

**Mayor Patsy Kinsey**

John Autry  
Michael D. Barnes  
Warren Cooksey  
Andy Dulin  
Claire Fallon

**Mayor Pro Tem Patrick D. Cannon**

David L. Howard  
Billy Maddalon  
LaWana Mayfield  
James Mitchell, Jr.  
Beth Pickering

**CITY COUNCIL MEETING**  
**Monday, November 11, 2013**

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In addition to the previously advertised public hearing items, Departments have asked that the time sensitive items listed below not be deferred.

| <b>Item #</b> | <b>Page #</b> | <b>Title</b>   |
|---------------|---------------|--|
|               |               | Property Transactions for the LYNX Blue Line Extension project – Parcels #3213, #3215, and #3217 |

**CITY COUNCIL AGENDA**  
**Monday, November 11, 2013**

**TABLE OF CONTENTS**

| <u>Item Number</u>   | <u>Page</u><br><u>Number</u> | <u>Attachment</u><br><u>Number</u> |
|--|------------------------------|------------------------------------|
| <b>5:00 P.M. Dinner Briefing</b>   |                              |                                    |
| <b>Conference Center</b>   |                              |                                    |
| 1. Mayor and Council Consent Item Questions  | 1                            |                                    |
| 2. Citizens Review Board Briefing  | 1                            | 1                                  |
| 3. Proposed 2014 Federal Legislative Agenda  | 2                            |                                    |
| 4. Answers to Mayor and Council Consent Item Questions   | 2                            |                                    |
| 5. Closed Session  | 3                            |                                    |
| 6. Closed Session  | 3                            |                                    |
| <b>7:00 P.M. Awards and Recognitions</b>   |                              |                                    |
| <b>Meeting Chamber</b>   |                              |                                    |
| 7. Neighborhood Lift Program Recognition   | 4                            |                                    |
| 8. Habitat for Humanity Proclamation   | 4                            |                                    |
| 9. NASCAR Hall of Fame Recognition   | 4                            |                                    |
| <b>Consent</b>   |                              |                                    |
| 10. Consent agenda items 19 through 30 may be considered in one motion except those items removed by a City Council member. Items are removed by notifying the City Clerk. | 5                            |                                    |
| <b>Policy</b>  |                              |                                    |
| 11. City Manager's Report  | 6                            |                                    |
| 12. Revised Assisted Multi-Family Housing at Transit Station Areas Policy  | 6                            | 2                                  |
| <b>Business</b>  |                              |                                    |
| 13. Charlotte-Mecklenburg Housing Partnership Agreement  | 8                            | 3                                  |
| 14. City Attorney Compensation   | 9                            |                                    |
| 15. Conclusion of Consent Agenda   | 9                            |                                    |
| 16. Nominations to Boards and Commissions  | 9                            | 4                                  |
| 17. Appointments to Boards and Commissions   | 9                            | 5-7                                |
| 18. Mayor and Council Topics   | 10                           |                                    |

| <b><u>Item Number</u></b>                               | <b><u>Page Number</u></b> | <b><u>Attachment Number</u></b> |
|---|---------------------------|---------------------------------|
| <b>Consent</b>  |                           |                                 |
| 19. Fire Station Mechanical Renovations and Addition    | 13                        |                                 |
| 20. 25 <sup>th</sup> Street Extension                   | 13                        |                                 |
| 21. No Grease Barbershop Lease Renewal                  | 14                        | 8                               |
| 22. Airport Terminal Security Exit Lanes                | 15                        | 9                               |
| 23. Airport Administrative Facility Improvements        | 16                        | 10                              |
| 24. LYNX Blue Line Extension – Light Rail Vehicle Parts | 17                        |                                 |
| 25. LYNX South Boulevard Light Rail Facility Expansion  | 17                        |                                 |
| 26. Refund of Property Taxes                            | 18                        | 11                              |
| 27. Sale of City-owned Property                         | 19                        | 12                              |
| 28. Exchange of Land along Dwight Evans Road            | 19                        | 13                              |
| 29. Meeting Minutes                                     | 20                        |                                 |
| 30. Property Transactions                               | 21                        |                                 |
| <b>Reference</b>  |                           |                                 |
| 31. Charlotte Business INCLUSION Program Policy         | 29                        |                                 |
| 32. Property Transaction Condemnation Process           | 32                        |                                 |

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

### 1. Mayor and Council Consent Item Questions

**Resource:** Debra Campbell, City Manager's Office

**Time:** 5 minutes

#### **Synopsis**

Mayor and Council may ask questions about Consent agenda items. Staff will address questions at the end of the dinner meeting.

### 2. Citizens Review Board Briefing

**Committee Chair:** Warren Cooksey

**Resources:** Ron Carlee, City Manager's Office  
Eric Campbell, City Manager's Office  
Bob Hagemann, City Attorney's Office  
Chief Rodney Monroe, Police  
Willie Ratchford, City Manager's Office

**Time:** 45 minutes

#### **Synopsis**

- On April 1, 2013, the City Council requested that the Council-Manager Relations Committee review the current Citizens Review Board ordinance. As a part of that review, a task force including members of the Charlotte-Mecklenburg Community Relations Committee and the Citizens Review Board formed to gather feedback from the community regarding the Citizens Review Board process.
- On September 23, 2013, the Citizens Review Board Task Force reported its findings and recommendations, and the Council-Manager Relations Committee requested the City Manager's review. The ordinance amendment is drawn from a review of the task force report and the full record related to their work. The City Manager's recommendation was developed in consultation with the Attorney's Office, Charlotte-Mecklenburg Police Department, Community Relations staff, and others.
- The Council-Manager Relations Committee voted unanimously (Cooksey, Howard, and Mitchell) to approve the task force recommendations at their September 23, 2013 meeting.
- The recommended changes are based on the important concept that the Citizens Review Board appeal process is and should remain an administrative review of personnel decisions made by the Chief of Police; this is consistent with a recommendation of the task force that the Citizens Review Board maintain its appellate structure. Other proceedings, civil, or criminal litigation as well as the Civil Service Board remain available to the public and to police officers.
- In addition to the substantive proposed amendments, other changes are set forth in the proposed draft ordinance, which is intended to enhance the procedural operations of the Citizens Review Board consistent with task force

- recommendations or as deemed appropriate to align the ordinance with the proposed substantive amendments.
- Provided as an attached is the proposed Citizens Review Board Ordinance

#### **Future Action**

The City Council will be asked to approve the Citizens Review Board Ordinance Amendments at the Council Business Meeting on November 25, 2013.

#### **Attachment 1**

Proposed Citizens Review Board Ordinance

### **3. Proposed 2014 Federal Legislative Agenda**

**Committee Chair:** Andy Dulin

**Resources:** Ron Kimble, City Manager's Office  
Dana Fenton, City Manager's Office

**Time:** 20 minutes

#### **Synopsis**

- Annually, the City Council prepares a Federal Legislative Agenda to communicate its policy preferences to the U.S. Congress. Congress will convene on January 3, 2014, and will focus on long-term debt and deficit reduction, as well as the adoption of budgets for federal fiscal years 2014 and 2015.
- The City's Governmental Affairs Committee met on October 7, 2013, to discuss federal issues likely to go before the U.S. Congress in 2014 and to receive the City Manager's proposed 2014 Federal Legislative Agenda, which includes positions relating to the Airport Control Tower, Federal Courthouse, Municipal Bonds, Surface Transportation Program, and Advancing the Vision: 2030 Transit System Plan.
- The Committee is scheduled to meet at noon on November 11 to recommend a federal legislative agenda for presentation to the City Council as part of this briefing.

#### **Future Action**

- The City Council will be asked to approve the Proposed 2014 Federal Legislative Agenda at its November 25, 2013 meeting.
- The approved 2014 Federal Legislative Agenda will be the primary vehicle for discussions with the City's Congressional Delegation in 2014, including meetings to be scheduled during the National League of Cities Congressional City Conference from March 8-12, 2014.

### **4. Answers to Mayor and Council Consent Item Questions**

**Resource:** Debra Campbell, City Manager's Office

**Time:** 10 minutes

#### **Synopsis**

Staff responses to questions from the beginning of the dinner meeting.

**5. Closed Session**

**Action:** Adopt a motion pursuant to NC General Statute 143-318.11(a)(4) to go into closed session to discuss matters relating to the location of an industry or business in the City of Charlotte, including potential economic development incentives that may be offered in negotiations.

**6. Closed Session**

**Action:** Adopt a motion pursuant to NC General Statute 143-318.11(a)(3) to go into closed session to consult with attorneys employed or retained by the City of Charlotte in order to preserve the attorney-client privilege and to consider and give instructions to the attorneys concerning the handling or settlement of the following workers' compensation case: Joseph J. Willinsky v. City of Charlotte – I.C. File No. W50361.

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

### **7. Neighborhood Lift Program Recognition**

**Action:** Mayor Kinsey will recognize the Neighborhood Lift Program, a collaborative effort between Wells Fargo, the Charlotte-Mecklenburg Housing Partnership, and NeighborWorks America, to help hundreds in Charlotte on the path to sustainable home ownership.

### **8. Habitat for Humanity Proclamation**

**Action:** Mayor Kinsey will read a proclamation recognizing the 30-year anniversary of the Habitat for Humanity Charlotte Chapter.

### **9. NASCAR Hall of Fame Recognition**

**Action:** Mayor Kinsey will recognize City Engineer Jeb Blackwell and NASCAR Hall of Fame Executive Director Winston Kelley as recipients of the 2013 American Institute of Steel Construction IDEAS<sup>2</sup> Award.

## CONSENT

10. **Consent agenda items 19 through 30 may be considered in one motion except those items removed by a Council member. Items are removed by notifying the City Clerk.**

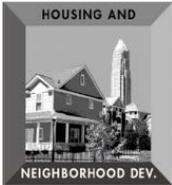
Consideration of Consent Items shall occur in the following order:

- A. Consideration of Consent Items that have not been pulled
- B. Consideration of Consent Items with citizens signed up to speak to the item

## POLICY

### 11. City Manager's Report

### 12. Revised Assisted Multi-Family Housing at Transit Station Areas Policy



**Action:** Approve the Housing & Neighborhood Development Committee recommendation for revisions to the Assisted Multi-Family Housing at Transit Station Areas policy.

**Committee Chair:** LaWana Mayfield

**Staff Resources:** Debra Campbell, Planning  
Pamela Wideman, Neighborhood & Business Services

#### Explanation

- The existing Assisted Multi-Family Housing at Transit Station Areas policy was approved by the City Council on November 26, 2001.
- Assisted Multi-Family Housing is defined as any multi-family rental housing receiving funds from local, state, or federal government and serving households earning 60% (\$39,100) or below the Area Median Income.
- On June 30, 2011, the Housing & Neighborhood Development Committee approved a process to engage developers and neighborhood representatives to gain their input on proposed policy revisions. Staff believes a revised policy is necessary because of increasing development occurring at Transit Station Areas. A revised policy will provide guidance to developers pursuing affordable housing developments at transit station areas.
- Staff created a Citizen Advisory Group consisting of developers and neighborhood representatives who assisted in developing a revised policy. Staff convened two meetings with both developers and neighborhood representatives in August 2011.
- At the September 7, 2011, Housing & Neighborhood Development Committee meeting, staff shared initial feedback and lessons learned at the two meetings.
- Staff continued to work through policy revisions, reconvened the group of developers and neighborhood leaders on December 14, 2011, and shared their feedback with the Committee.
- On April 9, 2012, staff provided an update on the revised policy during the City Council's dinner briefing, and on April 23, 2012, a public hearing was held during the City Council Business Meeting. Nine speakers spoke in favor of the revised policy.
- On May 14, 2012, the City Council unanimously voted to defer this policy for further study and requested that it be brought back to the Council at a later date.
- On June 24, 2013, the City Council unanimously voted, for the second time, to defer this policy for further study and requested that it be brought back to the Council at a later date.
- At the October 21, 2013 Zoning Meeting, staff presented the most recent revisions to the Assisted Multi-Family Housing at Transit Station Areas Policy to the City Council.

### **Housing & Neighborhood Development Committee Action**

- The Housing & Neighborhood Development Committee discussed this policy during their September 7, 2011, March 7, 2012, March 28, 2012, and May 8, 2013 meetings.
- On September 25, 2013, the Committee voted 2 to 0 (Kinsey and Mayfield voted yes; Barnes did not vote; Autry and Cooksey were absent) to recommend a revised policy to the full City Council for approval with the following revisions and notes:

#### Revisions and Notes

- The assisted multi-family housing units shall be the same in appearance to the portion of the project that is developed as market rate housing.
  - The assisted multi-family housing units shall be scattered throughout the development area. However, one building within a multiple building development may be 100% assisted.
  - Due to the uncertainty of the location and number of stations along the Silver Line (southeast), and unstable market conditions along the LYNX Blue Line Extension (northeast), both corridors shall be exempt from this policy.
  - The Housing Locational Policy shall be used as a guide for the location of new assisted multi-family developments at the currently identified stations.
  - The City shall evaluate and assess the effect of this policy within two years of the first project being developed and opened.
- The revised policy will become effective upon adoption by the City Council.

### **Attachment 2**

Citizen Advisory Group

Zoning Meeting Dinner Presentation on October 21, 2013

Revised Assisted Multi-Family Housing at Transit Station Areas Policy

## BUSINESS

### 13. Charlotte-Mecklenburg Housing Partnership Agreement

- Action:** A. Authorize the City Manager to enter into an agreement, in the amount of \$231,000, with the Charlotte-Mecklenburg Housing Partnership to continue administration of the HouseCharlotte Down Payment Assistance Program,
- B. Authorize the City Manager to approve a one-year renewal.

**Staff Resources:** Warren Wooten, Neighborhood & Business Services  
Pamela Wideman, Neighborhood & Business Services

#### Explanation

- The action would enter the City into an agreement with the Charlotte-Mecklenburg Housing Partnership, in the amount of \$231,000, to continue administration of the HouseCharlotte Down Payment Assistance Program for FY2014 with an option to renew for one additional year.
- The Housing Partnership began administering the HouseCharlotte Down Payment Assistance Program in FY2011 and serves an average of 300 homebuyers each year.
  - The HouseCharlotte Program provides up to \$10,000 in down payment assistance to families earning up to 110% (\$70,500) of the Area Median Income, which may be used to assist with closing costs, and interest rate buy down to low and moderate-income families.
- The Housing Partnership proposes to continue managing the program at the same annual costs shown in the chart below:

| Program Expenses  | Annual Cost      |
|---|------------------|
| Personnel (1 supervisor, 2 loan agents and 1 support staff) | \$190,000        |
| General office expenses                                     | \$13,500         |
| Other expenses  | \$27,500         |
| <b>Total</b>  | <b>\$231,000</b> |

- Since 1997, approximately 5,461 homeownership loans have been provided through the HouseCharlotte program; 28 police officers have purchased homes through the program, and over 50 lenders have provided more than \$488.0 million in financing.

#### Funding

HOME and Innovative Housing Funds

#### Attachment 3

HouseCharlotte Program Background Summary

## 14. City Attorney Compensation

**Action: Approve a 2013 compensation adjustment for the City Attorney.**

**Staff Resource:** Cheryl Brown, Human Resources

### Explanation

- On August 26, 2013, the Mayor and the City Council met to conduct the performance evaluation of the City Attorney and discuss a potential compensation adjustment.
- On October 7, 2013, the Mayor and the City Council held further discussion about a compensation adjustment for the City Attorney.
- The action will authorize a compensation adjustment for the City Attorney for 2013.

## 15. Conclusion of Consent Agenda

## 16. Nominations to Boards and Commissions

**Action: Nominate citizens to serve as specified. Incumbents may be reappointed at this meeting.**

### A. WASTE MANAGEMENT ADVISORY BOARD

- One recommendation by City Council for appointment by the Board of County Commissioners for an unexpired term beginning immediately and ending February 1, 2014 and then continuing for a full three-year term beginning February 2, 2014 and ending February 1, 2017.
  - Mark Joyce has resigned.

### Attachment 4

Applications

## 17. Appointments to Boards and Commissions

**Action: Vote on blue paper ballots and return to Clerk at dinner.**

### A. BICYCLE ADVISORY COMMITTEE

- One appointment for an unexpired term beginning immediately and ending December 31, 2013 and then continuing for a full three year term beginning January 1, 2014 and ending December 31, 2017.
  - Jess Cochran by Council members Barnes, Dulin, and Maddalon
  - Tyteen Humes by Council member Mayfield
  - Terry Lansdell by Council members Autry, Fallon, and Pickering
  - Thomas Raispis by Council member Mitchell

### Attachment 5

Applications

**B1. NEIGHBORHOOD MATCHING GRANTS FUND**

- One appointment for a business representative for an unexpired term beginning immediately and ending April 15, 2014.
  - Ezekiel Burns by Council members Autry and Mayfield
  - James Hildreth by Council members Dulin and Maddalon
  - Frank Kretschmer II by Council member Fallon
  - Michael Ranken by Council member Cooksey
  - Erika Troutman by Council member Barnes and Pickering
  - Will Russell by Council member Howard

**Attachment 6**

Applications

**B2. NEIGHBORHOOD MATCHING GRANTS FUND**

- One appointment for a non-profit organization representative for a three-year term beginning immediately and ending April 15, 2014.
  - Claire Lane by Council members Barnes, Howard, and Mitchell

**Attachment 6**

Applications

**C. TREE ADVISORY COMMISSION**

- Two appointments for three-year terms beginning December 14, 2013 and ending December 13, 2016
  - Vincent Haney by Council members Autry, Barnes, Cooksey, Fallon, Mayfield, and Pickering
  - Alex Vuchnich by Council member Cooksey

**Attachment 7**

Applications

**18. Mayor and Council Topics**

Council members may share information and raise topics for discussion

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# CONSENT

## Introduction to CONSENT

Consent consists of routine items that have been approved in the budget. Price lists for unit price contracts are available upon request.



In April 2013, the City Council voted to replace the City's Small Business Opportunity Program with the Charlotte Business INCLUSION program. On July 1, 2013, the City phased in the Charlotte Business INCLUSION program into all of its practices and procedures.

The Charlotte Business INCLUSION program seeks to promote diversity, inclusion, and local business opportunities in the City's contracting and procurement process for Minority, Women, and Small Business Enterprises (MWSBEs) headquartered in the Charlotte Combined Statistical Area. Participation of Minority, Women, or Small Business Enterprises (MBE, WBE, or SBE) is noted where applicable.

For a period of time during FY2014, projects appearing in the Council Agendas will incorporate Policy references for either the current Charlotte Business INCLUSION program or the Small Business Opportunity Program.

The applicable Charlotte Business INCLUSION program Policy or the Small Business Opportunity Program policy sections are referenced at the end of the Council Request for Council Action.

### Disadvantaged Business Enterprise

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

### Contractors and Consultants

All contractor and consultant selections follow the Council-approved process unless described otherwise. For the procurement of professional services and/or engineering, architectural, and surveying services, the North Carolina General Statutes 143-64.31 requires that units of government "select firms qualified to provide such services on the basis of demonstrated competence and qualification...without regard to fee other than unit price information, and therefore to negotiate a contract for those services at a fair and reasonable fee with the best qualified firm."

The property transaction process following the City Council approval for condemnation is referenced at the end of Consent.

## 19. Fire Station Mechanical Renovations and Addition

**Action:** Award the low-bid contract, in the amount of \$382,720, to W.C. Construction Company, LLC for the Fire Station #5 Mechanical Renovations and Addition project.

**Staff Resources:** William Haas, Engineering & Property Management  
Rich Granger, Fire

### Explanation

- Fire Station #5 was constructed in 1929 and is located at 224 Wesley Heights Way.
- The project will construct a 10' by 10' addition to the fire station which will allow for updated mechanical equipment to more efficiently and effectively heat and cool the fire station.
- The new heating and air conditioning system will greatly improve comfort, eliminating areas that either get too cool or not cool enough.
- Due to the intrusive nature of the construction required, the interior will be updated after the mechanical system installation is complete. New ceilings and lighting fixtures will be installed; drywall will be removed in places to expose the original brick walls.
- Construction is scheduled to be complete in third quarter 2014.

### Charlotte Business INclusion

Established SBE Goal: 14.00%

Committed SBE Goal: 24.85%

W.C. Construction Company, LLC exceeded the established SBE goal and committed 24.85% (\$95,098) of the total contract amount to the following SBE firms: Stevens Interiors, Inc. (drywall), Coed Electrical Services, Inc. (electrical) and Gastonia Iron Works (steel).

### Funding

General Capital Investment Plan

## 20. 25<sup>th</sup> Street Extension

**Action:** Approve a contract with Kimley-Horn and Associates, Inc., in the total amount up to \$478,060, for engineering services associated with the 25<sup>th</sup> Street Extension project.

**Staff Resource:** Jim Keenan, Engineering & Property Management

### Explanation

- The 25th Street Extension project is one of the northeast corridor infrastructure improvement projects planned to provide connectivity to the future LYNX Blue Line Extension project.
- The project will extend 25th Street from North Davidson Street to North Brevard Street.
- Plans for the project include:
  - A new street connection,
  - Street lighting,
  - Sidewalk, curb and gutter,

- Street tree plantings,
- Bike lanes,
- On-street parking, and
- Pedestrian lighting.
- In addition, a bridge or culvert will be required over Little Sugar Creek, which will involve extensive utility coordination and relocation efforts.
- Funding for this project was approved in the 2008 and 2010 bond referendum.
- Kimley-Horn and Associates, Inc. was selected using the City Council approved qualifications-based selection process.

### **Charlotte Business INclusion**

For service based contracts, the City negotiates SBE goals during the contract negotiation process (Part C: Section 2.2 of the SBO Policy). On this contract, Kimley-Horn and Associates, Inc. committed 18.99% (\$90,789) of the total contract amount to the following SBE firms: Hinde Engineering, Inc. (utility management services) and Boyle Consulting Engineers, PLLC (geotechnical).

### **Funding**

General Capital Investment Plan

## **21. No Grease Barbershop Lease Renewal**

**Action:**   **A. Adopt a resolution approving a five-year lease agreement renewal with No Grease Barbershop for space at Time Warner Cable Arena, and**

**B. Authorize the City Manager to execute related documents.**

**Staff Resources:**   Robert Drayton, Engineering & Property Management  
Catherine Cooper, City Attorney's Office

### **Explanation**

No Grease Barbershop has leased Suite D at 333. E. Trade Street since 2008 and they would like to renew the lease for an additional 5-year term.

### **Time Warner Cable Arena Lease**

- Extend the current lease for 333 E. Trade Street, Suite D, Time Warner Cable Arena to begin January 1, 2014, and end December 31, 2018.
- The rate will be the market rate of \$17 per square foot from January 1, 2014, through June 30, 2016 (\$33,558 per year) and \$17.50 per square foot (\$34,545 per year) from July 1, 2016, through December 31, 2018.
- No Grease Barbershop is responsible for utility expenses.

### **Attachment 8**

Resolution

## 22. Airport Terminal Security Exit Lanes

**Action:**   **A. Approve a nine-month, unit price contract with G4S Secure Solutions for providing exit lane security services, and**

**B. Adopt a budget ordinance appropriating \$410,000 from the Airport Discretionary Fund to the Aviation Operating Fund.**

**Staff Resource:**     Herbert Judon, Aviation

### Explanation

- The Transportation Security Administration provides personnel to monitor all of the exit lanes at the Airport.
  - The exit lanes are the areas in the terminal adjacent to the security checkpoints where passengers and employees pass through as they are leaving the secure area.
  - At the Charlotte Airport, arriving passengers must egress via the exit lanes in order to move to the baggage claim area.
- On October 3, 2013, the Transportation Security Administration informed the Aviation Department of its mandate to shift exit lane responsibilities to the Airport effective January 1, 2014.
- The short timeframe does not adequately allow time for the Aviation Department to explore various permanent solutions including technological solutions.
- As an interim solution, the Aviation Department proposes to enter into a nine-month agreement using the City's existing contract with G4S Secure Solutions, which will allow the department to assess solutions and complete a full solicitation process.
- G4S Secure Solutions is well-suited to provide this service with short notice, and has prior working experience at the Airport, which includes an understanding of related security functions and general airport protocols, as well as established working relationships with Airport staff.
- G4S Secure Solutions guards will provide security at the airport's four exit lanes for approximately 20 hours per day, 365 days per year.
- The estimated cost of the nine-month contract is \$410,000.
- A detail write-up was provided in the Council-Manager Memo on November 1, 2013.

### Charlotte Business INclusion

This is a no competitive process contract and is exempt (Part A: Appendix 27 of the Charlotte Business INclusion policy).

### Funding

Aviation Operating Budget

### Attachment 9

Budget Ordinance

## 23. Airport Administrative Facility Improvements

- Action:**
- A. Award a low-bid contract, in the amount of \$1,328,170, to Simon and Watson Construction for renovations to the CLT Center, and
  - B. Approve a budget ordinance appropriating \$1,328,170 from the Airport Discretionary Fund to the Airport Capital Investment Plan.

**Staff Resources:** Jack Christine, Aviation  
Brad Richardson, Neighborhood & Business Services

### Explanation

- Over the last several years, Airport staff has consolidated office space for various divisions to the CLT Center located at 5601 Wilkinson Blvd.
- The project completes facility work necessary for the consolidation of all remaining major divisions except those which must be located in the Terminal to operate, and allows the Aviation Department to repurpose Terminal office space for other Airport operations.
- On September 17, 2013, Invitations to Bid were advertised; 10 bids were received on October 8, 2013.

### Charlotte Business Inclusion

Established SBO Goal: 9.00%

Committed SBO Goal: 2.18%

Simon and Watson Construction failed to meet the SBE goal, but earned the required number of Good Faith Effort points (Part B: Section 2.1 of the SBO Policy). They committed 2.18% (\$29,000) of the total contract amount to the following SBE firms: Mr. Clean Maintenance (cleaning) and J. M. Painting (painting). A further detailed analysis of the good faith & SBE utilization efforts undertaken by Simon and Watson on this contract is attached.

In addition, subsequent to bid opening, Simon and Watson committed an additional 29.60% (\$393,085) to the following SBE firms: COED Electrical Services (electrical and fire alarms) and Mekki Modular Systems (carpeting).

### Funding

Aviation Capital Investment Plan

### Attachment 10

Good Faith Efforts Summary

Budget Ordinance

## 24. LYNX Blue Line Extension - Light Rail Vehicle Parts

**Action:** Approve contract amendment #2, in the amount of \$3.2 million, with Siemens Industries to exercise the City's option to purchase Light Rail Vehicle Inventory Parts.

**Staff Resources:** Carolyn Flowers, Transit  
Allen Smith, Transit

### Explanation

- On September 24, 2012, the City Council approved the purchase of 22 additional light rail vehicles from Siemens in an amount up to \$87.0 million.
  - The contract with Siemens provides the City an option to purchase parts.
  - As part of the September 24, 2012, agenda action item, Transit staff stated the intent to come back to the City Council for funding approval to order spare parts at the time of occurrence for the parts orders.
- On July 22, 2013, the City Council approved an initial spare parts order, contract amendment #1, for up to \$2.4 million comprising of the long-lead time items.
- The second additional spare parts order for \$3.2 million is comprised of items currently being ordered by the manufacturer from their suppliers as the vehicles are moving to production to obtain the most favorable pricing.
- Amendment #2 increases the total City Council approved amount for spare parts to \$5.6 million and the total contract amount with Siemens to \$92.6 million.

### Disadvantaged Business Enterprise/Federal Transit Administration Opportunity

Siemens Transportation Systems has certified their compliance with the Federal Transit Administration's Regulation 49CFR Part 26.49.

### Funding

Transit Capital Investment Plan

## 25. LYNX South Boulevard Light Rail Facility Expansion

**Action:** Award a low-bid contract, in the amount up to \$4,665,430, to Edison Foard for construction of an approximately 20,000 square foot addition to the existing LYNX South Boulevard Light Rail Facility building.

**Staff Resources:** Carolyn Flowers, Transit  
David Feltman, Transit

### Explanation

- The additional square footage to the South Boulevard Light Rail Facility Building will house the rail maintenance function and personnel, and complete implementation of the original building program for the South Boulevard Light Rail Facility at 3200 S. Boulevard.
- The project provides:
  - Accommodations for the Rail Systems Section of Rail Operations,
  - A two-story addition to the existing three-story building,
  - Six vehicle loading and parking bays,
  - A new parts storage room,

- A work team “ready room”, and
- Office space, restrooms, and flexible space.
- The low-bid submitted by Edison Foard exceeded the funds identified for the project. Pursuant to State law, staff reduced the scope of the project to bring the cost within budget, while maintaining the quality and essential function of the project.

#### **Disadvantaged Business Enterprise (DBE)**

Established DBE Goal: 8.6%

Committed DBE Goal: 17.6%

Edison Foard committed to use the following DBE firms: COED Electrical (electrical) and Oliver Paving (paving).

#### **Funding**

Transit Capital Investment Plan

## **26. Refund of Property Taxes**

**Action:** Adopt a resolution authorizing the refund of property taxes assessed through clerical or assessor error in the amount of \$46,097.18.

**Staff Resource:** Scott Greer, Finance

#### **Explanation**

- Property tax refunds are provided to the City by Mecklenburg County due to clerical or assessor error or as a result of appeals.
- Mecklenburg County reported that refunds are unusually high due to the number of informal and formal appeals that went before the Board of Equalization and Review resulting in reduced taxes due.

#### **Attachment 11**

List of refunds

Resolution

## 27. Sale of City-owned Property

**Action:** A. Adopt a resolution approving the sale of 2500 Jefferson Davis Street (Tax I.D. #079-064-08), and

B. Authorize the City Manager to execute the sale documents for these transactions.

**Staff Resources:** Pamela Wideman, Neighborhood & Business Services  
Robert Drayton, Engineering & Property Management

### Explanation

- 2500 Jefferson Davis Street, located in the Druid Hills Neighborhood is a single-family residence acquired by the City through foreclosure after default on a City-issued loan to the homeowners.
- The property was offered to non-profit development partners to be reused as affordable housing, but none were interested.
- The Charlotte-Mecklenburg Planning Committee approved mandatory referral in favor of the sale on the open market for residential use.
- 2500 Jefferson Davis Street was offered for sale at the appraised value; an initial offer was received and advertised for upset bid.
- The sales price is \$32,000.
- The proceeds of sale will be returned to the Community Development Block Grant Fund as required by federal program regulations.

### Attachment 12

Photo of Property  
Resolution

## 28. Exchange of Land along Dwight Evans Road

**Action:** A. Adopt a resolution authorizing an exchange of land between the City of Charlotte and The Charlotte Observer Publishing Company or their successors and assigns (Developer) involving Tax I. D. numbers 14530209 and 14530204, and

B. Authorize the City Manager to execute the documents needed to complete the exchange of land.

**Staff Resource:** Timothy J. O'Brien, Engineering & Property Management

### Explanation

- In 2008, the City of Charlotte purchased a 60-foot wide parcel of land on Dwight Evans Road in west Charlotte (Tax I.D. #14530209) from The Charlotte Observer Publishing Company in order for the Charlotte-Mecklenburg Utility Department to gain access to the back side of the Irwin Creek Wastewater Treatment Plant property. So far, the road has not been constructed but remains as an alternative access point whenever the plant is expanded.
- The properties on either side of the City property (ALSCO and The Charlotte Observer Publishing Company) have a mutual business interest in having the road relocated approximately 200 feet to the east onto the Observer's property (Tax I.D. #14530204). Following the road relocation, The Charlotte Observer

- Publishing Company plans to sell its land west of the relocated right-of-way to ALSCO for expansion.
- Relocation of the road to the east does not have a negative impact to the Charlotte-Mecklenburg Utility Department plant operations and could aid the two companies in their future growth plans.
  - Both parcels contain approximately 21,900 square feet, which will be 200 feet apart. Therefore, this transaction would be an even exchange.
  - The Planning Committee of the Charlotte-Mecklenburg Planning Commission is in favor of this transaction.

**Attachment 13**  
Resolution

**29. Meeting Minutes**

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|---|
| <p><b>Action:</b> Approve the titles, motions, and votes reflected in the Clerk’s record as the minutes of:</p> <ul style="list-style-type: none"> <li>- September 23, 2013      <b>Business Meeting</b></li> <li>- October 7, 2013        <b>Council Workshop</b></li> </ul> |
|---|

## PROPERTY TRANSACTIONS

### 30. Property Transactions

**Action: Approve the following property transaction(s) (A-E) and adopt the condemnation resolution(s) (F-N).**

For property transaction I and J 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.

- The City has negotiated in good faith to acquire the properties set forth below.
- For acquisitions, the property owner and staff have agreed on a price based on appraisals and/or estimates.
- In the case of condemnations, the value was established by an independent, certified appraisal followed by a third-party appraisal review.
- Real Estate staff diligently attempts to contact all property owners by:
  - Sending introductory letters via regular and certified mail
  - Making several site visits
  - Leaving door hangers and business cards
  - Seeking information from neighbors
  - Searching the internet
  - Obtaining title abstracts
  - Leaving voice messages
- For most condemnation cases, City staff and the property owner(s) have been unable to reach a settlement. In some cases, condemnation is necessary to ensure a clear title to the property.
- If City Council approves the resolutions, the City Attorney's Office will initiate condemnation proceedings. As part of the condemnation process, real estate staff and the City Attorney's Office will continue to negotiate, including court-mandated mediation, in an attempt to resolve the matter. Most condemnation cases are settled by the parties prior to going to court.
- If a settlement cannot be reached, the case will proceed to trial before a judge or jury to determine "just compensation."
- Full text of each resolution is on file with the City Clerk's Office.
- The definition of *easement* is a right created by grant, reservation, agreement, prescription, or necessary implication, which one has in the land of another, it is either for the benefit of land, such as right to cross A to get to B, or "in gross", such as public utility easement.
- The definition of *fee simple* is an estate under which the owner is entitled to unrestricted powers to dispose of the property, and which can be left by will or inherited, commonly, synonym for ownership.

## Acquisitions

- A. Project:** Fire Station #20, Parcel #1  
**Owner(s):** Trustees of Central Piedmont Community College  
**Property Address:** Nations Ford Road  
**Total Parcel Area:** 10,000 sq. ft. (or .23 acre)  
**Property to be acquired:** 20.52 acres (or 893,851 sq. ft.)  
**Structures/Improvements to be impacted:** None  
**Landscaping to be impacted:** None  
**Zoned:** INST  
**Use:** INST  
**Tax Code:** 203-189-02  
**Total Parcel Tax Value:** \$1,877,100  
**Purchase Price:** \$10,625
- B. Project:** Beatties Ford Road Widening Phase 4, Parcel #52  
**Owner(s):** Michael R. Bradley and wife, Ouieda C. Bradley  
**Property Address:** 5006 Beatties Ford Road  
**Total Parcel Area:** 108,310 sq. ft. (2.487 ac.)  
**Property to be acquired:** 4,966 sq. ft. (.114 ac.) in Fee Simple, plus 703 sq. ft. (.016 ac.) in Storm Drainage Easement, plus 3,599 sq. ft. (.083 ac.) in Temporary Construction Easement, plus 187 sq. ft. (.004 ac.) in Utility Easement  
**Structures/Improvements to be impacted:** None  
**Landscaping to be impacted:** None  
**Zoned:** B-2  
**Use:** Commercial  
**Tax Code:** 041-221-04  
**Total Parcel Tax Value:** \$1,224,400  
**Purchase Price:** \$103,000
- C. Project:** Briar Creek Relief Sewer Phase III, Parcel #1  
**Owner(s):** Dawn Richmond  
**Property Address:** 5625 Craftsbury Drive  
**Total Parcel Area:** 19,790 sq. ft. (.454 ac.)  
**Property to be acquired:** 19,790 sq. ft. (.454 ac.) in Fee Simple  
**(TOTAL TAKE)**  
**Structures/Improvements to be impacted:** None  
**Landscaping to be impacted:** None  
**Zoned:** R-4  
**Use:** Single Family Residential  
**Tax Code:** 097-075-01  
**Total Parcel Tax Value:** \$99,500  
**Purchase Price:** \$105,000
- D. Project:** Gaynor Storm Drainage Improvement Project, Parcel #51  
**Owner(s):** William M. Archer, III and wife, Ellen Hatley Archer  
**Property Address:** 425 Hunter Lane  
**Total Parcel Area:** 90,446 sq. ft. (2.076 ac.)  
**Property to be acquired:** 1,756 sq. ft. (.04 ac.) in Storm Drainage Easement, plus 965 sq. ft. (.022 ac.) in Temporary Construction Easement  
**Structures/Improvements to be impacted:** None  
**Landscaping to be impacted:** Trees and shrubs

**Zoned:** R-3  
**Use:** Single Family Residential  
**Tax Code:** 185-071-29  
**Total Parcel Tax Value:** \$413,500  
**Purchase Price:** \$12,000

- E. Project:** Peterson Drive Storm Drainage Improvement, Parcel #24  
**Owner(s):** Amy Diane Presson, Trustee, et al  
**Property Address:** 3707 South Tryon Street  
**Total Parcel Area:** 19,434 sq. ft. (0.446 ac.)  
**Property to be acquired:** 3,361 sq. ft. (.077 ac.) in Storm Drainage Easement, plus 2,302 sq. ft. (.053 ac.) in Temporary Construction Easement  
**Structures/Improvements to be impacted:** Asphalt  
**Landscaping to be impacted:** None  
**Zoned:** B-1  
**Use:** Commercial  
**Tax Code:** 149-012-13  
**Total Parcel Tax Value:** \$332,400  
**Purchase Price:** \$36,475

## Condemnations

- F. Project:** Beatties Ford Road Widening Phase 3, Parcel #6 and #8  
**Owner(s):** Patricia E. King and any other parties of interest  
**Property Address:** 3938 and 4000 Beatties Ford Road and 1860 Slater Road  
**Total Parcel Area:** 4.229 acres  
**Property to be acquired:** 2,038 sq. ft. (.047 ac.) in Sidewalk and Utility Easement, plus 3,635 sq. ft. (.083 ac.) in Temporary Construction Easement, plus 501 sq. ft. (.012 ac.) in Utility Easement  
**Structures/Improvements to be impacted:** Brick landscaping wall  
**Landscaping to be impacted:** Trees, shrubs, and various plantings  
**Zoned:** O-2  
**Use:** Office  
**Tax Code:** 041-081-09 and 041-081-04  
**Total Parcel Tax Value:** \$891,000  
**Appraised Value:** \$19,025  
**Property Owner's Counteroffer:** \$75,000  
**Property Owner's Concerns:** The property owner is concerned that her septic tank and/or drain field will be damaged during construction and that customer parking will be reduced in the front of the funeral home during and after construction. Property owner is concerned about ingress/ egress to and from Beatties Ford Road due to a median being constructed.  
**City's Response to Property Owner's Concerns:** Staff began working with the property owner in the summer of 2012. The property owner's concerns with parking were considered during redesign. Staff redesigned minimizing impacts of construction on the septic system and allowing median cuts for ingress/egress during funeral processions. Staff developed special provisions to limit construction equipment storage upon this property during the project construction time period.

**Outstanding Concerns:** Staff has yet to reach a settlement with the property owner due to concerns about the project design and compensation.

**Recommendation:** To avoid delay in the project schedule, staff recommends proceeding to condemnation during which negotiation can continue, mediation is available and if necessary, just compensation can be determined by the court.

- G. Project:** Beatties Ford Road Widening Phase 4, Parcel #50  
**Owner(s):** Rameses Temple #51 Incorporated and any other parties of interest  
**Property Address:** 4919 Beatties Ford Road  
**Total Parcel Area:** 145,864 sq. ft. (3.349 ac.)  
**Property to be acquired:** 5,274 sq. ft. (.121 ac.) in Fee Simple, plus 6,727 sq. ft. (.154 ac.) in Temporary Construction Easement, plus 43 sq. ft. (.001 ac.) in Utility Easement  
**Structures/Improvements to be impacted:** Bollards  
**Landscaping to be impacted:** Trees  
**Zoned:** R-9MF  
**Use:** Multi Family  
**Tax Code:** 039-291-22  
**Total Parcel Tax Value:** \$897,700  
**Appraised Value:** \$12,650  
**Property Owner's Counteroffer:** None  
**Property Owner's Concerns:** None  
**City's Response to Property Owner's Concerns:** None  
**Outstanding Concerns:** Staff was unable to reach settlement with property owners solely due to the inability to convey clear title.  
**Recommendation:** To avoid delay in the project schedule, staff recommends proceeding to condemnation in order to obtain clear title.
- H. Project:** Beatties Ford Road Widening Phase 4, Parcel #51  
**Owner(s):** Beatties Ford Retail, LLC and any other parties of interest  
**Property Address:** 5009 Beatties Ford Road  
**Total Parcel Area:** 78,168 sq. ft. (1.795 ac.)  
**Property to be acquired:** 10,773 sq. ft. (.247 ac.) in Fee Simple, plus 79 sq. ft. (.002 ac.) in Storm Drainage Easement, plus 1,207 sq. ft. (.028 ac.) in Slope Easement, plus 10,776 sq. ft. (.247 ac.) in Temporary Construction Easement, plus 84 sq. ft. (.002 ac.) in Utility Easement  
**Structures/Improvements to be impacted:** None  
**Landscaping to be impacted:** Trees and shrubs  
**Zoned:** B-1(CD)  
**Use:** Commercial  
**Tax Code:** 039-291-25  
**Total Parcel Tax Value:** \$1,606,000  
**Appraised Value:** \$174,500  
**Property Owner's Counteroffer:** \$350,000  
**Property Owner's Concerns:** The property owners were concerned about potential damage to irrigation and septic systems, loss of parking, creating steep slopes and sign relocation.  
**City's Response to Property Owner's Concerns:** Staff addressed all of the property owners concerns by redesigning the project. After

redesign the compensation decreased as a result of a reduction in areas needed for the project.

**Outstanding Concerns:** Staff was unable to reach a settlement with the property owners due to concerns about compensation.

**Recommendation:** To avoid delay in the project schedule, staff recommends proceeding to condemnation during which negotiation can continue, mediation is available and if necessary, just compensation can be determined by the court.

- I. **Project:** Blue Line Extension, Parcel #3213  
**Owner(s):** CS Shoppes at University Place, LLC and any other parties of interest  
**Property Address:** 9000 J. M. Keynes Drive  
**Total Property Area:** 177,051 sq. ft. (4.065 ac.)  
**Property to be acquired in Fee:** 24,156 sq. ft. (.555 ac.) in Fee Simple  
**Property to be acquired by Easements:** 222 sq. ft. (.005 ac.) in Access Easement, plus 1,311 sq. ft. (.03 ac.) in Access Easement and Utility Easement, plus 240 sq. ft. (.006 ac.) in Waterline Easement, plus 3,614 sq. ft. (.083 ac.) in Temporary Construction Easement, plus 3,074 sq. ft. (.071 ac.) in Utility Easement  
**Structures/Improvements to be impacted:** Bollards and light pole  
**Landscaping to be impacted:** Trees and shrubs  
**Zoned:** B-1S (CD)  
**Use:** Commercial  
**Tax Code:** 047-272-03  
**Total Parcel Tax Value:** \$2,540,400  
**Appraised Value:** \$381,875  
**Property Owner's Counteroffer:** None  
**Property Owner's Concerns:** The property owner was concerned about the loss of the monument sign during construction and how the delivery trucks will access the property.  
**City's Response to Property Owner(s) Concerns:** Staff began working with the property owner in August 2012 and has yet to reach an agreement. Staff informed the property owner that temporary moveable signage will be available during construction and explained that access to the site for their delivery trucks will be maintained.  
**Recommendations:** Previously deferred from the 09/23/13 Council meeting. To avoid delay in the project schedule, staff recommends proceeding to condemnation during which negotiation can continue, mediation is available and if necessary, just compensation can be determined by the court.
- J. **Project:** Blue Line Extension, Parcel #3215 and #3217  
**Owner(s):** CS Shoppes at University Place, LLC and any other parties of interest  
**Property Address:** 9014 J.M. Keynes Drive  
**Total Property Area:** 117,747 sq. ft. (2.703 ac.)  
**Property to be acquired in Fee:** 1,694 sq. ft. (.039 ac.) in Fee Simple  
**Property to be acquired by Easements:** 2,967 sq. ft. (.068 ac.) in Temporary Construction Easement  
**Structures/Improvements to be impacted:** None  
**Landscaping to be impacted:** Trees, shrubs and various plantings

**Zoned:** B-1S(CD)

**Use:** Commercial

**Tax Code:** 047-272-05 and 047-272-06

**Total Parcel Tax Value:** \$1,159,300

**Appraised Value:** \$44,500

**Property Owner's Counteroffer:** None

**Property Owner's Concerns:** The property owner was concerned about the loss of the monument sign during construction and how the delivery trucks will access the property.

**City's Response to Property Owner(s) Concerns:** Staff began working with the property owner in August 2012 and has yet to reach an agreement. Staff informed the property owner that temporary moveable signage will be available during construction and explained that access to the site for their delivery trucks will be maintained.

**Recommendations:** Previously deferred from the 09/23/13 Council meeting. To avoid delay in the project schedule, staff recommends proceeding to condemnation during which negotiation can continue, mediation is available and if necessary, just compensation can be determined by the court.

- K. Project:** Johnston Oehler Farm-to-Market Road Improvements, Parcel #3
- Owner(s):** Stanley W. Smith, Trustee of The Linda P. Smith Living Trust and any other parties of interest
- Property Address:** 4501 Johnson-Oehler Road
- Total Parcel Area:** 352,603 sq. ft. (8.095 ac.)
- Property to be acquired:** 7,824 sq. ft. (.18 ac.) in Fee Simple, plus 11,673 sq. ft. (.268 ac.) in Fee Simple within Existing Right-of-Way, plus 7,427 sq. ft. (.171 ac.) in Temporary Construction Easement, plus 298 sq. ft. (.007 ac.) in Utility Easement
- Structures/Improvements to be impacted:** None
- Landscaping to be impacted:** None
- Zoned:** MX-1
- Use:** Woodland
- Tax Code:** 029-321-06
- Total Parcel Tax Value:** \$282,830
- Appraised Value:** \$20,975
- Property Owner's Counteroffer:** \$60,000
- Property Owner's Concerns:** The property owner is concerned about compensation.
- City's Response to Property Owner's Concerns:** Staff addressed property owner concern by obtaining a certified appraisal and appraisal review to establish just compensation.
- Outstanding Concerns:** Staff has yet to reach an agreement due to concerns about compensation.
- Recommendation:** To avoid delay in the project schedule, staff recommends proceeding to condemnation during which negotiation can continue, mediation is available and if necessary, just compensation can be determined by the court.
- L. Project:** Myrtle/Morehead Storm Drainage Improvement, Parcel #1
- Owner(s):** Morehead Properties, Inc. and any other parties of interest
- Property Address:** 928 Baxter Street
- Total Parcel Area:** 89,853 sq. ft. (2.06 ac.)

**Property to be acquired:** 710 sq. ft. (.016 ac.) in Storm Drainage Easement, plus 1,544 sq. ft. (.035 ac.) in Temporary Construction Easement, plus 9,803 sq. ft. (.225 ac.) in Existing Drainage Easement To Be Accepted

**Structures/Improvements to be impacted:** None

**Landscaping to be impacted:** None

**Zoned:** B-2

**Use:** Commercial

**Tax Code:** 125-201-58

**Total Parcel Tax Value:** \$3,984,300

**Appraised Value:** \$14,325

**Property Owner's Counteroffer:** \$52,843

**Property Owner's Concerns:** Property owner is concerned with the temporary loss of parking spaces, inconvenience to customers during construction and compensation.

**City's Response to Property Owner's Concerns:** Staff addressed property owner concerns by phasing construction to limit temporary loss of parking spaces.

**Outstanding Concerns:** Property owners remain concerned with the project design and compensation.

**Recommendation:** To avoid delay in the project schedule, staff recommends proceeding to condemnation during which negotiation can continue, mediation is available and if necessary, just compensation can be determined by the court.

- M. Project:** Myrtle/Morehead Storm Drainage Improvement, Parcel #2  
**Owner(s):** Baxter Street Associates, LLC. and any other parties of interest  
**Property Address:** 900 Baxter Street  
**Total Parcel Area:** 72,287 sq. ft. (1.66 ac.)  
**Property to be acquired:** 4,846 sq. ft. (.111 ac.) in Storm Drainage Easement, plus 7,590 sq. ft. (.174 ac.) in Temporary Construction Easement, plus 9,608 sq. ft. (.221 ac.) in Existing Drainage Easement To Be Accepted  
**Structures/Improvements to be impacted:** None  
**Landscaping to be impacted:** None  
**Zoned:** B-2  
**Use:** Commercial  
**Tax Code:** 125-201-50  
**Total Parcel Tax Value:** \$2,990,400  
**Appraised Value:** \$204,450  
**Property Owner's Counteroffer:** \$357,867  
**Property Owner's Concerns:** Property owner is concerned about the temporary loss of parking spaces, inconvenience to customers during construction and compensation.  
**City's Response to Property Owner's Concerns:** Staff addressed property owner concerns by phasing construction to limit temporary loss of parking spaces.  
**Outstanding Concerns:** Property owners remained concerned with the project design and compensation.  
**Recommendation:** To avoid delay in the project schedule, staff recommends proceeding to condemnation during which negotiation can continue, mediation is available and if necessary, just compensation can be determined by the court.

- N.**     **Project:** Myrtle/Morehead Storm Drainage Improvement, Parcel #3  
**Owner(s):** MPI-Addison, Inc. and any other parties of interest  
**Property Address:** 831 E. Morehead Street  
**Total Parcel Area:** 59,920 sq. ft. (1.38 ac.)  
**Property to be acquired:** 175 sq. ft. (.004 ac.) in Storm Drainage Easement  
**Structures/Improvements to be impacted:** None  
**Landscaping to be impacted:** None  
**Zoned:** UMUD  
**Use:** Office  
**Tax Code:** 125-173-22  
**Total Parcel Tax Value:** \$9,499,700  
**Appraised Value:** \$1,175  
**Property Owner's Counteroffer:** None  
**Property Owner's Concerns:** Property owner is concerned about ingress/egress to the property during construction and with compensation.  
**City's Response to Property Owner's Concerns:** Staff addressed property owner concerns by amending the traffic control plan.  
**Outstanding Concerns:** Property owner remains concerned with the project design and compensation.  
**Recommendation:** To avoid delay in the project schedule, staff recommends proceeding to condemnation during which negotiation can continue, mediation is available and if necessary, just compensation can be determined by the court.

## Reference



The following excerpts from the City's SBO Policy are intended to provide further explanation for those agenda items which reference the SBO Policy in the business meeting agenda.

### **Part A: Administration & Enforcement**

**Appendix Section 18: Contract:** For the purposes of establishing an SBE subcontracting goal on a Contract, the following are examples of contract types:

- Any agreement through which the City procures services from a Business Enterprise, other than Exempt Contracts.
- Contracts include agreements and purchase orders for (a) construction, re-construction, alteration and remodeling; (b) architectural work, engineering, testing, construction management and other professional services related to construction; and (c) services of any nature (including but not limited to general consulting and technology-related services).
- Contracts do not include agreements or purchase orders for the purchase or lease of apparatus, supplies, goods or equipment.
- The term "Contract" shall also include Exempt Contracts for which an SBE Goal has been set.
- Financial Partner Agreements, Development Agreements, and Construction Manager-at-Risk Agreements shall also be deemed "Contracts," but shall be subject to the provisions referenced in the respective Parts of the SBO Program Policy.

**Appendix Section 23: Exempt Contracts:** Contracts that fall within one or more of the following categories shall be "Exempt Contracts" for the purposes of establishing an SBE subcontracting goal, unless the Department responsible for procuring the Contract decides otherwise:

**23.1. Informal Contracts.** Informal Contracts shall be Exempt Contracts. (See Appendix Section 29 for a definition of Informal Contracts)

**23.2. No Competitive Process Contracts:** Contracts or purchase orders that are entered into without a competitive process, or entered into based on a competitive process administered by an entity other than the City shall be Exempt Contracts, including but not limited to contracts that are entered into by sole sourcing, piggybacking, buying off the North Carolina State contract, buying from a competitive bidding group purchasing program as allowed under G.S. 143-129(e)(3), or using the emergency procurement procedures established by the North Carolina General Statutes.

**23.3. Managed Competition Contracts:** Managed competition contracts pursuant to which a City Department or division competes with Business Enterprises to perform a City function shall be Exempt Contracts.

**23.4. Real Estate Leasing and Acquisition Contracts:** Contracts for the acquisition or lease of real estate shall be Exempt Contracts.

**23.5. Federal Contracts Subject to DBE Requirements:** Contracts that are subject to the U.S. Department of Transportation Disadvantaged Business Enterprise

Program as set forth in 49 CFR Part 26 or any successor legislation shall be Exempt Contracts.

**23.6. State Contracts Subject to MWBE Requirements:** Contracts for which a minority and women business participation goal is set pursuant to G.S. 143-128.2(a) due to a building project receiving funding from the State of North Carolina shall be Exempt Contracts.

**23.7. Financial Partner Agreements with DBE or MWBE Requirements:** Contracts that are subject to a disadvantaged business development program or minority and women business development program maintained by a Financial Partner shall be Exempt Contracts.

**23.8. Interlocal Agreements:** Contracts with other units of federal, state or local government shall be Exempt Contracts.

**23.9. Contracts for Legal Services:** Contracts for legal services shall be Exempt Contracts, unless otherwise indicated by the City Attorney.

**23.10. Contracts with Waivers:** Contracts for which the SBO Program Manager or the City Manager waives the SBO Program requirements shall be Exempt Contracts (such as when there are no SBE subcontracting opportunities on a Contract).

**23.11. Special Exemptions:** Contracts where the Department and the Program Manager agree that the Department had no discretion to hire an SBE (e.g., emergency contracts or contracts for banking or insurance services) shall be Exempt Contracts.

**Appendix Section 29: Informal Contracts:** Contracts and purchase orders through which the City procures services from a Business Enterprise that fall within one of the following two categories:

**29.1. Construction Contracts Less Than or Equal To \$200,000:** Contracts for construction or repair work that are estimated to require a total expenditure of City funds less than or equal to \$200,000.

**29.2. Service Contracts That Are Less Than or Equal To \$100,000:** Service Contracts that are estimated to require a total expenditure of City funds less than or equal to \$100,000.

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## **Part B: Formal Construction Bidding**

**Part B: Section 2.1:** When the City Solicitation Documents for a Construction Contract contain an SBE Goal, each Bidder must either: (a) meet the SBE Goal, or (b) comply with the Good Faith Negotiation and Good Faith Efforts requirements. Failure to do so constitutes grounds for rejection of the Bid. The City Solicitation Documents will contain certain forms that Bidders must complete to document having met these requirements.

**Part B: Section 2.4: No SBE Goal When There Are No SBE Subcontracting Opportunities.** The City shall not establish an SBE Goal for Construction Contracts where there are no SBEs certified to perform the scopes of work that the City regards as realistic opportunities for subcontracting.

## **Part C: Services Procurement**

**Part C: Section 2.2:** When the City Solicitation Documents for a Service Contract do not contain an SBE Goal, each Proposer must negotiate in good faith with each SBE that responds to the Proposer's solicitations and each SBE that contacts the Proposer on its own accord. Additionally, the City may negotiate a Committed SBE Goal with the successful Proposer after the Proposal Opening.

**Part C: Section 2.4: No SBE Goal When There Are No SBE Subcontracting Opportunities.** The City shall not establish an SBE Goal for Service Contracts where there are no SBEs certified to perform the scopes of work that the City regards as realistic opportunities for subcontracting.

## **Part D: Post Contract Award Requirements**

### **Part D: Section 6: New Subcontractor Opportunities/Additions to Scope, Contract Amendments**

If a Contractor elects to subcontract any portion of a Contract that the Contractor did not previously identify to the City as a subcontracting opportunity, or if the scope of work on a Contract increases for any reason in a manner that creates a new SBE subcontracting opportunity, the City shall either:

- notify the Contractor that there will be no Supplemental SBE Goal for the new work; or
- establish and notify the Contractor of a Supplemental SBE Goal for the new work.

## Reference

### Property Transaction Process Following Council Approval for Condemnation

The following overview is intended to provide further explanation for the process of property transactions that are approved by City Council for condemnation.

Approximately six weeks of preparatory work is required before the condemnation lawsuit is filed. During this time, City staff continues to negotiate with the property owner in an effort to reach a mutual settlement.

- If a settlement is reached, the condemnation process is stopped and the property transaction proceeds to a real estate closing.
- If a settlement cannot be reached, the condemnation lawsuit is filed. Even after filing, negotiations continue between the property owner and the City's legal representative. Filing of the condemnation documents allows:
  - The City to gain access and title to the subject property so the capital project can proceed on schedule.
  - The City to deposit the appraised value of the property in an escrow account with the Clerk of Court. These funds may be withdrawn by the property owner immediately upon filing, and at any time thereafter, with the understanding that additional funds transfer may be required at the time of final settlement or at the conclusion of litigation.
- If a condemnation lawsuit is filed, the final trial may not occur for 18 to 24 months; however, a vast majority of the cases settle prior to final trial. The City's condemnation attorney remains actively engaged with the property owner to continue negotiations throughout litigation.
  - North Carolina law requires that all condemnation cases go through formal non-binding mediation, at which an independent certified mediator attempts to facilitate a successful settlement. For the minority of cases that do not settle, the property owner has the right to a trial by judge or jury in order to determine the amount of compensation the property owner will receive.