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RESOLUTION NO. 12-236

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION OF PROPERTY LOCATED IN FALCON RIDGE AT HAW CREEK SUBDIVISION PURSUANT TO N.C.G.S. 160A-31

WHEREAS, petitions requesting annexation of the contiguous area described herein has been received; and

WHEREAS, the petitions have been signed by the owners of all the real property within the area described herein; and

WHEREAS, the City Clerk has investigated the sufficiency of the petition and has certified to the City Council the sufficiency thereof; and

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

Section 1. A public hearing on the question of annexation of the area described herein will be held in the Council Chamber on the Second Floor of the City Building at 5:00 PM on the 27th day of November 2012.

Section 2. The area proposed for annexation is as described on "Property Description" exhibit attached hereto. A map of the same subject property is attached hereto as "Property Map".

Section 3. Notice of the public hearing shall be published in the Asheville Citizen-Times, a newspaper having general circulation in the City of Asheville, at least ten (10) days prior to the date of the public hearing.

Read, approved and adopted this 13th day of November, 2012.

Magdalen Bourleson
City Clerk

Mayor

Approved as to form:

City Attorney

Magdalen Bourleson
City Clerk

RESOLUTION NO. 12 - 237

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A MUNICIPAL AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION APPROVING A PROJECT FOR MAKING IMPROVEMENTS ON I-40 FROM MILEMARKER 50 TO MILEMARKER 55 IN ASHEVILLE

WHEREAS, the North Carolina Department of Transportation (NCDOT) has prepared and adopted plans to make certain street and highway improvements within the City of Asheville under Project I-5607, Buncombe County, said plans to consist making improvements on I-40 from milemarker 50 to milemarker 55; and

WHEREAS, the NCDOT and the City of Asheville propose to enter into an Agreement for the above-captioned project whereby the City agrees; (1) to effect the necessary adjustment of any utilities under franchise without cost to the NCDOT, and (2) to provide for the adjustment of any municipally-owned utilities without cost to the NCDOT, except that said NCDOT will reimburse the City in accordance with NCDOT's Municipally-Owned Utility Policy (this specific requirement is not applicable for the subject project); and

WHEREAS, the NCDOT agrees to acquire the right-of-way and construct the project in accordance with the approved project plans; and

WHEREAS, the Agreement will further provide for the establishment, maintenance, and enforcement of traffic operating controls for the regulation and movement of traffic on the project upon its completion.

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

The City Council of the City of Asheville approves a resolution authorizing the City Manager to sign and execute a municipal agreement between the North Carolina Department of Transportation and the City of Asheville approving Project I-5607.

Read, approved and adopted this 13th day of November 2012.

Magdalen Bouleson
City Clerk

Mayor

Approved as to form:

City Attorney

Magdalen Bouleson
City Clerk

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RESOLUTION NO. 12-238

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CHANGE ORDER WITH HERSEY METERS COMPANY, LLC (DBA MUELLER SYSTEMS) TO INCREASE THE GENERAL SERVICES CONTRACT FOR THE WATER RESOURCES AUTOMATED METER READING (AMR) PROJECT

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, the Water Resources Department has the desire to complete the installation of approximately 53,000 Automated Meter Reading (AMR) Devices throughout the water system; and

WHEREAS, Hersey Meters Company, LLC, was selected during the competitive bidding process as the lowest responsible bidder for the Project in the amount of $4,234,859.86; and

WHEREAS, a change order in the amount of $600,000.00 is needed to increase the contract amount in order to complete the project for a revised contract amount of $4,834,859.86.

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

The City Manager is hereby authorized to execute a change order with Hersey Meters Company, LLC (DBA Mueller Systems) in the amount of $600,000.00 to increase the general services contract for the Water Resources Automated Meter Reading (AMR) Project from $4,234,859.86 to 4,834,859.86; and further authorized to execute any change orders to said contract or documents which may arise during the project up to the budgeted amount.

Read, approved and adopted this 13th day of November, 2012.

Magdalen Burleson
City Clerk

Mayor

Approved as to form:

City Attorney

Magdalen Burleson
City Clerk

RESOLUTION NO. 12-239

RESOLUTION REQUESTING EXCEPTION TO CONFLICT REGARDING PROPERTY AT 42-44 SOUTH MARKET STREET

WHEREAS, the City Council has approved the use of federal community development funds in connection with the redevelopment project known as Eagle Market Place; and

WHEREAS, in connection with said project, the developer proposes to acquire certain real property and improvements located at 42-44 South Market Street more particularly described in a deed recorded in Deed book 2337, page 644, Buncombe County Registry, (herein "Subject Property") with the use of federal funds; and

WHEREAS, an employee of the City of Asheville, Martha W. McGlohon, has a financial interest the Subject Property and will receive a share of proceeds from its sale; and

WHEREAS, federal regulations require that an exception to said financial conflict be allowed by the Department of Housing and Urban Development (herein "HUD"), and establishes a process for requesting said exception, including a public disclosure of said conflict, which disclosure has been made (See Exhibit A).

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

The City Manager or his designee are hereby directed to seek the required exception from HUD with respect to the use of federal funds for the acquisition of the Subject Property, and are further directed and authorized to prepare and execute any document or other instrument necessary for making and submitting said request.

Read, approved and adopted this 13th day of November, 2012.

Magdalen Burleson
City Clerk

Mayor

Approved as to form:

City Attorney

Magdalen Burleson
City Clerk

123-A

HUD DISCLOSURE STATEMENT FOR
MARTHA W. McGLOHON

Federal regulations generally prohibit a person who is an employee of an agency that receives funds from the U.S. Department of Housing & Urban Development (HUD) from having a financial interest or receiving a financial benefit from a contract or agreement with respect to a HUD-funded project, including projects funded with the use of Community Development Block Grants or HOME Funds. Exceptions are permitted in certain circumstances.

Mountain Housing Opportunities has proposed the Eagle Market Place project for an area consisting of several properties located at or near the southwest corner of the intersection of Eagle Street and South Market Street in downtown Asheville, in the area known generally as South Pack Square. One of the properties to be acquired for this project is the property located at 42-44 South Market Street, also known as the Ritz building. This property was acquired by Gene Ellison and Howard McGlohon on September 13, 2000. The deed is recorded in Deed Book 3337, at page 544 in the Buncombe County Registry. Mr. Ellison and Mr. McGlohon held the property as joint tenants. Mr. McGlohon passed away unexpectedly in 2010, and his wife, Martha McGlohon, now has an interest in the Ritz property.

Ms. McGlohon is an Assistant City Attorney in the Asheville City Attorney's office, and regularly advises the City's Community Development Division as to federally funded projects. When it became apparent that the Eagle Market Place Project was going

ahead, and that the Ritz property would be involved in it, Ms. McGlohon immediately recused herself from advising or otherwise participating in the administration or management of this project with the City or the Community Development Office, and she has not actively participated in the selling or marketing of the property.

This matter is brought to your attention now because public disclosure is one of the prerequisites for requesting an exception from HUD to allow for the use of federal funds to acquire the Ritz property. Unless Council has questions or an objection, the City Attorney's office will send out the appropriate correspondence to HUD to request the exception as soon as possible.

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RESOLUTION NO. 12-240

RESOLUTION APPOINTING MEMBERS TO THE ALCOHOLIC BEVERAGE CONTROL BOARD

WHEREAS, the terms of DeRothea Williams and Ken Kaplan, as members on the Alcoholic Beverage Control Board, expired on November 13, 2012;

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

Mr. Edward Hay, 210 Blake Mountain Circle, Asheville, N.C., be and he is hereby appointed as a member of the Alcoholic Beverage Control Board, to serve a three-year term, term to expire November 13, 2015, or until his successor has been appointed.

Ms. Robin Cape, 45 Sunnycrest Drive, Asheville, N.C., be and she is hereby appointed as a member of the Alcoholic Beverage Control Board, to serve a three-year term, term to expire November 13, 2015, or until her successor has been appointed.

Read, approved and adopted this 13th day of November, 2012.

Magdalen Burleson
CITY CLERK

Jan Bellamy
MAYOR

Approved as to form:

CITY ATTORNEY

Magdalen Burleson
DEP CLK

RESOLUTION NO. 12-241

RESOLUTION APPOINTING A MEMBER TO THE HOMELESS INITIATIVE ADVISORY COMMITTEE

WHEREAS, there currently exists a vacancy, left by Chris Sullivan, until November 1, 2014;

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

Mr. Charles Rosenblum, 35 Beadle Lane, Asheville, N.C., be and he is hereby appointed as a member of the Homeless Initiative Advisory Committee, to serve the unexpired term of Mr. Sullivan, term to expire November 1, 2014, or until his successor has been appointed.

Read, approved and adopted this 13th day of November, 2012.

Magdalen Burleson
CITY CLERK

MAYOR

Approved as to form:

CITY ATTORNEY

Magdalen Burleson
City Clerk

126

RESOLUTION NO. 12-242

RESOLUTION APPOINTING A MEMBER TO THE PUBLIC ART & CULTURAL COMMISSION

WHEREAS, there currently exists a vacancy, left by Mark Koven, until June 30, 2014;

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

Mr. Guillermo Carballo Rodriguez, 5 Lucky Lane, Asheville, N.C., be and he is hereby appointed as a member of the Public Art & Cultural Commission, to serve the unexpired term of Mr. Koven, term to expire June 30, 2014, or until his successor has been appointed.

Read, approved and adopted this 13th day of November, 2012.

Magdalen Burleson
CITY CLERK

Jim Bellamy
MAYOR

Approved as to form:

CITY ATTORNEY

Magdalen Burleson
City Clerk

RESOLUTION NO. 12-243

RESOLUTION APPOINTING A MEMBER TO THE RECREATION BOARD

WHEREAS, there currently exists a vacancy, left by Lonnie Gilliam, until June 30, 2014;

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

Mr. Jordan B. Veale, 10 Friendly Hollow, Asheville, N.C., be and he is hereby appointed as a member of the Recreation Board, to serve the unexpired term of Mr. Gilliam, term to expire June 30, 2014, or until his successor has been appointed.

Read, approved and adopted this 13th day of November, 2012.

Magdalen Burleson
CITY CLERK

Jim Bellamy
MAYOR

Approved as to form:

CITY ATTORNEY

Magdalen Burleson
City Clerk