

RESOLUTION NO. 13- 78

RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH CANA CONSTRUCTION FOR THE WATER RESOURCES WATER SERVICE RENEWALS PROJECT NORTH/EAST

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. § 143-131, informal bids must be obtained for all municipal contracts that do not come within the purview of N.C.G.S. §143-129 for formal bidding, and the City must award to the lowest responsible and responsive bidder; and

WHEREAS, the Water Resources Department has the need to renew existing water services that have been identified as sub-standard as part of the department's ongoing Automated Meter Reading (AMR) project, which project falls within the purview of N.C.G.S. § 143-131; and

WHEREAS; CANA Construction, was selected as the lowest responsible and responsive bidder by Water Resources staff in the amount of \$212,375.00, with the bid tabulation attached hereto as Exhibit "A".

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

1. The Bid Tabulation attached hereto as Exhibit "A" be recorded in the minutes of the City Council.
2. The City Manager, on behalf of the City of Asheville, is hereby authorized to enter into an agreement with CANA Construction for the bid amount of \$212,375.00. The department has also set aside a contingency amount of \$21,240.00 for a total budget amount of \$233,615.00 for the Water Resources Water Service Renewals Project North/East and the City Manager is 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 23rd day of April, 2013.

Margalene Brunson  
CITY CLERK

Jim McCallum  
MAYOR

Approved as to form:  
[Signature]  
CITY ATTORNEY

Margalene Brunson  
City Clerk

## Exhibit A

Bid Tabulation for the Water Resources  
Water Service Renewals Project North/East

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**T & K Utilities, Inc.**

204 Charlotte Highway, Suite G  
Asheville, NC 28803  
Total Bid: \$345,825.00

**Patton Construction Group, Inc.**

P.O. Box 15054  
Asheville, NC 28813  
Total Bid: \$299,330.00

**Huntley Construction Company**

121 Charlotte Highway  
Asheville, NC 28803  
Total Bid: \$329,213.00

**Buckeye Construction Company, Inc.**

PO Box 1229  
654 Buckeye Cove Road  
Canton, NC 28716  
Total Bid: \$299,034.00

**CANA Construction**

PO Box 1110  
Waynesville, NC 28786  
Total Bid: \$212,375.00

RESOLUTION NO. 13-79RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH HENDERSON COUNTY TO LEASE ONE TRANSIT VEHICLE

WHEREAS, Henderson County is a sub-recipient of Federal funds through the City of Asheville; and

WHEREAS, as part of the sub-recipient agreement, the City of Asheville is required to execute agreements and purchase and own all of Henderson County's capital assets that are purchased with Federal funding; and

WHEREAS, Henderson County has identified the need to buy one van as one of the priorities in their capital program; and

WHEREAS, the City has conducted the procurement process and ordered the van from a state contract; and

WHEREAS, Henderson County has identified all of the funding sources needed to fund the project; and

WHEREAS, a lease agreement has to be signed by both parties to define the terms and conditions to operate these buses, as required by the Federal Transit Administration; and

WHEREAS, the City of Asheville has authority, pursuant to N.C.G.S. §160A-17.1, to apply for and receive grants from the Federal government and to enter into contracts for the administration of said grants.

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

City Council authorizes the City Manager to enter into an agreement with Henderson County to lease one transit vehicle.

Read, approved and adopted this the 23<sup>rd</sup> day of April, 2013.

Magdalen Paulson  
City Clerk

Angie Ballamy  
Mayor

Approved as to form:

David  
City Attorney

Magdalen Paulson  
City Clerk

**RESOLUTION 13-80****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 acquisition and installation of energy savings projects to City facilities, including LED streetlight upgrades, boiler replacement at the Stephens-Lee Recreation Center, boiler replacement at Fire Station #2 and window replacements at Fire Station #7 (collectively, the "*Projects*") and create a security interest in the site or sites of one or more of the Projects and the improvements thereon through a deed of trust and security agreement (the "*Deed of Trust*") as the financial institution providing the funding for the Project may require;

*WHEREAS*, the City hereby determines that the acquisition and installation of the Projects is essential to the City's proper, efficient and economic operation and to the general health and welfare of its inhabitants; that the Projects 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 Projects 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 and installation of the Projects is an amount not to exceed \$1,100,000 and that such cost of the acquisition and installation of the Projects 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 installation of the Projects pursuant to the Contract is expected to exceed the cost of the acquisition and installation of the Projects pursuant to a bond financing for the same undertaking, the City hereby determines that the cost of the acquisition and installation of the Projects 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 installation of the Projects 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 and installation of the Projects 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.

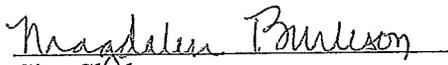
Section 3. ***Public Hearing.*** That a public hearing (the "*Public Hearing*") shall be conducted by the City Council on May 14, 2013 at or about 5:00 p.m. in the Council Chamber, 2<sup>nd</sup> Floor of City Hall, 70 Court Plaza, Asheville, North Carolina, concerning the Contract, the proposed acquisition and installation of the Projects 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.

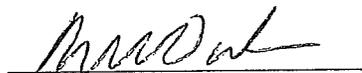
Section 6. ***Effective Date.*** That this Resolution is effective on the date of its adoption.

Read, approved and adopted this 23rd day of April, 2013.

  
City Clerk

  
Mayor

Approved as to Form:

  
City Attorney

  
City Clerk

**EXHIBIT A  
NOTICE OF PUBLIC HEARING**

At its April 23, 2013 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 acquisition and installation of energy savings projects to City facilities, including LED streetlight upgrades, boiler replacement at the Stephens Lee Recreation Center, boiler replacement at Fire Station #2 and window replacements at Fire Station #7 (collectively, the "Projects"), 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 Projects 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 one or more of the Projects 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. Stephens-Lee Recreation Center is located off S. Charlotte Street at Max Street; Fire Station # 2 is located at 415 South French Broad Ave; and Fire Station #7 is located at 37 East Larchmont.

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 14, 2013 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 Projects. All interested parties are invited to present comments at the public hearing regarding the execution and delivery of the Contract and the Projects to be financed thereby.

/s/ Magdalen Burlison  
City Clerk  
City of Asheville, North Carolina

Published: \_\_\_\_\_, 2013

RESOLUTION NO. 13-81

RESOLUTION WAIVING ALL THE PERMIT FEES ASSOCIATED WITH THE INSTALLATION OF A CANOPY AT PACK SQUARE PARK AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE TOURISM DEVELOPMENT AUTHORITY AGREEMENT GRANT TO ACCEPT THE CANOPY FOLLOWING INSTALLATION, INSPECTION AND ACCEPTANCE

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WHEREAS, the Asheville Downtown Association (ADA) received a grant the Tourism Development Authority (TDA) for the purchase and installation of a canopy over the stage at Pack Square Park; and

WHEREAS, the ADA will need to obtain permits to perform the installation of the canopy at Pack Square Park; and,

WHEREAS, the canopy will become the property of the City of Asheville following installation and inspection; and,

WHEREAS, the TDA requires the City to sign the award grant stating that the City will accept the canopy for maintenance once it is installed and inspected; and,

WHEREAS, the City of Asheville will not pay for the design or construction of the canopy.

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

Council waives all the permit fees associated with the installation of a canopy at Pack Square Park and authorizes the City Manager to execute the Tourism Development Authority (TDA) Agreement Grant to accept the canopy following installation, inspection and acceptance.

Read, approved and adopted this 23<sup>TH</sup> day of April 2013.

Magdalen Boulleson  
City Clerk

Mayor  
Mayor

Approved as to form:

Bill Jahn  
City Attorney

Magdalen Boulleson  
City Clerk

RESOLUTION NO. 13-82

RESOLUTION SUPPORTING THE PROPOSAL BY ASHEVILLE-BUNCOMBE REGIONAL SPORTS COMMISSION TO HOST THE IRONMAN COMPETITION IN 2014

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WHEREAS, the City of Asheville and other community partners have formed the Asheville Buncombe Regional Sports Commission (ABRSC); and

WHEREAS, the ABRSC has successfully recruited numerous sports related events into our community, creating increased retail sales, increased hotel occupancy rates, and national exposure for the City and County; and

WHEREAS, the Ironman Triathlon is a nationally known and televised sporting event held annually in locations in the United States which brings over 2,500 participants plus thousands of spectators to the area; and

WHEREAS, the Ironman Triathlon is seeking proposals from communities to host an Ironman Competition; and

WHEREAS, , the Buncombe County Commission, and the Buncombe County Tourism Development Authority, and Town of Lake Lure desire to work together and have passed resolutions of support for the submission of a proposal by the ABRSC to Ironman and it's organizing agent World Triathlon Corporation;

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

The City of Asheville hereby supports the proposal by Asheville-Buncombe Regional Sports Commission to host an Ironman competition beginning in 2014.

Read, approved and adopted this 23rd day of April, 2013.

Magdalen Burseson                      Tom R. Bell  
City Clerk    Mayor

Approved as to form:  
Mark Darr  
City Attorney

Magdalen Burseson  
City Clerk

RESOLUTION NO. 13-83

RESOLUTION AWARDING THE PROJECT KNOWN AS CHERRY STREET / PEARL STREET / STARNES AVENUE SIDEWALK CONSTRUCTION PROJECT TO LAND OF THE SUN, INC., DBA FLETCHER GRADING CONTRACTORS AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH THE SAME

WHEREAS, pursuant to N.C.G.S. § 143-131, the City engaged in an informal bid process for the project known as Cherry Street / Pearl Street / Starnes Avenue Sidewalk Construction Project; and

WHEREAS, one (1) bid was received on April 14, 2013; and

WHEREAS, the bid was submitted by Land of the Sun, Inc., DBA Fletcher Grading Contractors located in Arden, N.C., in the amount of \$169,313.00; and

WHEREAS, City staff has reviewed the submitted bid and recommends the award of a unit price construction contract in a sum of \$195,000.00 which includes a contingency amount to cover unexpected conditions and changes to Land of the Sun, Inc. DBA Fletcher Grading Contractors ; and

WHEREAS, funds have been budgeted in the 2012/13 Streets and Sidewalk Maintenance Operating Budget;

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 unit price contract on behalf of the City of Asheville with Land of the Sun, Inc. DBA Fletcher Grading Contractors of Arden, NC, for a total amount of \$169,313.00, to construct new sidewalks and associated apparatuses and is 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 23rd day of April, 2013.

Madalen Bureson City Clerk      Ann Butler Mayor

Approved as to form:

Russell  
City Attorney

Madalen Bureson  
City Clerk

RESOLUTION NO. 13-84

RESOLUTION AUTHORIZING SUBMISSION OF THE CITY'S CONSOLIDATED ANNUAL ACTION PLAN FOR 2013-2014 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 23, 2013, 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 23rd day of April, 2013.

Magdalen Boulson  
CITY CLERK

Jim Ballan  
MAYOR

Approved As To Form:

[Signature]  
CITY ATTORNEY

Magdalen Boulson  
City Clerk

RESOLUTION NO. 13- 85

RESOLUTION OF THE ASHEVILLE CITY COUNCIL IN SUPPORT OF EARLY VOTING AND COLLEGE STUDENTS' RIGHT TO VOTE AND PARTICIPATE IN OUR COMMUNITY

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WHEREAS, the right to vote is the basis of our democracy; and

WHEREAS, early voting has allowed more people to participate in our democracy, especially college students with limited means of transportation and inflexible schedules; and

WHEREAS, early voting is efficient and eliminates the potential for long lines at the polls that discourage voting; and

WHEREAS, more than 2.5 million North Carolinians voted before Election Day in 2012 and North Carolina now ranks 11th in the nation in voter turnout; and

WHEREAS, college students live within the City's borders, contribute to its economy, work in its places of business, shop in its stores, enhance its quality of life and generally play an integral role in the community; and

WHEREAS, the United States Supreme Court has ruled that college students are legally entitled to vote in the community where they attend college; and

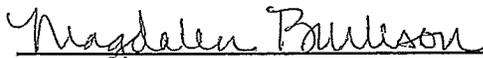
WHEREAS, the North Carolina General Assembly is considering legislation that would affect the tax deduction for a child whose principal residence is not with the taxpayer claiming the deduction, as indicated by the child's voter registration; and

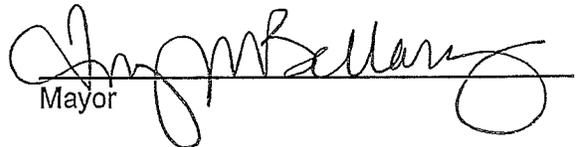
WHEREAS, the General Assembly is also considering legislation that would reduce opportunities to vote early, which are convenient and popular not only with students but for all North Carolina voters;

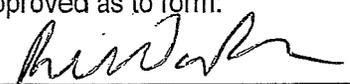
NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

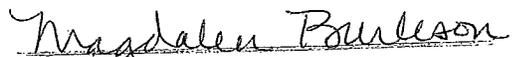
The City Council supports the rights of all North Carolina citizens to vote, and urges the members of the North Carolina General Assembly to vote against Senate Bills 666 and 667, and to oppose measures that would limit early voting.

Read, approved and adopted the 23<sup>rd</sup> day of April, 2013.

  
\_\_\_\_\_  
City Clerk

  
\_\_\_\_\_  
Mayor

Approved as to form:  
  
\_\_\_\_\_  
City Attorney

  
\_\_\_\_\_  
City Clerk

RESOLUTION NO. 13- 86

RESOLUTION AMENDING THE 2013 CITY COUNCIL MEETING SCHEDULE

WHEREAS, the Asheville City Council is authorized, pursuant to N. C. Gen. Stat. sec. 160A-71, to fix the time and place for its regular meetings;

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

A City Council budget worksession will be held on Friday, May 17, 2013, in the First Floor North Conference Room of City Hall at 10:00 a.m.

Read, approved and adopted this 23rd day of April, 2013.

Magdalen Boulton  
CITY CLERK

Greg Bellamy  
MAYOR

Approved as to form:

Paul [Signature]  
CITY ATTORNEY

Magdalen Boulton  
City Clerk

RESOLUTION NO. 13- 87

RESOLUTION IN SUPPORT OF SB 724 AND HB 685: PROHIBITED IMITATION CONTROLLED SUBSTANCES

WHEREAS, bills have been introduced in the North Carolina General Assembly, Senate Bill 724 and House Bill 685, to make the manufacture, possession, sale use, and delivery of certain imitation controlled substances unlawful; and

WHEREAS, the illicit use of bath salts and synthetic cannabis has risen substantially in the City of Asheville and surrounding areas within the past few years; and

WHEREAS, the current definition of a controlled substance under current state law is inadequate in that law enforcement officers can criminally charge for these substances only if the substances are within a specific chemical designation; and

WHEREAS, manufacturers of these substances create new chemical formulas and compounds which thwart law enforcement's efforts to charge users, sellers and manufacturers under the current law; and

WHEREAS, the broader definition of controlled substances as stated in Senate Bill 724 and House Bill 685 would eliminate this loophole and substantially benefit the Asheville Police Department's efforts to combat the illicit manufacture, possession, sale, use and delivery of these controlled substances within the City of Asheville.

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

1. That the Asheville City Council supports Senate Bill 724 and House Bill 685 which would make the manufacture, possession, sale use, and delivery of certain imitation controlled substances unlawful and urges the members of the General Assembly to support this legislation.
2. The City Clerk shall cause a copy of this resolution to be transmitted to those members of the General Assembly whose district includes the City of Asheville and the sponsors of the legislation.

Read, approved and adopted this 23 day of April, 2013.

Magdalen Bourleson  
City Clerk

John McCallan  
Mayor

Approved as to form:

[Signature]  
City Attorney

Magdalen Bourleson  
City Clerk