RESOLUTION NO. 12- 211

RESOLUTION TO EMERGENCY SOLUTIONS GRANT AND PROVIDE FUNDING TO SELECTED AGENCIES

WHEREAS, the State of North Carolina will receive and administer Emergency Solution Grant (ESG) funds for FY 2011 and 2012 from the US Department of Housing and Urban Development; and

WHEREAS, the State has made these funds available to Continum of Cares in the State, and required that each Continum of Care submit one regional application for ESG funds; and

WHEREAS, the City of Asheville has agreed to serve as the fiscal agent to contract with the State, and subgrant funds to agencies providing eligible and funded services; and

WHEREAS, the State Division of Aging and Adult Services (DAAS), Housing and Homeless Unit has approved the application for $164,444 submitted by the City for these funds, as well as providing additional funding of $54,914 above that request;

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

1. The City of Asheville accepts the Emergency Solutions Grant;

2. The City of Asheville serve as fiscal agent for the program, and enter into a contract with the State of North Carolina for ESG funds; and further subcontract with individual agencies for approved ESG programs in amounts authorized by the State;

3. Council authorizes the City Manager to sign all necessary contract documents with the State of North Carolina and subgrant agreements with funded agencies, after approval by the City Attorney.

Read, approved and adopted this 11th day of September, 2012.

Magdalen Burleson
CITY CLERK

MAYOR

Approved As To Form:

CITY ATTORNEY

Magdalen Burleson
City Clerk

RESOLUTION NO. 12--212

RESOLUTION ALLOWING THE CITY MANAGER OR HIS DESIGNEE TO USE ELECTRONIC SIGNATURES IN ELECTRONIC COMMERCE WITH THIRD PARTIES AND TO ALLOW THE CHIEF FINANCIAL OFFICER TO USE ANY DEVICE SET FORTH IN N.C.G.S. § 159-28 TO SIGN ANY CHECK, DRAFT, PRE-AUDIT STATEMENT OR PURCHASE ORDER

WHEREAS, pursuant to N.C.G.S. §159-28, a local government or public authority may not pay a bill, invoice, salary, or other claim except by a check or draft on an official depository, a bank wire transfer from an official depository, or an electronic payment or an electronic funds transfer originated by the local government or public authority through an official depository, and that each check or draft on an official depository shall bear on its face a certificate signed by the finance officer or a deputy finance officer approved for this purpose by the governing board; and

WHEREAS, the City has general authority to enter into contracts pursuant to N.C.G.S. § 160A-11 and pursuant to Article 8 of Chapter 143, for the construction or repair of buildings and facilities, the purchase of apparatus, supplies, materials or equipment, general service agreements and professional service agreements; and

WHEREAS, pursuant to N.C.G.S. § 66-58.4, all public agencies may use and accept electronic signatures pursuant to North Carolina General Statute Chapter 66 Article 11A and Article 40; and

WHEREAS, pursuant to N.C.G.S. § 159-28.1, upon adoption of an appropriate resolution, the local government can use facsimile signature machines, signature stamps, or similar devices in signing checks and drafts and in signing the pre-audit certificate on contracts or purchase orders; and

WHEREAS, the Asheville City Council approved on November 24, 2009 Resolution 09-245 authorizing the use of electronic signatures; however, the wording contained within the resolution did not explicitly authorize the their use with checks, drafts and other disbursements; and

WHEREAS, the City of Asheville wishes to use electronic signatures to facilitate electronic commerce with vendors and other local governments, to use electronic signatures for its internal contracting process, and to use electronic signatures for any check, draft, wire or pre-audit statement, and as such, this resolution will supersede Resolution 09-245;

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

The City Manager or his designee has the authority to use electronic signatures in accordance with Article 11A and Article 40 of Chapter 66 of the North Carolina General Statutes for electronic commerce and Resolution No. 02-27 or as amended. In addition, the Chief Financial Officer is hereby authorized to use any of the means, including electronic signatures, as set forth in N.C.G.S. § 159-28.1 or as amended to sign checks, drafts, wires, pre-audit statements, contracts and purchase orders. This resolution supersedes Resolution 09-245.

Read, approved and adopted this 11th day of September, 2012.

Magdalen Bullerson
City Clerk

Mayor

Approved as to form:

City Attorney

Magdalen Bullerson
City Clerk

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RESOLUTION NO. 12-213

RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH MOTOROLA, INC. FOR RADIO SYSTEM MAINTENANCE FROM AUGUST 1, 2012 THROUGH JULY 31, 2013

WHEREAS, the City requires maintenance coverage of its radio communications system; and

WHEREAS, the radio equipment for which warranty has expired during the past year needs to be incorporated into the service agreement; and

WHEREAS, the service renewal agreement provides for a fixed rate maintenance cost per unit of equipment for another one year period; and

WHEREAS, the City of Asheville and Motorola, Inc. wish to renew the service agreement and incorporate that radio equipment for which the warranty has expired; and

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 Motorola, Inc. on behalf of the City of Asheville for the purpose of maintaining the City's radio communications system and associated equipment.

Read, approved and adopted this the 11th day of September, 2012.

Magdalen Bullion
City Clerk

Mayor

Approved as to form:

City Attorney

Magdalen Bullion
City Clerk

RESOLUTION NO. 12-214

RESOLUTION AUTHORIZING CONVEYANCE OF REAL PROPERTY AT HAYWOOD STREET AND PAGE AVENUE TO McKIBBON HOTEL GROUP FOR ECONOMIC DEVELOPMENT PURPOSES

WHEREAS, the City of Asheville is the owner of certain real property consisting of approximately .77 acres, located at the intersection of Page Avenue and Haywood Street, which property is more particularly described in Exhibit A, attached hereto (Subject Property); and

WHEREAS, the City has the authority, pursuant to N.C.G.S. 158-7.1 to convey interests in real property by private negotiation for purposes consistent with the statute, following a public hearing; and

WHEREAS, the City has received a proposal from McKibbon Hotel Group, Inc., ("McKibbon") to purchase the Subject Property for $2,526,000 and to develop it with a hotel, associated parking and incidental commercial uses; and

WHEREAS, a public hearing on the question of the sale of the Subject Property to McKibbon was advertised as required by statute, and was held on September 11, 2012, and it appearing to the Council, following said public hearing that:

- The fair market value of the Subject Property is $2,526,000;
- The consideration to be received from McKibbon for the Subject Property is $2,526,000;
- The hotel proposed to be located on the Subject Property will employ 30 full-time and 25 part-time workers at a probable average hourly wage of $10 per hour, and will employ six full-time workers in salaried positions at an average salary in excess of $50,000 per year; and

WHEREAS, development and use of the Subject Property as a hotel and related incidental uses is consistent with the City's economic development goals and objectives, and is consistent with the Downtown Master Plan;

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

1. That the City Manager be, and is hereby, authorized to execute a contract for the sale of the Subject Property to McKibbon Hotel Group for $2,526,000, subject to the terms and conditions set out in Exhibit B, subject to approval by the City Attorney;

2. That the City Manager be, and is hereby, authorized to enter into and execute such other instruments and agreements, including a deed and development agreement, as may be necessary to effectuate said conveyance and to

ensure development and operation of the Subject Property and the facilities to be constructed thereon in a manner consistent with the

proposal submitted by McKibbon, and consistent with the purposes of N.C.G.S. 158-7.1, subject to approval of the City Attorney and City's financial advisors.

Read and approved and adopted this 11 day of September, 2012.

Magdalen Burleson
CITY CLERK

MAYOR

Approved as to form:

CITY ATTORNEY

Magdalen Burleson
City Clerk

Exhibit A

DESCRIPTION OF PROPERTY TO BE CONVEYED BY CITY OF ASHEVILLE TO McKIBBON HOTEL GROUP

BEGINNING at a point in the southern right of way of Page Avenue at its intersection with the eastern line of a public alleyway known as Battery Park Alley, the same being a corner of the property described in a deed to William T. Duckworth, *et al.*, recorded in deed book 878, at page 531 in the Buncombe County Registry; thence north 42 degrees 27 minutes 53 seconds east 122.16 feet to the intersection of the southern right of way of Page Avenue with the western right of way line of Haywood Street; thence following said Haywood Street right of way line the following courses and distances: (i) south 58 degrees 38 minutes 24 seconds east 20.85 feet; (ii) south 46 degrees 32 minutes 21 seconds east 42.14 feet; (iii) south 41 degrees 57 minutes 54 seconds east 27.97 feet; (iv) south 39 degrees 42 minutes 13 seconds east 25 feet; (v) south 39 degrees 33 minutes 46 seconds east 100.02 feet, the same being the point of intersection of the western right of way of Haywood Street with the northern line of an alley (formerly Hillside Alley); thence south 73 degrees 48 minutes 9 seconds west 148.04 feet to a point in the western line of the above referenced deed to Duckworth (deed book 878, at page 531) and the eastern line of Battery Park Alley; thence crossing the alley a distance of 28 feet, more or less, to a point in the eastern line of property described in a deed to B&B Enterprises, Inc., recorded in deed book 1429, at page 167 in the Buncombe County Registry; thence south 12 degrees 10 minutes 54 seconds east 37.26 feet to the southeastern corner of the property described in the

above-referenced deed to B&B Enterprises, the same being the northernmost corner of the property described in a deed to Public Interest Projects, Inc., recorded in deed book 1672, at page 706 in the Buncombe County Registry; thence south 77 degrees 57 minutes 48 seconds west 90.22 feet to a point in the eastern right of way line of Page Avenue, the same being the southwestern corner of the property described in the above-referenced deed to B&B Enterprises; thence north 12 degrees 1 minute 30 seconds west 112.79 feet to the westernmost point of property described in a deed to O.D. Revell recorded in deed book 278, at page 81 (Tract 1), in the Buncombe County Registry; thence north 40 degrees 58 minutes 48 seconds east 44.95 feet to the northernmost point of the above-described deed to O.D. Revell; thence across Battery Park Alley, north 17 degrees 42 minutes 38 seconds east 36.8 feet to the point and place of BEGINNING, containing 34,599 square feet, more or less.

The Subject Property is shown on a boundary and topographic survey for the City of Asheville, dated May 20, 2000, which is available for inspection in the Planning Department of the City of Asheville located on the fifth floor of the City Building, or in the Office of the City Clerk, located on the second floor of the City Building.

EXHIBIT B

CONDITIONS ON CONVEYANCE BY CITY OF ASHEVILLE OF HAYWOOD STREET/PAGE AVENUE PROPERTY TO McKIBBON HOTEL GROUP

1. The Subject Property (described in Exhibit A) must be developed and operated as an upscale or better hotel as defined by Smith's Travel Research, with associated parking and other related uses consistent with the proposal submitted by MHG. Retail uses, not related to the hotel may be on the first or street levels only.

2. Height of structure may not exceed 75 feet on Page Avenue elevation and may not exceed 90 feet on Haywood Street elevation, as measured from the primary street level pedestrian entrance to the highest point on the vertical wall of the respective elevation, and no portion of the structure may project above a horizontal line extending between these two points of vertical measurement. Customary mechanical appurtenances and enclosures (i.e., elevator, shafts, vent stacks, etc.) may project above this line as necessary, provided they are set back from the street-side edges of the roof by a distance equal to or exceeding their height, and otherwise comply with applicable provisions of the Asheville City Code, including Sec. 7-8-18(f)(13)b.(4)c.

3. Hotel room tower must be set back from the southern face of St. Lawrence Basilica not less than 170 feet.

4. Design for development of the Subject Property must be substantially similar to the materials and massing depicted on the conceptual plans submitted at the September 11, 2012, public hearing before City Council, with Page Avenue in its current

location. Design must also anticipate the potential location of a plaza or public space in the area between the northern boundary of the Subject Property and the southern boundary or Haywood Street frontage of St. Lawrence Basilica, with the portion of Page Avenue that curves east to its current point of intersection with Haywood Street being closed and relocated so that Page Avenue proceeds straight on east side of the Battery Park building to Haywood Street, west of the Basilica.

5. MHG will engage the services of a qualified geotechnical engineer for the purpose of developing a vibration monitoring plan for construction activities, with consideration to surrounding properties, and will conform its construction activities to the recommendations of the plan, consistent with best practices.

6. The development approval process shall include at least one public input session, in addition to the public hearings or public meetings required by ordinance. Said session shall be facilitated by the Asheville Design Center or similar organization. MHG shall attempt to incorporate reasonable recommendations into its design.

7. The City will obtain a second MAI appraisal to determine the fair market value of the Subject Property, in accordance with the requirements of N.C.G.S. 158-7.1(d) and the consideration to be paid by MHG shall not be less than the higher of that appraisal or the March 9, 2012 appraisal prepared by Francis Naeger ($2,526,000)

RESOLUTION NO. 12-215

RESOLUTION APPOINTING MEMBERS TO THE HUB COMMUNITY ECONOMIC DEVELOPMENT ALLIANCE

WHEREAS, the terms of Cheryl McMurry and Scott Dedman expired on August 22, 20012;

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

(1) Ms. Sarah Nunez, 105 Joyner Avenue, Asheville, N.C., be and she is hereby appointed a member of the HUB Community Economic Development Alliance to serve a three year term, term to expire August 22, 2015, or until her successor has been appointed.

(2) Mr. C. Jerome Jones, 42 Dover Street, Asheville, N.C., be and he is hereby appointed a member of the HUB Community Economic Development Alliance to serve a three year term, term to expire August 22, 2015, or until his successor has been appointed.

Read, approved and adopted this 11th day of September, 2012.

Magdalen Burleson
CITY CLERK

MAYOR

Approved as to form:

CITY ATTORNEY

Magdalen Burleson
City Clerk

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RESOLUTION NO. 12-216

RESOLUTION APPOINTING AN ALTERNATE MEMBER TO THE NOISE ORDINANCE APPEALS BOARD

WHEREAS, there currently exists a vacancy for an alternate member on the Noise Ordinance Appeals Board which expired on July 1, 2012;

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

Ms. Elizabeth Franks, 88 Clingman Avenue, Asheville, N.C., be and she is hereby appointed as an Alternate member to the Noise Ordinance Appeals Board to serve a three-year term, term to expire July 1, 2015, or until her successor has been appointed.

Read, approved and adopted this 11th day of September, 2012.

Magdalen Bourleson
CITY CLERK

MAYOR

Approved as to form:

CITY ATTORNEY

Magdalen Bourleson
City Clerk