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Andy Dulin  
Anthony Foxx

**Mayor Pro Tem Susan Burgess**

Patsy Kinsey  
John W. Lassiter  
James Mitchell, Jr.  
Edwin B. Peacock III  
Warren F. Turner

## **CITY COUNCIL WORKSHOP**

**Tuesday, September 8, 2009**

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**Room 267**

- |                  |                                                                                                                       |
|------------------|-----------------------------------------------------------------------------------------------------------------------|
| <b>5:00 p.m.</b> | <b>Dinner</b>                                                                                                         |
| <b>5:15 p.m.</b> | <b>Environment and Economic Development: Carolina Thread Trail</b>                                                    |
| <b>5:45 p.m.</b> | <b>Housing &amp; Neighborhood Development and Economic Development: Neighborhood &amp; Business Services Overview</b> |
| <b>6:15 p.m.</b> | <b>Citywide Information Technology Strategy</b>                                                                       |
| <b>6:45 p.m.</b> | <b>Environment: Proposed Policy for Sustainable City Facilities</b>                                                   |
| <b>7:30 p.m.</b> | <b>Citizens' Forum<br/>Room 267</b>                                                                                   |

**Request for Council Action:**

**Mayoral Veto of Charlotte Streetcar Project Professional Services**

**Request for Council Action:**

**Consider Options for Street Resurfacing Replacement Funding**

**Information Report:**

**CATS CEO Recruitment**

# ***COUNCIL WORKSHOP AGENDA ITEM SUMMARY***

**TOPIC:** Carolina Thread Trail

**COUNCIL FOCUS AREA:** Environment and Economic Development

**RESOURCES:** Dave Cable, Executive Director  
Carolina Thread Trail

**KEY POINTS:**

- Carolina Thread Trail staff will brief the Council on the proposed development of a regional network of trails and greenways connecting fifteen counties, including Mecklenburg.
- The Thread Trail will connect many smaller trail systems throughout the region.

**COUNCIL DECISION OR DIRECTION REQUESTED:**

The Thread Trail staff has requested that the City Council adopt the attached resolution of support. City staff will place on a future business agenda for action if desired by Council.

**ATTACHMENTS:**

Proposed Carolina Thread Trail Resolution of Support



## RESOLUTION OF SUPPORT

Whereas the **City of Charlotte City Council** is committed to maintaining and enhancing quality of life for its citizens and recognizes that the Carolina Thread Trail will contribute to quality of life by weaving together communities via a regional network of trails and greenways eventually connecting fifteen counties and millions of citizens; and

Whereas, many communities in our region have taken a lead in planning and/or building local trails and greenways, and those efforts can be greatly enhanced by being connected to a larger regional network of trails; and

Whereas, trails and their green buffer areas will help improve the quality of the air we breathe by preserving trees and vegetation and by promoting non-motorized transportation, and will enhance the quality of our water through natural buffers and mitigation of storm water run-off; and

Whereas, trails and greenways provide key amenities to neighborhoods and safe areas for our citizens and children to travel, exercise, play and connect with nature away from heavily trafficked areas; and

Whereas, trails have significant impact on the economic viability of the region through increased levels of tourism, enhanced property values, added jobs related to the construction of and along the trail, as well as enhanced ability to attract and retain businesses to the region due to improved quality of life; and

Whereas, trails and greenways are freely accessible community assets offering opportunities for recreation and exercise to everyone, including children, youth and families, and provide safe places for people to experience a sense of community and create stronger social and family ties; and

Whereas, there is no second chance to protect the Carolinas' great resources in this unique way for our children, grandchildren and great grandchildren, and the cost of these invaluable resources will only increase in the future; and

Whereas, private funding is available to communities from the Carolina Thread Trail for planning and construction of regional trails, and this private funding will leverage public funding from federal, state and various sources.

Now, Therefore, Be It Resolved the **City of Charlotte City Council in Mecklenburg County** supports the Carolina Thread Trail and is committed in concept to working with neighboring communities and with the Carolina Thread Trail to plan, design and build a system of trails that will connect our communities, people and special regional points of interest for years to come.

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Name and Title

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Date

# ***COUNCIL WORKSHOP AGENDA ITEM SUMMARY***

**TOPIC:** Neighborhood & Business Services Overview

**COUNCIL FOCUS AREA:** Housing & Neighborhood Development and Economic Development

**RESOURCES:** Patrick T. Mumford, Neighborhood & Business Services

**KEY POINTS:**

- Staff will provide an overview of the consolidation of the Neighborhood Development and Economic Development departments into the Neighborhood & Business Services Key Business Unit, including:
  - Consolidation Process
  - Mission and Vision
  - Organizational Structure
    - Leadership
    - Divisions
  - Collaborative Opportunities

**COUNCIL DECISION OR DIRECTION REQUESTED:**

This presentation is for informational purposes only.

**ATTACHMENTS:**

None.

# ***COUNCIL WORKSHOP AGENDA ITEM SUMMARY***

**TOPIC:** Citywide Information Technology Strategy

**RESOURCES:** Jeff Stovall, Chief Information Officer

**KEY POINTS:**

- The City organization has been assessing its technological needs and deficiencies since 2007. New technologies are a key to improving customer service, improving service delivery, reducing costs and managing assets and resources. Following is an overview of the City's corporate strategy for moving forward with these investments:
- **Comprehensive Citizen Service requires an enterprise-wide system approach.**
  - Focus on "run the business" over the past decade has led to a portfolio of IT assets that don't communicate easily with one another.
  - To continue to improve our ability to serve citizen needs seamlessly, the City will need systems that share data across KBU boundaries.
  - Investments in new skills and shared IT competencies are equally important as hardware and software.
- **Four key investment areas are needed to drive seamlessness in citizen service:**
  - A finance and resource management system integrating purchasing, budgeting, payroll, general ledger, accounts payable, accounts receivable and fixed assets.
  - A citizen relationship management system enabling a common, shared platform to input and act on citizen requests.
  - Integrated work and asset management systems that replace outdated systems, track operations better and build greater interconnectivity for citizen follow-up.
  - Continued advancement of geographic information systems which link citizen needs across business units using location-based data.
  - These four areas constitute the "Architectural Cornerstones" strategy.
- **Investments should be made in a phased approach to control risks and costs.**
  - Not advised to seek a "big bang" replacement approach.
  - Projects must be sized for both ready execution and long term needs.
  - Investments must address how technology will be staffed for both implementation and on-going support.
  - Driving skill reuse and KBU collaboration can also reduce project risks and costs.
- **Future project requests will be aligned to the enterprise strategy.**
  - A work and asset management project will be the first submitted for approval under the new strategy.
  - Activity currently underway to define projects for financial management and for

citizen relationship management.

**COUNCIL DECISION OR DIRECTION REQUESTED:**

No action required at this time – presentation is informational to provide Council with an overview of the City's information technology strategy.

**ATTACHMENTS:**

None.

# ***COUNCIL WORKSHOP AGENDA ITEM SUMMARY***

**TOPIC:** Proposed Policy for Sustainable City Facilities

**COUNCIL FOCUS AREA:** Environment

**COMMITTEE CHAIR:** Edwin Peacock

**RESOURCES:** Gina Shell, Engineering & Property Management  
Jeb Blackwell, Engineering & Property Management

## **KEY POINTS:**

- Staff will brief the Council on the proposed Policy for Sustainable City Facilities.
- The policy has been developed in response to Council's Environment Focus Area Plan, which requires incorporation of "environmentally responsible elements in the design, construction, and operations of City facilities", and which sets a target to "adopt a policy on Sustainable City Facilities by October 2009."
- The Council was briefed on the policy framework at the November 2008 Workshop. Council referred the matter to the Environment Committee. The Committee has discussed the policy at five meetings over the last several months.
- The proposed policy reflects extensive staff work including: research of other city "green building" policies; universal tools now available for measuring sustainable and energy-efficient buildings; and input and comment from local building industry professionals.
- The Environment Committee unanimously approved the policy at their August 24 meeting and recommends its adoption.
- The policy, which applies to City-owned and -managed facilities, is intended to direct City staff to design, construct, and operate sustainable City facilities.
- The policy:
  - Applies to every new construction project and "major" (>5000sf) renovation project.
  - Lists local sustainability priorities, based on Council-approved policies, and requires staff decisions to be based on those priorities.
  - Requires annual performance reporting and benchmarking of existing facilities.

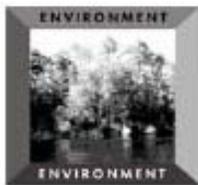
- Requires training of project managers.
- Requires use of standard tools (Energy Star, LEED) for scoring consistency, but leaves “certification” decisions for individual projects to staff and Council.
- Requires cost-effectiveness analysis.
- Requires verification of decision-making through process of internal vetting and third-party verification of achievements.
- Requires transparency through “Requests for Council Action”.
- Requires annual policy review with opportunity for revision.

**COUNCIL DECISION OR DIRECTION REQUESTED:**

City Council will be asked to approve the recommended policy at their September 28 meeting.

**ATTACHMENTS:**

Proposed Policy for Sustainable City Facilities  
Peer Cities Interview Document



## **City of Charlotte** **Proposed Policy for Sustainable City Facilities**

### **Policy Intent**

The policy is intended to direct City staff to design, construct, and operate sustainable City facilities which meet the functionality and service delivery needs of the citizens of Charlotte while minimizing environmental impacts and conserving and protecting all resources.

The foundation for this policy is City Council's Environment Focus Area Plan, which states Council's intents to:

- Promote environmental best practices and protect our natural resources: the air we breathe, the water we drink, and the natural ecosystems we cherish, including the tree canopy;
- Recognize important interrelationships among air quality, water resources, land preservation, and energy and resource conservation;
- Make sound land use decisions regarding our future growth and development supporting sustainability so as not to jeopardize our future generation of citizens;
- Achieve our goals of becoming a national leader in the successful stewardship of our environment by maintaining a cooperative and open agenda with Mecklenburg County, our regional neighbors, and the business community;
- Lead by example and promote sound, cost effective environmental and energy conservation practices in City operations;

and includes the specific initiative to:

- incorporate environmentally responsible elements in the design, construction and operations of City facilities.

The policy further aligns with and supports the City's:

- Environmental and Infrastructure General Development Policies
- Post Construction Controls Ordinance
- Tree Ordinance
- Resolution Committing to Reduction of Green House Gas Emissions.
- Centers, Corridors, and Wedges Growth Framework under development at the time of adoption of this policy.

The policy shall:

- balance "environmental" and "economic" considerations.
- be applicable for a diversity of facility types; for new construction and renovations.
- be sensitive to neighborhood character and historic structures .
- describe appropriate use of decision and rating tools such as LEED, Energy Star, etc.
- include mechanisms to measure/verify sustainable decision-making.

### **Sustainability Priorities**

The Policy directs staff to make decisions in the design, construction, and operation of City facilities that support and advance the City's Sustainability Priorities.



**City of Charlotte**  
**Proposed Policy for Sustainable City Facilities**

City Council’s priorities for sustainability have been established through the Environment Focus Area Plan, General Development Policies, and other Council-approved policies, ordinances, and plans.

The Sustainability Priorities pertinent to facilities and therefore reflected in this policy are:

- Preserve Land and Trees
- Conserve Clean Water Resources
- Reduce Energy Use & Carbon Footprint
- Maximize Transportation Alternatives
- Lead by Example & Encourage Local Sustainable Industry
- Protect Occupant Health, Maximize Productivity & Encourage Sustainable Employee Behaviors

**Expectations and Requirements**

This Policy shall apply to every new facility and “major” renovation project. A “major” renovation is defined as a renovation of at least 5000 square feet of internal space.

The policy will direct staff to make decisions about facility design, construction, operation, and renovation that align with local sustainability priorities as measured in relation to the sustainability goals, where established by Council, in those priority areas. The goals are outlined in the following table.

<b>Priorities</b>	<b>Goals</b>
<b>Preserve Land &amp; Trees</b>	<p>Meet the intents of City Environmental and Infrastructure General Development Policies (GDP) and other existing City Ordinances.</p> <p>The GDP guides staff and the community to:</p> <ul style="list-style-type: none"> <li>– Take a comprehensive approach to defining the site location and infrastructure needs, based on the City’s land use policies and overall growth framework of Centers, Corridors and Wedges (GDP I1-A)</li> <li>– Pursue sites that encourage and facilitate redevelopment of abandoned/underutilized sites and vacant sites (GDP E2-A)</li> <li>– Encourage infill and redevelopment to take advantage of existing infrastructure (GDP I4-B)</li> <li>– Identify environmentally sensitive areas in site development and discuss protection and mitigations (GDP E1-B)</li> <li>– Consider the impacts to existing neighborhoods when providing infrastructure (GDP I5-B)</li> </ul>



**City of Charlotte  
Proposed Policy for Sustainable City Facilities**

	<ul style="list-style-type: none"> <li>– Minimize impacts to the City’s tree canopy (GDP E3-B)</li> <li>– Enable site designs that: 2) reduce ground level temperatures; 3) minimize the impact on the environment (GDP E3-A)</li> </ul>
<b>Conserve Clean Water Resources</b>	<p>Meet current State Statute (GS 143-135.37) water use reduction targets <i>which at the time of policy adoption are:</i></p> <ul style="list-style-type: none"> <li>• <i>Indoor water usage 20% below State Code requirement</i></li> <li>• <i>Outdoor water usage 50% below State Code requirement</i></li> </ul>
<b>Reduce Energy Use &amp; Carbon Footprint</b>	<p>Meet current State Statute (GS 143-135.37) energy consumption targets <i>which at the time of policy adoption are:</i></p> <ul style="list-style-type: none"> <li>• <i>New facility energy consumption calculation 30% below ASHRAE requirement</i></li> <li>• <i>Major renovation energy consumption calculation 20% below ASHRAE requirement</i></li> </ul>
<b>Maximize Transportation Alternatives</b>	<p>Meet the intents of City Environmental and Infrastructure General Development Policies (GDP) and other existing City Ordinances.</p> <p>The GDP guides staff and the community to:</p> <ul style="list-style-type: none"> <li>– Facilitate development of well-designed and well-connected mixed/multi-use development (GDP E2-B)</li> <li>– Locate buildings where transportation facilities, public utilities and services already exist, or are planned, in order to minimize impacts of undeveloped areas (GDP E2-C)</li> <li>– Integrate plans for existing and future bus routes/service improvements and expansions with adopted future land use policies (GDP E2-E)</li> <li>– Enable site designs and construction practices that: 1) facilitate the use of alternative modes of transportation (GDP E3-A)</li> </ul>
<b>Lead By Example &amp; Encourage Local Sustainable Industry</b>	Goals will be project-specific.
<b>Protect Occupant Health, Maximize Productivity &amp; Encourage Sustainable Employee Behaviors</b>	Goals will be project-specific.

This Policy directs each Key Business Unit (KBU) responsible for the design, construction, and/or operation of City facilities to report annually on:



## **City of Charlotte Proposed Policy for Sustainable City Facilities**

- their achievements in sustainable design and construction, and
- the performance of their Facility Portfolio against standardized benchmarks as described in the section on “Verification and Reporting”.

The Policy further requires that any staff member with facility construction or renovation project management responsibilities will earn the credential of LEED Green Associate or demonstrate an equivalent level of training and/or experience in the area of sustainable facilities.

### **Tools & Their Use**

In order to ensure applicability to the broadest set of facility- and project-types, and to accommodate the growing diversity of resources available for sustainable facilities, the Policy will not prescribe the use of a specific tool, rating system, or information source to aid decision-making or to achieve certification/recognition. Staff may utilize a variety of tools, systems, and sources for to aid decision-making, including but not limited to: Leadership in Energy and Environmental Design (LEED), Green Globes, Energy Star, Whole Building Design Guidelines, energy modeling, and cost-analysis tools.

Staff may choose whether to pursue external recognition or certification on a project-by-project or facility-by-facility basis.

The Policy will require that each construction or renovation project be scored using one or more point-based tools (such as LEED and Energy Star) for the purposes of consistency and comparability.

Recognizing that the City has limited resources, that City facilities are long-term assets intended to be functional in service to citizens and contributing to the community for decades, and that additional upfront investment may yield considerable long-term benefits, including but not limited to: energy cost savings, advancing Council’s Sustainability Priorities in the community, preservation of historic structures, increased productivity, the Policy directs City staff to utilize appropriate tools and resources to analyze and report on the costs and long-term effectiveness of sustainable elements within each construction and renovation project.

### **Verification & Reporting**

The City Manager or designee, along with the Key Business Units responsible for the design, construction, and operation of City facilities, will verify adherence to this Policy and report on facility status on a regular basis.

Processes and reporting mechanisms will be structured to ensure:

- Appropriate and adequate training and credentialing of facility project managers and operational staff.
- Appropriate and adequate application and use of sustainability tools for decision-making, measurement, and certification, including but not limited to: Leadership in Energy and Environment Design (LEED), Green Globes, Energy Star, Whole Building Design Guidelines, energy modeling, and cost-analysis tools; including process-related incentives for pursuing certification through LEED.
- Documentation of facility project intents and achievements related to each of the Sustainability Priority Areas.



**City of Charlotte**  
**Proposed Policy for Sustainable City Facilities**

- Robust internal vetting of facility project intents related to sustainability, functionality, and cost.
- Transparency of project intents throughout the design and construction process.
- Technical verification of decisions and outcomes specific to each new facility or renovation project.
- Public reporting on achievements of each new facility construction and major renovation project.
- Public reporting on the performance of all City facilities against standardized benchmarks.

**Policy Review and Revision**

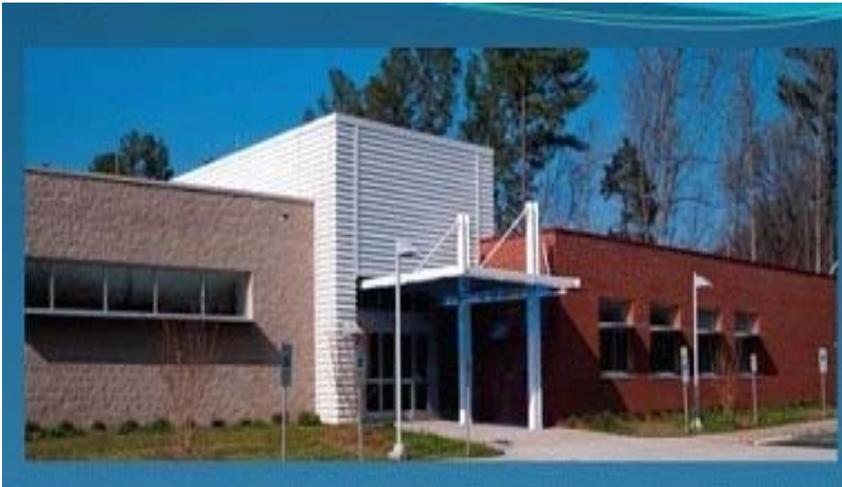
The policy will be reviewed annually to determine the need for revision due to changes in Council’s Sustainability Priorities or Goals, the availability of tools for designing sustainable facilities, the roles prescribed by the policy, etc.



2008-  
2009

# Researching Sustainable Building Policies and Efforts in the U.S.:

A series of conference calls with Peer Cities which have adopted or adapted LEED centered policies



Sustainable Facilities Team  
City of Charlotte



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## **An Introduction to the Sustainable Facilities Policy Initiative for Charlotte**

*"Charlotte will become a national leader in environmental initiatives to preserve our natural resources while balancing growth with sound fiscal policy."- Charlotte's Environmental Focus Area Mission Statement*

### **Introduction and Background**

The City of Charlotte has supported initiatives seeking to protect the community environment and natural resources by designating the Environment as one of the City Council's five main focus areas. Within each focus area, Council and staff have implemented Focus Area Plans (FAP) that establish the vision of Council and determine how decisions are made within the City. The FAP guides the city to, "design, construct, and retrofit facilities using sustainable design criteria such as American Society of Heating Refrigerating and Air Conditioning Engineers (ASHRAE), EPA/Energy Star Standards, and LEED, as appropriate." It was through this directive that staff has begun to research LEED standards to see how this measurement tool could be implemented within the design, construction and retrofit framework of City owned and maintained buildings. Currently, the City of Charlotte is researching green building standards with the purpose of establishing a comprehensive policy that reflects the local environmental and fiscal responsibilities as directed by the Charlotte City Council.

Within the building community both public and private entities are adopting green building policies, many of them focused on LEED. Mecklenburg County has adopted a LEED Silver policy as their standard for all newly constructed County facilities. As a result of the current efforts and innovations being made in green technology and emphasis from Council on becoming a more environmentally conscious community, the City staff was given the task to figure out how to accomplish these goals. To that end, the Manager's office started the Green Building Project with the mission of formulating a policy that aligns local environmental, social and fiscal responsibilities. The Green Building Team went about its mission by reaching out to nine peer cities from across the United States.

City of Charlotte staff undertook this research in order to understand the basis for and implications of "green building" policy decisions in comparable cities. The research was conducted through a series of conference calls between City of Charlotte staff and the staffs of peer cities.

All of the cities interviewed have adopted or adapted a minimum LEED standard (Certification, Silver, Gold or no standard) as a fundamental part of their policy. Staff attempted to identify other cities which have adopted a green building policy which does not incorporate LEED, but significant internet research did not turn up potential peer candidates. The research team proceeded with the interviews, focusing on each city's experiences with the green building policy discussion, the benefits and costs of having a policy which requires LEED certification, and lessons learned since policy adoption.

The question for policy makers in Charlotte becomes, does the City of Charlotte need to follow a similar policy or approach sustainable building design in a different manner? The research team had to figure out what were the minimum standards and determine how peer cities approach sustainable building and LEED oriented policies. The initial goal was to first "get smart" about the policy proposals in other comparable cities.

### **Leadership in Energy and Environmental Design (LEED)**

Because all of the cities have adopted LEED, it is important to define LEED before summarizing the research.



The Leadership in Energy and Environmental Design (LEED) Green Building Rating System, developed by the U.S. Green Building Council (USGBC), provides a checklist of standards for environmentally sustainable construction and renovations of buildings. Since its inception in 1998, LEED has grown to include more than 14,000 projects in all 50 U.S. states and 30 countries, and covers approximately 1.062 billion square feet of development. LEED advertises its process as open and transparent. The technical criteria proposed by the LEED committees are publicly reviewed for approval by 10,000 membership organizations throughout the world that make up the USGBC. LEED is a widely used and implemented standard that has grown in influence in the last decade. LEED is widely reputable and recognizable because of its simple, easy to understand checklist of points. The third party accreditation and commissioning process is a critical piece in order to ensure the sustainable features that are designed in the building will actually produce the intended results.

The point system that makes up the LEED certification is as follows:

In LEED v3.0 for new construction and major renovations for commercial buildings there are at least 80 possible points and buildings can qualify for four levels of certification:

- Certified: 40-49 points
- Silver: 50-59 points
- Gold: 60-79 points
- Platinum: 80+ points

There are critics of LEED who point out that the process may be too simple and does not account for localized priorities or varying geographic conditions. LEED has recently updated the requirements for obtaining certification in response to some of this criticism of the LEED process. All of the criticisms of LEED have been discussed at length and the USGBC incorporated many changes into the 2009 Green Building Rating System to account for some of the shortfalls.

Other rating systems exist, such as Green Globes, but LEED is the most widely used certification in both the public and private sectors in the United States.

## **Goals**

The Team determined that with each interview several points of inquiry needed to be addressed to assist with Charlotte's efforts to learn about green building and its many intricacies.

- Research and interview peer 6-10 cities about their green building experience, specifically their experience with LEED whether or not it is the adopted policy;
- Develop the City of Charlotte green building policy proposal that addresses new building construction and the retrofit of existing buildings
- Identify well-thought-out city policies that have and have not chosen not to include LEED

Based on the goals, the Team developed a list of nine standardized questions to help steer the conversation of the conference calls and ensure peer city efforts could be compared against each other. The questions are listed in full at the conclusion of this report as Appendix A found on page 28.



### **City Selection Methodology**

Before beginning the telephone conference calls, the Team researched, to the extent possible, the level of involvement each city has had with green building. The Team attempted to contact cities that have similarly sized populations with Charlotte but with varying green building policies, ordinances, differences in geographic conditions, styles of local government (*e.g.*, strong mayor versus Council-Manager), and differing reputations for environmental efforts. The Team attempted to contact cities that had not enacted specific LEED oriented green building policies, however the Team was only able to talk with two such cities that had adapted LEED's checklist to fit into their own local priorities. Staff asked all nine cities the standard nine questions and then staff asked follow-up questions as necessary.

During the first meeting of the Team on June 26, 2008, the team identified five goals to follow throughout the conference calls and research phase of this project. The five goals are as follows:

- Research other cities experiences in dealing with LEED
- Certification in construction of or maintenance in Government buildings: new construction or retrofitting existing buildings; Need a coherent citywide policy
- Pull together policy proposal explaining how the City will build or retrofit existing buildings
- Identify well-thought-out city policies that have chosen not to include LEED, as well as those that have.
- Need 6-10 cities comparable in size or slightly larger

### **Summer 2008 Schedule and Timeline**

June 26, 2008: Initial meeting of Team to establish goals and priorities of projects

July 17, 2008: Team meeting to decide on the list of peer cities to contact for the conference calls

July 22, 2008: Atlanta, GA interview

July 25, 2008: Seattle, WA interview

July 30, 2008: Kansas City, MO interview

July 31, 2008: Portland, OR interview

August 5, 2008: Cleveland, OH interview

August 6, 2008: Denver, CO interview

August 18, 2008: Phoenix, AZ interview

September 12, 2008: Raleigh, NC interview

September 30, 2008: Chicago, IL interview

**Spring 2009:** Follow-up interviews with peer cities to update draft policy



## **ATLANTA**

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*Population: 519,145*

<http://www.atlantaga.gov/mayor/sustainableatlanta.aspx>

[http://www.atlantaga.gov/client\\_resources/greener%20atlanta/atlanta%20green%20city%20initiatives.pdf](http://www.atlantaga.gov/client_resources/greener%20atlanta/atlanta%20green%20city%20initiatives.pdf)

### **Background:**

- 2003 Ordinance required LEED Silver for all new and major renovations over 5,000 sq. feet and/or for municipal buildings renovations or projects costing \$2 million or more
- Strong mayor form of government and the directive was driven by the mayor's office

### **Why LEED?**

- It is the best standard to tie everything together and it is broad enough to touch a lot of items at once
- LEED has become a standard that is more common now, but you must put some work into achieving it
- 3<sup>rd</sup> party certification is important to have, to prove to others that you have done your due diligence, just as important as it is with GHG strategies
- It is not worth the investment on Atlanta's end to come up with a separate guideline; Atlanta can upgrade the ordinance where more points can go into energy efficiency

### **Notes:**

- Atlanta has experienced little or no cost premium for LEED Certified and Silver levels
- There are additional costs for higher levels (Gold, Platinum) but payback allows them to recoup their costs; in other words, there is little net costs associated with the project over the lifespan of the structure
- Atlanta staff believe the ordinance has worked as intended, however they feel the need it could be improved by increasing efforts in energy efficiency and by adding language about the financing aspect of new building construction

### **Advice:**

- Don't try to reinvent the wheel when there already is a widely accepted standard of comparison out there
- There is a potential scenario where a community could spend a great deal of time and money trying to come up with the perfect system and get totally bogged down in the process
- The public and private sectors need to take leading roles in expanding the use of green building practices and incorporating LEED in order to show that it can make financial sense; Atlanta has seen increasing numbers of private developers seeking LEED certification

### **Contacted:**

July 22, 2008

April 29, 2009



## CHICAGO

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*Population: 2,836,658*

[http://egov.cityofchicago.org/city/webportal/portalEntityHomeAction.do?BV\\_SessionID=@@@@1622928940.1218745133@@@@&BV\\_EngineID=cccfadeelkefglcefecelldffhdffif.0&entityName=Environment&entityNameEnumValue=13](http://egov.cityofchicago.org/city/webportal/portalEntityHomeAction.do?BV_SessionID=@@@@1622928940.1218745133@@@@&BV_EngineID=cccfadeelkefglcefecelldffhdffif.0&entityName=Environment&entityNameEnumValue=13)

### **Background:**

- In 2004, the Mayor of Chicago issued a decree that mandated all public buildings must be constructed and certified LEED Silver
- The mayor has led the effort to transform the city into a more sustainable one
- All new renovations must be certified LEED EB; mayor issued a decree in 2004 about LEED certification

### **Why LEED?**

- It is the most widely recognized standard available
- It allows you to compare yourself against other cities or areas of the country
- They did talk about Green Globes briefly, however they did a study of benefits and have found no real premium costs associated with building to LEED Silver
- They have asked the private sector to establish LEED as a minimum requirement

### **Notes:**

- The mayor has led the effort to create the Chicago Standard
- Staff quickly realized that Chicago had several key characteristics that they felt every building should have as a minimum standard; these minimum standards (based from LEED standards) became the Chicago Standard
- The city took the credit system from LEED and applied it to their own city; the Standard became a guideline, and after it was established they began to push the private sector into implementing more of these standards into their buildings
- The Standard became an accepted practice; in order to do business in Chicago you had to build to these standards; now the private sector in Chicago has built between 220-230 LEED buildings
- However, they do not use the system as forcefully now that it has become so widely accepted: Chicago has 14 certified LEED buildings, including eight libraries and four police stations
- Chicago created their own Center for Green Technology; in total the City has 45 registered LEED buildings—mostly new schools that are still going through the process of certification
- The LEED standards serve as a guideline and Chicago ties their standards to focus on community specific priorities; they have issues with stormwater run-off, so a big emphasis is placed on energy, stormwater retention, water quality, and indoor air quality



- Staff felt that they have built enough public buildings within the guidelines of LEED that they can construct them to LEED Silver without a cost premium
- LEED Gold will eventually be the requirement for public buildings; right now it is a goal/target
- If any private sector project requires help from the city (even a simple rezoning) then the project must be built to LEED standards (over 5,000 square feet); this has become a simple cost of doing business in Chicago and its accepted by all developers despite their initial pushback

**Advice:**

- Chicago has faced some obstacles around energy and stormwater run-off; the stormwater ordinance says ½ inch rain collection on site; savings on lighting and energy use has potential to be very large; but in order to realize an 80% reduction in carbon by 2050, following their community goals, a big effort in retrofitting the existing building stock must be pushed by the City
- There has not been much internal pushback because Mayor Daley was the one coming up with the initiative; however there was pushback among the private sector at first but now it has become commonplace and is just accepted
- A second challenge will be to get their environment efforts to be written into law; all of the efforts so far have come from the Mayor's Office so there is potential for the efforts to be curtailed when a new mayor comes into office
- They have not had many tradeoffs using LEED; developers are now designing to LEED standards which have greatly reduced the cost, and it is something that is not even discussed much anymore
- Market forces are driving this process and the costs have come down as technology has advanced in recent years; market now demands more efficiency

**Contacted:**

September 30, 2008

April 16, 2009



## CLEVELAND

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*Population: 438,042*

<http://www.city.cleveland.oh.us/government/departments/pubutil/sustainability/index1.html>

### **Background:**

- LEED Silver Certification required for city owned buildings
- Cleveland has several private sector LEED Certified buildings but they do not currently have any municipal buildings LEED Certified
- They have one building that is built to LEED standards but it is not certified
- They believe it is easy to come up with LEED program but they do not build very often so it has not been as useful; it wasn't a huge deal to make the leap to LEED Silver when you don't build very often

### **Why LEED?**

- They have held long discussions about whether LEED was appropriate, and early on discussions revolved around whether LEED was best measure to adopt; development community pushed back against LEED because of expense of certification
- They went with LEED because they did not want to devote the hours and staff resources to coming up with a new standard
- LEED is already established and offers third party recognition to the efforts of all involved in construction
- They did not want to redevelop standards because of capacity questions and it simply not doable with their staff workload; staff would have to review and certify all projects which creates an undue burden on the City to prove that their methodology works

### **Notes:**

- Cleveland is restricted from requiring private sector compliance with LEED certification because state law prohibits a city from creating requirements above city code without giving incentives
- In retrofitting cases, Cleveland requires each budget to be increased by 3% to cover the add-ons in price, and also requires a LEED-accredited professional on the design team
- Budget situation demands that all departments decrease energy consumption by 10%; it has prompted departments to seek the sustainability office to find savings
- They have an office of four full-time employees; positions were initially supported by 2 foundations, and after two years the City began to pay for the office using savings



- The Sustainability Office is set up in the Utilities office for financial and political reasons. Initially, the office was set up such that it had to generate savings to the city to help pay personnel costs. However, now all operating costs (about \$500,000) are now paid through the City's General Fund.

**Advice:**

- There were a lot of staff concerns and it took a very long time to get people to understand benefits and to just get them to think differently about sustainability, design and construction
- It takes a great deal of education because people don't want to try new methods, so it takes some persistence and perhaps a strong leader (mayor) to get changes passed
- Cleveland has three LEED neighborhood pilot projects that have helped address some concerns of critics; it has served as a successful way to get people to come along the learning curve—learn from experience

**Contacted:**

August 5, 2008

April 21, 2009



## DENVER



*Population: 588,349*

<http://www.greenprintdenver.org/green/index.php>

### **Background:**

- New construction and all major projects must be LEED Silver and achieve Energy Star for projects over 10,000 sq. ft
- Projects between 5,000-10,000 sq. ft. (if considered too costly to achieve silver) must implement LEED standards in planning and design even if they are not certified
- Denver has developed an initial set of guidelines for small and large projects to counteract the tendency to “chase points”
- They looked at the LEED program (keeping in mind the wide range of projects they will be involved) and determined what makes sense for small projects, and what makes sense for larger projects
- The City has a great opportunity to achieve green building because last October voters approved \$550 million for new construction of city buildings; which translates into 12-15 new buildings; each must meet LEED Silver and Energy Star (6 points)
- Denver maintains between 200-300 structures of which 150-160 are main buildings
- They are in the process of coming up with a plan to involve retrofitting buildings-LEED EB (existing buildings)-use the checklist to develop this system; the initial pilot project will involve six buildings; their plan is to by 2011 to adopt all aspects of the LEED EB principles
- Very few private sector buildings constructed downtown are not being built to LEED standards

### **Why LEED?**

- LEED is an on-going discussion and debate in Denver; however there is a consensus around the value of having a third party come in to certify the project
- Third party certification helps to ensure energy saving design elements of a building come to fruition; if the building is not certified then how do you ensure it accomplishes what it is meant to?
- Developing an independent standard is very difficult, not only as it relates to time, but also in resources
- They require Silver because other cities had established this as a standard and they believe simply getting certified was too easy
- Silver is achievable but it does offer some challenges; in their main administrative building project they are pushing to Gold certification

### **Notes:**

- It is more difficult for smaller buildings to become certified because in the larger buildings you are able to spread out the cost over the larger square footage; there is greater challenge involved to engineer for



smaller buildings; soft costs associated with green building are higher in smaller buildings as it simply is a matter of economies of scale

- Denver's General Services Division maintains the buildings and is involved in dozens of projects a year; they were pretty easy to get on board with the green building initiatives
- The Public Works Department took more convincing and more education to come around; public works did pushback some because requiring LEED certification increased the cost to the department
- Private sector in Denver has been generally very good; major constructions are all going for LEED but we do not require it; they have just begun this initiative so it is only fair that Denver practice the polices before they require others to do the same
- Since Denver enacted the ordinance last October, their Justice Center project has been a challenge in dealing with budget issues and collecting materials; some tradeoffs in terms of this being their signature building and justifying the of costs associated with the LEED requirements
- Denver exempts historic buildings from the LEED requirements. Additionally, staff may petition the mayor to exempt other projects from the requirement
- Any major remodeling or retrofits with 25% or greater impact on a structure must be built to LEED EB; any HVAC replacement must follow USGBC guidelines
- They have not been able to develop a reliable life cycle cost analysis, and use payback instead
- They use energy star to help track energy use in facilities
- Denver does not offer incentives for LEED because its being done on its own in downtown

### **Advice:**

- One key to the process is to enable multiple goals to align; in Denver they require Energy Star and LEED;
- The community goals interact because requiring Energy Star standards helps achieve points in LEED because you are designing a more efficient building; you are pretty much guaranteeing energy efficiency by going after the energy star points;
- They established LEED Silver as a baseline, but wanted to set certain goals to achieve so they are not chasing points
- Be careful of point chasers and the tendency to collect the cheapest amount of points-must keep in mind why you are doing this in the first place
- Construction bids are very low right now so they suggest this would be a good time to start building to LEED

### **Contacted:**

August 6, 2008

April 21, 2009



## KANSAS CITY

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Population: 447,306

<http://www.kcmo.org/manager.nsf/web/OeqHome>

### Background:

- LEED Silver certification ordinance began as an administrative regulation (between 2000-2002); an ordinance was crafted in 2004 that suggested LEED Silver as a minimum requirement
- Kansas City Council adopted changes to the ordinance on July 31, 2008 to clarify city projects adopt LEED standards and certification, new ordinance will bring more “teeth” to the ordinance
- The City is attempting to bring LEED standards to the community through more direct involvement; private development will be encouraged to participate through grants and expedited permitting processes if they agree to follow certification standards
- Kansas City has a capital office that houses and oversees all new construction and renovation projects in the city; general services group within the City maintains all facilities owned by the City; they just completed a new surge in building facilities
- They currently have one building that is LEED Silver Certified, and that was an expansion project of a ballroom; the value on the project was about \$150 million
- They are in the process of producing fact sheets that prove the value of building to LEED standards and to make sure the savings are real and keep track of what has been done

### Why LEED?

- LEED is the standard out there that was widely accepted; there were no other benchmarks to say where you were otherwise
- The new ordinance revision put more teeth in the ordinance and it allows Kansas City to track the gains in a more efficient and effective way; LEED is a national standard that offers 3<sup>rd</sup> party accreditation and it has become the benchmark in sustainable buildings

### Notes:

- Kansas City is trying to avoid the trap of collecting LEED points rather than following guidelines or points of interest in the community like storm water collection, bike ridership, GHG emissions, etc.
- Adopting LEED and the process they have developed has not been easy (most of the staff have only been working in the department for two years or less)
- It has taken a lot of training to get people on board; however the Kansas City Council has taken a leading role in environmental issues and have been very open to green projects;
- Most of the push back they initially received was from departmental directors that saw only increased costs associated with green building and no direct city or department wide benefits;



- Kansas City is trying to make a business case to chronicle these efforts and an analysis of cost savings and paybacks associated with building green
- Affordable housing (City money involved) policy requires developers to meet minimum Energy Star certification
- They use an energy service company (ESCO) contracting (Johnson Controls) process for energy service contracts for 10 years; they are in the process of contracting/reviewing 14 additional buildings (including 30 story City Hall) that they require benchmarking using the EPA portfolio manager; this process has yielded over \$2 million in annual savings and they expect an additional \$1.6 million with the new contract of 14 buildings
- Kansas City has a good relationship with their electric utility and the electric company grants rebates to the City for the electric savings found in the energy service contracts (\$34,000 for a recent ballroom remodel)

### **Advice:**

- It is tough to balance directives of cost efficiency and environmental and sustainability efforts, the key seems to be that you must involve staff from a variety of city departments
- Everyone should be involved and extensive education must be present; this is a tough accomplishment but we had everyone on board-and went through the LEED checklist to make sure everyone is on the same page
- By going over the checklist together it helped people understand different priorities and overcome those misconceptions; it also led to some good conversations about the priorities of Kansas City and how we could rather (surprisingly) easy to meet many of our goals
- This collaborative process led to the question: Of the LEED standards that align with our local goals, could they always be achieved (in any city owned building)? Which projects could achieve 2 of 3, 3 of 5 points in every project? They came to a fairly easy consensus they could get a certain amount of points on every project
- Staff understood early on that not every building, project, retrofit will be the same--each project is different and faces different issues each time, but they realized there were certain community priorities that could be accomplished in each project
- City Council can see growth in Kansas City; this would be necessary in any community to have buy-in at the upper leadership levels
- It is important for USGBC leaders to come to the community to talk about plans
- Education is a very important issue that must be addressed organization wide
- A staff/elected official committee was established expressly to hear requests that projects be exempted from the requirement

### **Contact:**

July 30, 2008

May 7, 2009



## PHOENIX

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*Population: 1,552,259*

<http://phoenix.gov/sustainability/green.html>

### **Background:**

- In 2005 the Phoenix City Council adopted green building guidelines where the city committed to building city owned and managed buildings to LEED standards
- They have not passed an ordinance requiring LEED certification as a minimum standard
- The goal is to build sustainable buildings through the same checklist process as going through LEED
- It is up to each department whether to pay for LEED certification; each department controls their own purchasing and budget
- Phoenix has 4 LEED buildings, 6 registered and 12 LEED certified AP's (1 Gold, 1 Silver, 2 Certified)
- They are currently undergoing a study regarding existing buildings where they question should energy savings should be accomplished through a new building code; they are still in the beginning stages of this process
- Most projects are design-build or CM at risk projects; they actually have a building going for both LEED certification and Green Globes

### **Why LEED?**

- LEED process is the most prominent and the most popular and is the reason they went with LEED
- They did not want to reinvent the wheel
- They wanted to adopt the LEED process because it was widely used and it makes it easier to compare yourself against others when you use the same baseline; you now are comparing "apples to apples"

### **Notes:**

- Phoenix keeps a list of common indicators that occur in most projects, so they become the easiest to achieve "low hanging fruit;" for example: managing storm water, using LEED AP; diverting construction waste, etc
- Their difficulty in requiring certification revolves around the use of money and resources for each project becoming LEED certified
- Phoenix is supportive and has adopted the LEED process to ensure that all new buildings are designed and constructed to LEED certifiable standards
- They do not spend money to have each project formally certified by the USGBC due to concerns of money, that is left up to each department
- There are also concerns about retrofitting existing buildings-they are not sure how they will approach it
- Phoenix has attempted to quantify the cost of each of their certified buildings that have been in use for more than one year



- Phoenix designed a fire station and decided it would be built to LEED late in the design phase and it caused a 7.7% cost increase to the project
- They believe increases in cost were due to the fact that sustainable features were added so late and in 2003-04 the costs were greater due to limits in technology and the market was not there
- In 2005-06 they completed a library where the premium was about 1.4%; the project's sustainable features were discussed at the beginning and by that time technology prices were decreasing
- There has been widespread acceptance by private contractors to their efforts and they have been very involved and engaged in the process
- All departments are looking at sustainable design, just not all will commit the money for certification; they ask, why pay the money when they are using the same design features over and over again (that was initially approved by USGBC)
- Phoenix does not have the energy savings/information necessary to do a life cycle analysis
- Cost estimates are around 2% of total construction to build to LEED Silver in their experience

### **Advice:**

- They believe sustainable design is and will be a part of the future of construction both public and private
- Best to be involved while policy is still fresh, new and still in the process of forming
- You do not want to reinvent the wheel while designing a process; waste staff time, money and resources and come to realize that you are not able to keep it up
- Align goals of organization with that of the LEED process to ensure compatibility

### **Contact:**

August 18, 2008

April 16, 2009



CITY OF PORTLAND  
OFFICE OF SUSTAINABLE DEVELOPMENT  
A BETTER FUTURE. A BETTER NOW.

## PORTLAND

Population: 568,380

<http://www.portlandonline.com/osd/>

### Background:

- All city owned buildings have to meet LEED Gold standards
- Guidelines around urban renewal and energy conservation were tied into green building
- In 2000 they formed the Office of Sustainable Development, which has set the tone for all the efforts being made today
- Between 2001-2005 there was a lull in new municipal building construction in the city; in 2005 the City increased performance standards to require LEED Gold (had been silver previously) to increase energy and water efficiency, but these standards were only applied to new construction
- 2001 original policy was revised in 2005 and again on April 29, 2009; new updated policy attempts to clear some confusion or ambiguity. The process came about through a stakeholders group that wanted to clear up confusion in the implementation phase of the policy; the policy refines/determines occupied versus unoccupied facilities-pump stations for example; LEED Gold is the new policy for all occupied buildings in the City
- 2009 policy also was published with an implementation guide and each is studied on a case by case basis
- Portland has 3 registered LEED buildings; 2 gold and 1 platinum

### Why LEED?

- They first passed the ordinance in 2001 and required Silver certification
- There was some debate about whether to use LEED but ultimately they went with LEED for several reasons including the state of Oregon's law increasing green standards for tax credit
- There are other standards less widely accepted out there, and this one is not perfect, but it is the widely accepted standard that has legitimacy from private representatives, public leaders and architects
- In 2001 they pursued a localized version of LEED that attempted to regionalize a common vision in the community
- USGBC did acknowledge some short falls and have revamped their system several times
- Portland found that their city was not nimble or flexible enough to change with modern technologies and general changes that occur in the field; so they saw their efforts would not be as efficient
- 3<sup>rd</sup> party role is really beneficial where government does not have the resources, capacity or time to become involved; the government is really not able to enforce and adopt new practices quickly enough

### Notes:



- Costs of policies depends really on who you ask; they had a parks project being planned for ten years and they had to get additional funding because when they began to plan for green building the design phase had already started
- Portland found that to get to Silver projects it would be cost neutral; Gold you will find to be 0-2% increase and Platinum to be 0-10% increase expected; for certification itself expect to add about \$1,000 for commissioning
- They did experience some pushback initially but that can be overcome by education and a well thought-out and logical policy; but this pushback was not enough to derail Portland because they felt strongly about this and at a minimum they thought this was the appropriate and responsible action
- The way the original ordinance was passed was not as open of a process as it should have been; it was seen as a new bureau and city followed its actions; some staff felt like “where did this come from?”; with the new update they have tried hard to include as many people in the process as they could; create a collaborative atmosphere leading to widespread support
- Their policy requires 30% water conservation for stormwater management; also requires 75% recycled materials; they are going through a process of reexamining priorities;
- Portland feels like they will always require more than LEED; and they are working on clarifying exceptions to LEED requirements-smaller than 5,000 sq. ft.-follow a case by case exemption process
- Portland offers incentives to the private sector through State tax credits and Oregon DOE incentives
- Different departments use different mechanisms to determine cost analysis; most use a 10 year simple payback period to determine cost; and most of the time they are simply “taking a leap”; they realize the buildings are long term assets so we need to build them as efficiently as possible

### **Advice:**

- Cost analysis concerns: with gold certification there is flexibility to pursue a menu of items to reach goals so that you do not have to chase points
- It is critical to build support in all levels of the organization-especially leaders and workers dealing in this business daily
- Portland had the luxury of a supportive development community; she suggested that a city really needs to have private sector advocates in the process
- They suggested that Charlotte partner with USGBC local chapter to serve as advocates with council and private sector development community; they have knowledge to help combat the critics
- Identify architects, engineers and builders who benefit from LEED from a market perspective
- Project managers have a steep learning curve, especially at the beginning; but eventually they will feel more comfortable with reasonable budget-but this must be done early
- Policy needs to be a living document with 4 year cycles of review

### **Contact:**

July 31, 2008  
April 16, 2009



## RALEIGH

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*Population: 374,320*

[http://www.raleighnc.gov/portal/server.pt/gateway/PTARGS\\_0\\_0\\_306\\_202\\_0\\_43/http://pt03/DIG\\_Web\\_Content/category/Resident/Environment/Cat-Index.html](http://www.raleighnc.gov/portal/server.pt/gateway/PTARGS_0_0_306_202_0_43/http://pt03/DIG_Web_Content/category/Resident/Environment/Cat-Index.html)

### **Background:**

- All City owned buildings must meet LEED Silver requirements, ordinance passed in August 2008
- For new building construction Raleigh has three distinct divisions, each with separate authority to construct new facilities: General Administration, Parks and Recreation, and Utilities
- They began to research green building and LEED about five years ago when their new convention center was in the design phase
- The goal of the project was to work toward LEED certification standards, but they are hopeful to obtain LEED Silver
- In 2006, they formed an environmental advisory board focused on increasing city fuel efficiency, decreasing climate impact, investigate the possibility of signing on the Mayor's climate protection agreement, and increasing energy efficiency in the City
- The advisory board discussions eventually led to adopting a LEED Silver requirement for all municipal buildings 10,000 sq. ft or greater; for buildings less than 10,000, they would use LEED standards but it would not be required
- New city buildings are now required to achieve 30% above ASHRAE standards and to achieve a 30% reduction in water usage
- They have also adopted LEED EB for city building renovations
- They are now in the process of educating staff and Council to implement the new standards
- Council adopted the LEED standards in August 2008 and they borrowed much of their policy from two other policies from other cities

### **Why LEED?**

- They started with a blank slate and they considered other high performance building standards
- A local chapter of the USGBC developed a high performance standard for newly constructed buildings in 2002; so there had been some knowledge transfer within the community already
- They discussed other standards such as Green Globes, but LEED had the best recognized and most respected brand
- Wake County schools also had already established LEED Silver as well

### **Notes:**

- They found the 10,000 square foot minimum requirement to be a fairly standard practice around; it is large enough to capture the large facilities and it also captures some economies of scale
- After two years they will come back to examine whether they should include 5,000 square foot buildings and study whether it is worth the cost to do internal commissioning on projects



- Cost Question: The budget aspect is something they are still trying to get a handle on; they are still trying to identify or quantify this aspect of LEED
- Council drove the process of establishing LEED Silver as the new building requirement
- The newly formed committee, according to Raleigh staff, is functioning well; the recommendations of the advisory board were unanimously adopted by Council last month
- Raleigh is currently in the implementation phase and it has required some time to get project managers comfortable with the policy; they are looking to revise the current policy over the next year to address some concerns and shortcomings with the current policy
- The LEED Silver policy was a result of an advisory board and not from staff; once staff studied the full effect of the policy there were some questions raised that made the current policy not as strong or as adaptable as they would like; current policy may have been premature
- Raleigh hopes to set up an internal commissioning team to review building design plans to make sure the facility functions correctly; the implementation team is made up of staff from across the organization and they will be responsible for updating the current policy
- Raleigh is questioning whether to go ahead with full commissioning in the future (after policy is updated) due to the state of the economy; they are concerned LEED is becoming just a money maker because USGBC is talking about requiring certification every year; it is becoming too bureaucratic
- Raleigh requires design folks to do an initial cost analysis during the design phase; other than that they do not have a method to capture cost savings other than simple payback period calculation

### **Advice:**

- The key is to fully integrate the departments with the new standards as it relates to design and construction
- They felt the key component to keeping cost down is planning LEED (energy, water, etc) components at the very beginning of the project; the essential part is getting people together so that everyone understands how each piece leads to certification
- It is very difficult and expensive to add components midway through the process and an earlier start means less cost at the end of the process
- Raleigh hired an energy manager position that helps to review and serve as the eyes for the staff to ensure buildings will perform (energy wise) as advertised by the building designer during the design and construction phase
- They said they were interested in possibly looking to form a partnership with Charlotte or investigate ways with the State legislature to develop new financing methods that could help cities account for savings and increase green building
- Charlotte is in a good place to take advantage of the trial and errors, successes and shortcomings from other jurisdictions; if they had to do something over, it would have been to formulate our policy more carefully and define things to ensure flexibility

### **Contact:**

September 12, 2008, April 29, 2009



## SEATTLE

*Population: 592,800*

<http://www.seattle.gov/dpd/GreenBuilding/CapitalProjects/Overview/default.asp>

### **Background:**

- LEED Silver has been the standard for a long time as they try to transform the market and promote green building to private industry
- Initially this has required education, information, presentations and incentives to promote green building; however, they have just recently began to transform themselves into more of a direct role with a focus on the policy side rather than the education piece
- The City has 11 LEED buildings, and there are 44 private sector buildings currently with LEED certification
- The City Hall and Justice Center have been built but performance is still being measured-will find out within a month about the numbers; there has been a bit of controversy regarding the energy use in the City Hall project
- All publically funded projects and renovations over 5,000 sq feet of occupied space must achieve LEED Silver

### **Why LEED?**

- LEED is the best route because it is already out there, many jurisdictions have adopted the standard and it does address a wide range of issues; mainly used as a tool to gauge itself
- Rating systems are incredibly difficult to come up with on your own and you must devote many hours of staff time and resources; plus LEED has some market cache
- The rating system is well done; it does have some issues but it has been in use for ten years
- Silver is the minimum requirement because Certified does not push you far enough, and Gold may be a reach for some projects; King County has now gone with Gold certification, and so they may update their requirements in the coming years as technology advances to allow buildings to become more energy efficient

### **Notes:**

- Seattle is concerned about whether some developers actually follow through with all of their promises, and developers who are able to get around the ordinance at times
- LEED Silver standard only applies to new construction because they were worried about to how approach retro-fitting their numerous buildings
- There were some grumblings from staff members who were not able to get other amenities in their building that they wanted; there were some either/or decisions



- There was some resistance to changing from the norm leading to some reluctance, but it did not take them long to realize the value in green buildings
- Earth Day 2009 was used to announce new policies/incentives developed by Green Building Task Force such as a comprehensive construction and demolition waste diversion project, multifamily code changes to extend green features to multi-family zones, allow height exemptions for green roofs and renewable energy, and a density bonus for LEED built facilities
- Taskforce is currently developing recommendations to “up the ante” for green building design standards but it will not be ready until the end of 2009
- They are not able to report on life cycle cost or calculating payback

**Advice:**

- Technology is changing very quickly and government must keep up; the issue here is trying to stay above, or ahead of the game;
- Must also be flexible/changeable in order to adapt to changing conditions and technology
- Try to become more flexible and be within the existing code
- Seattle does not have green standards as it relates to retrofits because they had a hard time trying to figure out how that would work; still have not yet been able to deal with it

**Contact:**

July 25, 2008

April 21, 2009



## WACHOVIA



WACHOVIA

[http://www.wachovia.com/inside/page/0,,132\\_10475,00.html](http://www.wachovia.com/inside/page/0,,132_10475,00.html)

### Background:

- Wachovia has developed an organizational sustainability strategy that focuses on governance/leadership, policies, facilities and operations, external engagement, environmental services, and internal processes/systems
- Wachovia's Climate Change Policy is focused on achieving a 10% reduction in absolute carbon emissions by 2010 from the 2005 levels
- For new projects teams are assembled for the entire life of the building and LEED implications/status integrated with every point of the project discussion
- Wachovia underscores the importance of pursuing active day-lighting as an opportunity to reduce energy consumption and promote human health and productivity
- New innovative water technologies are reducing the amount of water required for operation by 46%
- Wachovia promotes the importance of energy modeling, measurement and verification, and commissioning in the design process
- The organization is promoting the use of environmentally friendly transportation
- Wachovia sees the opportunity for the organization to "Lead Green," "Learn Green," and "Live Green."

### Why LEED?

- USGBC's LEED framework for assessing building performance and meeting sustainability goals is the leading green building system in America
- LEED is based on scientific standards and emphasizes state of the art sustainable strategies for site development, water and energy efficiency, material selection and indoor environmental quality
- LEED promotes expertise in green building through project certification, professional accreditation, training and resources

### Advice:

- The LEED building process requires continuous learning by all parties, including the building owner.
- If sustainable design can improve overall employee health and productivity, and help to attract and retain employees, then the payoff is far greater than any reduction in the building life cycle cost
- Be sure to hire and utilize LEED savvy and MEP Engineers
- Take the time to research innovative new products
- Rather than just looking at the initial price, take the time gain an understanding of the "true cost" of green solutions and products
- Owners of buildings to need to be active and visible with their commitment to the process and results



## **CONTACT INFORMATION**

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[http://www.atlantaga.gov/client\\_resources/greener%20atlanta/atlanta%20green%20city%20initiatives.pdf](http://www.atlantaga.gov/client_resources/greener%20atlanta/atlanta%20green%20city%20initiatives.pdf)

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<http://egov.cityofchicago.org/city/webportal/portalEntityHomeAction.do?entityName=Environment&entityNameEnumValue=13>

### **CLEVELAND**

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### **SEATTLE**

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## GRAPHS AND CHARTS:

### Chart 1: Interview Contacts and Overview

City	Interview Date	Contact	Phone Number	Charlotte Staff Present	Peer City staff present	LEED Policy	Minimum Standards	Incentives
Atlanta	7/22/2008	Mandy Schmitt	404-865-8965	Julie Burch, Rob Phocas, Justin Amos	Mandy Schmitt	Silver	5,000 sq ft and \$2 million in cost	No
Chicago	9/30/2008; 4/16/2009	Michael Berkshire, Erin Lavin	312-744-0363 (MB); 312-744-3090 (EL)	Julie Burch, Rob Phocas, Justin Amos, Jeb Blackwell	Michael Berkshire	The Chicago Standard (Silver)	All public facilities	No
Cleveland	8/5/2008; 4/21/2009	Andrew Waterson, LEED AP, Sustainability Director	216-664-2444 ext. 5582	Julie Burch, Gina Shell, Justin Amos	Andrew Waterson	Silver	All public facilities	Yes
Denver	8/6/2008; 4/21/2009	Cindy Bosco, Greenprint Denver	720-865-5403	Gina Shell, Rob Phocas, Justin Amos	Cindy Bosco, Christian, Jack	Silver and Energy Star (6 points)	All public facilities	No
Kansas City	7/30/2008; 5/7/2009	Gerald Shechter	816-513-3401	Julie Burch, Jeb Blackwell, Gina Shell, Rob Phocas, Justin Amos	Gerald Shechter, Dennis Murphy, Eric Bosch	Silver	5,000 sq. ft.	Yes for private developers and use of CDBG grants
Phoenix	8/18/2008; 4/16/2009	Tauny Woo, City Engineer and Theresa Foster, Env. Programs Co. PWD	602-534-2608	Julie Burch, Gina Shell, Justin Amos	Tauny Woo	No officially adopted minimum requirement	None	No
Portland	7/31/2008; 4/16/2009	Alisa Kane, Green Building Coordinator	503-823-7082	Julie Burch, Gina Shell, Rob Phocas, Justin Amos	Alisa Kane	Gold	5,000 sf	Yes-tax credits, permit expedited
Raleigh	9/12/2008; 4/29/09	Paula Thomas, Julian Prosser	919-996-4658	Gina Shell, Jeb Blackwell, Rob Phocas, Justin Amos	Paula Thomas	Silver	10,000 sf	No
Seattle	7/25/2008; 4/21/2009	Sandra Mallory	206-615-0731	Julie Burch, Gina Shell, Rob Phocas, Jeb Blackwell, Justin Amos	Sandra Mallory	Silver	All public facilities; and renovations over 5,000 sq ft	Yes-NC and renovations



## Chart 2: Interviews Summary

City	Require LEED Certification?	LEED Policy	Minimum Standards
Atlanta	Yes	Silver	5,000 sq ft and \$2 million in cost
Chicago	Yes	Chicago Standard (Silver)	all NC
Cleveland	Yes	Silver	all NC
Denver	Yes	Silver <sup>1</sup>	all NC
Kansas City	Yes	Silver	5,000 sf
Portland	Yes	Gold	5,000 sf
Phoenix	No <sup>2</sup>	No LEED policy	all NC
Raleigh	Yes	Silver	10,000 sf
Seattle	Yes	Silver	all NC and renovations over 5,000 sq ft

<sup>1</sup> Denver also requires each project to meet Energy Star Requirement of 6 points

<sup>2</sup> Phoenix requires new buildings to meet LEED certification but it does not require each project seek certification due to concerns of administrative costs



## **APPENDIX A:**

### ***Copy of the Standardized Questions***

- *Describe your building program and the scope of the operation.*
- *How did your city decide on LEED? What was the process? What were the driving factors?*
- *Did your organization ever consider establishing your own standards, perhaps based on LEED, but tailored to your specific community?*
- *What degree of difficulty have you experienced in implementation of the guidelines?*
- *What were the costs associated with the guidelines? Did you experience tough pushback from Council, private sector, or City employees?*
- *Were there staff concerns in terms of implementation and carrying out the plans?*
- *How successful have your efforts been? Efforts to increase standards since original ordinance?*
- *What were some of the troublesome tradeoffs you have experienced or competing council priorities?*
- *What else should we be concerned about? What do we not know, but need to? Any words of wisdom or advice?*



## **APPENDIX B:**

### ***Copy of Kansas City Ordinance***

SECOND COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 080711

Amending Article XI, Chapter 2, Administration, relating to the LEED Silver Standard by repealing Section 2-1604, Code of Ordinances, and enacting in lieu thereof a new section of like number which illustrates the City of Kansas City's commitment to sustainability in public buildings.

WHEREAS, the City Council has adopted a Green Solutions Policy to integrate green solutions into City planning and development processes and the City Manager has signed a Green Solutions Administrative Regulation that requires City staff to incorporate green solutions, whenever possible and appropriate, into City policies, projects, and programs; and

WHEREAS, the City Council has identified a long-term priority for the City being a certifiable green city; and

WHEREAS, the City Council has adopted a resolution to support regional efforts to make the Kansas City metro area Americas Green Region and achieve such recognition nationally; and

WHEREAS, the degree to which cities follow the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) Standards is a criteria used by organizations that rate and rank cities in terms of sustainability and being green; and

WHEREAS, building in accordance with LEED Standards provides many benefits to the City by improving the energy efficiency of new and renovated buildings, reducing storm water runoff into local sewers and waterways, reducing the operating and maintenance costs for buildings, improving the health and productivity of building occupants by achieving better indoor environmental quality, and reducing greenhouse gas emissions; and

WHEREAS, the City Council previously enacted an ordinance regarding LEED Standards for public buildings and it is now appropriate to revisit that ambitious effort and that a revision of that ordinance is desirable; NOW, THEREFORE,

**BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:**

Section 1. That Article XI, Chapter 2, Administration, Code of Ordinances of the City of Kansas City, Missouri is hereby amended by repealing Section 2-1604, LEED Silver Standard, and enacting in lieu thereof a new section of like number, to read as follows:

Sec. 2-1604. LEED Silver Standard

(a) Policy. It is the policy of the City that the design, construction, and operation of new facilities of any size and renovations in which the facility affected has at least 5,000 square feet of space, for which the City issues a request for qualifications for design services or conducts such services itself, shall conform to the Silver rating or higher of the most recent version of the USGBC (U.S. Green Building Council) LEED (Leadership in Energy and Environmental Design) Green Building Rating System.

(b) Establishment of LEED Standards Committee. The City Manager shall appoint a LEED Standards Committee.

(1) The LEED Standards Committee shall be initially composed of one representative from each of the following departments, offices, and entities:



- a. Aviation
- b. Capital Improvements Management Office
- c. City Manager
- d. Environmental Management Commission
- e. Fire
- f. General Services
- g. Office of Environmental Quality
- h. Parks and Recreation
- i. Police
- j. Public Works
- k. Water Services
- l. City Council

(2) The City Manager has the authority to make departmental or organizational additions or deletions to the membership of the LEED Standards Committee as needed for the effective administration of this section, with the exception of the City Council position.

(3) The chair of the LEED Standards Committee shall be selected by the LEED Standards Committee members.

(c) Contracts. Each contract for projects identified in subsection (a) above shall contain provisions sufficient to require the designer and constructor to comply with the LEED Silver Standard at a minimum and submit documentation to USGBC for their independent third-party review process and certification.

(d) Exemptions. For a given project, if the LEED Standards Committee determines that there are compelling reasons that a project may not be able to achieve a LEED Silver rating, the LEED Standards Committee may require compliance with select LEED credits or exempt a project from any LEED compliance requirement found in subsection (a) of this section.

(e) Rules and Regulations. The LEED Standards Committee shall draft and adopt any rules and regulations necessary to administer this section and to facilitate the Committees review and determination process. \_\_\_\_\_

Approved as to form and legality:

\_\_\_\_\_

Matthew Gigliotti  
Assistant City Attorney



## **APPENDIX C:**

### ***The Chicago Standard***

The City of Chicago has adopted The Chicago Standard, a new set of construction standards for public buildings. The Chicago Standard was developed to guide the design, construction and renovation of municipal facilities in a manner that provides healthier indoor environments, reduces operating costs and conserves energy and resources. It also includes provisions for outfitting, operating and maintaining those facilities. The Chicago Standard takes advantage of new building technologies and practices to enhance the well-being and quality of life of everyone working in and using these buildings, as well as the neighborhoods in which they're located. The Chicago Standard is derived from the Leadership in Energy and Environmental Design (LEED™) Green Building Rating System developed by the U.S. Green Building Council (USGBC), a nonprofit coalition representing all segments of the building industry. The LEED rating system is the most widely used and accepted standard for green building in the United States. It also is a certification tool. Points are awarded by the USGBC to buildings that incorporate the design and construction practices and technologies listed in LEED.

By accumulating points, a building can achieve a rating of LEED Certified, Silver, Gold or Platinum. Although originally developed for use in the City of Chicago's municipal facilities, The Chicago Standard can be used as a guide for any construction or renovation project, public or private. All buildings that adhere to The Chicago Standard will be eligible for the LEED Certified rating. Buildings that incorporate additional LEED practices not found in The Chicago Standard (but listed as alternate points at the end of it) may be eligible for a LEED Silver, Gold or Platinum rating. For more information about the LEED practices and technologies that make up The Chicago Standard, visit the U.S. Green Building Council's web site at [www.usgbc.org](http://www.usgbc.org).

City of Chicago  
Richard M. Daley, Mayor

## **The Chicago Standard**

### **SUSTAINABLE SITES**

- Erosion & Sedimentation Control (LEED Prerequisite 1)
- Site Selection (LEED Credit 1)
- Alternative Transportation: Public Transportation Access (LEED Credit 4.1)
- Alternative Transportation: Bicycle Storage & Changing Rooms (LEED Credit 4.2)
- Alternative Transportation: Parking Capacity (LEED Credit 4.4)
- Stormwater Management: Rate and Quantity (LEED Credit 6.1)
- Heat Island Effect: Non-Roof (LEED Credit 7.1)
- Heat Island Effect: Roof (LEED Credit 7.2)
- Light Pollution Reduction (LEED Credit 8)

### **WATER EFFICIENCY**

- Water Use Reduction: 20% Reduction (LEED Credit 3.1)



## ENERGY & ATMOSPHERE

- Fundamental Building Systems Commissioning (LEED Prerequisite 1)
- Minimum Energy Performance (LEED Prerequisite 2)
- CFC Reduction in HVAC&R Equipment (LEED Prerequisite 3)
- Optimize Energy Performance: 20% New Bldgs./10% Existing Bldgs. (LEED Credit 1.1, worth 2 points)
- Additional Commissioning (LEED Credit 3)
- Ozone Protection (LEED Credit 4)
- Measurement and Verification (LEED Credit 5)
- Green Power (LEED Credit 6)

Detailed information about the requirements of these Prerequisites and Credits can be found at [www.leadbuilding.org](http://www.leadbuilding.org).

## Sustainable Sites

Practices for sustainable site development include selecting sites that are not environmentally sensitive; designing the building with a minimal footprint to minimize site disruption; designing the site to maintain natural storm water flows by promoting infiltration; using vegetated surfaces and open-grid paving or high-reflecting materials to reduce heat absorption; and selecting a site and providing amenities to encourage occupants' use of alternative modes of transportation.

## Water Efficiency

Strategies for maximizing water efficiency within a building include using innovative technologies such as ultra low-flow fixtures and occupant sensors, and reusing storm water and greywater for non-potable applications such as toilet and urinal flushing, mechanical systems, irrigation, and custodial uses.

## Energy & Atmosphere

Practices for enhancing energy efficiency include engaging a commissioning authority and adopting a commissioning plan to ensure that building systems operate as intended; designing the building envelope and systems to maximize energy performance; and providing at least 50 percent of the building's electricity from renewable energy technologies on-site or offsite. Practices for reducing ozone depletion include installing heating, ventilation, air conditioning, and refrigeration equipment that uses no chlorofluorocarbons (CFCs) or hydrochlorofluorocarbons (HCFCs).

## Materials & Resources

Strategies for conserving resources include reusing existing buildings; establishing goals for landfill diversion and adopting a construction waste management plan to achieve those goals; using regionally-produced materials and materials with recycled content; and installing Forest Stewardship Council-certified wood-based materials and products.

## Indoor Environmental Quality

Practices that improve indoor environmental quality include developing and implementing an Indoor Air Quality (IAQ) Management Plan for the construction and pre-occupancy phases of the building; specifying low-VOC materials and products in construction documents; and designing the building to maximize interior daylighting and views.

## Innovation & Design Process

Practices that reflect innovation in design—such as those that substantially exceed an energy performance or water efficiency level specified by LEED—may be awarded additional points by the USGBC.



## CONSTRUCTION AND RENOVATION

The construction and renovation standards listed below are from the LEED Green Building Rating System for New Construction & Major Renovations, Version 2.1, dated November 2002. Each standard is labeled either a “Prerequisite” or a “Credit.” Prerequisites, such as Sustainable Sites/Erosion & Sedimentation Control, are required by The Chicago Standard. Credits, such as Sustainable Sites/Site Selection, are worth one point each, except where otherwise indicated; a total of 26 construction and renovation points is required by The Chicago Standard. Alternate Credits, listed at the end of this document, may be substituted for those listed below. Alternate Credits also can be used to supplement the requirements of The Chicago Standard, enabling a building to qualify for a LEED Silver, Gold or Platinum rating. Design teams are encouraged to use the Alternate Credits in this way to achieve the highest possible LEED rating.

### **The Chicago Standard**

The Chicago Standard consists of 46 practices and technologies from the LEED rating system that are reasonable and appropriate for the design, construction, renovation and operation of buildings in Chicago. As in LEED, these practices and technologies are organized in six categories:

## INDOOR ENVIRONMENTAL QUALITY

- Minimum IAQ Performance (LEED Prerequisite 1)
- Environmental Tobacco Smoke Control (LEED Prerequisite 2)
- Carbon Dioxide Monitoring (LEED Credit 1)
- Construction IAQ Management Plan: During Construction (LEED Credit 3.1)
- Construction IAQ Management Plan: Before Occupancy (LEED Credit 3.2)
- Low-Emitting Materials: Adhesives & Sealants (LEED Credit 4.1)
- Low-Emitting Materials: Paints and Coatings (LEED Credit 4.2)
- Low-Emitting Materials: Carpet (LEED Credit 4.3)
- Low-Emitting Materials: Composite Wood (LEED Credit 4.4)
- Indoor Chemical & Pollutant Source Control (LEED Credit 5)
- Thermal Comfort: Compliance with ASHRAE 55-1992 (LEED Credit 7.1)
- Daylight & Views: Daylight 75% of Spaces (LEED Credit 8.1)
- Daylight & Views: Views for 90% of Spaces (LEED Credit 8.2)

## MATERIALS & RESOURCES

- Storage & Collection of Recyclables (LEED Prerequisite 1)
- Building Reuse: Maintain 75% of Existing Walls, Floors and Roof (LEED Credit 1.1)
- Construction Waste Management: Divert 50% from Landfill (LEED Credit 2.1)
- Recycled Content: 5% (post-consumer + 1/2 post-industrial) (LEED Credit 4.1)
- Regional Materials: 20% Manufactured Regionally (LEED Credit 5.1)
- Certified Wood (LEED Credit 7)

## INNOVATION & DESIGN PROCESS

- Innovation in Design (LEED Credits 1.1 and 1.2)
- LEED Accredited Professional (LEED Credit 2.1)

## FURNITURE, FIXTURES & EQUIPMENT

The furniture, fixtures and equipment Credits listed below are from the pilot version of the LEED Rating System for Commercial Interiors, dated July 2002. These Credits set energy efficiency requirements for equipment and appliances, and recycled content and emissions requirements for furniture and furnishings. Achieving these Credits will not result in



any additional LEED certification, but is good practice for any type of building. Detailed information about the Credits can be found at [www.leadbuilding.org](http://www.leadbuilding.org).

## ENERGY & ATMOSPHERE

Optimize Energy Performance: Equipment & Appliances (LEED Credit 1.4)

## MATERIALS AND RESOURCES

Recycled Content: Use 5% post-consumer or 10% post-consumer + post-industrial (LEED Credit 4.1)

## INDOOR ENVIRONMENTAL QUALITY

Low-Emitting Materials: Furniture and Furnishings (LEED Credit 4.5)

## OPERATION AND MAINTENANCE

The operation and maintenance Credits listed below are from the pilot version of the LEED Rating System for Existing Buildings, dated January 2002. Achieving these Credits will not result in any additional LEED certification, but is good practice for any type of building. Detailed information about the Credits can be found at [www.leadbuilding.org](http://www.leadbuilding.org).

## SUSTAINABLE SITES

- Green Site and Building Exterior Management to Reduce Impact on Local Environments (LEED Credit 9.1)
- Low Impact Site and Building Exterior Chemical/Fertilizer/Pest Management Program (LEED Credit 9.2)

## ENERGY & ATMOSPHERE

- Continuous Commissioning and Maintenance (LEED Credit 3)

## INDOOR ENVIRONMENTAL QUALITY

- Green Housekeeping (LEED Credit 5)

## SUSTAINABLE SITES

- Development Density (LEED Credit 2)
- Brownfield Redevelopment (LEED Credit 3)
- Alternative Transportation: Alternative Fuel Vehicles (LEED Credit 4.3)
- Reduced Site Disturbance: Protect or Restore Open Space (LEED Credit 5.1)
- Reduced Site Disturbance: Development Footprint (LEED Credit 5.2)
- Storm water Management: Treatment (LEED Credit 6.2)

## WATER EFFICIENCY

- Water Efficient Landscaping: Reduce by 50% (LEED Credit 1.1)
- Water Efficient Landscaping: No Potable Use or No Irrigation (LEED Credit 1.2)
- Innovative Wastewater Technologies (LEED Credit 2)
- Water Use Reduction: 30% Reduction (LEED Credit 3.2)

## ENERGY & ATMOSPHERE

- Optimize Energy Performance (LEED Credits 1.2 - 1.9)



- Renewable Energy: 5% (LEED Credit 2.1)
- Renewable Energy: 10% (LEED Credit 2.2)
- Renewable Energy: 20% (LEED Credit 2.3)

## MATERIALS & RESOURCES

- Building Reuse: Maintain 100% of Existing Walls, Floors and Roof (LEED Credit 1.2)
- Building Reuse: Maintain 100% of Shell/Structure & 50% of Non-Shell/Non-Structure (LEED Credit 1.3)
- Construction Waste Management: Divert 75% from Landfill (LEED Credit 2.2)
- Resource Reuse: 5% (LEED Credit 3.1)
- Resource Reuse: 10% (LEED Credit 3.2)
- Recycled Content: 10% (post-consumer + 1/2 post-industrial) (LEED Credit 4.2)
- Regional Materials: 50% Extracted Regionally (LEED Credit 5.2)
- Rapidly Renewable Materials (LEED Credit 6)

## INDOOR ENVIRONMENTAL QUALITY

- Ventilation Effectiveness (LEED Credit 2)
- Controllability of Systems: Perimeter Spaces (LEED Credit 6.1)
- Controllability of Systems: Non-Perimeter Spaces (LEED Credit 6.2)
- Thermal Comfort: Permanent Monitoring System (LEED Credit 7.2)

## INNOVATION & DESIGN PROCESS

- Innovation in Design (LEED Credits 1.3 and 1.4)

## ALTERNATE CREDITS

The Credits listed below are from the LEED Green Building Rating System for New Construction & Major Renovations, Version 2.1, dated November 2002. These Credits are not specified in The Chicago Standard; however, they should be reviewed for applicability on a project-by-project basis and used as replacement points in the event that any points from The Chicago Standard are not achievable. Earning points for some or all of the Credits below, in addition to meeting the requirements of The Chicago Standard, may make a building eligible for a LEED Silver, Gold or Platinum rating. Design teams are encouraged to use the Alternate Credits in this way to achieve the highest possible LEED rating. Detailed information about requirements of the Credits can be found at [www.leadbuilding.org](http://www.leadbuilding.org).



## **APPENDIX D:**

### **Interviews with Other Regional Cities**

#### **ASHEVILLE, NC**

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*Population: 72,789*

#### **Background**

- Asheville adopted their sustainable facilities policy in April 2007
- All buildings over 5,000 square feet must be LEED Gold and all buildings less than 5,000 square feet must be LEED Silver
- The policy was adopted by council following a recommendation made by a community organization appointed by the council
- To date Asheville has constructed no new buildings under this policy

#### **Why LEED?**

- It is a recognized national certification program
- Asheville felt that the LEED program met the goal of laying out a vision for the community and explicitly states how to achieve certification

#### **Notes**

- In adopting a policy, the city did not want to give an opportunity for “opting out,” fearing that if the option was available decision makers would choose the option that cost the least
- Any exception to the policy would have to be granted by the council
- Prior to the adoption of the policy the council gave some pushback in terms of cost and wanted information on the economic aspects of sustainable development
- Staff said that they had to be translators and describe the policy in financial terms when around financial people and in environmental terms when around environmentalists
- Staff worked with a committee appointed by the council to formulate the policy

#### **Contact:**

Maggie Ullman  
(828) 271-6141  
mullman@ashevillenc.gov



## Cary, NC

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*Population: 139,000*

### **Background**

- The Town of Cary currently does not have a sustainable facilities policy
- Cary has assembled a citizen advisory committee that is beginning to explore the topic and the town hopes that the committees work will serve as a jumping off point for the development of a sustainable facilities policy

### **Notes**

- Organizationally, staff is entrusted to make the best decisions when it comes to systems and building design, but no internal verification system exists

### **Contact:**

Lana Hygh

Assistant Town Manager

Lana.hygh@townofcary.org



## Chapel Hill, NC

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*Population: 54,592*

### **Background**

- Chapel Hill adopted a sustainable facilities policy in 2004.
- Chapel Hill's sustainable facilities policy requires LEED Silver Certification for all new construction and all renovations over 5,000 square feet. A clause in the policy allows council to grant exceptions to specific buildings and the policy does not apply to public housing

### **Why LEED?**

- When the policy was created in 2004 LEED was receiving a lot of notoriety and was well received within the community
- The structure of LEED makes it easy to use
- LEED by itself does not promote sustainability. Any LEED based policy must be aligned with community priorities such as water conservation and energy use reduction

### **Notes**

- To date, Chapel Hill has not constructed a building under this policy, but they are trying to expand the policy to a library expansion project that was already underway
- In order for a LEED based policy to be effective in promoting sustainability a municipality must prioritize the points to avoid point chasing
- LEED has the power to steer the market reducing options in a community, and the more options that exist in the community the better
- Some cities and towns avoid certification and commissioning requirements by building "Certifiable" rather than "Certified" buildings
- LEED is a standardized system that allows you to make comparisons of buildings, but itself does not ensure sustainability. LEED does not create a structural framework for achieving a community's conservation goals

### **Contact:**

John Richardson

Town Sustainability Manager

919-969-5075

[jrichardson@townofchapelhill.org](mailto:jrichardson@townofchapelhill.org)



## Columbia, SC

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*Population: 124,818*

### **Background**

- Columbia does not have a sustainable facilities policy
- Columbia has formed the Climate Protection Action Committee as a response to growing concerns about climate change, with the hopes of providing the city with general guidelines for the community.

### **Notes**

- The city council seems to be supportive in the development of “green” policies, but there has not been any specific direction given to staff
- The city council is becoming interested in the economic benefits of “sustainability,” for example, they have mandated energy saving compact fluorescent light bulbs be used in all city buildings

### **Contact:**

Lucinda Statler

(803) 545-3215

lsstatler@columbiasc.net



## Durham, NC

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*Population: 217,847*

### **Background Information**

- The City of Durham has not adopted a sustainable facilities policy, but Durham County adopted a policy in October of 2008. Since the county and city have a consolidated planning department, staff administer the two different policies
- The county's program requires that all buildings over 10,000 square feet shall achieve a minimum rating of LEED Gold or any comparable criteria
- Buildings between 4,000 and 10,000 square feet shall achieve a minimum rating of LEED Silver or other comparable criteria
- All renovations exceeding 25% of the original structure, or replacing two of three major systems must achieve LEED certification or any comparable performance criterion
- The City of Durham is in the process of developing and adopting a policy, but establishing buy-in from the general services department has been difficult

### **Why LEED?**

- The City of Durham is trying to follow the County's lead and adopt a sustainable facilities program that is based on LEED Certification
- A major reason for the county's adoption of LEED was that the county had an unofficial mandate from the county commissioners to build LEED Certified buildings
- The LEED certification process is widely used and recognizable

### **Notes**

- Durham County is in an environment where much of the private sector has turned to LEED and there are a number of engineering and architecture firms located in the research triangle that have made transitioning to green building very easy
- The education process for county staff was easy and met little resistance.
- The county has seen that as they have gained more experience with the LEED system the cost of constructing the buildings has gone down
- Generally, the county has seen a 2-3% increase in the cost of LEED Certified construction
- The policy has been focused on the environmental aspects of sustainability, not necessarily on life-cycle cost analysis and building payback
- There is some resistance and push back against city adoption of a similar policy stemming from a structural issue with multiple departments working on the same projects and overlap occurring

### **Contact:**

Kathleen Snyder  
(919) 560-4137 ext. 269



## Greenville, SC

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*Population: 56,002*

### **Background**

- Greenville does not have a sustainable development policy for public buildings other than a land management ordinance that applies to the entire community
- Greenville is in the process of working on a community wide development plan, but it does not contain anything that pertains solely to government buildings

### **Notes**

- While no policy exists, Greenville has done rehabilitation projects on existing buildings where they have looked at the life-cycle cost and payback period of energy efficient heating and air conditioning systems

### **Contact:**

Phil Lindsay

(864) 467-4400

plindsay@greenvillesc.gov



## **Greensboro, NC**

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*Population: 258,671*

### **Background**

- A Sustainability Director has started work on a sustainability policy for Greensboro
- The director wants to require all buildings over 10,000 square feet to be certified LEED Gold. If the cost of becoming Gold is over 5%, they could go for LEED Silver certification instead
- Buildings under 10,000 square feet would need to be LEED Silver
- Some exceptions will be allowed

### **Thoughts on LEED**

- Reasons for pursuing LEED include the fact that it is the de facto standard for sustainable building, it is recognizable and of all the certification programs it is the one that people are most familiar with

### **Notes**

- Greensboro is still in the early stages of addressing sustainability and is still determining the proper course of action for the community

### **Contact:**

Steve Randall

(336) 373-3883

steve.randall@greensboro-nc.gov



## Winston-Salem, NC

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*Population: 224,889*

### **Background**

- Winston-Salem is in the process of developing a sustainable facilities policy
- Winston-Salem has hired an outside consultant to compare the LEED building guidelines to the City's existing building codes, guidelines set by ASHRAE, and the codes followed by the NC State Construction Office
- At this time no proposed policy has gone before council

### **Thoughts on LEED**

- There are concerns that LEED Certification is not appropriate for all buildings
- Winston-Salem is looking for a policy that addresses sustainability on ALL projects, including those not applicable to LEED

### **Notes**

- Winston-Salem would like to position itself as a role model in the community
- Life-cycle cost analysis is an important tool that will be used in deciding how to implement a policy, but the town realizes that some sustainable features are not cost effective
- At this point they have not received any push-back from council or from the private sector
- Winston-Salem sees no challenges in implementing the policy, as it will be a directive to the project manager
- One challenge that the City does anticipate is the education and training of staff on green building and design

### **Contact:**

Randy Rogers  
336-727-8250

• **Mayoral Veto of Charlotte Streetcar Project Professional Services**

**Action:** Consider a vote on the Mayor's veto of:

- A. Authorization for the City Manager to negotiate and execute a contract for professional services with URS Corporation to provide design and engineering services for the City's proposed Streetcar Project in an amount not to exceed \$4.5 million.**
- B. Authorization for the City Manager to execute a Federal grant contract that allocates \$237,500 in federal funds for the Charlotte Streetcar project.**
- C. Adoption of a budget ordinance transferring \$59,375 from the Streetcar budget into the Transit Budget for the local match associated with the \$237,500 in Federal funds.**
- D. Refer to the Transportation Committee for further discussion of a financing plan relative to the Streetcar project. (Added on August 24)**

**Staff Resource:** Jeb Blackwell, Engineering & Property Management  
John Muth, CATS

**Focus Area:** Transportation

**Explanation**

- At its meeting on August 24<sup>th</sup>, 2009 City Council passed an action that authorized the City Manager to execute a design and engineering contract for the Streetcar Project in an amount not to exceed \$4.5 million. Additionally, the action authorized/adopted:
  - The execution of a Federal grant contract allocating \$237,500 in federal funds for the Charlotte Streetcar project.
  - A budget ordinance transferring \$59,375 from the Streetcar budget into the Transit Budget for the local match.
  - Refer to the Transportation Committee a directive to engage in further discussion of a financing plan relative to funding the Streetcar project.
- That action passed by a 7-4 vote.
- The Mayor vetoed this action.
- Pursuant to City Charter §3.23(b), the vetoed action was automatically placed on the agenda for the next official meeting of Council, September 8<sup>th</sup>, 2009.

## Street Resurfacing Replacement Funding

**Action:** Consider options to replace \$1,434,537 in street resurfacing funds to the FY2010 budget:

1. General Fund fund balance – Capital Reserves,
2. Streetcar capital project savings, or
3. Powell Bill Fund fund balance.

**Staff Resource:** Ruffin Hall, Budget & Evaluation

### Explanation

- In the FY2010 budget, Council approved a transfer of 0.6 cents of the existing property tax rate from the Capital Investment Program to the General Fund to provide an additional \$4.5 million in supplemental funding to the City's Street Resurfacing Program.
- The intent of the supplement was to allow the City to resurface an additional 46 miles of streets during this fiscal year for a total of 216 miles of streets. This additional funding would have achieved the 12 year street resurfacing cycle goal.
- For the FY2010 budget, Charlotte-Mecklenburg Police Department (CMPD) requested 125 additional police officers to address community safety issues and staffing needs. The City applied for federal stimulus grant funds (COPS grant) to fund 150 additional police officers. The City was awarded 50 police officers in August.
- The Council voted on August 24, 2009 to:
  - Accept the federal COPS grant of \$8.5 million and add 50 police officers;
  - Reallocate \$1.4 million of the \$4.5 million Street Resurfacing supplement in FY2010 to hire 75 additional police officers beyond the 50 new police officers funded under the COPS grant for a total of 125 police officers;
  - Appropriate \$2.4 million from Public Safety capital reserve funds to pay for one-time startup costs; and
  - Direct the City Manager to provide funding options that could replace \$1.4 million to the FY2010 Street Resurfacing Program.
- While an additional \$3 million remains in street resurfacing over last year's funding level, reducing the General Fund supplemental funding by the \$1.4 million in FY2010 reduced the number of additional street miles to be resurfaced from an additional 46 miles to 29 miles and added approximately one year to the resurfacing cycle (13 years instead of 12).
- By comparison, the resurfacing cycle projected for FY2006 was 28-31 years.

### Three funding options

- Per Council's request, following are three possible options to replace the \$1,434,537 in street resurfacing.

1. General Fund fund balance– Capital Reserves

- By Council policy, General Fund fund balance in excess of the Council 16% policy is transferred to the subsequent capital budget as Capital Reserves.
- For FY2010, staff recommended and Council approved keeping \$16 million in Capital Reserves within General Fund fund balance instead of transferring to the capital budget for two purposes:
  - \$12.0 million for potential future economic deterioration; and
  - \$4.0 million for Public Safety capital equipment (\$1.2 million for Fire apparatus and \$2.8 million for one-time Police start-up costs related to new police officer positions).
- Two recent Council actions appropriated a portion of the undesignated \$12.0 million Capital Reserves amount:
  - On May 26, 2009 Council appropriated \$2.6 million for a portion of the SafeLight/SafeSpeed payment owed to Charlotte-Mecklenburg Schools.
  - On August 24, 2009 Council appropriated \$2.0 million to cover reduced beer and wine excise tax revenues.
- As a result, the current balance of Capital Reserves set aside in General Fund fund balance for potential future economic deterioration is \$7.4 million. Should the \$7.4 million be depleted for any reason, the General Fund fund balance of \$100 million would remain for emergency use.
- Appropriation from fund balance would increase the City's \$1.8 billion budget by \$1.4 million because the funds are currently unappropriated.

2. Streetcar Capital Project Savings

- In the FY2010 budget, Council approved \$8.0 million to fund initial planning and design of the proposed Streetcar project.
- On August 24, 2009 Council authorized the City Manager to negotiate and execute a contract for professional services to provide design and engineering services for the City's proposed Streetcar project in an amount not to exceed \$4.5 million.
- The Mayor vetoed this action.
- By rule, the veto was scheduled for the next official meeting of Council, September 8, 2009.
- Of the \$3.5 million remaining in Streetcar Planning and Design, \$1.0 million is needed within the account for staff costs, public input and contingencies, leaving \$2.5 million available for reallocation.
- Any unused Streetcar Planning and Design funds will be considered as part of next year's FY2011-2015 Capital Investment Planning (CIP) process.
- Reallocating \$1.4 million from the \$8 million streetcar account would not increase the annual budget.

3. Powell Bill Fund fund balance

- Powell Bill State gasoline taxes are shared with municipalities for local street resurfacing and street maintenance activities.
- At the end of FY2009, Powell Bill Fund unaudited fund balance is projected at \$3.2 million, which represents 11.4% (as compared to the General Fund's 16% benchmark).

- The City traditionally maintains a Powell Bill Fund fund balance of at least \$1.5 million in order to cover potential emergency or unforeseen needs such as:
  - Snow and tree removal from storms;
  - Unexpected street repairs; and
  - State gas tax revenue coming in below the City's appropriated estimates for the fiscal year.
- If Council chooses to appropriate \$1.4 million from Powell Bill Fund fund balance, then the remaining \$1.8 million should be sufficient to cover unforeseen street maintenance circumstances in FY2010.

### **Budget Ordinances**

Budget ordinances for options one, two and three are attached.

### **Attachments**

Budget Ordinances

ORDINANCE NUMBER: \_\_\_\_\_

AN ORDINANCE TO AMEND ORDINANCE NUMBER 4187-X, THE 2009-2010 BUDGET  
ORDINANCE, PROVIDING REPLACEMENT FUNDING FOR STREET RESURFACING  
FROM GENERAL FUND FUND BALANCE - CAPITAL RESERVES.

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BE IT ORDAINED, by the City Council of the City of Charlotte;

- Section 1. That the sum of \$1,434,537 is hereby available from General Fund Fund Balance - Capital Reserves.
- Section 2. That the sum of \$1,434,537 is hereby appropriated for Street Resurfacing to the General Fund Center 0101.53177
- Section 3. All ordinances in conflict with this ordinance are hereby repealed.
- Section 4. This ordinance shall be effective upon adoption.

Approved as to Form:

\_\_\_\_\_  
City Attorney

ORDINANCE NUMBER: \_\_\_\_\_

AN ORDINANCE TO AMEND ORDINANCE NUMBER 4187-X, THE 2009-2010 BUDGET ORDINANCE, PROVIDING REPLACEMENT FUNDING FOR STREET RESURFACING FROM STREETCAR CAPITAL PROJECT SAVINGS.

BE IT ORDAINED, by the City Council of the City of Charlotte;

Section 1. That the sum of \$1,434,537 is hereby available from Streetcar Planning and Design (2010:49344).

Section 2. That the sum of \$1,434,537 is hereby appropriated for Street Resurfacing to the General Fund Center 0101.53177

Section 3. All ordinances in conflict with this ordinance are hereby repealed.

Section 4. This ordinance shall be effective upon adoption.

Approved as to Form:

\_\_\_\_\_  
City Attorney

ORDINANCE NUMBER: \_\_\_\_\_

AN ORDINANCE TO AMEND ORDINANCE NUMBER 4187-X, THE 2009-2010 BUDGET ORDINANCE, PROVIDING REPLACEMENT FUNDING FOR STREET RESURFACING FROM POWELL BILL FUND FUND BALANCE.

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BE IT ORDAINED, by the City Council of the City of Charlotte;

Section 1. That the sum of \$1,434,537 is hereby available from Powell Bill Fund 0120 fund balance.

Section 2. That the sum of \$1,434,537 is hereby appropriated for Street Resurfacing to the General Fund Center 0101.53177

Section 3. All ordinances in conflict with this ordinance are hereby repealed.

Section 4. This ordinance shall be effective upon adoption.

Approved as to Form:

\_\_\_\_\_  
City Attorney



CHARLOTTE.

**CITY MANAGER'S OFFICE  
M E M O R A N D U M**

September 2, 2009

**TO:** Mayor and City Council  
**FROM:** Curt Walton, City Manager  
**SUBJECT:** CATS CEO Recruitment Process

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At Council's meeting on August 24<sup>th</sup>, several Council members expressed concern about the selection of KL Executive Search to conduct the CEO search for Charlotte Area Transit Service. Council directed staff to research a code of ethics for executive search firms and to get a response from KL Executive Search regarding their view of the ethics of conducting a search for Charlotte given they were the search firm that placed Keith Parker in San Antonio.

Attached is:

- A summary of why KL Executive Search was selected as the search firm;
- A code of ethics for executive search firms; and
- The response from KL Executive Search
- A copy of the contract with KL Executive Search.

This is presented as information for review and discussion at the September 8<sup>th</sup> workshop.

## Memorandum

To: W. Curtis Walton, Jr.  
City Manager

From: Timothy D. Mayes   
Human Resources Director

Date: August 31, 2009

Re: Executive Search Services for CATS Director

### Introduction

On July 29, 2009, I recommended to you that KL Executive Search be retained to conduct executive search services for the vacant CATS Director position. I am providing the following information relative to the recommendation to retain KL Executive Search: the process that was followed; the evaluation criteria that were applied; the key reasons for the recommendation; contractual obligations; and some additional comments.

### Process

The following steps were taken on the dates as indicated:

- June 19 RFP finalized and forwarded to Procurement
- June 22 Procurement published RFP
- June 30 Procurement received acknowledgements from vendors
- July 6 Due date for submission of proposals
- July 8 Human Resources received 18 RFPs from Procurement
- July 15 Human Resources reviewed preliminary results with City Manager
- July 22 Human Resources interviewed 4 vendors
- July 29 Human Resources recommended KL Executive Search; City Manager approved

### Evaluation Criteria

The following criteria were used in evaluating the proposals:

- Recent experience in conducting searches for transit executive level positions for communities comparable in service delivery needs to the Charlotte region
- Qualifications of members of the project team that would actually be providing the search services
- Costs for services
- Reference checks

## Key Reasons for Recommendation

- In the last eight months KL Executive Search successfully completed CEO searches for three major transit systems: North County Transit District (San Diego County, California); Los Angeles County Metropolitan Transit Authority (Los Angeles County, California); VIA Metropolitan Transit Authority (San Antonio, Texas). Two of the systems (VIA and North County Transit) are similar in size and operating characteristics to Charlotte. In each of these cases the number of qualified candidates identified and screened by KL Executive Search far exceeded the expectations of the client. For the North County Transit District search, a diverse pool of 40 candidates was recruited, from which five top level candidates were selected for final interviews. The pool of qualified candidates at VIA totaled 60 and five top level candidates were selected for final interviews.
- The principals of KL Executive Search (Tony Kouneski and Jack Leary) are former transit CEOs with more than 70 years of combined executive management experience. They are not only well-connected specialists but they have the experience and management skills that are critical to identifying and assessing the best executive talent. Tony Kouneski is serving as the leader for the CATS recruitment. Mr. Kouneski has held management positions at the Mass Transit Administration (MTA) in Maryland and the Metropolitan Transit Commission (MTC) in Minneapolis/St. Paul. He has also served as the General Manager of transit systems in Tucson, Arizona; Cincinnati, Ohio; and Austin, Texas. Mr. Kouneski also served twelve years as the Vice President of Member Services at the American Public Transit Association (APTA).
- The fee for the professional services of KL Executive Search is \$29,500, plus expenses. A major benefit for the City is that this fee also includes the costs for conducting the public input sessions that are planned to assist in finalizing the candidate profile. The \$29,500 is an extremely competitive price; another very highly regarded firm that conducts executive searches for transit executive positions submitted a bid of \$63,600 (including fees and expenses).
- The reference checks for KL Executive Search were outstanding. We received the following feedback:

- **From North County Transit District, San Diego County, CA:**

*"The Board was very pleased by the work performed by KL Executive Search and I would use them in future recruitments for selected positions. I am very confident in Jack and Tony because of their comprehensive and diverse work experiences and because they are widely trusted by executives in the industry to lead executive recruitments. I would highly recommend KL Executive Search to lead your recruitment as they will produce a diverse and strong pool of qualified applicants that can best meet the needs of your particular situation."*

- **From Los Angeles County Metropolitan Transit Authority, Los Angeles County, CA:**

*"Their extensive transit experience made the search smoother and successful despite heavy political presence, Tony & Jack were both focused and objective in the process. They are both highly regarded in the industry and well respected. KL is highly recommended."*

- **From VIA Metropolitan Transit Authority, San Antonio, TX**

*"Regarding KL Executive Search Firm- I would enthusiastically recommend the firm for your search. They were very professional and delivered a process as stated. As Chair of the search committee, I can tell you the entire committee was very pleased with the quality of their performance and we would definitely engage them again."*

### Contractual Obligations

The following contractual obligations are required of all executive search firms with which the City contracts, including KL Executive Search. These obligations are itemized in Section 10 of the contract with KL Executive Search.

- The Company will not recruit candidates from the City organization for two (2) years after completion of the Work without the full written agreement from the City.
- The Company will never recruit a candidate whom the Company has placed in the City as long as the person is employed by the City without the full written agreement from the City.
- If for any reason, the City does not feel comfortable selecting a candidate from the Company's original recommended group of candidates, the Company will continue the search until the City can make a selection.
- If the candidate the Company places with the City leaves the City organization for any reason during a 24-month period following the date of placement with the City, the Company will replace the candidate for the City with the only cost being charged is the out-of-pocket expenses that it costs the Company to make a new placement.
- The Company will not present a candidate simultaneously to more than one city while performing the Work.
- If asked, the Company will disclose to the City the names of the organization which are "Off Limits" that logically would be target organizations on the new search assignment.
- The Company commits to the Executive Search and to prospective candidates that the Company will not use any techniques which may be considered as deceptive or misleading.
- The Company will not float resumes to organizations in the hopes that the Company can collect a fee if that individual is hired.
- The Company assures the City and individuals who may become candidates that the Company will not collect a fee from candidates whom the Company may recommend for a position.

### Additional Comments

I understand the concerns regarding the contract with KL Executive Search that were raised by some Councilmembers at their August 24 meeting. As you know, I initially had some reservations about the possibility of contracting with KL Executive Search. I initially was having difficulty being objective about a firm that was involved with recruiting one of our key business executives. (I don't mind stealing talent from another community, but I don't like other communities recruiting our talent!) After our initial conversation, I focused on answering the following key question - Which executive search firm that has presented a proposal in response to our RFP has demonstrated that it is best equipped to find the very best talent that can possibly be found for our organization? This question must, of course, be answered in consideration of the costs the firm is charging for their services. At the end of the day, in considering all of the RFP responses in light of our evaluation criteria (referenced above), my conclusion was that KL Executive Search was our best choice. Fortunately, I am able to report to you that our experience to date working with KL Executive Search supports the fact that a good decision was made.



# Association of Executive Search Consultants

The Worldwide Association for Retained Executive Search Consulting Firms

## CODE OF ETHICS

### **Professionalism**

AESC members will conduct their activities in a manner that reflects favorably on the profession.

### **Integrity**

AESC members will conduct their business activities with integrity and avoid conduct that is deceptive or misleading.

### **Competence**

AESC members will perform all search consulting assignments competently, and with an appropriate degree of knowledge, thoroughness and urgency.

### **Objectivity**

AESC members will exercise objective and impartial judgment in each search consulting assignment, giving due consideration to all relevant facts.

### **Accuracy**

AESC members will strive to be accurate in all communications with clients and candidates and encourage them to exchange relevant and accurate information.

### **Conflicts of Interest**

AESC members will avoid, or resolve through disclosure and waiver, conflicts of interest.

### **Confidentiality**

AESC members will respect confidential information entrusted to them by clients and candidates.

### **Loyalty**

AESC members will serve their clients loyally and protect client interests when performing assignments.

### **Equal Opportunity**

AESC members will support equal opportunity in employment and objectively evaluate all qualified candidates.

### **Public Interest**

AESC members will conduct their activities with respect for the public interest.

## ***KL EXECUTIVE SEARCH, LLC***

***Tony Kouneski  
P.O. Box 205  
Kensington MD 20895  
301-946-4445  
amkmak@verizon.net***

***Jack Leary  
P.O. Box 1945  
N. Falmouth, MA 02556  
508-563-7330  
jkl4868@aol.com***

Mr. William Curtis Walton, Jr.  
City Manager  
City of Charlotte  
600 E. 4<sup>th</sup> Street  
Charlotte, NC 28202

August 25, 2009

Dear Mr. Walton:

We are aware that members of the City Council have questioned the city's selection of our firm as the recruiter of the next Executive Director for the Charlotte Area Transit System (CATS). We also understand that in the course of the Council's discussion of this matter, it was suggested that our firm violated the code of ethics of the executive recruiting profession by first recruiting Keith Parker from Charlotte to be the new CEO in San Antonio and then unfairly benefiting from that action by seeking to be selected to recruit Mr. Parker's successor in Charlotte.

For the record, our firm has not violated any ethics codes in seeking the assignment to recruit the new Executive Director for CATS. Moreover, our firm has never violated such codes in conducting our business for any of our clients. We strongly object to anyone who would suggest otherwise.

Our firm's approach is totally consistent with the ethics policies and best practices of the executive recruiting industry. Recruiting firms are expected to commit to a client that so long as a selected candidate remains employed by the client organization, the recruiting firm will not approach them as a

***Specializing in Public Transportation Placements***

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candidate for a future search without the express permission of the employer. Our firm strictly adheres to this practice. Further, this practice does not discourage or otherwise prevent executive recruiting firms from competing for assignments in other organizations for which they have previously recruited executives.

Our firm competed objectively and fairly for the opportunity to recruit the new Executive Director of CATS. Our proposed scope of work plus our fee was reviewed and evaluated in a thoroughly objective process. We were selected not because we had recruited Mr. Parker for San Antonio, but because we were qualified to do the search. Our proposal appropriately addressed the needs of the City. Our fees were also competitive and below industry standards.

Our firm adheres to the policies and procedures of the executive recruiting profession by maintaining a high standard of integrity, objectivity and excellence in serving our clients. Our approach to searches includes a very thorough and comprehensive process that is consistent with the best practices in the executive recruiting industry.

We have put together an excellent set of strategies to find the best possible candidates for the position of Executive Director for CATS. We are excited to have the opportunity to serve the City of Charlotte in this important endeavor. We fully expect to complete this assignment in a most timely manner and to the complete satisfaction of the City of Charlotte.

Sincerely,

Anthony M. Kouneski  
Principal

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

SERVICES CONTRACT

THIS SERVICES CONTRACT (the "Contract") is made and entered into as of 8-11-2009 (the "Effective Date"), by and between K L Executive Search, LLC., a Maryland company doing business in North Carolina (the "Company"), and the City of Charlotte, a North Carolina municipal corporation (the "City").

RECITALS

**WHEREAS**, the City issued a Request for Proposals (RFP# 269-2009-210) for Executive Recruitment Services for a Charlotte Area Transit Executive Director dated June 23, 2009. This Request for Proposals, together with all attachments and addenda, is referred to herein as the "RFP".

**WHEREAS**, in response to the RFP, the Company submitted to the City a proposal dated July 7, 2009. This proposal, together with all attachments and separately sealed confidential trade secrets, is referred to herein as the "Proposal."

**WHEREAS**, the City and the Company now desire to enter into an arrangement for the Company to provide Executive Recruitment Services for a Charlotte Area Transit Executive Director for the City, all in accordance with the terms and conditions set forth herein.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in further consideration of the covenants and representations contained herein, the parties agree as follows:

CONTRACT

1. **INCORPORATION OF EXHIBITS.** The following Exhibits are attached to this Contract and are incorporated into and made a part of this Contract by reference:

Exhibit A: Scope of Work

Exhibit B: Project Timeline

Each reference to this Contract shall be deemed to include all Exhibits. Any conflict between language in an Exhibit or Appendix and language in the main body of this Contract shall be resolved in favor of the main body of this Contract. Each reference to **K L Executive Search, LLC** in the Exhibits and Appendices shall be deemed to mean the Company.

2. **DESCRIPTION OF WORK.**

- 2.1. The Company shall perform the services described in **Exhibit A** attached to this Contract and incorporated herein by reference (the "Work"). Unless otherwise provided in **Exhibit A**, the Company shall obtain and provide all labor, materials, resources, equipment, transportation, facilities, services, permits, and licenses necessary to perform the Work.

- 2.2. The Company will comply with the schedule set forth in **Exhibit B** in performing the Work. The parties agree that **time is of the essence** in having the Company meet each completion date specified in **Exhibit B**. All references to days in this Contract (including the exhibits) shall refer to calendar days rather than business days, unless a provision specifically uses the term "business days." Any references to "business days" shall mean the days that the City's offices are open for the public to transact business.

3. **COMPENSATION.**

- 3.1. **TOTAL FEES AND CHARGES.** The City agrees to pay the Company a fixed-rate amount that shall not exceed twenty-nine thousand five hundred dollars (**\$29,500**). This amount constitutes the maximum fees and charges payable to the Company in the aggregate under this Contract and will not be increased except by a written amendment duly executed by both parties. The fee

set forth in **Exhibit A** shall remain firm for the duration of this Contract, unless otherwise stated in **Exhibit A**.

3.2. **EXPENSES.**

The City shall reimburse the Company for "Out of Pocket Expenses" as defined below that are related to the Work. The City shall not be required to pay for Out-of-Pocket Expenses that are not reasonable or are not associated with the Work outlined in **Exhibit A**. The City shall reimburse the Company for expenses for an amount not-to-exceed seven-thousand eight hundred seventy dollars (**\$7,870**). As used in this Contract, the term "Out-of-Pocket Expenses" shall mean the following expenses which are actually incurred by employees of the Company or its subcontractors who live outside of a 100 mile radius of Charlotte, North Carolina and who travel to Charlotte in the performance of the Work, when such travel would not otherwise have been necessary for the performance of this Contract:

- Lodging at a local hotel.
- A per diem meals reimbursement of \$40 per day per person.
- Long distance calls made by employees of Company while in Charlotte, if a given call is necessary for performance of the Other Work.
- Parking, tolls, or rental car.
- Travel costs to and from the City.
- Mailings, Reproduction, copying, materials and necessary supplies to perform the Work.

For Company or subcontractors and employees who stay in Charlotte over extended time periods, the Company will rent an apartment in the City if doing so proves to be more economical on a monthly average. Otherwise, the Company will attempt to obtain accommodations at the same rates as those applicable for federal government employees. The Company will attempt to minimize travel costs by obtaining the lowest fares reasonably practicable under the circumstances.

3.3. **INVOICES.** All invoices must be submitted on or around the date identified in **Exhibit A**. The Company shall invoice the City for the fixed fee and expense separately. All expenses must be itemized, detailed and submitted with actual receipts as occurred.

3.3.1. The Company shall mail all invoices to:

City of Charlotte  
Attn: Accounts Payable, 10<sup>th</sup> Floor  
Re: CATS (Executive Search)  
600 East Fourth Street  
Charlotte, NC 28202

3.3.2. The City will pay undisputed, properly submitted invoices within sixty (60) days after the receipt of the Company's invoice (the "Due Date"), provided that the invoice has been submitted at the appropriate time as authorized in **Exhibit A**.

3.3.3. As a condition of payment, the Company must invoice the City for Work within 60 days after such Work is performed. **THE COMPANY WAIVES THE RIGHT TO CHARGE THE CITY FOR ANY SERVICES THAT HAVE NOT BEEN INVOICED TO THE CITY WITHIN 60 DAYS AFTER SUCH SERVICES WERE RENDERED.**

3.4. **EMPLOYMENT TAXES AND EMPLOYEE BENEFITS.** The Company acknowledges and agrees that its employees and subcontractors not employees of the City. The Company represents, warrants and covenants that it will pay all withholding tax, social security, Medicare, unemployment tax, worker's compensation and other payments and deductions which are required by law in connection with provision of the Work.

4. **DUTY OF COMPANY TO IDENTIFY AND REQUEST INFORMATION, PERSONNEL AND FACILITIES.** The Company shall identify and request in writing from the City in a timely manner: (i) all information reasonably required by the Company to perform the Work, (ii) a list of the City's personnel whose presence or assistance reasonably may be required by the Company to perform the Work, and (iii) any other equipment, facility or resource reasonably required by the Company to perform the Work.

Notwithstanding the foregoing, the Company shall not be entitled to request that the City provide information, personnel or facilities other than those which **Exhibit A** specifically requires the City to provide, unless the City can do so at no significant cost. The Company shall not be relieved of any failure to perform under this Contract by virtue of the City's failure to provide any information, personnel, equipment, facilities or resources: (i) that the Company failed to identify and request in writing from the City pursuant to this Section; or (ii) which the City is not required to provide pursuant to this Contract. In the event the City fails to provide any information, personnel, facility or resource that it is required to provide under this Section, the Company shall notify the City in writing immediately in accordance with the notice provision of this Contract. Failure to do so shall constitute a waiver by Company of any claim or defense it may otherwise have based on the City's failure to provide such information, personnel, facility or resource.

5. **REMOVAL, REPLACEMENT AND PROMOTION OF COMPANY PERSONNEL.** The City will have the right to require the removal and replacement of any personnel of the Company or the Company's subcontractors who are assigned to perform Work to the City. The City shall be entitled to exercise such right in its sole discretion by providing written notice to the Company.

The City must approve in writing any hires or transfers of personnel to "Key Personnel" positions on the Project, and the City shall have the right to interview all personnel that the Company proposes to hire or transfer to such positions. As used in this Contract, the term "Key Personnel" shall mean the Tony Kouneski and Jack Leary, and any other personnel of the Company or its subcontractors who are identified as Key Personnel in an Exhibit to the Contract, or whom the City from time to time designates in writing to the Company as fulfilling a key role in the Project. Unless approved by the City in writing, the Company will not: (i) remove the Company's Key Personnel from the Project or permit its subcontractors to remove Key Personnel from the Project; or (ii) materially reduce the involvement of the Company's Key Personnel in the Project or allow its subcontractors to materially reduce the involvement of Key Personnel in the Project.

The Company will replace any personnel who leave the Project with equivalently qualified persons. The Company will replace such personnel as soon as reasonably possible, and in any event within thirty days after the Company first receives notice that the person will be leaving the Project.

If the Company gets more than 7 days behind in completing any Deliverable required by this Contract or the Project Plan, the Company will devote all personnel assigned to the Project to working on the Project on a first priority basis.

As used in this Contract, the term "personnel" includes all staff provided by the Company or its subcontractors, including but not limited to Key Personnel.

6. **REPRESENTATIONS AND WARRANTIES OF COMPANY.** The Company represents, warrants and covenants that:

- 6.1. The Company has the qualifications, skills and experience necessary to perform the Work described or referenced in the **Exhibit A**.
- 6.2. The Work shall satisfy all requirements set forth in this Contract, including without limitation **Exhibit A**. Additionally, all Work performed by the Company pursuant to this Contract shall meet the highest industry standards, and shall be performed in a professional and workmanlike manner by staff with the necessary skills, experience and knowledge.
- 6.3. Neither the Work, nor any deliverables provided by the Company under this Contract will infringe or misappropriate any patent, copyright, trademark, trade secret or other intellectual property rights of any third party. The Company shall not violate any non-compete agreement or any other agreement with any third party by entering into or performing this Contract.
- 6.4. In connection with its obligations under this Contract, the Company shall comply with all applicable federal, state and local laws and regulations and shall obtain all applicable permits and licenses.
- 6.5. The Company is a limited liability company duly organized, validly existing and in good standing under the laws of the state of Maryland. The Company has all the requisite power and authority to execute, deliver and perform its obligations under this Contract, and the execution, delivery,

**7. OTHER OBLIGATIONS OF THE COMPANY.**

- 7.1. **WORK ON CITY'S PREMISES.** The Company will, whenever on the City's premises, obey all instructions and City policies that the Company is made aware of with respect to performing work on the City's premises.
- 7.2. **REGENERATION OF LOST OR DAMAGED DATA.** If the Company loses or damages any data in the City's possession, the Company shall, at its own expense, promptly replace or regenerate such data from the City's machine-readable supporting material, or obtain, at the Company's own expense, a new machine-readable copy of lost or damaged data from the City's data sources.
- 7.3. **REPAIR OR REPLACEMENT OF DAMAGED EQUIPMENT OR FACILITIES.** In the event that the Company causes damage to the City's equipment or facilities, the Company shall, at its own expense, promptly repair or replace such damaged items to restore them to the same level of functionality that they possessed prior to the Company's action.

**8. SUBSTITUTE PERFORMANCE.** If the Company fails to comply with the schedule set forth in **Exhibit B**, the City may, in its discretion, perform or cause to be performed some or all of the Work, and doing so shall not waive any of the City's rights or remedies under this Contract, at law or in equity. The Company shall reimburse the City for all additional costs incurred by the City in exercising its rights to perform or cause to be performed some or all of the Work pursuant to this Section.

**9. TERMINATION OF CONTRACT.**

- 9.1. **TERM.** This Contract shall commence on the Effective Date and shall continue in effect until the Work has been completed to the City's satisfaction, provided that the Work shall cease when the Payment Cap has been reached.
- 9.2. **TERMINATION BY THE CITY.** The City may terminate this Contract at any time without cause by giving written notice to the Company. In the event the City terminates this Contract, the Company shall continue performing the Work until the termination date designated by the City in its termination notice. If the City terminates this Contract without cause, the City shall pay the Company for Work rendered through the date of termination.
- The City's obligation to make the payments required by this Section is conditioned upon the Company providing to the City prior to the date of termination all materials referenced in **Section 9.4**. Nothing in this Section shall be construed as limiting any right of the City in the event of a breach.
- 9.3. **TERMINATION BY THE COMPANY.** By giving written notice, the Company may terminate this Contract for cause in the event the City fails to pay an overdue invoice within thirty (30) days after receiving written notice from the Company that: (i) such invoice is overdue, and (ii) the Company intends to exercise its right to terminate this Contract pursuant to this Section in the event it is not paid within said thirty (30) day period.
- 9.4. **OBLIGATIONS UPON EXPIRATION OR TERMINATION.** Upon expiration or termination of this Contract, the Company shall promptly return to the City (i) all computer programs, files, documentation, media, related material and any other material and equipment that is owned by the City; (ii) all deliverables that have been completed or that are in process as of the date of termination; and (ii) a written statement describing in detail all work performed with respect to deliverables which are in process as of the date of termination. The expiration or termination of this Contract shall not relieve either party of its obligations regarding "Confidential Information"; as defined in this Contract.
- 9.5. **NO EFFECT ON TAXES, FEES, CHARGES OR REPORTS.** Termination of this Contract shall not relieve the Company of the obligation to pay any fees, taxes or other charges then due to the City, nor relieve the Company of the obligation to file any daily, monthly, quarterly or annual reports nor relieve the Company from any claim for damages previously accrued or then

accruing against the Company.

- 9.6. **OTHER REMEDIES.** The remedies set forth in this Section shall be deemed cumulative and not exclusive, and may be exercised successively or concurrently, in addition to any other remedies available under this Contract or at law or in equity.
- 9.7. **AUTHORITY TO TERMINATE.** The following persons are authorized to terminate this Contract on behalf of the City: (a) the City Manager, any Assistant City Manager or any designee of the City Manager; (b) the Key Business Executive of the City Key Business Unit responsible for administering this Contract.

**10. COMPANY GUARANTEES TO CITY.**

- 10.1. **City Organization.**  
The City is defined as the entire entity, including all departments, divisions, sections, and groups. This assures that all of the Company guarantees apply to the entire City organization.
- 10.2. **Two-Year Off Limits.**  
The Company will not recruit candidates from the City organization for two (2) years after completion of the Work without the full written agreement from the City.
- 10.3. **Placements Off Limits Forever.**  
The Company will never recruit a candidate whom the Company has placed in the City as long as the person is employed by the City without the full written agreement from the City.
- 10.4. **Continue the Search.**  
If for any reason, the City does not feel comfortable selecting a candidate from the Company's original recommended group of candidates, the Company will continue the search until the City can make a selection.
- 10.5. **Replacement of Successful Candidate.**  
If the candidate the Company places with the City leaves the City organization for any reason during a 24-month period following the date of placement with the City, the Company will replace the candidate for the City with the only cost being charged is the out-of-pocket expenses that it costs the Company to make the new placement.
- 10.6. **Parallel Candidate Presentation.**  
The Company will not present a candidate simultaneously to more than one City while performing the Work.
- 10.7. **City Conflicts.**  
If asked, the Company will disclose to the City the names of the organization which are "Off Limits" that logically would be target organizations on the new search assignment.
- 10.8. **Deceptive/Misleading Search Techniques.**  
The Company commits to the Executive Search and to prospective candidates that the Company will not use any techniques which may be considered as deceptive or misleading.
- 10.9. **Resume Floating.**  
The Company will not float resumes to organizations in the hopes that the Company can collect a fee if that individual is hired.
- 10.10. **Not Represent Individuals.**  
The Company assures the City and individuals who may become candidates that the Company will not collect a fee from candidates whom the Company may recommend for a position.

- 11. RELATIONSHIP OF THE PARTIES.** The relationship of the parties established by this Contract is solely that of independent contractors. Nothing contained in this Contract shall be construed to (i) give any party the power to direct or control the day-to-day administrative activities of the other; or (ii) constitute such parties as partners, co-owners or otherwise as participants in a joint venture. Neither party nor its agents or employees is the representative of the other for any purpose, and neither party has power or authority to act for, bind, or otherwise create or assume any obligation on behalf of the other.

12. **CITY OWNERSHIP OF WORK PRODUCT.** The Company will treat as Confidential Information under the Confidentiality and Non-Disclosure Contract all data provided by or processed for the City in connection with this Contract. Such data shall remain the exclusive property of the City. The Company will not reproduce, copy, duplicate, disclose, or in any way treat the data supplied by the City in any manner except that contemplated by this Contract.
13. **INDEMNIFICATION.** To the fullest extent permitted by law, the Company shall indemnify, defend and hold harmless each of the "Indemnitees" (as defined below) from and against any and all "Charges" (as defined below) paid or incurred any of them as a result of any claims, demands, lawsuits, actions, or proceedings: (i) alleging violation, misappropriation or infringement of any copyright, trademark, patent, trade secret or other proprietary rights with respect to the Work or any products or deliverables provided to the City pursuant to this Contract ("Infringement Claims"); (ii) seeking payment for labor or materials purchased or supplied by the Company or its subcontractors in connection with this Contract; or (iii) arising from the Company's failure to perform its obligations under this Contract, or from any act of negligence or willful misconduct by the Company or any of its agents, employees or subcontractors relating to this Contract, including but not limited to any liability caused by an accident or other occurrence resulting in bodily injury, death, sickness or disease to any person(s) or damage or destruction to any property, real or personal, tangible or intangible; or (iv) arising from any claim that the Company or an employee or subcontractor of the Company is an employee of the City, including but not limited to claims relating to worker's compensation, failure to withhold taxes and the like. For purposes of this Section: (a) the term "Indemnitees" means the City and each of the City's officers, officials, employees, agents and independent contractors (excluding the Company); and (b) the term "Charges" means any and all losses, damages, costs, expenses (including reasonable attorneys' fees), obligations, duties, fines, penalties, royalties, interest charges and other liabilities (including settlement amounts).

If an Infringement Claim occurs, the Company shall either: (i) procure for the City the right to continue using the affected product or service; or (ii) repair or replace the infringing product or service so that it becomes non-infringing, provided that the performance of the overall product(s) and service(s) provided to the City shall not be adversely affected by such replacement or modification. If the Company is unable to comply with the preceding sentence within thirty days after the City is directed to cease use of a product or service, the Company shall promptly refund to the City all amounts paid under this Contract.

This Section 13 shall remain in force despite termination of this Contract (whether by expiration of the term or otherwise).

14. **INSURANCE.** Throughout the term of this Contract, the Company shall comply with the insurance requirements described in this Section. In the event the Company fails to procure and maintain each type of insurance required by this Contract, or in the event the Company fails to provide the City with the required certificates of insurance, the City shall be entitled to terminate this Contract immediately upon written notice to the Company.
- 14.1. **General Requirements.**
- 14.1.1. The Company shall not commence any work in connection with this Contract until it has obtained all of the types of insurance set forth in this Section 14, and the City has approved such insurance. The Company shall not allow any subcontractor to commence work on its subcontract until all insurance required of the subcontractor has been obtained and approved.
- 14.1.2. All insurance policies required by Section 14.2 shall be with insurers qualified and doing business in North Carolina recognized by the Secretary of State and the Insurance Commissioner's Office. The Company shall name the City as an additional insured under the commercial general liability policy required by Section 14.2.
- 14.1.3. The Company's insurance, except for Automobile Liability, shall be primary of any self-funding and/or insurance otherwise carried by the City for all loss or damages arising from the Consultant's operations under this agreement. The Company and each of its subcontractors shall and does waive all rights of subrogation against the City and each of the Indemnitees (as defined in Section 13).

- 14.1.4. The City shall be exempt from, and in no way liable for any sums of money that may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Company and/or subcontractor providing such insurance.
- 14.1.5. Within 3 days after execution of this Contract, the Company shall provide the City with certificates of insurance documenting that the insurance requirements set forth in this **Section 14** have been met, and that the City be given thirty (30) days' written notice of any intent to amend coverage or make material changes to or terminate any policy by either the insured or the insurer. The Company shall further provide such certificates of insurance to the City at any time requested by the City after execution of this Contract, and shall provide such certificates within five (5) days after the City's request. The City's failure to review a certificate of insurance sent by or on behalf of the Company shall not relieve the Company of its obligation to meet the insurance requirements set forth in this Contract.
- 14.1.6. Should any or all of the required insurance coverage be self-funded/self-insured, the Company shall furnish to the City a copy of the Certificate of Self-Insurance or other documentation from the North Carolina Department of Insurance.
- 14.1.7. If any part of the work under this contract is sublet, the subcontractor shall be required to meet all insurance requirements set forth in this **Section 14**, provided that the amounts of the various types of insurance shall be such amounts as are approved by the City in writing. However, this will in no way relieve the Consultant from meeting all insurance requirements or otherwise being responsible for the subcontractor.

14.2. **Types of Insurance.** The Company agrees to purchase and maintain during the life of this Contract with an insurance company, acceptable to the City, authorized to do business in the State of North Carolina the following insurance:

- 14.2.1. **Automobile Liability.** Bodily injury and property damage liability covering all owned, non-owned and hired automobiles for limits of not less than \$1,000,000 bodily injury each person, each accident and \$1,000,000 property damage, or \$1,000,000 combined single limit - bodily injury and property damage.
- 14.2.2. **Commercial General Liability.** Bodily injury and property damage liability as shall protect the Company and any subcontractor performing work under this Contract, from claims of bodily injury or property damage which arise from operation of this Contract, whether such operations are performed by the Company, any subcontractor, or anyone directly or indirectly employed by either. The amounts of such insurance shall not be less than \$1,000,000 bodily injury each occurrence/aggregate and \$1,000,000 property damage each occurrence/aggregate, or \$1,000,000 bodily injury and property damage combined single limits each occurrence/aggregate. This insurance shall include coverage for products, operations, personal injury liability and contractual liability, assumed under the indemnity provision of this Contract.
- 14.2.3. **Workers' Compensation Insurance.** The Company shall meet the statutory requirements of the State of North Carolina, \$100,000 per accident limit, \$500,000 disease per policy limit, \$100,000 disease each employee limit.

15. **DRUG-FREE WORKPLACE.** The City is a drug-free workplace employer. The Company hereby certifies that it has or it will within thirty (30) days after execution of this Contract:

- 15.1. Notify employees that the unlawful manufacture, distribution, dispensation, possession, or use of controlled substance is prohibited in the workplace and specifying actions that will be taken for violations of such prohibition;
- 15.2. Establish a drug-free awareness program to inform employees about (i) the dangers of drug abuse in the workplace, (ii) the Company's policy of maintaining a drug-free workplace, (iii) any available drug counseling, rehabilitation, and employee assistance programs, and (iv) the penalties that may be imposed upon employees for drug abuse violations;

- 15.3. Notify each employee that as a condition of employment, the employee will (i) abide by the terms of the prohibition outlines in (a) above, and (ii) notify the Company of any criminal drug statute conviction for a violation occurring in the workplace not later than five days after such conviction;
- 15.4. Impose a sanction on, or requiring the satisfactory participation in a drug counseling, rehabilitation or abuse program by, an employee convicted of a drug crime;
- 15.5. Make a good faith effort to continue to maintain a drug-free workplace for employees; and
- 15.6. Require any party to which it subcontracts any portion of the work under the contract to comply with the provisions of this Section.

A false certification or the failure to comply with the above drug-free workplace requirements during the performance of this Contract shall be grounds for suspension, termination or debarment.

**16. NOTICES AND PRINCIPAL CONTACTS.**

Any notice, consent or other communication required or contemplated by this Contract shall be in writing, and shall be delivered in person, by U.S. mail, by overnight courier, by electronic mail or by telefax to the intended recipient at the address set forth below:

For the Company:

Attn: Tony Kouneski  
5244 Strathmore Ave.  
Kensington, MD 20895  
PHONE: 301-946-4445  
FAX: 301-946-0455  
E-MAIL: [amkmak@verizon.net](mailto:amkmak@verizon.net)

For the City:

Billy Belcher  
600 East Fourth Street  
Charlotte, NC 28226  
PHONE: 704 – 336-8084  
FAX: 704 – 632-8255  
E-MAIL: [bbelcher@ci.charlotte.nc.us](mailto:bbelcher@ci.charlotte.nc.us)

Communications that relate to any breach, default, termination, delay in performance, prevention of performance, modification, extension, amendment, or waiver of any provision of this Contract shall further be copied to the following (in addition to being sent to the individuals specified above):

Jack Leary  
23 Willow Nest Lane  
N. Fallmouth, MA 02556  
Phone: 508-563-7330  
E-Mail: [jkl4868@aol.com](mailto:jkl4868@aol.com)

Cindy White  
City Attorney's Office  
600 East Fourth Street  
Charlotte, NC 28202  
Phone: 704.336.3012  
Fax: 704.336.8854  
E-Mail – [cwhite@ci.charlotte.nc.us](mailto:cwhite@ci.charlotte.nc.us)

Notice shall be effective upon the date of receipt by the intended recipient; provided that any notice that is sent by telefax or electronic mail shall also be simultaneously sent by mail deposited with the U.S. Postal Service or by overnight courier. Each party may change its address for notification purposes by giving the other party written notice of the new address and the date upon which it shall become effective.

**17. Commercial Non-Discrimination.**

The City has adopted a Commercial Non-Discrimination Ordinance that is set forth in Section 2, Article V of the Charlotte City Code, and is available for review on the City's website (the "Non-Discrimination Policy"). As a condition of entering into this Contract the Company agrees to comply with the Non-Discrimination Policy, and consents to be bound by the award of any arbitration conducted thereunder. As part of such compliance, the Company shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, age, or disability in the solicitation, selection, hiring, or treatment of subcontractors, vendors, suppliers, or commercial customers in connection with a City contract or contract solicitation process, nor shall the Company retaliate against any person or entity for reporting instances of such discrimination. The Company shall provide equal opportunity for subcontractors, vendors and suppliers to participate in all of its subcontracting and supply opportunities on City contracts, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that has occurred or is occurring in the marketplace.

As a condition of entering into this Contract, the Company agrees to: (a) promptly provide to the City all information and documentation that may be requested by the City from time to time regarding the solicitation, selection, treatment and payment of subcontractors in connection with this Contract; and (b) if requested, provide to the City within sixty days after the request a truthful and complete list of the names of all subcontractors, vendors, and suppliers that Company has used on City contracts in the past five years, including the total dollar amount paid by Company on each subcontract or supply contract. The Company further agrees to fully cooperate in any investigation conducted by the City pursuant to the City's Non-Discrimination Policy, to provide any documents relevant to such investigation that are requested by the City, and to be bound by the award of any arbitration conducted under such Policy.

The Company agrees to provide to the City from time to time on the City's request, payment affidavits detailing the amounts paid by Company to subcontractors and suppliers in connection with this Contract within a certain period of time. Such affidavits shall be in the format specified by the City from time to time.

The Company understands and agrees that violation of this Commercial Non-Discrimination provision shall be considered a material breach of this Contract and may result in contract termination, disqualification of the Company from participating in City contracts and other sanctions.

**18. MISCELLANEOUS.**

- 18.1. **ENTIRE CONTRACT.** This Contract is the entire agreement between the parties with respect to its subject matter, and there are no other representations, understandings, or agreements between the parties with respect to such subject matter. This Contract supersedes all prior agreements, negotiations, representations and proposals, written or oral.
- 18.2. **AMENDMENT.** No amendment or change to this Contract shall be valid unless in writing and signed by both parties to this Contract.
- 18.3. **GOVERNING LAW, JURISDICTION AND VENUE.** North Carolina law shall govern interpretation and enforcement of this Contract and any other matters relating to this Contract (all without regard to North Carolina conflicts of law principles). Any and all legal actions or proceedings relating to this Contract shall be brought in a state or federal court sitting in Mecklenburg County, North Carolina. By the execution of this Contract, the parties submit to the jurisdiction of said courts and hereby irrevocably waive any and all objections that they may have with respect to venue in any court sitting in Mecklenburg County, North Carolina. This Section shall not apply to subsequent actions to enforce a judgment entered in actions heard pursuant to this Section.
- 18.4. **BINDING NATURE AND ASSIGNMENT.** This Contract shall bind the parties and their successors and permitted assigns. Neither party may assign this Contract without the prior written consent of the other. Any assignment attempted without the written consent of the other party shall be void.
- 18.5. **CITY NOT LIABLE FOR SPECIAL OR CONSEQUENTIAL DAMAGES.** The City shall not be liable to the Company, its agents or representatives or any subcontractor for or on account of any stoppages or delay in the performance of any obligations of the City, or any other consequential, indirect or special damages or lost profits related to this Contract.
- 18.6. **SEVERABILITY.** The invalidity of one or more of the phrases, sentences, clauses or sections contained in this Contract shall not affect the validity of the remaining portion of the Contract so long as the material purposes of the Contract can be determined and effectuated. If any provision of this Contract is held to be unenforceable, then both parties shall be relieved of all obligations arising under such provision, but only to the extent that such provision is unenforceable, and this Contract shall be deemed amended by modifying such provision to the extent necessary to make it enforceable while preserving its intent.
- 18.7. **NO PUBLICITY.** No advertising, sales promotion or other materials of the Company or its agents or representations may identify or reference this Contract or the City in any manner absent the written consent of the City. Notwithstanding the forgoing, the parties agree that the Company may list the City as a reference in responses to requests for proposals, and may

identify the City as a customer in presentations to potential customers.

- 18.8. **APPROVALS.** All approvals or consents required under this Contract must be in writing.
- 18.9. **WAIVER.** No waiver of any provision of this Contract shall be effective unless in writing and signed by the party waiving the rights. No delay or omission by either party to exercise any right or remedy it has under this Contract shall impair or be construed as a waiver of such right or remedy. A waiver by either party of any covenant or breach of this Contract shall not be constitute or operate as a waiver of any succeeding breach of that covenant or of any other covenant.
- 18.10. **SURVIVAL OF PROVISIONS.** All provisions of this Contract which by their nature and effect are required to be observed, kept or performed after termination of this Contract shall survive the termination of this Contract and remain binding thereafter, including but not limited to the following
- |             |                                                  |
|-------------|--------------------------------------------------|
| Section 3.4 | "Employment Taxes and Employee Benefits"         |
| Section 6   | "Representations and Warranties"                 |
| Section. 9  | "Termination of Contract"                        |
| Section.12  | "City Ownership of Work Product/Confidentiality" |
| Section 13  | "Indemnification"                                |
| Section 16  | "Notices"                                        |
| Section 18. | "Miscellaneous"                                  |
| Section 19. | "Confidentiality"                                |
- 18.11. **SET OFF.** Each party shall be entitled to set off and deduct from any amounts owed to the other party pursuant to this Contract all damages and expenses incurred or reasonably anticipated as a result of the other party's breach of this Contract.
- 18.12. **FAMILIARITY AND COMPLIANCE WITH LAWS AND ORDINANCES.** The Company agrees to make itself aware of and comply with all local, state and federal ordinances, statutes, laws, rules and regulations applicable to the Work. The Company further agrees that it will at all times during the term of this Contract be in compliance with all applicable federal, state and/or local laws regarding employment practices. Such laws will include, but shall not be limited to workers' compensation, the Fair Labor Standards Act (FLSA), the Americans with Disabilities Act (ADA), the Family and Medical Leave Act (FMLA) and all OSHA regulations applicable to the work.
- 18.13. **TAXES.** The Company shall pay all applicable federal, state and local taxes that may be chargeable against the performance of the Work.
- 18.14. **CONSTRUCTION OF TERMS.** Each of the parties has agreed to the use of the particular language of the provisions of this Contract and any questions of doubtful interpretation shall not be resolved by any rule or interpretation against the drafters, but rather in accordance with the fair meaning thereof, having due regard to the benefits and rights intended to be conferred upon the parties hereto and the limitations and restrictions upon such rights and benefits intended to be provided.

## 19. **CONFIDENTIALITY.**

19.1. **DEFINITIONS** As used in this Contract, The term "Confidential Information" shall mean any information, in any medium, whether written, oral or electronic, not generally known in the relevant trade or industry, that is obtained from the City or any of its suppliers, contractors or licensors which falls within any of the following general categories:

19.1.1. *Trade secrets.* For purposes of this Contract, trade secrets consist of information of the City or any of its suppliers, contractors or licensors: (a) that derives value from being secret; and (b) that the owner has taken reasonable steps to keep confidential. Examples of trade secrets include information relating to proprietary software, new technology, new products or services, flow charts or diagrams that show how things work, manuals that tell how things work and business processes and procedures.

- 19.1.2. *Information of the City or its suppliers, contractors or licensors marked "Confidential" or "Proprietary."*
- 19.1.3. *Information relating to criminal investigations conducted by the City and records of criminal intelligence information compiled by the City.*
- 19.1.4. *Information contained in the City's personnel files, as defined by N.C. Gen. Stat. 160A-168. This consists all information gathered by the City about employees, except for that information which is a matter of public record under North Carolina law.*
- 19.1.5. *Citizen or employee social security numbers collected by the City.*
- 19.1.6. *Computer security information of the City, including all security features of electronic data processing, or information technology systems, telecommunications networks and electronic security systems. This encompasses but is not limited to passwords and security standards, procedures, processes, configurations, software and codes.*
- 19.1.7. *Local tax records of the City that contains information about a taxpayer's income or receipts.*
- 19.1.8. *Any attorney / client privileged information disclosed by either party.*
- 19.1.9. *Any data collected from a person applying for financial or other types of assistance, including but not limited to their income, bank accounts, savings accounts, etc.*
- 19.1.10. *The name or address of individual home owners who, based on their income, have received a rehabilitation grant to repair their home.*
- 19.1.11. *Building plans of city-owned buildings or structures, as well as any detailed security plans.*
- 19.1.12. *Billing information of customers compiled and maintained in connection with the City providing utility services*
- 19.1.13. *Other information that is exempt from disclosure under the North Carolina public records laws.*

Categories 18.1.3 through 18.1.13 above constitute "Highly Restricted Information," as well as Confidential Information. The Company acknowledges that certain Highly Restricted Information is subject to legal restrictions beyond those imposed by this Contract, and agrees that: (a) all provisions in this Contract applicable to Confidential Information shall apply to Highly Restricted Information; and (b) the Company will also comply with any more restrictive instructions or written policies that may be provided by the City from time to time to protect the confidentiality of Highly Restricted Information.

The parties acknowledge that in addition to information disclosed or revealed after the date of this Contract, the Confidential Information shall include information disclosed or revealed within one year prior to the date of this Contract.

- 19.2. **RESTRICTIONS.** Company shall keep the Confidential Information in the strictest confidence, in the manner set forth below:
  - 19.2.1. Company shall not copy, modify, enhance, compile or assemble (or reverse compile or disassemble), or reverse engineer Confidential Information, except as authorized by the City in writing.
  - 19.2.2. Company shall not, directly or indirectly, disclose, divulge, reveal, report or transfer Confidential Information to any third party, other than an agent, subcontractor or vendor of the City or Company having a need to know such Confidential Information for purpose of performing work contemplated by written agreements between the City and the Company, and who has executed a confidentiality agreement incorporating substantially the form of this the Contract. Company shall not directly or indirectly, disclose, divulge, reveal, report or transfer Highly Restricted to any third party without the City's prior written consent.

- 19.2.3. Company shall not use any Confidential Information for its own benefit or for the benefit of a third party, except to the extent such use is authorized by this Contract or other written agreements between the parties hereto, or is for the purpose for which such Confidential Information is being disclosed.
  - 19.2.4. Company shall not remove any proprietary legends or notices, including copyright notices, appearing on or in the Confidential Information.
  - 19.2.5. Company shall use reasonable efforts (including but not limited to seeking injunctive relief where reasonably necessary) to prohibit its employees, vendors, agents and subcontractors from using or disclosing the Confidential Information in a manner not permitted by this Contract.
  - 19.2.6. In the event that any demand is made in litigation, arbitration or any other proceeding for disclosure of Confidential Information, Company shall assert this Contract as a ground for refusing the demand and, if necessary, shall seek a protective order or other appropriate relief to prevent or restrict and protect any disclosure of Confidential Information.
  - 19.2.7. All materials which constitute, reveal or derive from Confidential Information shall be kept confidential to the extent disclosure of such materials would reveal Confidential Information, and unless otherwise agreed, all such materials shall be returned to the City or destroyed upon satisfaction of the purpose of the disclosure of such information.
  - 19.2.8. Company shall restrict employee access to the Confidential Information to those employees having a need to know for purposes of their jobs.
  - 19.2.9. Company shall take reasonable measures to prevent the use or disclosure of Confidential Information by its employees in a manner not permitted by this Contract. The Company shall have each of its employees who will have access to the Confidential Information sign a confidentiality agreement which provides the City and its vendors, licensors, subcontractors, employees and taxpayers the same level of protection as provided by this Contract.
- 19.3. **EXCEPTIONS.** The City agrees that Company shall have no obligation with respect to any Confidential Information that the Company can establish:
- 19.3.1. Was already known to Company prior to being disclosed by the City;
  - 19.3.2. Was or becomes publicly known through no wrongful act of Company;
  - 19.3.3. Was rightfully obtained by Company from a third party without similar restriction and without breach hereof;
  - 19.3.4. Was used or disclosed by Company with the prior written authorization of the City;
  - 19.3.5. Was disclosed pursuant to the requirement or request of a governmental agency, which disclosure cannot be made in confidence, provided that, in such instance, Company shall first give to the City notice of such requirement or request;
  - 19.3.6. Was disclosed pursuant to the order of a court of competent jurisdiction or a lawfully issued subpoena, provided that the Company shall take reasonable steps to obtain an agreement or protective order providing that this Contract will be applicable to all disclosures under the court order or subpoena.

**IN WITNESS WHEREOF**, and in acknowledgment that the parties hereto have read and understood each and every provision hereof, the parties have caused this Contract to be executed on the date first written above.

ATTESTED:

BY:

Mary Ann [Signature]

TITLE:

Spouse

DATE:

8/10/09

K L EXECUTIVE SEARCH, LLC:

BY:

Arthur M. [Signature]

TITLE:

Principal

DATE:

8/10/09

ATTESTED:

BY:

Stephanie C. Kelly  
CITY CLERK

DATE:

8/24/09

CITY OF CHARLOTTE:

BY:

[Signature]

TITLE:

Human Resources Director

DATE:

8/24/09

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

[Signature]  
Deputy Finance officer

8-25-09  
Date

DAK

## EXHIBIT A

### STATEMENT OF WORK

This Statement of Work is an Exhibit to and is incorporated into the Services Contract between the City of Charlotte and K L Executive Search, LLC (the "Contract"). Capitalized terms not defined in this Exhibit shall have the meanings assigned to such terms in the Contract.

The City of Charlotte will be responsible for leading the efforts associated with the recruitment of a new Charlotte Area Transit Executive Director. The Company shall perform the action steps/tasks in conjunction with and at the direction of the City's Human Resource Director and staff. All Work referenced in this Exhibit will be conducted in accordance with the Transit Governance Interlocal Agreement, effective February 16, 1999.

#### 1. PHASE I.

The Company shall be required to meet and gather input from City Manager and City Human Resource Director on the objectives of the search. The City Human Resource Director will develop the employment profile. The City will begin advertisement and recruitment for the Charlotte Area Transit Executive Director position with the Company providing guidance and input on the advertisement process during the development of the action plan. The Company will conduct and facilitate six to seven (6-7) stakeholders' feedback sessions to develop the candidate profile for the Transit Executive Director.

#### 2. PHASE II.

During PHASE II there will be joint collaboration from the City Human Resource Director and the Company.

- 2.1. The City's Human Resource Director and the Company shall develop the position selection criteria and interview questions.
- 2.2. The Company shall receive and review all applications for the position of Charlotte Area Transit Director.
- 2.3. The Company shall screen all applications and reduce the candidate pool as directed by the City.
- 2.4. The City's Human Resource Director shall assist the City Manager in reducing the candidate pool and determine the amount of candidates that will be interviewed.
- 2.5. The Company will provide written confirmation regarding the education and experience as identified by each potential candidate that is selected for the interview group at the direction of the City.
- 2.6. The City's Human Resource Director shall schedule all interviews with the candidates selected for the interview pool.
- 2.7. The Company at the direction of the City will conduct comprehensive background investigations, reference checks and academic verifications for the top selected candidates.
- 2.8. The Company shall provide consultation throughout the process to the City as needed.
- 2.9. The City will be responsible for all candidate interview costs such as travel, lodging and other related costs.

#### 3. DELIVERABLES.

The Company shall prepare reports as requested by the City Human Resource Director All reports shall be submitted in a timely manner. Such as:

- Weekly Progress Reports – To include lists of applicants to date.
- Employment and Academic References and Background Investigation Results on each candidate as requested.
- Recommendations regarding candidate selection.
- Conducts and facilitates (six to seven) 6-7 stakeholders' feedback sessions and develop candidate profile.

- Three (3) onsite visits with the City as requested by the City Human Resources Director.

**4. FEE AND EXPENSES.**

The Company shall be compensated with Professional Fee of Twenty-Nine Thousand and Five Hundred Dollars (\$29,500). This fee shall be invoiced separate from expenses. Company shall submit invoices according to the schedule listed in **Section 3.3** in the main Contract.

**4.1. Professional Fee Schedule.**

▪ Initial Payment upon Contract execution:	\$5,900
▪ September 1, 2009:	\$5,900
▪ October 1, 2009:	\$5,900
▪ Candidate Placement by the City:	\$11,800

**4.2. Expenses**

The Company shall submit all invoices for Expenses in a timely manner. The expenses shall be itemized with all receipts attached. The Expenses related to the Work shall-not-exceed Seven Thousand eight hundred and seventy dollars (\$7,870).

## EXHIBIT B

### PROJECT TIMELINE

This Work Schedule is an Exhibit to and is incorporated into the Services Contract between the City of Charlotte and K L Executive Search, LLC. (the "Contract"). Capitalized terms not defined in this Exhibit shall have the meanings assigned to such terms in the Contract.

The following project timeline is subject to change as mutually agreed upon by the City and the Company.

- August 11<sup>th</sup> 2009 – Kick off meeting with City Manager and key staff
- August 17<sup>th</sup> 2009 – Advertise position
- August 18<sup>th</sup> 2009 – Search begins
- September 16<sup>th</sup> – 17<sup>th</sup> 2009 – Company conducts & facilitates stakeholders' feedback session and develop candidate profile
- September 18<sup>th</sup> - 28<sup>st</sup> 2009 -- Present viable candidate profiles to Human Resource Director for review.
- September 28<sup>th</sup> – October 5<sup>th</sup> 2009 – Present to Human Resource Director 5 candidates for final interviews and conducts references and background investigations.
- October 19<sup>th</sup> - November 2<sup>nd</sup> 2009 – Conducts panel interviews and one-on-one interviews with of the top 2-3 candidates with the City Manager.
- November 9<sup>th</sup> 2009 – Job offer extended to the selected candidate.
- November 9<sup>th</sup> – 30<sup>th</sup> 2009 – Recruitment completed and candidate's start date determined.