

RESOLUTION NO. 10-100

RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CHANGE ORDER  
 INCREASING BROWN AND CALDWELL'S AGREEMENT FOR THE WILLIAM DEBRUHL  
 WTP BACKWASH LAGOON PROJECT

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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 required a professional engineering firm for construction administration services for the William DeBruhl WTP Backwash Lagoon project; and

WHEREAS, pursuant to N.C.G.S. § 143-64.31, the City announced and advertised the requirements for the professional services project and awarded the project to Brown and Caldwell Consulting Engineers in the amount of \$107,766.00; and

WHEREAS, a change order increasing Brown and Caldwell's Agreement is required for additional site inspections associated with this project; and

WHEREAS, the current amount of the Agreement is \$107,766.00 and the change order amount is \$15,569.24 additional for a total of \$123,335.24.

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

1. The City Manager is hereby authorized to execute the change order with Brown and Caldwell in the amount of \$15,569.24 increasing the agreement amount from \$107,766.00 to \$123,335.24.

Read, approved and adopted this 27<sup>th</sup> day of April, 2010.

Magdalen Boulson  
 City Clerk

Jerry M Bellamy  
 Mayor

Approved as to form:

[Signature]  
 City Attorney

Magdalen Boulson  
 City Clerk

RESOLUTION NO. 10- 101

**RESOLUTION AUTHORIZING AN INSTALLMENT PURCHASE CONTRACT BETWEEN RBC BANK AND THE CITY OF ASHEVILLE TO FINANCE THE PURCHASE OF TWO FIRE TRUCKS**

WHEREAS, the City Council of the City of Asheville, North Carolina, has determined that it is necessary for the City of Asheville to acquire a two fire trucks and to obtain financing for those equipment items through an installment purchase contract pursuant to NC General Statute Section 160A-20;

WHEREAS, NC General Statute Section 160A-20 authorizes North Carolina cities to purchase personal property by installment contracts that create in the property purchased a security interest to secure payment of the purchase price to an entity supplying financing for the transaction;

WHEREAS, NC General Statute Section 160A-20 further authorizes North Carolina cities to use escrow accounts in connection with the advance funding of transactions authorized by the statute whereby the proceeds of such advance funding are invested pending disbursement;

WHEREAS, the Finance Department had previously solicited financing proposals from five firms for financing the installment purchase;

WHEREAS, the proposals were received from three firms; and

WHEREAS, RBC Bank submitted the proposal most advantageous to the City of Asheville;

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

1. The City Council determines that the financing of the purchase of two fire trucks pursuant to the terms offered by RBC Bank in an amount not to exceed \$1,300,000 is in the best interest of the City of Asheville and such installment purchase financing is authorized. The installment purchase financing done under the "Build America Bond" program authorized under the American Recovery and Reinvestment Act at an interest rate of 3.58% which, after the City claims the 35% interest rate subsidy from the Federal government, will be an effective rate to the City of 2.327%.
2. All actions of the City, the City Manager, the City Finance Director, the City Purchasing Director, the City Clerk, the City Attorney, the Treasury Services Manager and their respective designees, whether previously or hereinafter taken, in effectuating the proposed financing and the acquisition of the property hereinbefore described are hereby approved, ratified and authorized.
3. The City Council authorizes the City Manager, the City Attorney, the City Finance Director, City Clerk and the Treasury Services Manager to execute and deliver an installment purchase contract, a draft of which is on file with the City, an escrow agreement, if necessary, and any and all documents, instruments, opinions, and certificates necessary to carry out the purposes of this resolution.
4. This Resolution shall be effective upon adoption.

Read, approved and adopted this 27<sup>th</sup> day of April, 2010.

Magdalen Paulson  
City Clerk

Jeremy Bellamy  
Mayor

Approved as to form:

[Signature]  
City Attorney

Magdalen Paulson  
City Clerk

**RESOLUTION 10- 102****RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ASHEVILLE, NORTH CAROLINA, AUTHORIZING THE NEGOTIATION OF AN INSTALLMENT FINANCING CONTRACT, DIRECTING THE PUBLICATION OF NOTICE WITH RESPECT THERETO AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS THERETO**

*WHEREAS*, the City of Asheville, North Carolina (the "*City*") is a validly existing municipal corporation, existing as such under and by virtue of the Constitution, statutes and laws of the State of North Carolina (the "*State*");

*WHEREAS*, the City has the power, pursuant to the General Statutes of North Carolina to (1) purchase real and personal property, (2) enter into installment financing contracts in order to finance the purchase of real and personal property used, or to be used, for public purposes, and (3) grant a security interest in some or all of the property purchased to secure repayment of the purchase price;

*WHEREAS*, the City Council of the City (the "*City Council*") determines that it is in the best interest of the City to enter into an installment financing contract (the "*Contract*") with a financial institution to be determined in order to pay the capital costs of the construction and equipping of a community center (the "*Project*") and create a security interest in the site of the Project and the improvements thereon through a deed of trust and security agreement (the "*Deed of Trust*");

*WHEREAS*, the City hereby determines that the acquisition and construction of the Project is essential to the City's proper, efficient and economic operation and to the general health and welfare of its inhabitants; that the Project will provide an essential use and will permit the City to carry out public functions that it is authorized by law to perform; and that entering into the Contract and Deed of Trust is necessary and expedient for the City by virtue of the findings presented herein;

*WHEREAS*, the City hereby determines that the Contract allows the City to purchase the Project and take title thereto at a favorable interest rate currently available in the financial marketplace and on terms advantageous to the City;

*WHEREAS*, the City hereby determines that the estimated cost of the acquisition, renovation and construction of the Project is an amount not to exceed \$1,100,000 and that such cost of the acquisition and construction of the Project exceeds the amount that can be prudently raised from currently available appropriations, unappropriated fund balances and non-voted bonds that could be issued by the City in the current fiscal year pursuant to Article V, Section 4 of the Constitution of the State;

*WHEREAS*, although the cost of the acquisition and construction of the Project pursuant to the Contract is expected to exceed the cost of the acquisition and construction of the Project pursuant to a bond financing for the same undertaking, the City hereby determines that the cost of the acquisition and construction of the Project pursuant to the Contract and Deed of Trust and

the obligations of the City thereunder are preferable to a general obligation bond financing or revenue bond financing for several reasons, including but not limited to the following: (1) the cost of a special election necessary to approve a general obligation bond financing, as required by the laws of the State, would result in the expenditure of significant funds; and (2) the time required for a general obligation bond election would cause an unnecessary delay which would thereby decrease the financial benefits of constructing and equipping the Project;

*WHEREAS*, the City has determined and hereby determines that the estimated cost of the acquisition and construction of the Project pursuant to the Contract reasonably compares with an estimate of similar costs under a bond financing for the same undertaking as a result of the findings delineated in the above preambles;

*WHEREAS*, the City does not anticipate a future property tax increase to pay installment payments falling due under the Contract;

*WHEREAS*, the sums to fall due under the Contract will be adequate but not excessive for its proposed purpose;

*WHEREAS*, Parker Poe Adams & Bernstein LLP will serve as special counsel ("*Special Counsel*") to the City relating to the Contract and the transactions contemplated thereby;

*WHEREAS*, no deficiency judgment may be rendered against the City in any action for its breach of the Contract, and the taxing power of the City is not and may not be pledged in any way directly or indirectly or contingently to secure any moneys due under the Contract;

*WHEREAS*, the City is not in default under any of its debt service obligations;

*WHEREAS*, the City's budget process and Annual Budget Ordinance are in compliance with the Local Government Budget and Fiscal Control Act, and external auditors have determined that the City has conformed with generally accepted accounting principles as applied to governmental units in preparing its Annual Budget ordinance;

*WHEREAS*, past audit reports of the City indicate that its debt management and contract obligation payment policies have been carried out in strict compliance with the law, and the City has not been censured by the North Carolina Local Government Commission (the "*LGC*"), external auditors or any other regulatory agencies in connection with such debt management and contract obligation payment policies;

*WHEREAS*, a public hearing on the Contract after publication of a notice with respect to such public hearing must be held and approval of the LGC with respect to entering the Contract must be received; and

*WHEREAS*, the City hereby determines that all findings, conclusions and determinations of the City in this Resolution are subject to modification or affirmation after all interested parties have been afforded the opportunity to present their comments at a public hearing regarding the

execution and delivery of the Contract and the acquisition, renovation and construction of the Project to be financed thereby.

*NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE, NORTH CAROLINA, AS FOLLOWS:*

Section 1. *Application to LGC.* That the City Manager or his designee is hereby directed to file with the LGC an application for its approval of the Contract and all relevant transactions contemplated thereby on a form prescribed by the LGC and to state in such application such facts and to attach thereto such exhibits regarding the City and its financial condition as may be required by the LGC.

Section 2. *Special Counsel.* That Parker Poe Adams & Bernstein LLP, Charlotte, North Carolina, as special counsel, is approved.

Section 3. *Public Hearing.* That a public hearing (the "Public Hearing") shall be conducted by the City Council on May 25, 2010 at or about 5:00 p.m. in the Council Chamber, 2<sup>nd</sup> Floor of City Hall, 70 Court Plaza, Asheville, North Carolina, concerning the Contract, the proposed acquisition and construction of the Project and any other transactions contemplated therein and associated therewith.

Section 4. *Notice of Public Hearing.* That the City Clerk is hereby directed to cause a notice of the Public Hearing, in the form attached hereto as Exhibit A, to be published once in a qualified newspaper of general circulation within the City no fewer than 10 days prior to the Public Hearing.

Section 5. *Repealer.* That all motions, orders, resolutions and parts thereof in conflict herewith are hereby repealed.

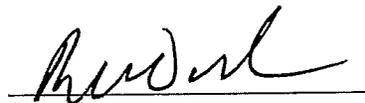
Section 6. *Effective Date.* That this Resolution is effective on the date of its adoption.

Read, approved and adopted this 27th day of April, 2010.

  
City Clerk

  
Mayor

APPROVED AS TO FORM:

  
City Attorney

  
City Clerk

**EXHIBIT A**  
**NOTICE OF PUBLIC HEARING**

At its April 27, 2010 meeting, the City Council (the "*City Council*") of the City of Asheville, North Carolina (the "*City*") proposes to adopt a resolution which:

1. Authorizes the City to proceed to pay the capital costs of the construction and equipping of a community center (the "*Project*"), pursuant to an installment financing contract (the "*Contract*"), in a principal amount not to exceed \$1,100,000 under which the City will make certain installment payments, in order to make the Project available to the City;
  
2. Authorizes the City to proceed to provide, in connection with the Contract, as grantor, a deed of trust and security agreement (the "*Deed of Trust*") on the real property on which the Project is constructed with the proceeds of the Contract and the improvements thereon (collectively, the "*Mortgaged Property*"), which Mortgaged Property will be mortgaged by the City to create a lien thereon for the benefit of the entity, or its assigns, providing the funds to the City under the Contract.

On payment by the City of all installment payments due under the Contract, the Deed of Trust and any lien created thereunder will terminate and the City's title to the Mortgaged Property will be unencumbered.

*NOTICE IS HEREBY GIVEN*, pursuant to Sections 160A-20 of the General Statutes of North Carolina, that on May 25, 2010 at 5:00 p.m. in the Council Chamber, 2<sup>nd</sup> Floor of City Hall, 70 Court Plaza, Asheville, North Carolina, a public hearing will be conducted concerning the approval of the execution and delivery of the Contract and the Project. All interested parties are invited to present comments at the public hearing regarding the execution and delivery of the Contract and the Project to be financed thereby.

/s/ Magdalen Burleson  
\_\_\_\_\_  
City Clerk  
City of Asheville, North Carolina

Published: \_\_\_\_\_, 2010

RESOLUTION NO. 10-103RESOLUTION APPROVING SETTLEMENT WITH SWANNANOA CLEANERS FOR  
PROPERTY DAMAGE AT 165 COXE AVENUE

WHEREAS, Swannanoa Cleaners has made a claim against the City of Asheville for property damage to its building located at 165 Coxe Avenue in the City of Asheville, contending that such damage was caused by or as a result of a blockage in the City's storm drainage facilities located in Federal Alley, a publicly maintained alley;

WHEREAS, the City and Swannanoa Cleaners, through legal counsel, have negotiated a settlement in the amount of \$75,000 to be paid by the Asheville Claims Corporation on behalf of the City of Asheville to Swannanoa Cleaners, subject to approval by the Asheville City Council; and

WHEREAS, pursuant to City Resolution No. 93-145, the Asheville City Council must approve settlement of claims covered by the Asheville Claims Corporation, if the amount of the settlement exceeds \$25,000;

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

A monetary settlement in the amount of \$75,000 to be paid by the Asheville Claims Corporation on behalf of the City of Asheville to Swannanoa Cleaners for property damage at 165 Coxe Avenue be, and the same is hereby, approved, subject to the execution of appropriate settlement documents and releases by the parties as approved by counsel for the City of Asheville;

The City shall initiate proceedings to close the portion of Federal Alley where the affected building encroaches;

As required by N.C.G.S 143-318.11(a)(3), the terms of the settlement of the above-described matter are hereby made a matter of public record, and the City Clerk is directed to enter this Resolution in the official minutes of City Council;

Nothing herein may be construed as a waiver of governmental immunity with respect to any claims against the City of Asheville.

Read, approved and adopted this the 27<sup>th</sup> day of April, 2010.

Magdalen Baulson  
City Clerk

Jerry Bellamy  
Mayor

Approved as to form:

[Signature]  
City Attorney

Magdalen Baulson  
City Clerk

RESOLUTION NO. 10-104

RESOLUTION CONFIRMING CITY COUNCIL SUPPORT OF PARTICIPATION  
IN THE YWCA'S "STAND AGAINST RACISM" EVENT ON APRIL 30, 2010.

WHEREAS, racism still exists in our community and can no longer be ignored or tolerated; and

WHEREAS, the YWCA of Asheville has asked community organizations to arrange events in support of the "Stand against Racism" effort on April 30, 2010; and

WHEREAS, the City has an opportunity to show solidarity with the YWCA's goal of acknowledging and addressing the existence of racism;

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

The City Manager is hereby authorized to move forward with a relay walk on April 30, 2010, in which City employees may demonstrate their support for the YWCA's goal to end racism.

Read, approved and adopted this the 27<sup>th</sup> day of April 2010.

Magdalena Baulson  
City Clerk

Sam Bellamy  
Mayor

Approved as to form:

[Signature]  
City Attorney

Magdalena Baulson  
City Clerk

RESOLUTION NO. 10- 105

## RESOLUTION AUTHORIZING SUBMISSION OF THE CITY'S CONSOLIDATED ANNUAL ACTION PLAN FOR 2010-2011 TO THE U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

WHEREAS, the City of Asheville is an Entitlement City for the federal Community Development Block Grant (CDBG) program and is Lead Entity on behalf of the Asheville Regional Housing Consortium for the federal HOME Investment Partnership Act program; and

WHEREAS, the City has prepared a Consolidated Strategic Housing and Community Development Plan to provide a five-year framework of priorities and targets for the CDBG and HOME programs for 2010-2015; and

WHEREAS, each year the City must submit to the U.S. Department of Housing and Urban Development (HUD) a Consolidated Annual Action Plan detailing its proposed use of CDBG and HOME funds; and

WHEREAS, the City's Housing and Community Development Committee and the Asheville Regional Housing Consortium Board have made recommendations, consistent with the Strategic Plan, for an Action Plan for fiscal year 2010-15; and

WHEREAS, three public hearings have been held to obtain citizen input and comments on the draft plan, including a public hearing in front of Council on April 27, 2010, and the draft plan has been made available to the public;

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

1. Council approves the submission to HUD of the Consolidated Annual Action Plan for 2010-15 which is incorporated by reference as if fully set forth herein.
2. Council authorizes the City Manager to sign all contracts and grant and loan agreements, after approval by the City Attorney, with HUD and with other designated agencies for the implementation of the Consolidated Action Plan.

Read, approved and adopted this 27th day of April, 2010.

Magdalen Boursion  
CITY CLERK

Jerry Bellamy  
MAYOR

Approved As To Form:

[Signature]  
CITY ATTORNEY

Magdalen Boursion  
City Clerk

RESOLUTION NO. 10- 106

RESOLUTION APPROVING THE CITY'S CONSOLIDATED STRATEGIC HOUSING & COMMUNITY DEVELOPMENT PLAN FOR 2010-2015

WHEREAS, The City of Asheville receives an annual entitlement grant from the federal Community Development Block Grant (CDBG) program; and

WHEREAS, the City of Asheville also receives an annual entitlement grant from the federal HOME Investment Partnership Act (HOME) program as Lead Entity for the Asheville Regional Housing Consortium; and

WHEREAS, The City is required to submit to the U.S. Department of Housing and Urban Development , every five years, a Consolidated Strategic Plan to establish priorities and targets for the use of CDBG and HOME funds; and

WHEREAS, after extensive public consultation including public meetings and focus groups throughout the Consortium area, a draft Strategic Plan has been prepared and was published for comment on March 28, 2010; and

WHEREAS, a final public hearing was held at the City Council meeting on April 27, 2010;

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

City Council approves the submission to HUD of the Consolidated Strategic Housing and Community Development Plan for 2010-2015 which is incorporated by reference as if fully set forth herein.

Read, approved and adopted this 27th day of April 2010.

Magdalen Paulson  
CITY CLERK

Jerry M. Bellamy  
MAYOR

Approved As To Form:

[Signature]  
CITY ATTORNEY

Magdalen Paulson  
City Clerk

RESOLUTION NO. 10- 107

RESOLUTION AUTHORIZING CITY STAFF TO IMPLEMENT CERTAIN OPERATIONAL CHANGES TO THE TRANSIT SYSTEM INCLUDING ON-TIME PERFORMANCE CHANGES, 30-MINUTE FREQUENCY, AND CONSOLIDATING EVENING ROUTES INTO DAY ROUTES

WHEREAS, the Asheville City Council supports the development of multi-modal transportation options including transit; and

WHEREAS, the existing transit system needs to become more efficient in order to attract new ridership while improving the level of service currently enjoyed by the core ridership group; and

WHEREAS, the City Council approved the Transit Master Plan in its concept; and

WHEREAS, the plan proposes on-time performance changes, 30-minute frequency, and consolidating evening routes into day routes to increase efficiency, reliability, and ridership; and

WHEREAS, the recommendations respond to the challenges the transit system faces related to the City's growth patterns; and

WHEREAS, City staff recommends the subject changes;

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

The City of Asheville City Council authorizes City staff to implement certain operational changes to the transit system including on-time performance changes, 30-minute frequency, and consolidating evening routes into day routes, based on recommendations included in the Transit Master Plan.

Read, approved, and adopted this 27<sup>th</sup> day of April 2010.

Magdalen Bourleson  
City Clerk

Greg Bellamy  
Mayor

Approved as to form:

[Signature]  
City Attorney

Magdalen Bourleson  
City Clerk

RESOLUTION NO. 10- 108

RESOLUTION AUTHORIZING CITY STAFF TO MOVE FORWARD WITH DEVELOPING A MARKETING STRATEGY TO PROMOTE THE OPERATIONAL CHANGES AND CREATING A NEW "BRAND" FOR THE TRANSIT SYSTEM

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WHEREAS, the Asheville City Council supports the development of multi-modal transportation options including transit; and

WHEREAS, the existing transit system needs to become more efficient in order to attract new ridership while improving the level of service currently enjoyed by the core ridership group; and

WHEREAS, the City approved the Transit Master Plan in its concept; and

WHEREAS, the plan proposes on-time performance changes, 30-minute frequency, and consolidating evening routes into day routes to increase efficiency, reliability, and ridership; and

WHEREAS, the recommendations respond to the challenges the transit system faces related to the City's growth patterns; and

WHEREAS, City staff recommends a marketing strategy to promote the operational changes and creating a new "brand" for the transit system;

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

The City of Asheville City Council authorizes City staff to move forward with developing a marketing strategy to promote the operational changes and creating a new "brand" for the transit system.

Read, approved, and adopted this 27<sup>th</sup> day of April 2010.

Magdalen Bursleson  
City Clerk

Jerry McBellan  
Mayor

Approved as to form:

[Signature]  
City Attorney

Magdalen Bursleson  
City Clerk

## RESOLUTION NO. 10- 109

## RESOLUTION TO APPROVE LOANS FROM THE CITY'S HOUSING TRUST FUND

WHEREAS, on September 12, 2000, the City Council of the City of Asheville first appropriated funds and adopted policies and detailed program guidelines for administering a Housing Trust Fund to assist in the development and preservation of affordable housing in the City; and

WHEREAS, an application for Housing Trust Fund loans has been received from Mountain Housing Opportunities (MHO); and

WHEREAS, the City Council's Housing and Community Development Committee has reviewed the application from MHO and recommends approval;

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

The City of Asheville hereby authorizes that \$400,000 of Housing Trust Fund monies be awarded to Mountain Housing Opportunities for the development of sixty (60) multi-family rental units at 785 Merrimon Avenue; said funds to be made available for disbursement upon receipt of program income totaling \$117,100.

Read, approved and adopted this the 27<sup>th</sup> day of April, 2010.

Magdalen Boulson  
City Clerk

Jerry Bell  
Mayor

Approved as to form:

[Signature]  
City Attorney

Magdalen Boulson  
City Clerk

RESOLUTION NO. 10-110

RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE DOWNTOWN COMMISSION

WHEREAS, the term of John Rogers, as a member on the Asheville Downtown Commission, expired on December 31, 2009; and

WHEREAS, there currently exists a vacancy left by Mr. Brad Galbraith, term to expire December 31, 2011;

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

(1) Ms. Rebecca Hecht, 58 College Street, Asheville, N.C., be and she is hereby appointed as a member of the Asheville Downtown Commission, to serve a three year term, term to expire December 31, 2012, or until her successor has been appointed.

(3) Mr. Jimi Rentz, 20 Colonial Place, Asheville, N.C., be and he is hereby appointed as a member of the Asheville Downtown Commission, to serve an unexpired term, term to expire December 31, 2011, or until his successor has been appointed.

Read, approved and adopted this 27<sup>th</sup> day of April, 2010.

Magdalen Bouleson  
CITY CLERK

Greg Bellamy  
MAYOR

Approved as to form:

[Signature]  
CITY ATTORNEY

Magdalen Bouleson  
City Clerk