER (Transportation Community Awareness and Emergency Response) for a non-matching grant in the amount of $500.00 for a Hazardous Material Commodity Flow Study.

Read, approved and adopted this 25th day of August, 2009.

Magdalen Burleson
City Clerk

Mayor

Approved as to form:

City Attorney

Magdalen Burleson
City Clerk

RESOLUTION NO. 09-184

RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN AUTOMATIC AID SERVICE AGREEMENT WITH REEMS CREEK FIRE AND RESCUE DEPARTMENT

WHEREAS, pursuant to N.C.G.S. 160A-461 the City is authorized to enter into agreements with other governmental bodies to execute joint undertakings; and

WHEREAS, the City of Asheville has a need to strengthen its standard of response cover in the Beaverdam Valley and provide for automatic aid response, and

WHEREAS, the City wishes to enter into an automatic aid agreement with the Reems Creek Fire and Rescue Department fro response within the City of Asheville;

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

The Mayor is hereby authorized to sign on behalf of the City of Asheville a service agreement with Reems Creek Fire and Rescue, Inc. for automatic aid.

Read, approved and adopted this 25th day of August, 2009.

Magdalen Burleson
City Clerk

Mayor

Approved as to form:

City Attorney

Magdalen Burleson
City Clerk

191

RESOLUTION NO. 09-185

RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN AUTOMATIC AID SERVICE AGREEMENT WITH SKYLAND FIRE AND RESCUE DEPARTMENT

WHEREAS, pursuant to N.C.G.S. 160A-461 the City is authorized to enter into agreements with other governmental bodies to execute joint undertakings; and

WHEREAS, the City of Asheville has a need to co-locate an emergency services facility in South Asheville and provide for automatic aid response, and

WHEREAS, the City wishes to enter into an automatic aid service agreement with the Skyland Fire and Rescue Department for maintenance expenses and response within the City of Asheville;

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

The Mayor is hereby authorized to sign on behalf of the City of Asheville a service agreement with Skyland Fire and Rescue, Inc. for automatic aid.

Read, approved and adopted this 25th day of August, 2009.

Magdalen Burleson
City Clerk

Mayor

Approved as to form:

City Attorney

Magdalen Burleson
City Clerk

RESOLUTION NO. 09-186

RESOLUTION APPOINTING MEMBERS TO THE HUB COMMUNITY ECONOMIC DEVELOPMENT ALLIANCE

WHEREAS, the terms of Steve Cochran, Cheryl McMurry, Kim MacQueen and Scott Dedman expired on August 22, 2009;

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

(1) Mr. Steve Cochran, 1 Page Avenue, Asheville, N.C., be and he is hereby reappointed a member of the HUB Community Economic Development Alliance to serve an additional three year term, term to expire August 22, 2012, or until his successor has been appointed.

(2) Ms. Cheryl McMurry, 21 Grady Parris Lane, Asheville, N.C., be and she is hereby reappointed a member of the HUB Community Economic Development Alliance to serve an additional three year term, term to expire August 22, 2012, or until her successor has been appointed.

(3) Ms. Kim MacQueen, 64 Haywood Street, Asheville, N.C., be and she is hereby reappointed a member of the HUB Community Economic Development Alliance to serve an additional three year term, term to expire August 22, 2012, or until her successor has been appointed.

(4) Mr. Scott Dedman, 209 Cumberland, Asheville, N.C., be and he is hereby reappointed a member of the HUB Community Economic Development Alliance to serve an additional three year term, term to expire August 22, 2012, or until his successor has been appointed.

Read, approved and adopted this 25th day of August, 2009.

Magdalen Burleson
CITY CLERK

Terry M Bellamy
MAYOR

Approved as to form:

CITY ATTORNEY

Magdalen Burleson
City Clerk

193

RESOLUTION NO. 09-187

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ASHEVILLE, NORTH CAROLINA DECLARING THE INTENT OF THE CITY OF ASHEVILLE, NORTH CAROLINA TO REIMBURSE ITSELF FOR CAPITAL EXPENDITURES INCURRED IN CONNECTION WITH THE CONSTRUCTION AND EQUIPPING OF FIRE STATIONS, THE RENOVATION OF A CITY FACILITY AND THE ACQUISITION OF EMERGENCY RESPONSE VEHICLES FROM THE PROCEEDS OF AN INSTALLMENT FINANCING CONTRACT TO BE EXECUTED AND DELIVERED IN THE CALENDAR YEAR 2006.

WHEREAS, the City Council of the City of Asheville, North Carolina (*"City"*) has determined that it is in the best interests of City to acquire emergency response vehicles (collectively, the *"Fire Trucks"*);

WHEREAS, the City presently intends, at one time or from time to time, to finance all or a portion of the costs of the Project with proceeds of an installment financing contract and reasonably expects to execute and deliver an installment financing contract, the portion of the installment payments designated and paid as interest under which will be tax-exempt (the *"Contract"*), to finance, or to reimburse itself for, all or a portion of the costs of the Project; and

WHEREAS, the City desires to proceed with the Project and will incur and pay certain expenditures in connection with the Project prior to the date of execution and delivery of the Contract (the *"Original Expenditures"*), such Original Expenditures to be paid for originally from a source other than the proceeds of the Contract, and the City intends, and reasonably expects, to be reimbursed for such Original Expenditures from a portion of the proceeds of the Contract to be executed and delivered at a date occurring after the dates of such Original Expenditures;

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

Section 1. ***Official Declaration of Intent.*** The City presently intends, and reasonably expects, to reimburse itself for the Original Expenditures incurred and paid by the City on or after the date occurring 60 days prior to the date of adoption of this Resolution from a portion of the proceeds of the Contract. The City reasonably expects to execute and deliver the Contract to finance all or a portion of the costs of the Project and the maximum principal amount of Contract expected to be executed and delivered by City to pay for all or a portion of the costs of the Project is $1,790,400.

Section 2. ***Compliance with Regulations.*** The City adopts this Resolution as a declaration of official intent under Section 1.150-2 of the Treasury Regulations promulgated under Section 103 of the Internal Revenue Code of 1986, as amended, to evidence the City's intent to reimburse itself for the Original Expenditures from proceeds of the Contract.

Section 3. ***Itemization of Capital Expenditures.*** The Chief Financial Officer of the City, with advice from special counsel, is hereby authorized, directed and designated to act on behalf of the City in determining and itemizing all of the Original Expenditures incurred and paid by the City in connection with the Project during the period commencing on the date occurring 60 days prior to the date of adoption of this Resolution and ending on the date of execution and delivery of the Contract.

Section 4. ***Effective Date.*** This Resolution shall become effective immediately upon the date of its adoption.

Read, approved and adopted this 25th day of August, 2009.

Magdalen Burleson
City Clerk

Mayor

Approved as to form:

City Attorney

Magdalen Burleson
City Clerk

RESOLUTION NO. 09-188

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE MUNICIPAL AGREEMENTS BETWEEN THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION AND THE CITY OF ASHEVILLE FOR PROJECTS IDENTIFIED IN THE TRANSPORTATION IMPROVEMENT PROGRAM AS TIP NUMBERS U-5186, AND U-5187

WHEREAS, the City of Asheville applied to the French Broad River Metropolitan Planning Organization for transportation projects to be funded by the American Recovery and Reinvestment Act and by other transportation funding; and

WHEREAS, several of these projects were selected by the French Broad River Metropolitan Planning Organization for such funding; and

WHEREAS, the projects are identified by the following Transportation Improvement Program numbers and described as:

U-5186 Asheville Sidewalk Gaps
U-5187 Kimberly Avenue Resurfacing

WHEREAS, the North Carolina Department of Transportation will be administering the project funding for these projects; and

WHEREAS, the North Carolina Department of Transportation requires a Locally Administered Project agreement with the City of Asheville prior to releasing the funding;

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

The City Manager of the City of Asheville is hereby empowered to execute the necessary agreements with the North Carolina Department of Transportation.

Read, approved and adopted this the 25th day of August, 2009.

Magdalen Burleson
City Clerk

Mayor

Approved as to form:

City Attorney

Magdalen Burleson
City Clerk

195

RESOLUTION NO. 09-189

RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH MCGILL ASSOCIATES FOR THE WORK NECESSARY TO ADMINISTER A CONTRACT FOR THE DINGLE CREEK STORMWATER IMPROVEMENTS

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

WHEREAS, The funding has been received through the American Recovery and Reinvestment Act for this project, and

WHEREAS, The funding is to be 50% grant and 50% loan, in which the City of Asheville is responsible, and

WHEREAS, The Clean Water Management Trust Fund has agreed to cover the 50% loan through grant funding which the City is responsible, and

WHEREAS, The total cost of this contract is $80,400;

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 McGill Associates for $80,400, for professional services necessary to complete the Dingle Creek Stormwater Improvement 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 the 25th day of August, 2009.

Magdalen Bouldson
City Clerk

Mayor

Approved as to form:

City Attorney

Magdalen Bouldson
City Clerk

RESOLUTION NO. 09-190

RESOLUTION AUTHORIZING THE CITY MANAGER TO WITHDRAW FROM AN AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES PARKS AND RECREATION TRUST FUND GRANT FOR REID CENTER RENOVATION PROJECT (#2006-476, DENR PO7033) FOR $500,000, AND TO GIVE AUTHORIZATION TO REAPPLY FOR A PARKS AND RECREATION TRUST FUND GRANT FUNDING IN JANUARY 2010 FOR CONSTRUCTION OF THE COMMUNITY CENTER

WHEREAS, the City has authority, pursuant to NCGS 1604-17.1, to accept grants from other governments; and

WHEREAS, the North Carolina Department of Environment and Natural Resources executed a Parks and Recreation Trust Fund Agreement with the City of Asheville for a reimbursement contract of up to $500,000 in 2006 for renovation of the Reid Center; and

WHEREAS, the project estimated construction costs for phase one is $2,000,000 and will be adjusted to $1,500,000 to match available capital funds; and

WHEREAS, the City will reapply for a Parks and Recreation Trust Fund grant in January 2010 for construction of the new Community Recreation Center; and

WHEREAS, the North Carolina Department of Environment and Natural Resources requires the City to formally withdraw from the grant agreement so there is no negative impact the City's ability to secure future Parks and Recreation Trust Fund grants; and

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

The City Manager is authorized to withdraw from an agreement with the North Carolina Department of Environment and Natural Resources Parks and Recreation Trust Fund grant for Reid Center Renovation Project (#2006-476, DENR PO7033) for $500,000, and to give authorization to reapply for a Parks and Recreation Trust Fund grant funding in January 2010 for construction of a new Community Recreation Center.

Read, approved and adopted this 25th day of August, 2009.

Magdalen Bourleson
City Clerk

Mayor

Approved as to form:

City Attorney

Magdalen Bourleson
City Clerk

197

RESOLUTION NO. 09-191

RESOLUTION AUTHORIZING THE MAYOR TO SIGN AMENDMENT I TO THE WHOLESALE WATER PURCHASE AGREEMENT BETWEEN THE CITY OF ASHEVILLE AND THE TOWN OF BLACK MOUNTAIN

WHEREAS, pursuant to N.C.G.S. § 160A-312, the City of Asheville has authority to operate a public enterprise; and

WHEREAS, pursuant to Article 2 of N.C.G.S. § 160A, the City of Asheville may enter into contracts for services with other entities; and

WHEREAS, the City has been providing wholesale water to the Town of Black Mountain through a contract executed on February 14, 2006; and

WHEREAS, the City desires to execute Amendment I to the Wholesale Water Purchase Agreement with the Town of Black Mountain; and

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

The Mayor is hereby authorized to sign Amendment I to the Wholesale Water Purchase Agreement between the City of Asheville and the Town of Black Mountain.

Read, approved and adopted this 25th day of August, 2009.

Magdalen Burleson
City Clerk

Mayor

Approved as to form:

City Attorney

Magdalen Burleson
City Clerk

CITY OF ASHEVILLE
WHOLESALE WATER PURCHASE AGREEMENT
WITH THE TOWN OF BLACK MOUNTAIN

AMENDMENT 1

This amendment, made and entered into this _____ day of _____, 2009, by and between the City of Asheville (hereinafter called the "City"), and the Town of Black Mountain (hereinafter called "Black Mountain"), in recognition of an existing agreement for the wholesale purchase of water between the City and Black Mountain, seeks to modify the agreement as follows:

To add a paragraph, Section B. Water Quantity Commitment 8., to read:

8. *If the capacity commitment of this Agreement is increased by the provisions of paragraph(s) B. 4., 5., 6., or 7., Black Mountain may make a formal request for a reduction of the capacity commitment one (1) year after the capacity increase. Black Mountain cannot request a reduction that would lower the capacity commitment to less than the original capacity commitment as set forth in paragraph B.1 of the Agreement. Black Mountain shall make a written request to the Water Resources Director of the City. The Water Director shall determine the monthly average consumption of water provided by the City to Black Mountain in the preceding 12 months. If the monthly average water consumption has not exceeded the requested capacity commitment for the preceding 12 months, the request will be granted.*

To modify Section H, General Provisions paragraph 11. to remove the names of the contact persons and identify them by their title. Paragraph 11 will read:

11. *For purposes of providing notice in this agreement, the following contact persons and addresses shall control unless changed in writing: City contact will be the current Director of Water Resources, City of Asheville, PO Box 7148, Asheville, NC 28802. Black Mountain's contact will be the current Town Manager, Town of Black Mountain, 225 State Street, W., Town of Black Mountain, NC 28711.*

IN WITNESS WHEREOF, the parties hereto have made and executed this Amendment as of the day and year first above written.

CITY OF ASHEVILLE	TOWN OF BLACK MOUNTAIN
_____	_____
Mayor	Mayor
WITNESS	WITNESS
_____	_____
City Clerk	Town Clerk

RESOLUTION NO. 09-192

RESOLUTION APPOINTING MEMBERS TO THE RECREATION BOARD

WHEREAS, the terms of Wind Peter Motika and Adam Pittman, as members on the Recreation Board, expired on June 30, 2009;

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

(1) Ms. Mary Ann West, Post Office Box 1446, Asheville, N.C.., be and she is hereby appointed, as a member of the Recreation Board, to serve a three-year term, term to expire on June 30, 2012, or until her successor has been appointed.

(2) Mr. Wayne Wheeler, 3 Highland Place, Asheville, N.C.., be and he is hereby appointed, as a member of the Recreation Board, to serve a three-year term, term to expire on June 30, 2012, or until his successor has been appointed.

Read, approved and adopted this 25th day of August, 2009.

Magdalen Burleson
CITY CLERK

MAYOR

Approved as to form:

CITY ATTORNEY

Magdalen Burleson
City Clerk

RESOLUTION NO. 09-193

RESOLUTION APPOINTING A MEMBER TO THE TRANSIT COMMISSION

WHEREAS, there currently exists a vacancy left by Mr. Ryan Pickens until December 31, 2009; and

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

Mr. Tom Tomlin, 61 Edwin Place, Asheville, N.C. be and he is hereby appointed, as a member of the Transit Commission, to serve the unexpired term of Mr. Pickens, term to expire December 31, 2009, and then to serve a full three-year term, term to expire December 31, 2012, or until his successor has been appointed.

Read, approved and adopted this 25th day of August, 2009.

Magdalen Burleson
CITY CLERK

MAYOR

Approved as to form:

CITY ATTORNEY

Magdalen Burleson
City Clerk