

RESOLUTION SETTING A PUBLIC HEARING FOR A LAND USE INCENTIVE GRANT AGREEMENT FOR SIMPSON STREET (BEAUCATCHER COMMONS LLC)

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WHEREAS, the City of Asheville has the authority pursuant to N.C. Gen. Stat. § 158-7.1 and § 160A-456 to provide incentive grants (or appropriations) to encourage development projects that fulfill important public purposes in the City of Asheville.; and

WHEREAS, these public purposes include the development of affordable and workforce housing to increase the City's population, taxable property and business prospects, per N.C. Gen. Stat. § 158-7.1, and encourage the development of housing for persons of low and moderate income, per N.C. Gen. Stat. § 160A-456, which are also principal components of the City's annual strategic goals and other adopted plans; and

WHEREAS, the City Council of Asheville has adopted a Land Use Incentive Policy (LUIP) in order to encourage the development of projects that meet the aforementioned goals and plans; and

WHEREAS, the Simpson Street development represents the type of project envisioned for support within those goals and the LUIP; and

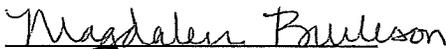
WHEREAS, at its meeting on September 27, 2016, the City Council provided City staff with direction to draft a land use incentive grant between the City of Asheville and Beaucatcher Commons LLC for the Simpson Street development; and

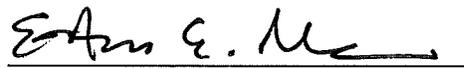
WHEREAS, pursuant to N.C. Gen. Stat. sec. 158-7.1, a public hearing is necessary prior to City Council consideration;

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

The public hearing to consider a land use incentive grant for the Simpson Street development is hereby set on October 11, 2016, at 5:00 p.m. in the Council Chamber, located on the 2<sup>nd</sup> floor of the City Hall Building.

Read, approved and adopted this 27<sup>th</sup> day of September, 2016.

  
CITY CLERK

  
MAYOR

Approved as to form:

  
CITY ATTORNEY

RESOLUTION NO. 16-220

RESOLUTION ACCEPTING THE REPORT PREPARED BY CITY STAFF FOR THE FLOOD MITIGATION ACTION ASSOCIATED WITH THE REPETITIVE LOSS AREA ANALYSIS REPORT

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WHEREAS, Buncombe County has performed a comprehensive review and evaluation of each section of the previously approved All-Hazard Mitigation Plan and has updated the said plan as required and according to guidance issued by FEMA and the North Carolina Division of Emergency Management, and

WHEREAS, the participation in the Community Rating System program, which Asheville is currently a member requires the city to provide a Repetitive Loss Area Analysis and to report on those Flood Mitigation Action Items on an annual basis, and

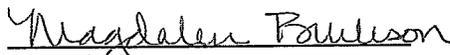
WHEREAS, the City wishes to continue to promote public safety and welfare through the continued participation in the Community Rating System Program, and

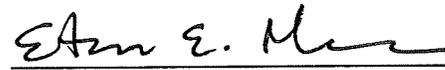
WHEREAS, City Staff has provided Council with the annual Flood Mitigation Action Items report as it relates to the Repetitive Loss Area Analysis;

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

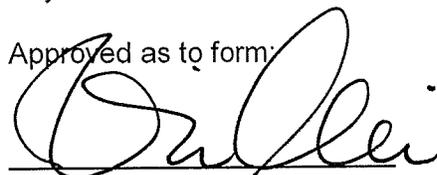
The City of Asheville does hereby receive and accepts the report prepared by City Staff for the annual Repetitive Loss Area Analysis Flood Mitigation Action Items, attached hereto as Exhibit A, and authorizes its submission to the Insurance Services Office and the Federal Emergency Management Agency as part of the annual Community Rating System report which is to be signed by the City Manager.

Read, approved and adopted this the 27th day of September, 2016.

  
City Clerk

  
Mayor

Approved as to form:

  
City Attorney

## EXHIBIT A

### FLOOD MITIGATION ACTIONS 2016

As part of an ongoing effort to reduce flood hazards and damage costs associated with repetitive flood losses, the City hired the consulting firm of Brown and Caldwell to develop a Repetitive Loss Area Analysis. As part of this RLAA, the consulting team has developed a set of flood mitigation actions items for the city to focus on. Each action item listed below includes a description of the action and what actions have been over the past year.

#### **Action Item 1**

The City will continue its flood hazard mitigation public outreach efforts by communicating with property owners in each of the repetitive loss areas to make certain they understand the risks associated with flooding, and encourage owners to consider flood protection measures outlined in this analysis and related publications.

#### **Actions:**

The city has extensive flood related information available on the City's Public Works Department's Stormwater Division's website. This website has links to interactive tools to research properties within the special flood hazard area along with the Biltmore Village Emergency Response Plan which was developed in partnership with the US Army Corps of Engineers. Located on the website is information related to what to do before floods, during a flood and after flooding.

Again this year, the Public Works Department sent out letters to each property owner located within the Repetitive Loss Areas with information related flood protection and actions the property owners could take to help minimize damage from flooding.

As development takes place within the Repetitive Loss Area (RLA), the City's Development Services Staff works with property owners and engineers to inform them of the protection measures required for their development.

The City's Riverfront Redevelopment office holds monthly walk in meetings with the community to allow for ongoing discussion about development within the special flood hazard area. The Stormwater team is open to meet with citizens with individual questions about their property and how the flood zones impact current and future plans for the property.

City Staff is available to meet with citizens who have flooding questions. Staff will continue to be proactive with providing the customer services our citizens deserve.

#### **Action Item 2**

The City will identify any structures within each of the RLAs that are not permitted for occupancy and proceed with standard enforcement actions to bring the structures into

compliance or have them removed.

**Actions:**

The City's Development Services Department continues to work to identify such properties and make notifications to these property owners. As these properties that are not permitted for occupancy arise, staff will take action to notify the property owners of the non-compliance issues and provide them with what the requirements are necessary to meet current standards. City staff is available to meet with citizens to discuss issues concerning these properties and discuss what options the ordinance and flood regulations allow.

**Action Item 3**

The City will consider the feasibility of a flood warning system in one or more of the RLAs to assist in advance notice to property owners of an impending flood. Given the fact that most of the structures in these areas will require some form of flood protection preparation prior to an event, a flood warning system may be a valuable asset.

**Actions:**

The City's Public Works Department, partnering with the US Army Corps of Engineers is continuing the flood mitigation project within the Swannanoa River basin. As part of this continuing effort which will consider both structural and non-structural alternatives to flood control, a flood warning system is being considered. The final feasibility report with the recommendations for the flood mitigation project is expected in 2017.

The Public Works Department and the Asheville Fire Department is working to develop stream elevation thresholds in which flooding occurs to allow for coordination with other emergency management agencies throughout the area to notify citizens of potential threats of flooding. City Staff has met with the county emergency management team and discussed this. Staff will continue to work with our team on this initiative.

**Moving forward**

City Staff will continue to look for flood mitigation opportunities throughout the city. Various city departments' work together to complete the flood mitigation actions tasks necessary for the Community Rating System (CRS), the team includes the Public Works Department, the Development Services Department, the Riverfront Office, and the Asheville Fire Department. Staff continues to be excited about the positive impact of the City being a part of the CRS program which currently provides citizens who hold flood insurance a 10 percent reduction in the annual premiums. Staff will continue to work closely together to implement the flood mitigation action items associated with Repetitive Loss Area Analysis report. Staff will also look for opportunities to continue the flood mitigation efforts ongoing within the special flood hazard areas and will also look for partnership opportunities in these same locations.

RESOLUTION NO. 16- 221

RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A PROFESSIONAL ENGINEERING SERVICES AGREEMENT WITH SCHNABEL ENGINEERING SOUTH, PC, FOR THE NORTH FORK WTP DAM/SPILLWAY UPGRADE PHASE II: DESIGN AND CONSTRUCTION SERVICES PROJECT

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

WHEREAS, pursuant to N.C.G.S. § 160A-20.1, the City of Asheville may enter into contracts with private entities to carry out any public purpose the City is authorized to engage in; and

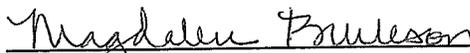
WHEREAS, Schnabel Engineering South, PC, was selected by Staff via a Request for Qualifications process as the most qualified firm to perform professional engineering services related to the North Fork Water Treatment Plant Dam/Spillway Upgrade Phase I: Design and Phase II: Construction Services Project; and

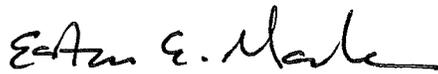
WHEREAS, Schnabel Engineering South, PC, has completed Phase I of the Project and the department is ready to move onto Phase II of the Project for the proposed amount of \$4,350,170.

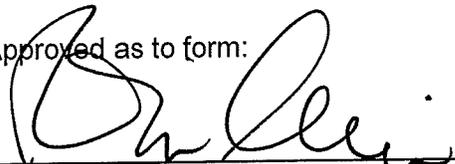
NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

The City Manager, on behalf of the City of Asheville, is hereby authorized to enter into a professional engineering services agreement with Schnabel Engineering South, PC, for the North Fork WTP Dam/Spillway Upgrade Phase II: Design and Construction Services project for the proposed amount of \$4,350,170; 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 27<sup>th</sup> day of September, 2016.

  
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City Clerk

  
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Mayor

Approved as to form:  
  
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City Attorney

RESOLUTION NO. 16-222

RESOLUTION AUTHORIZING THE CITY MANAGER TO CONVEY PERMANENT UTILITY EASEMENTS ALONG RIVERSIDE DRIVE AND LYMAN STREET TO DUKE ENERGY PROGRESS, INC. FOR UTILITIES RELATED TO THE RIVER ARTS DISTRICT TRANSPORTATION IMPROVEMENT PROJECT (RADTIP)

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WHEREAS, the N.C. General Statutes, Sec. 160A-273 grants authority to cities to convey easements across city property or right-of-way; and

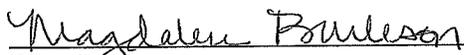
WHEREAS, the City of Asheville, hereinafter the City, is the owner of properties located at Riverside Drive and Lyman Street, identified as PIN#96388864500000, PIN# 963897167400000, PIN# 963896596900000, PIN# 963896784600000, portion of PIN# 963896679100000 and PIN #963896518900000; and

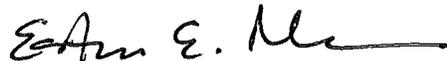
WHEREAS, Duke Energy Progress has requested a Permanent Transmission and Distribution Easements totaling approximately 3.15 +/- acres over said property along Riverside and Lyman;

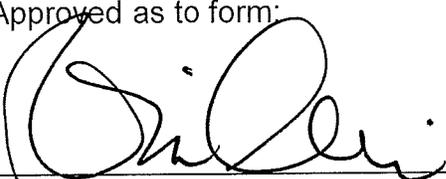
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

The City Manager is hereby authorized to execute any and all documents, approved by the City Attorney, to convey permanent easements across City-owned property located along Riverside Drive and Lyman Street (identified as PIN# 96388864500000, PIN# 963897167400000, PIN# 963896596900000, PIN# 963896784600000, portion of PIN# 963896679100000 and PIN #963896518900000) to Duke Energy Progress, Inc. In addition, the City Manager is hereby authorized to execute any and all documents necessary to give effect to this resolution, subject to approval by the City Attorney, and in compliance with applicable North Carolina law.

Read, approved and adopted this 27<sup>th</sup> day of September, 2016.

  
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City Clerk

  
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Mayor

Approved as to form:  
  
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City Attorney

RESOLUTION NO. 16-223

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RESOLUTION STANDING IN SUPPORT OF THE STANDING ROCK SIOUX

WHEREAS, the City of Asheville understands the importance of recognizing the specific challenges facing the original inhabitants of this land and honoring their contributions symbolized through the declaration of Indigenous Peoples Day each October passed in January, 2015; and

WHEREAS, Asheville resides within the ancestral homelands of the Cherokee Nation and within an hour's drive to the Qualla Boundary, the home of the Eastern Band of Cherokee Indians; and the City of Asheville fully supports the right of every Federally Recognized Indian Tribe to exercise the full scope of their Tribal Sovereignty and to enjoy the benefits that accompany self-determination; and

WHEREAS, it is proper and fitting that whenever there are issues that are of national importance in Indian Country, or issues arise that impact Native Americans across the country, that we the City of Asheville demonstrate our willingness to stand in solidarity with those affected; and

WHEREAS, the Standing Rock Sioux Tribe, a Federally Recognized tribe located in North and South Dakota, has determined that the proposed route of the Dakota Access oil Pipeline creates a potential threat to the only source of drinking water for their people; and

WHEREAS, the proposed Dakota Access Pipeline would carry as many as 570,000 barrels of fracked crude oil per day for more than 1,172 miles from the Bakken oil fields of North Dakota to Illinois, passing over sensitive landscapes including treaty protected land containing recognized cultural resources and across or under 209 rivers, creeks, and tributaries including the pristine Missouri River, which provides drinking water and irrigates agricultural land in communities across the Midwest; and

WHEREAS, any spill of oil into the Missouri River would irreparably harm the Standing Rock Sioux Tribe's Treaty reserved lands, territories, waters and other resources; burial grounds, gravesites and other sacred sites of cultural, religious, and historical significance; and spiritual relationships and indigenous ways of life; and

WHEREAS, to date the Standing rock Sioux Tribe has received Letters of Support and Council Resolutions from over 250 different Native nations including the Eastern Band of Cherokee Indians; and

WHEREAS, despite deep opposition from the Standing Rock Sioux Tribe, as well as farmers, scientists, more than 30 environmental advocacy groups, and other Tribal nations along the proposed route, and without Tribal consultation or meaningful environmental review as required by federal law, in July, 2016 the U.S. Army Corps of Engineers issued a permit allowing construction of the fracked oil pipeline to move forward; and

WHEREAS, the Dakota Access Pipeline violates Article 2 of the 1868 Fort Laramie Treaty which guarantees that the Standing Rock Sioux Tribe shall enjoy the "undisturbed use and occupation" of their permanent homeland, the Standing Rock Indian Reservation; and

WHEREAS, the American Indian Religious Freedom Act of 1978 affirms the need to "protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions," particularly in American Indian sacred places; and

WHEREAS, Articles, 11, 12, and 25 of the United Nations Declaration on the Rights of Indigenous People (UNDRIP), as endorsed by the United States in 2010, affirms that indigenous peoples like the Standing Rock Sioux Tribe possess the right to maintain and protect their culture, religion, practices, and relationship with their "traditionally owned or otherwise occupied and used lands, territories [and] waters"; and

WHEREAS, the UNDRIP Article 32 further provides that governments shall consult with indigenous peoples "in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources"; and

WHEREAS, the Society for American Archeology, with over 7800 professional archeologists in all 50 states, found that Section 106 of The National Historic Preservation Act particularly those mandates regarding consultation with tribes were not followed

WHEREAS, In a show of monumental cooperation not seen in the 140 years since the Battle of the Greasy Grass or Little Big Horn, members of the Lakota Standing Rock Sioux Tribe have united with the Oceti Sakowin, the Seven Fires Council - which include the confederation of Lakota, Dakota, and Nakota Nations - and established a peaceful encampment in Cannon Ball, North Dakota known as the Sacred Stones Camp to resist the construction of the Dakota Access Pipeline with a cultural and spiritual presence; and

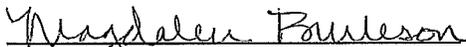
WHEREAS, On August 15, 2016 the Standing Rock Sioux Tribal Council led by Tribal Chairman David Archambault II called on Tribal nations and Indigenous people around the world to issue resolutions in support of the Standing Rock Sioux and the Sacred Stones Camp;

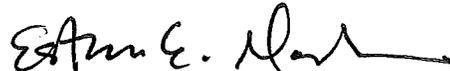
NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

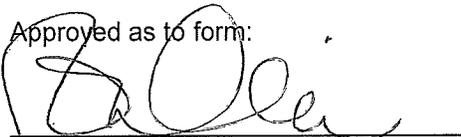
We stand in support of the Standing Rock Sioux Tribe as they exercise their sovereignty in protest of the encroachment upon their ancestral land, water and sacred sites by the Dakota Access Pipeline, and we call on all residents of Asheville to raise awareness about this important struggle for Indigenous sovereignty and environmental justice and to support the Sacred Stones Camp efforts in any way they can; and

The City of Asheville calls upon the United States and the Army Corps of Engineers to obtain the free, prior and informed consent of the Standing Rock Sioux Tribe, prior to taking any federal action regarding the DAPL that would harm or destroy the Tribe's ancestral lands, waters and sacred sites.

Read, approved and adopted this 27th day of September, 2016.

  
CITY CLERK

  
MAYOR

Approved as to form:  
  
CITY ATTORNEY