

**Mayor Patrick L. McCrory**

Susan Burgess  
Nancy Carter  
Malcolm Graham  
Patsy Kinsey  
John W. Lassiter

**Mayor Pro Tem Patrick De'Angelo Cannon**

Don Lochman  
James E. Mitchell, Jr.  
Patrick Mumford  
John Tabor  
Warren Turner

## **CITY COUNCIL MEETING**

**Monday, December 8, 2003**

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**5:00 p.m.**

**Conference Center**

**Dinner Briefing  
(See Table of Contents)**

**7:00 p.m.**

**Meeting Chamber**

- **Invocation**
- **Pledge of Allegiance**
- **Awards and Recognitions**
- **Formal Business Meeting**

# CITY COUNCIL AGENDA

Monday, December 8, 2003

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## 5:00 P.M. DINNER BRIEFING CONFERENCE CENTER

### 1. Carolina Theatre

**Resource:** Harriet Sanford, Arts and Science Council  
Curt Walton, City Manager's Office

**Time:** 15 minutes

**Synopsis of Presentation:**

The Arts and Science Council (ASC) currently holds the option to purchase the Carolina Theatre property for \$1.2 million. The ASC holds this option until December 31, 2003. In order to consider the recommendations in the recently released cultural facilities master plan, the ASC has requested an extension of the purchase option until June 30, 2005. If Council grants the extension, the City will retain the right to terminate the option should the City receive another purchase offer for the Carolina Theatre property.

**Future Action:**

Consideration of the option is item number 10 on page 12.

### 2. Community Safety Committee: Report on Animal Control Issues

**Committee Chair:** Patrick Cannon

**Resources:** Captain Tammy Williams, CMPD Animal Control Bureau  
John Joye, Assistant City Attorney-Police  
Greg McDowell, Internal Audit

**Time:** 30 minutes

**Synopsis of Presentation:**

This presentation will focus on the steps that the Animal Control Bureau is taking to increase spay/neuter services in the community with the ultimate goal of decreasing the animal euthanasia rate in Charlotte. The issue came to the attention of the Committee after the *Charlotte Observer* published a series of articles, "Death at the Pound" in July 2003.

The presentation will focus on the issues the Community Safety Committee has discussed. The issues are:

- An understanding of the euthanasia issue in Charlotte
- CAMP (Community Animal Management Program) and its relationship to increasing spay/neuter and reducing euthanasia rates
- The relationship between the City of Charlotte and the Humane Society of Charlotte, including the City's recent audit of the spay/neuter contract and the upcoming revision of the contract between the City and the Humane Society
- The Committee's request that Animal Control prepare cost figures on the service levels that would be required to incrementally reduce the euthanasia rate

**Future Action:**

Council will be asked to approve the Community Safety Committee's report on the spay/neuter issue and the renegotiated contract with the Humane Society at its January 12<sup>th</sup> Business meeting.

### **3. Proposed Amendment to Zone Wrecker Contract**

**Resource:** John Joye, Assistant City Attorney-Police

**Time:** 20 minutes

**Synopsis of Presentation:**

This presentation will focus on the development of an amended contract with the four wrecker companies that provide zone wrecker services to the City of Charlotte for City authorized tows of disabled vehicles and parking violators. The current contract was approved by Council on September 26, 2001 and went into effect on November 1, 2001. The contract will expire on November 1, 2006.

Over the two years that this contract has been in effect, several contractual and operational issues have been identified, including:

- Zone boundaries that do not lend themselves to efficient and accurate dispatch of wrecker services
- Inadequate means of dealing with citizen disputes regarding cancellations
- Provision for dispatching zone wreckers electronically

City staff has drafted an amendment to the contract which will address the following major issues:

- Dispatching errors caused by current zone boundaries will be addressed and the City will be relieved from any potential liability

- Cancellation issues will be rectified by eliminating cancellation fees and allocating all cancellation risks to the wrecker companies
- A proper procedure for electronic dispatch of wreckers will be included that will regulate wrecker company use of City equipment and incidental costs of operation.
- Wrecker companies will be allowed a fee increase to offset greater costs and risk assumption

The proposed draft will be presented to all of the zone wrecker companies at a meeting on December 12<sup>th</sup>. By January 9<sup>th</sup>, the wrecker companies are asked to review the proposed amendments and respond at a second meeting with City staff.

The current contract allows the City Manager to terminate or modify the contract on behalf of the City.

## **7:00 P.M. AWARDS AND RECOGNITIONS MEETING CHAMBER**

### **CONSENT**

- 4. Consent agenda items 12 through 29 may be considered in one motion except those items removed by a Council member. Items are removed by notifying the City Clerk before the meeting.**

## PUBLIC HEARING

### 5. **Public Hearing and Resolution to Close a Portion of Right-of-Way at the Intersection of Romany Road and Harding Place**

**Action:** **A. Conduct a public hearing to close a portion of right-of-way at the intersection of Romany Road and Harding Place, and**

**B. Adopt a Resolution to Close.**

**Staff Resource:** Scott Putnam, Transportation

**Policy:**

To abandon right-of-way that is no longer needed for public use

**Explanation:**

North Carolina General Statute 160A-299 outlines the procedures for permanently closing streets and alleys. The Charlotte Department of Transportation has received a petition to abandon public right-of-way and requests this Council action in accordance with the statute.

**Petitioner:**

The Charlotte-Mecklenburg Hospital Authority/Charles Jarnagin

**Right-of-Way to be abandoned:**

A portion of right-of-way at the intersection of Romany Road and Harding Place

**Location:**

Located within the Dilworth Community beginning approximately 434 feet from the intersection of East Morehead Street and Harding Place continuing approximately 119 feet to its terminus at the existing Romany Road Right-of-way

**Reason:**

To incorporate the right-of-way into adjacent property owned by the petitioner to facilitate the construction of a pedestrian bridge

**Notification:**

In accordance with City Policy, the Charlotte Department of Transportation (CDOT) has sent abandonment petitions to adjoining property owners, neighborhood associations, private utility companies and City departments for review.

Adjoining property owners – None

Neighborhood/Business Associations

Dilworth Community Development Association – No objections

Elizabeth Community Association – No objections

Eastover Resident’s Association – No objections

Cherry Community Organization – No objections

Center City Partners – No objections

First Ward Neighbors, Inc. – No objections

Myers Park HOA, Inc. – No objections

Private Utility Companies - No objections

City Departments

Review by City departments has identified no apparent reason this closing would:

- Be contrary to the public interest; or
- Deprive any individual(s) owning property in the vicinity of reasonable means of ingress and egress to his property as outlined in the statutes.

**Attachment 1**

Map

**6. Public Hearing and Resolution to Close Old Nations Ford Road**

**Action: A. Conduct a public hearing to close Old Nations Ford Road, and**

**B. Adopt a Resolution to Close.**

**Staff Resource:** Scott Putnam

**Policy:**

To abandon right-of-way that is no longer needed for public use

**Explanation:**

North Carolina General Statute 160A-299 outlines the procedures for permanently closing streets and alleys. The Charlotte Department of Transportation has received a petition to abandon public right-of-way and requests this Council action in accordance with the statute.

**Petitioner:**

Vulcan Materials Company/Dean Sunas

**Right-of-Way to be abandoned:**

A portion of Old Nations Ford Road

**Location:**

Located within the Sterling Community beginning from the private portion of Old Nations Ford Road continuing approximately 860 feet to its terminus at the proposed cul-de-sac located at the property line of a parcel owned by S&S Properties

**Reason:**

To incorporate the right-of-way into adjacent property owned by the Petitioner for future expansion of Vulcan Materials Company

**Notification:**

In accordance with City Policy, the Charlotte Department of Transportation (CDOT) has sent abandonment petitions to adjoining property owners, neighborhood associations, private utility companies and City departments for review.

Adjoining property owners

S&S Properties – No objections

Neighborhood/Business Associations

Sterling Community Organization – No objections. Easements are provided to utility companies to maintain their existing facilities as requested.

Private Utility Companies - No objectionsCity Departments

Review by City departments has identified no apparent reason this closing would:

- Be contrary to the public interest; or
- Deprive any individual(s) owning property in the vicinity of reasonable means of ingress and egress to his property as outlined in the statutes.

**Attachment 2**

Map

# **POLICY**

## **7. City Manager's Report**

## BUSINESS

### 8. Regional Long Range Transportation Plan and Air Quality Conformity Program Manager

**Action:**

- A. Adopt a budget ordinance in the amount of \$65,966 to fund one additional regional planner position,**
- B. Amend the Transportation Key Business table of organization to reflect the addition of one regional planner position, and**
- C. Authorize the Department of Transportation Key Business Executive to sign reimbursement agreements with the City's regional partners on behalf of the City of Charlotte in the amount of \$65,966.**

**Staff Resource:** Norm Steinman, Transportation

**Explanation:**

This action funds a new position responsible for coordinating the preparation of the Long Range Transportation Plans (LRTP) and Air Quality Conformity documents for the region. The position will be funded collaboratively for one year by the following eight regional partners: NCDOT, SCDOT, Mecklenburg-Union Metropolitan Planning Organization (MUMPO), Gaston Metropolitan Planning Organization (MPO), Cabarrus-Rowan MPO, Rock Hill-Fort Mill Area Transportation Study, Lake Norman Rural Planning Organization (RPO), and Rocky River RPO. Funding for the position in the second year will be requested from these agencies. This action also authorizes the Charlotte Department of Transportation Key Business Executive to enter into reimbursement agreements with these regional partners.

**Background:**

Council has received various presentations at Council Workshops regarding the need to demonstrate Air Quality Conformity by April 15, 2005. Failure to meet conformity requirements will result in the withholding or loss of Federal funds critical to highway and transit projects.

The partners listed above have agreed that each MPO will prepare their own LRTP and Air Quality Conformity documents. However, to meet federal conformity requirements, each plan will need to be developed in conjunction with the plans of the adjacent MPOs or RPOs. This new position will be responsible for leading this coordination effort.

Funding for this position will be shared by the NCDOT, SCDOT, 4 North and South Carolina MPO's and 2 North Carolina RPO's as follows:

<b>Entity</b>	<b>Revenue</b>
NCDOT	\$40,000
SCDOT	\$3,800
*Mecklenburg-Union MPO	\$0
Gaston MPO	\$4,163
Cabarrus-South Rowan MPO	\$3,388
Rock Hill-Fort Mill MPO	\$2,061
Lake Norman RPO	\$8,960
Rocky River RPO	\$3,594
<b>Total</b>	<b>\$65,966</b>

\*Mecklenburg-Union MPO's share (\$21,634) is already appropriated in the FY04 budget.

**Funding:**

The budget ordinance appropriates estimated funding included in the above table.

**Attachment 3**

Budget Ordinance

**9. Sale of Old Bus Garage**



**Action: A. Adopt a resolution accepting Arena Holdings, LLC's offer to purchase the Old Bus Garage property for \$8 million, and**

**B. Authorize the City Manager to execute documents necessary to convey the property to Arena Holdings, LLC.**

**Staff Resources:**

Curt Walton, City Manager's Office  
 Susanne Todd, City Attorney's Office  
 Kent Winslow, Engineering and Property Management

**Explanation:**

Pursuant to a Memorandum of Agreement, Contract for Purchase and Sales Agreement between the City, Wachovia and Bank of America (with the banks operating as Arena Holdings, LLC), Arena Holdings submitted an offer of \$8 million to purchase the 4.57 acres of property, commonly referred to as the Old Bus Garage. Arena Holdings' offer was then subjected to a sealed bid process in order to ensure that the City receive the highest market price for the property.

The material terms of the sale of the Old Bus Garage property to Arena Holdings were advertised on June 27, 2003. The deadline for sealed bids was September 24, 2003. One bid for \$5.1 million was received but was

disqualified as non-responsive because it did not meet the specified minimum bid amount. Council is therefore requested to approve the sale of the Old Bus Garage property to Arena Holdings for \$8 million in accordance with the terms of the Contract for Purchase and Sale. Upon payment of the full \$8 million, Arena Holdings may choose to delay closing for up to 12 months. Otherwise, closing will occur within the next 30 days.

Prior to selling the North Corridor to the City, North Carolina Railroad reserved a freight easement across the width of the rail corridor. Approximately 50 feet of the railroad’s easement encroaches across the westward boundary of this property, adjacent to the rail corridor. This reservation encumbers 27,730 square feet of the property. The City’s contract with Arena Holdings, LLC requires the City to work with North Carolina Railroad to terminate, abandon, or otherwise release its easement and staff has already begun these conversations. In the event North Carolina Railroad does not terminate, abandon or otherwise release its easement prior to December 31, 2005, then the City will reimburse Arena Holdings for the value of the portion of this property encumbered by the easement at a rate of \$43.26 per square foot, or approximately \$1.2 million.

**Background:**

As part of the arena financing plan approved by City Council on November 11, 2002, the business community agreed to purchase up to \$50 million of City assets, with the proceeds dedicated to construction of the new arena. The properties identified in the January 13, 2003 Memorandum of Understanding, as well as the estimated values of each, were as follows:

Old Convention Center	\$14 million
Johnson & Wales	1 million
Old Bus Garage	8 million
Charlotte Coliseum	<u>24 million</u>
<b>Total</b>	<b>\$47 million</b>

Funds for the Old Convention Center and Johnson & Wales have been received. The \$6 million deposit on the old bus garage has been received, with the balance of \$2 million due 30 days from Council action. The sale of the Charlotte Coliseum is pending completion of the rezoning process, as well as a public sale process as required by law.

In addition, Wachovia and Bank of America paid the City a \$3 million advance to reach \$50 million. To the extent that the upset bid process does not provide sufficient funds to cover the \$3 million advance, the City shall repay the advance to the banks by December 31, 2005 from a source to be determined by the City, presumably the proceeds from the sale of additional properties.

**Attachment 4**  
Resolution

## 10. Carolina Theatre-Extend Option to Purchase



**Action:** Approve an extension of the Arts and Science Council's (ASC) Option to purchase the Carolina Theatre from December 31, 2003 to June 30, 2005, including the right for the City to terminate the Option in the event the City receives an offer to purchase the property during the term of the Option.

**Staff Resource:** Curt Walton, Assistant City Manager

### **Explanation:**

The ASC has just completed a 25-year cultural facilities master plan. The master plan recommends development of the proposed Bechtler Museum of Modern Art on the existing Carolina Theatre site. The plan recommends saving parts of the Carolina Theatre's proscenium arch and stage and incorporating them into an auditorium.

The ASC holds the Option to purchase the Carolina Theatre through December 31, 2003. In order to consider the Carolina Theatre as a potential site for the Bechtler Museum, the ASC has requested extension of the option until June 30, 2005.

The purchase price remains \$1.2 million and all of the terms and conditions of the existing option remain in place.

### **Background:**

The Carolina Theatre opened in 1927 and remained operational until 1978. C.C. Hook, one of Charlotte's first preeminent architects, designed the Theatre. The Theatre is one of four Carolina Theatres in North Carolina. The State of North Carolina has restored the other three.

The City acquired the property in 1985 as part of the City Fair project. In 1990 the City reached an agreement with American Fidelity Property Company (AFPC), which gave AFPC the Option and Right of First Refusal to purchase City Fair and the Theatre. The Option fixed the purchase price of the Theatre at \$1.2 million. The Option could be exercised at any time during the life of the Option upon 30 days notice. Immediately upon the expiration of the Option on December 31, 1998, AFPC held a Right of First Refusal to purchase the property through December 31, 2009.

In 1994 the Keith Corporation acquired the Option and Right of First Refusal from AFPC as part of The Keith Corporation's purchase of the City Fair property.

In September 1998 the Keith Corporation donated the Option and the Right of First Refusal to the Arts and Science Council (ASC). The purchase price remained \$1.2 million.

The ASC subsequently requested the City extend the Option from December 31, 1998 to January 15, 2000. The extension was approved on December 14, 1998 with the following conditions:

- The ASC could not reassign the Option;
- The ASC waived its Right of First Refusal to purchase the property;
- The sale of the Theatre was conditioned on the City's approval of the ASC's preservation proposal;
- The ASC agreed to terminate the Option if restoration of the Theatre proved not to be feasible, there is no demonstrated programming need for the Theatre, or if financing cannot be secured.

In November 1999 the ASC requested and received extension of the Option until June 30, 2002 under the same terms and conditions.

In April 2002 the ASC requested and received extension of the Option until December 31, 2003 under the same terms and conditions, plus an additional condition allowing the City to terminate the Option in the event the City receives an offer to purchase the property during the term of the Option.

#### **Attachment 5**

Letter of Request from the Arts and Science Council

## **11. Closed Session**

**Action: Adopt a motion to go into closed session for the purpose of conferring with the City Attorney concerning a lawsuit entitled Curtis B. Woods v. Officer Bryan Overman and Charlotte Mecklenburg Police Department and The City of Charlotte, 2002-CVS-22765.**

## **MAYOR AND COUNCIL TOPICS**

**At the end of the formal agenda, Council members may share information and raise topics for discussion.**

## **Introduction to CONSENT**

The consent portion of the agenda is divided into two sections: Consent I and Consent II.

Consent I consists of routine items that have been approved in the budget, are low bid and comply with Small Business Opportunity Program Policy.

Consent II consists of routine items that have also been approved in the budget, but require additional explanation.

The City's Small Business Opportunity Program's (SBO) purpose is to enhance competition and opportunity in City contracting with small businesses in the Charlotte metropolitan statistical area. Participation of small business enterprises (SBE) is noted where applicable. Contracts recommended for award as of March 1, 2003 comply with the provisions of the SBO program policy for SBE outreach and utilization. Professional service contracts recommended for award as of August 1, 2003 comply with the provisions of the SBO program policy for SBE outreach and utilization.

Disadvantaged Business Enterprise (DBE) is a federal program primarily used for Aviation and Transit.

Contractors and Consultants

All contractors and consultant selections follow the Council approved process unless described otherwise.

## **CONSENT I**

### **12. Various Bids**

#### **A. Villa Heights Neighborhood Improvements**

**EPM**

**Recommendation:**

The City Engineer recommends the low bid of \$1,444,374.75 by 7 Star Construction Company, Inc. of Rock Hill, South Carolina. The Villa Heights neighborhood is one of the twenty neighborhoods targeted for infrastructure improvements under the 1996 Neighborhood Improvement Program voter approved Bond Referendum. This project has been divided into three phases. Phases 1 and 2 have been completed. The third phase will construct curb and gutter, sidewalk, grading, minor storm drainage, and waterline improvements on the following streets: Union Street, Barry Street, Lola Avenue, Lydia Avenue, Duncan Avenue, Grace Street and Catawba Avenue.

The anticipated project completion date is the first quarter of 2005.

**Small Business Opportunity:**

Established SBE Goal: 5%

Committed SBE Goal: 5%

7 Star Construction committed 5% (\$74,000) of the total contract amount to certified SBE participation.

**B. Wingate Neighborhood Improvements Phase IVB EPM****Recommendation:**

The City Engineer recommends the low bid of \$722,969.05 by Ferebee Corporation of Charlotte, North Carolina. The Wingate neighborhood is one of the twenty neighborhoods targeted for infrastructure improvements under the 1996 Neighborhood Improvement Program voter approved Bond Referendum. This project has been divided into four phases. All previous phases have been completed. The fourth phase will provide infrastructure improvements such as curb and gutter, sidewalk, grading, and minor storm drainage. The project limits are Old Steele Creek Road from West Boulevard to Primrose Avenue, and Markland Drive to Mayfair Avenue.

The anticipated project completion date is the fourth quarter of 2004.

**Small Business Opportunity:**

Established SBE Goal: 5%

Committed SBE Goal: 10%

Ferebee Corporation committed 10% (\$71,371) of the total contract amount to certified SBE participation.

**C. Bridge Repair, FY2003 EPM****Recommendation:**

The City Engineer recommends the low bid of \$705,110.38 by Lee Construction Company of the Carolinas, Inc. of Charlotte, North Carolina. The City is required by federal law to inspect all bridge structures on public roads every two years. This contract will perform repairs to 55 city bridges identified by the 2002 Bridge Inspection cycle.

The anticipated project completion date is the third quarter of 2004.

**Small Business Opportunity:**

Established SBE Goal: 4%

Committed SBE Goal: 4%

Lee Construction Company committed 4% (\$30,412.50) of the total contract amount to certified SBE participation.

**D. APC Infrastructure Components****BSS****Recommendation:**

The Information Technology Director recommends the low bid of \$258,621.00 to CompuCom of Dallas, Texas. The Information Technology Division is up-fitting a new data center in uptown Charlotte. One of the most critical aspects of this up-fit is a set of fully powered equipment racks with redundant uninterruptible power supplies (UPS's) and redundant rack power distribution units (PDU's). The majority of the equipment being supported has redundant power supplies and will be fed by both UPS's. APC's InfraStruXure product line of equipment racks and modular UPS's was selected as the desired solution. APC has engineered a comprehensive solution for which the City solicited bids from certified APC InfraStruXure resellers.

**Small Business Opportunity:**

Established SBE Goal: 5 %

Committed SBE Goal: 0%

The firm recommended for award has proposed a turnkey solution. There were no SBE firms to participate as a certified contractor for this specific technology. Subcontracting with an SBE that is not a certified provider of this technology would negate all manufacturer warranty provisions.

**E. Trenching, Boring and Conduit Installation****CDOT****Recommendation:**

The Department of Transportation Director recommends the low bid of \$118,335 by Whiting Construction Company, Incorporated of Troutman, North Carolina. This contract is for trenching, boring, pull boxes and conduit installation work on an as-needed basis at various locations within the City.

**Small Business Opportunity:**

The Small Business Development Program Manager waived the SBE goal for this project. In order to establish a goal for the project, there must be SBE firms certified in the City's Vendor Management System to perform the subcontracting opportunities identified for the project. There were no SBE firms certified to perform on this project.

**F. FY04 Manhole Rehabilitation & Point Repair Contract****Utilities****Recommendation:**

The Charlotte-Mecklenburg Utilities Director recommends the low bid of \$2,497,036.50 by Atlantic Coast Contractors of Denver, North Carolina. This contract will provide for Sanitary Sewer infrastructure rehabilitation primarily in the McAlpine Creek, Long Creek, and McDowell Creek basins. The work will consist of identifying,

evaluating, and repairing manhole and sewer main defects to reduce the amount of rain and floodwater entering the wastewater collection system. This sudden inflow leads to high flow levels in the sewers and at treatment plants during and immediately after rain events. It can also cause system surcharging and overflows. Storm drainage cross-connections will also be identified and eliminated.

**Small Business Opportunity:**

Established SBE Goal: 2%

SBE Committed Goal: 1%

Atlantic Coast Contractors has committed 1% (\$25,000) to an SBE firm. They complied with the Good Faith Efforts, but were unable to meet the 2% goal.

**13. Resolution of Intent to Abandon Street and Set Public Hearing for Earle Street, Lloyd Street, Edwin Street, Person Street and 20 feet of Oaklawn Avenue**

**Action: A., Adopt the resolution of intent to abandon Earle Street, Lloyd Street, Edwin Street, Person Street and 20 feet of Oaklawn Avenue, and**

**B. Set a public hearing for January 12, 2004.**

**Attachment 6**

Map

## CONSENT II

### 14. Amendment to the Interlocal Agreement for the Consolidation of the City/County Radio System

**Action: Approve an amendment to the City/County Interlocal Agreement clarifying language regarding radio system assets.**

**Staff Resource:** Susan Johnson, Business Support Services

**Explanation:**

In June and July 2003, the Charlotte City Council and the Mecklenburg County Board of Commissioners approved an Interlocal Agreement (the "Agreement") for Consolidation of the Radio System. Subsequent to approval, City and County staff acknowledged a need to clarify certain language in the Agreement regarding the assets included as part of the Radio System. The attached amendment documents the needed clarifications including a definition for "tower infrastructure"; add "tower infrastructure" to section 2.19 which defines the Radio System; Tower Infrastructure owned by the City prior to July 1, 2001 is not part of the Radio System Assets; make clear that in section 6 of the Interlocal that the County holds no software licenses for the radio system; allow for monthly or quarterly billing in advance; should roles ever switch the new operator assumes all payment and contract obligations.

**Attachment 7**

First Amendment to the Interlocal Agreement for the Consolidation of the Radio System

### 15. Inspection Services for Street Maintenance

**Action: Approve an agreement with Uprocon, Inc. for construction inspection services for Street Maintenance Districts for \$150,000.**

**Staff Resource:** Tim Greene, Engineering and Property Management

**Explanation:**

The Street Maintenance Division is currently operating under an optimization Memorandum of Understanding (MOU) for street repairs. The terms of the MOU require monitoring of the work to ensure compliance with performance specifications.

Uprocon, Inc. will provide monitoring services for three Street Maintenance Districts. This involves a review of all street maintenance activities, performed by City crews, ranging from catch basin cleaning, curb and gutter

installation, storm drainage installation, pothole patching, and paving construction services. Uprocon's inspectors will review field reports and determine quantities of work in compliance with established standards and contract provisions.

Uprocon, Inc., a certified SBE firm, was chosen using the Council-approved qualification based selection process.

**Small Business Opportunity:**

This contract does not present any subcontracting opportunities. A single contractor was selected for this work to ensure consistency in the monitoring and evaluation of street maintenance activities. Uprocon Inc. is the only certified SBE for these services and 100% of the contract amount will count toward meeting the City's overall SBE utilization goal.

**16. Bland Street Trolley Barn Purchase, Development Agreement and Lease**

**Action: Authorize the City Manager or designee to execute:**

**A. Agreement between:**

- Crescent Resources, LLC
- Mecklenburg County
- Charlotte Trolley, Inc.
- City of Charlotte

**To develop an operating trolley barn and trolley museum on the site of the original Charlotte Trolley Barn at Bland Street and South Boulevard, and**

**B. Ground Lease Agreement between the City and Mecklenburg County for the City's development of the Trolley Barn on County land.**

**Staff Resources:** Brad Miller, Charlotte Area Transit System  
Tracy Haynie, Engineering and Property Management

**Policy:**

2025 Transit/Land Use Plan for the continued development and expansion of the transit system

**Explanation:**

City Council approved funds in CATS' FY2004 capital budget to develop a trolley barn at the former site of the original Charlotte trolley barn at Bland Street and South Boulevard. Programming and design activities are underway and construction should begin in the fall of 2004. The Trolley Barn is to be part of a larger mixed-use development by Crescent Resources, LLC which combines retail, office, and residential units bordered by South

Boulevard, the future South Corridor Light Rail tracks, Rensselaer Avenue and Bland Street. Mecklenburg County Commission Board is expected to consider the purchase of the land from Crescent and a lease of the land to the City for development and operation of a trolley barn and museum at their December 16, 2003 meeting. Charlotte Trolley, Inc., the non-profit organization now operating the Trolley Service, has agreed to fund \$100,000 over a three-year period to cover maintenance expenses for the parking and landscape easements that are part of the agreement.

The agreement requires the City to reimburse Crescent for the demolition and asbestos abatement of the existing buildings on the site up to a maximum amount of \$310,000. The agreement also requires the City to design the new Trolley Barn building to be similar in appearance to the original Charlotte Trolley Barn. The project is expected to be completed in mid-2006. CATS will operate the trolley service and Charlotte Trolley Inc. will sublease a portion of the building for operation of a trolley museum and restoration of vintage trolleys.

The Mecklenburg County Board of County Commissioners reviewed the Purchase and Development Agreement at their December 2, 2003 meeting and decided to delay a vote on the purchase until final negotiations with all four parties were completed. If the City approves the Agreement and the County approves the purchase, the County would then enter into a nominal lease agreement with the City to allow the property to be developed into a Trolley Barn and used in accordance with the Purchase and Development Agreement.

Since the trolley barn will not move forward without the County's purchase of the land, this action by Council to approve the Purchase and Development Agreement is contingent upon the Board of County Commissioner's subsequent approval of the same agreement.

**Funding:**

City Council has approved a \$5,200,000 total project cost for the Trolley Barn development. This funding is included in CATS' approved FY2004-FY2008 Transit Capital Program.

## 17. Trolley Dual Voltage Conversion

**Action: A. Approve a change order to amend a contract with Gomaco Trolley Company, and**

**B. Authorize the City Manager or her designee to execute a contract amendment to procure three 750-volt converters, converter spare parts, and to modify three anticlimbers. The cost of the amendment is not to exceed \$170,000.**

**Staff Resources:** Keith Parker, Charlotte Area Transit System  
Rocco Paiano, Charlotte Area Transit System

**Policy:**

2025 Transit Land Use Plan for the continued development and expansion of the transit system

**Explanation:**

As part of the Trolley Corridor Project, three replica trolleys are needed to provide trolley service along a two-mile rail corridor from 9<sup>th</sup> Street Uptown to Tremont Avenue in the South End. The cars are being procured using a “piggyback” arrangement with Hillsborough Regional Transit Authority in Tampa, Florida. Tampa had previously ordered eight trolleys from Gomaco Trolley and has placed all of their vehicles in service. In July of this year, CATS requested and received permission from City Council to use an option that Tampa still had to procure three similar trolleys from Gomaco Trolley. An agreement was developed and a Notice-to-Proceed was given to Gomaco in October 2003.

A change order to this contract is necessary for the following items:

- 1) In order to allow the new replica trolleys to operate on the same voltage system as the future light rail vehicles (LRVs), a modification of the existing trolley electrical and propulsion equipment is required. This change will result in savings of approximately \$1 million to the South Corridor Project by eliminating the need for specialized dual voltage substations and the need to modify LRV propulsion equipment and signaling devices. The change will also result in improved performance of the LRVs in the South End and Uptown areas. To perform this additional work, it is estimated that the total costs including spare parts will be \$160,000.
- 2) To provide a safer operation and better fleet compatibility between the trolleys and future light rail vehicles that will operate on the same line, it is important to adjust the anticlimber height on the trolleys to match the range of anticlimbers being offered by light rail suppliers. The anticlimber is a device that is used to prevent one rail car from climbing over another car in an accident. This change will result in an increase of \$10,000 to the existing contract.

The total cost of the 750-volt conversion and modification of the anticlimbers is \$170,000.

Council approved the purchase of three trolleys and spare parts for a total of \$2,109,000 on July 28, 2003.

**Community Input:**

Metropolitan Transit Commission and Transit Service Advisory Committee

**Small Business Opportunity:**

This contract is exempt from the Small Business Opportunity Program per Section 2.21 of the Program policy.

**Funding:**

FY2004-FY2005 Transit Operating Budget

**18. Traffic Control Officers for the Historic Trolley**

**Action: Approve a one-year contract with Allied Security, LLC, to provide traffic control officers for the Historic Trolley with a value not to exceed \$112,000 the first year and authorize the City Manager or designee to execute the option to renew up to two additional years at a 3-year contract total not to exceed \$348,000.**

**Staff Resources:**

Sergeant Charles Rappleyea, Charlotte-Mecklenburg Police  
Brad Miller, CATS

**Policy:**

2025 Transit/Land Use Plan for the continued development and expansion of the transit system

**Explanation:**

Until grade crossing traffic signals are installed along the South Corridor for the future Light Rail operation, the interim Historic Trolley operation will continue to require traffic control personnel to ride each trolley and control traffic at each at-grade intersection the trolley crosses. For the current 1-car, 3-day per week service operated by the volunteers at Charlotte Trolley, Inc., this traffic control activity is accomplished using off-duty Charlotte Mecklenburg Police Department (CMPD) Officers. In preparation for its operation of a 7-day, multiple car service, the Charlotte Area Transit System completed a competitive solicitation to identify a qualified security provider to provide these needed traffic control services until the future Light Rail traffic signals no longer require the use of human traffic control officers.

Allied Security, LLC was selected pursuant to a competitive, qualifications and cost based procurement process. Five proposals were received. Allied Security, LLC, had both the lowest price of any proposer and the highest rated technical score; therefore, Allied Security, LLC is the most responsive and responsible proposer.

**Small Business Opportunity:**

Established SBE Goal: 0%

Committed SBE Goal: 0%

Based on the scope of work to provide traffic control personnel, there is no opportunity for subcontracting to small businesses under this contract.

Although no known small businesses in the Charlotte region were registered

with either the City's SBO or CATS' Federally-mandated Disadvantaged Business Enterprise (DBE) program to provide security services as required by the specifications, two small security service firms located outside the Charlotte area were solicited by staff and ultimately submitted proposals; however, their bids were not competitive.

**Funding:**

CATS' approved FY2004-FY2005 Transit Operating Budget

**Attachment 8**

Evaluation Criteria Matrix

**19. Parade Ordinance**

**Action: Adopt an ordinance to add the parade regulations to the new City Code.**

**Staff Resource:** Bob Hagemann, City Attorney's Office

**Explanation:**

At the same time that the City Code was being recodified, staff was working to modernize the parade ordinance. Since staff planned to process revised parade regulations prior to the effective date of the new code, the City's code contractor did not include the old parade regulations in the revised code.

Due to the holiday meeting schedule and the need to present the revised regulations to the Parade Committee, the revised regulations will not be ready for Council consideration until after the new City Code becomes effective (January 1, 2004). The ordinance will simply add the old parade regulations to the new code. The new parade regulations will be presented to Council early next year.

**Attachment 9**

Ordinance

**20. Income Appropriation from City West Commons Shopping Center Section 108 Loan**

**Action: Adopt a budget ordinance in the amount of \$352,563.30 appropriating a loan repayment from City West Commons Shopping Center.**

**Staff Resource:** A.C. Shull, Neighborhood Development

**Explanation:**

This ordinance appropriates \$352,563.30 of program income projected to be collected in FY2004 from the Charlotte Mecklenburg Development

Corporation (CMDC) for repayment of their loan from the City. The loan repayment will repay the U.S. Department of Housing and Urban Development for the outstanding Section 108 loan.

On June 24, 2002, City Council approved a financing plan for the development of the City West Commons Shopping Center located at the corner of Remount and West Boulevard. The financing involved an application to the U.S. Department of Housing and Urban Development (HUD) to transfer a Section 108 loan (\$2,560,000) and an Economic Development Initiative (EDI) grant (\$950,000) for a proposed Dalton Village Shopping Center, which did not move forward. The HUD commitment would have expired on September 30, 2002. The Section 108 loan /EDI grant application was approved by HUD, and construction of the shopping center began on January 1, 2003 and was completed in October. The 35,060 square foot center is now complete and open for business. The shopping center is almost fully leased.

The Section 108 loan provides 20-year financing at 4.6% to the City West ownership entity, Westover No. 1, LLC. The 20-year amortized monthly loan payments are collected by the City, and are used to pay the Section 108 loan with HUD. The Charlotte Mecklenburg Development Corporation administers the loan for the Westover No. 1, LLC. The appropriation of these collected payments is required to make the City's payment to HUD.

**Attachment 10**  
Budget Ordinance

**21. 2003 Local Law Enforcement Block Grant**

**Action: Adopt a budget ordinance appropriating \$1,169,391 (\$1,052,452 from the Department of Justice and \$116,939 from Police Assets Forfeiture Funds) for the 2003 Local Law Enforcement Block Grant.**

**Staff Resource:** Darrel Stephens, Charlotte-Mecklenburg Police

**Explanation:**

Each year since 1996, the Department of Justice has awarded Local Law Enforcement Block Grants to cities throughout the country. The available grant funds are allocated to each jurisdiction based on its violent crime rate as reported to the FBI's Uniform Crime Reports. The money has fewer restrictions than traditional grant programs and each jurisdiction is allowed to submit a spending plan to the Justice Department after holding a public hearing on the use of the funds.

A detailed spending plan is attached.

**Community Input:**

The Police Department held a public hearing on the grant funds on September 30, 2003. The hearing was advertised on the department's website, local television stations, including the Government Channel, and in the Charlotte Observer. Most of the attendees wanted to see the funds used to build safer neighborhoods, especially through crime prevention programs that target youth. They also wanted to see police use the funds to enhance police presence in neighborhoods and to obtain additional equipment for officers. Those priorities are reflected in CMPD's spending plan which has been approved by the Department of Justice.

**Funding:**

\$1,052,452 from the U.S. Department of Justice and \$116,939 in matching funds from Police Assets Forfeiture Funds

**Attachment 11**

2003 Local Law Enforcement Block Grant Spending Plan  
Budget Ordinance

## 22. Carolinas Institute for Community Policing Revenue Appropriation

**Action: Adopt a budget ordinance appropriating \$4,654.50 in revenue to the Carolinas Institute of Community Policing.**

**Staff Resource:** Greg Crystal, Charlotte-Mecklenburg Police

**Explanation:**

The Carolinas Institute for Community Policing was formed in the mid-1990's to serve as a training resource for police agencies in North and South Carolina. The Institute is funded by grants from the U.S. Department of Justice. The Charlotte-Mecklenburg Police Department took the lead in the formation of the Institute and the design of its curriculum.

Under the terms of the grant, the Institute can be reimbursed by participating agencies for part of the training costs. This ordinance appropriates \$4,654.50 in revenue received from community colleges into the grant account for the Institute.

**Attachment 12**

Budget Ordinance

## 23. Emergency Management-Citizen Corps Grant

**Action:** A. Adopt a budget ordinance appropriating \$10,000 for the development of a CERT program for Charlotte-Mecklenburg, and

B. Enter into a grant agreement with the North Carolina Division of Emergency Management, on behalf of the North Carolina Office of the Governor, in the amount of \$10,000 to assist in the development of a Community Emergency Response Team (CERT) program for Charlotte-Mecklenburg.

**Staff Resource:** Wayne Broome, Fire

### **Explanation:**

In the aftermath of September 11, 2001, the Citizen Corps program was initiated to provide public education, training and opportunities for citizens to actively serve in making their communities safer from the threat of terrorism, crime and disasters of any nature. The Community Emergency Response Team (CERT) is a component of Citizen Corps and provides a basic level of skill training to groups of individuals to respond to the community's needs in the wake of a disaster situation.

The Citizen Corps/CERT program is administered in North Carolina by the North Carolina Division of Emergency Management, on behalf of the Office of the Governor.

### **Funding:**

North Carolina Division of Emergency Management grant

### **Attachment 13**

Budget Ordinance

## 24. Emergency Management Grant

**Action:** A. Adopt a budget ordinance appropriating \$668,728 in U. S. Department of Homeland Security funds for preparedness and mitigation enhancements in response to incidents involving weapons of mass destruction, and

B. Enter into a Memorandum of Agreement with the North Carolina Division of Emergency Management (NCEM), on behalf of the U. S. Department of Homeland Security, in the amount of \$668,728 to assist in preparing for response to terrorist events.

**Staff Resource:** Wayne Broome, Fire

**Explanation:**

The Department of Homeland Security (DHS), through the Office of Domestic Preparedness, created the FY2003 State Homeland Security Grant Program. This program was established to provide federal assistance to state and local governments for the costs associated with purchasing equipment, conducting exercises, and conducting training for chemical, biological, radiological, nuclear and explosive terrorism events. In North Carolina, the North Carolina Division of Emergency Management (NCDEM) administers this program for the U. S. Department of Homeland Security.

The money will be used to put on a large-scale terrorism/Weapons of Mass Destruction (WMD) drill, to include all the public safety and public health agencies in Mecklenburg County. With these funds, Emergency Management will plan for the drill, purchase equipment (that can be kept and used for a real event) and actually conduct the drill.

**Funding:**

U. S. Department of Homeland Security grant

**Attachment 14**

Budget Ordinance

## 25. Locating, Exercising, and Mapping of Water System Valves Contract Extension

**Action:** **A. Approve a budget ordinance appropriating \$400,000 from Water and Sewer Capital Investment Project Fund Balance to Valve Rehabilitation & Replacement, and**

**B. Approve a contract extension with Wachs Utility Services to perform all work associated with locating, exercising, and mapping water system valves 12” and smaller, including fire hydrants, in a portion of Eastern Mecklenburg County (University Area). The cost of this contract extension is for a not to exceed amount of \$500,000.**

**Staff Resource:** Doug Bean, Utilities

**Explanation:**

This contract extension will pay for all services associated with locating, exercising, and mapping of all valves 12 inches and smaller, including fire hydrants, in Eastern Mecklenburg County (University Area). The University Area is bounded by the Cabarrus County line to the east, Eastfield-Alexanderana Road to the north, I-77 to the west, and NC 49 to the south.

All valves will be exercised and inspected to evaluate their condition and operability. The contract also provides for minor repairs to be made on site.

Valves and hydrants will be located using Global Positioning System technology or conventional survey methods and all corresponding characteristics will be recorded in a database for future CMU use. Improved valve and hydrant serviceability and response time will be the direct result of this process.

Wachs Utility Services has already provided these services for the following portions of Mecklenburg County:

- All water system valves 20 inches and larger
- All 16 inch water system valves and all valves (2" to 16"), including hydrants, in the Uptown Loop (area bounded by I-277 and I-77), and
- All water system valves 12" and smaller, including hydrants, from the Iredell County line in North Mecklenburg Area to the Mt. Holly-Huntersville/Eastfield Road Area.

The original contract with Wachs Utility Services was \$600,000. Due to the specialization of the proposed contract and the success on the previous work, a contract extension is recommended with Wachs Utility Services. All work should be complete on or about July 2004.

**Small Business Opportunity:**

Established SBE Goal: 1%

Committed SBE Goal: 1%

Wachs has committed 1% (\$5,000) of the total contract amount to an SBE firm.

**Funding:**

Water Capital Investment Plan

**Attachment 15**

Budget Ordinance

**26. Ultraviolet (UV) Disinfection Systems at Sugar Creek and Irwin Creek Wastewater Treatment Plants**

**Action: A. Reject the bid of \$7,431,900.00 from Haren Construction Company of Etowah, Tennessee pursuant to submitting a non-responsive bid, and**

**B. Award contract for UV Disinfection Systems at Sugar Creek and Irwin Creek Wastewater Treatment Plants to the next low bidder, Pizzagalli Construction Company, Incorporated of South Burlington, Vermont in the amount of \$7,562,100.**

**Staff Resource:**

Doug Bean, Utilities

**Explanation:**

This project was approved in the FY2002-2004 Capital Investment Program. The need was based on responding to the increasing regulation of chlorine, which is used in effluent disinfection and responding to hazardous materials handling hazards. UV is the overall preferred method to implement for disinfection.

This project was bid as a single prime contract. Single-prime contractors are required to list on their bids the subcontractors they have selected for work in the four major categories, i.e. general, electrical, plumbing, and heating, ventilating, air conditioning (HVAC). On the bid form for listing of the subcontractors, Haren wrote "to be determined" for the name of the HVAC subcontractor. The City Attorney's Office and Charlotte-Mecklenburg Utilities recommend Council reject Haren's bid as non-responsive due to its failure to comply with statutory bidding requirements.

Staff recommends awarding this contract to the low, responsive bidder, Pizzagalli Construction Company, Inc.

**Small Business Opportunity:**

Established SBE Goal: 5%

SBE Committed Goal: .3%

Pizzagalli committed .3% (\$22,500) of the total contract amount to a certified SBE firm.

**Funding:**

Sewer Capital Investment Plan

**27. Cleaning Service Contract for Airport**

**Action: Award a three-year contract to Incredible Maintenance, Inc. of Charlotte, North Carolina in the amount of \$379,574.04 for cleaning of airport parking lots, deck and other areas.**

**Staff Resource:** Jerry Orr, Aviation

**Explanation:**

This contract will provide cleaning services for the airport's parking lots, parking deck, curbside areas and loading dock. These services require the use of a street sweeper truck.

The total three-year cost of the contract is \$379,574.04. This contract is for three years with an option to renew for two additional one-year terms at the City's option.

The Airport Advisory Committee recommends this action.

**Small Business Opportunity:**

A goal was not established because no subcontracting is anticipated in the work-scope of this contract. There were no SBE prime bidders.

**Funding:**

Airport Operating Budget

**28. Property Transactions**

**Action: Approve the following property acquisitions (A & B) and adopt the condemnation resolutions (C-G).**

For property transactions A-E, the purchase price was determined by an independent appraiser and was reviewed by a second appraiser. Each appraisal takes into consideration the specific quality and quantity of the land. The tax value is determined on a more generic basis and will be higher or lower for land/improvements with certain attributes. Property is acquired in accordance with Federal Guidelines 49 CFR Part 24 of the Uniform Acquisition and Relocation Act of 1970. Acquisition costs are eligible for North Carolina Department of Transportation and Federal Transit Administration reimbursement.

NOTE: Condemnation Resolutions are on file in the City Clerk's Office.

**Acquisitions:**

- A. Project:** South Corridor Light Rail Transit, Parcel # 231  
**Property Owner(s):** John G. Blackmon and wife, Irene H. Blackmon  
**Address:** 5601-5633 Old Pineville Road  
**Property to be acquired:** 126,073 sq. ft. (2.894 ac.) of Fee Simple  
**Improvements:** Commercial building  
**Purchase Price:** \$600,000  
**Zoned:** I-2  
**Use:** Warehouse  
**Tax ID:** 169-083-01  
**Total Parcel Tax Value:** \$566,400
- B. Project:** South Corridor Light Rail Transit, Parcel # 209  
**Property Owner(s):** Timothy B. Romeo and wife, Amy Holland Romeo and any other parties of interest  
**Address:** 6329 Old Pineville Road  
**Property to be acquired:** 25,102 sq. ft. (.576 ac.) of Fee Simple  
**Improvements:** One story building and asphalt paved parking  
**Purchase Price:** \$185,000  
**Zoned:** I-2  
**Use:** Office

**Tax ID:** 169-162-02  
**Total Parcel Tax Value:** \$142,700

**Condemnations:**

- C. Project:** South Corridor Light Rail Transit, Parcel # 273  
**Property Owner(s):** William Arther Myers, Jr. and wife, Lucy S. Myers and any other parties of interest  
**Address:** 4800 Old Pineville Road  
**Property to be acquired:** 76,877 sq. ft. (1.765 ac.) of Fee Simple  
**Improvements:** Commercial building  
**Purchase Price:** \$595,000  
**Zoned:** I-2  
**Use:** Office  
**Tax ID:** 169-011-11  
**Total Parcel Tax Value:** \$475,600
- D. Project:** South Corridor Light Rail Transit, Parcel # 137/139  
**Property Owner(s):** H.R. Auton and any other parties of interest  
**Address:** 8698 South Boulevard  
**Property to be acquired:** 43,160 sq. ft. (.991 ac.) of Fee Simple  
**Improvements:** Fencing and Lighting  
**Purchase Price:** \$186,050  
**Zoned:** I-2  
**Use:** Vacant (retail)  
**Tax ID:** 205-211-05 and 205-211-06  
**Total Parcel Tax Value:** \$192,400
- E. Project:** South Corridor Light Rail Transit, Parcel # 193  
**Property Owner(s):** George W. Dowdy, Jr. and wife, Irene T. Dowdy, and any other parties of interest  
**Address:** 6136 South Boulevard  
**Property to be acquired:** 28,575 sq. ft. (.656 ac.) of Fee Simple  
**Improvements:** One story building, fence, asphalt parking  
**Purchase Price:** \$485,000  
**Zoned:** B-2  
**Use:** Commercial  
**Tax ID:** 173-021-03  
**Total Parcel Tax Value:** \$586,300
- F. Project:** Commonwealth/Morningside Storm Drainage Improvements, Parcel # 2,  
**Owner(s):** D.L. Phillips Investment Builders, Inc. and any other Parties of Interest  
**Property Address:** 1110 and 1116 Morningside Drive  
**Property to be acquired:** 12,830 sq.ft. (.295 ac.) of Permanent Drainage Easement plus Temporary Construction Easement

**Improvements:** Asphalt Pavement

**Landscaping:** None

**Purchase Price:** \$7,125

**Remarks:** Compensation was established by an independent, certified appraisal and an appraisal review. City Staff has yet to reach a negotiated settlement with the property owner.

**Zoned:** B-1

**Use:** Office

**Tax Code:** 129-075-07

**Total Parcel Tax Value:** \$487,100

- G. Project:** South Transmission Main-Contract #4, Parcel # 23,  
**Owner(s):** Richard I. McHenry and any other Parties of Interest  
**Property Address:** Corporate Center Drive  
**Property to be acquired:** 7,733 sq.ft. (.178 ac.) of Permanent and Temporary Construction Easements  
**Improvements:** None  
**Landscaping:** None  
**Purchase Price:** \$20,450  
**Remarks:** Compensation was established by an independent, certified appraisal and an appraisal review. City Staff has yet to reach a negotiated settlement with the property owner.  
**Zoned:** O-1  
**Use:** Vacant  
**Tax Code:** 221-181-10  
**Total Parcel Tax Value:** \$1,789,900

## 29. Meeting Minutes

**Action: Approve the titles, motions and votes reflected in the Clerk's record as the minutes of:**

- **November 10, 2003 Business Meeting**
- **November 17, 2003 Zoning Meeting**