# **City of Charlotte** Charlotte-Mecklenburg Government Center 600 East 4th Street Charlotte, NC 28202 D **CHARLOTTE**<sub>st</sub> **Meeting Agenda** Monday, January 23, 2017 **Council Chambers City Council Business Meeting** Mayor Jennifer W. Roberts Mayor Pro Tem Vi Lyles **Council Member Dimple Ajmera Council Member Al Austin Council Member Ed Driggs Council Member Julie Eiselt Council Member Claire Fallon** Council Member Patsy Kinsey Council Member LaWana Mayfield **Council Member James Mitchell Council Member Greg Phipps Council Member Kenny Smith**

## **City of Charlotte**



Charlotte-Mecklenburg Government Center 600 East 4th Street Charlotte, NC 28202

## Meeting Agenda

## **City Council Business Meeting**

Monday	r, January 23, 2017	5:00 PM	Government Center			
5:00 P	.M. DINNER BRIEFIN	IG, CHARLOTTE-MECKLENBURG	GOVERNMENT CENTER, ROOM 267			
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30.	Meeting Minutes

#### PROPERTY TRANSACTIONS

31.	Aviation Property Transactions - 3401 Stafford Drive	<del>)</del> 2
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### Adjournment

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## Agenda #: File #: 15-4853 Type: Dinner Briefing

## CITY COUNCIL MEETING Monday, January 23, 2017

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

## Item# Title

32 Property Transactions - Arrowood/Nations Ford Road Intersection Improvements, Parcel #5.1



Agenda #: 1.File #: 15-4508a Type: Dinner Briefing

## **Mayor and Council Consent Item Questions**

## Staff Resource(s):

Kim Eagle, City Manager's Office

Time: 5 minutes

## Synopsis

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



Agenda #: 2.File #: 15-4585 Type: Dinner Briefing

# Fiscal Year 2016 Comprehensive Annual Financial Report and External Audit

## Staff Resource(s):

Randy Harrington, Management & Financial Services Robert Campbell, Management & Financial Services Teresa Smith, Management & Financial Services Betty Mattos, Management & Financial Services Eddie Burke, Cherry Bekaert LLP

Time: 20 minutes

### Explanation

- The Comprehensive Annual Financial Report (CAFR) is a summary of the City's financial results and position at the end of each fiscal year in accordance with state law and the standard framework for financial accounting. Staff will present highlights of the Fiscal Year 2016 Report.
- As required by state law GS 159-34(a), the City's fiscal year financial statements are audited by an independent, external auditor. Cherry Bekaert LLP will present the Audit Report.
- The City Council Governance & Accountability Committee received a preliminary briefing on the external audit at its meeting on November 28, 2016.
- Auditing standard SAS 114 specifies that the auditors are required to communicate to those charged with governance each year.
- Following the presentation, the Fiscal Year 2016 CAFR can be viewed online at: <<u>http://charlottenc.gov/mfs/finance/Pages/publications.aspx></u>.

### **Future Action**

The presentation is for informational purposes only.



## Agenda #: 3.File #: 15-4844 Type: Dinner Briefing

## Charlotte-Mecklenburg Opportunity Task Force Update

## Staff Resource(s):

Debra Campbell, City Manager's Office Dr. Ophelia Garmon Brown, Co-Chair Charlotte-Mecklenburg Opportunity Task Force Brian Collier, Foundation for the Carolinas

## Time: 30 minutes

### Explanation

- The Charlotte-Mecklenburg Opportunity Task Force (OTF) is a community-wide effort begun in May 2015 with the goal of studying the issue of economic mobility and opportunity in Charlotte-Mecklenburg. The City of Charlotte is a funding partner for the effort.
- The purpose of this presentation is to provide City Council an overview and status update of the work of the Charlotte-Mecklenburg Opportunity Task Force.
- The presentation will include:
  - Task Force progress to date,
  - Draft findings regarding the determinants, or underlying factors, for economic mobility and opportunity,
  - A timeline for disseminating the report to the community, and
  - Considerations for implementation.

## **Future Action**

For informational purposes only.



Agenda #: 4.File #: 15-4840 Type: Dinner Briefing

## **City Council Retreat Planning Committee Report**

## **Committee Chair:**

Kenny Smith

## Staff Resource(s):

Katie McCoy, City Manager's Office

## Time: 5 minutes

## Explanation

- The 2017 City Council Retreat is scheduled for January 25-27, 2017 at the Hilton North Raleigh/Midtown.
- The Chair of the Retreat Planning Committee will provide an update to the full City Council on the Committee's work.
- Staff will distribute Retreat binders to include the final agenda, directions, and speaker biographies.

## **Future Action**

The presentation is for informational purposes only.



## Agenda #: 5.File #: 15-4806b Type: Dinner Briefing

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

Staff Resource(s):

Kim Eagle, City Manager's Office

Time: 10 minutes

## Synopsis

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



Agenda #: 6.File #: 15-4839 Type: Dinner Briefing

## **Closed Session**

Action:

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



City of Charlotte

Agenda Date: 1/23/2017

Agenda #: 7.File #: 15-4860 Type: Consent Item

Swearing in of Council Member Dimple Ajmera, District 5



Agenda #: 8.File #: 15-4810 Type: Consent Item

# Consent agenda items 18 through 32 may be considered in one motion except for those items removed by a Council member. Items are removed by notifying the City Clerk.

Consideration of Consent Items shall occur in the following order:

- A. Items that have not been pulled, and
- B. Items with citizens signed up to speak to the item.



Agenda #: 9.File #: 15-4700 Type: Public Hearing Item

## **Public Comment on the Transportation Action Plan**

## Action:

**Receive public comments on the Transportation Action Plan.** 

## **Committee Chair:**

Vi Lyles, Transportation & Planning

## Staff Resource(s):

Norm Steinman, Transportation

### Explanation

- The Transportation Action Plan (TAP) is Charlotte's long-range, comprehensive, multimodal transportation plan.
- The TAP describes goals, policies and objectives to achieve the City's vision of becoming the premier city in the nation for integrating transportation and land use. The TAP was first adopted in 2006, and was last updated in 2011.
- The TAP also describes eight categories of transportation investments including maintenance, streets, signals, safety, pedestrian, and bicycle projects and advance planning activities necessary to help accommodate Charlotte's growth and provide more transportation choices.
- In 2016, the Transportation & Planning Committee discussed the TAP five times and Charlotte WALKS three times. These two plans were developed jointly and directly complement each other as Charlotte strives to better integrate land use and provide more transportation choices.

### **Community Input**

- Since early 2015, staff has collected public comments at a number of events held throughout the city, including hosting a transportation fair; small pop-up meetings, joint workshops with the City's Planning Department, presentations to the Charlotte Chamber's Transportation Committee and Sustain Charlotte's Transportation Choices Alliance, and community events such as Open Streets 704.
- Staff gathered information from the City's 2016 Transportation Survey and is collecting comments on the draft TAP using an online survey accessed through the City's website.

### **TAP Recommendations**

- The 2016 TAP Update recommends investing \$5.1 billion in the city's transportation network over a 25-year period. This level of investment is necessary to build, maintain, and operate a travel network with safe options for pedestrians, bicyclists, transit riders, and motorists in Charlotte.
- Key investments include building 100 multimodal arterial projects, 40 multimodal intersections, 250 miles of new sidewalks, 250 miles of new bicycle facilities, and 150 traffic-calming projects over the next 25 years. The TAP also recommends maintaining city streets at a 12-year street

## Agenda #: 9.File #: 15-4700 Type: Public Hearing Item

resurfacing cycle.

## Transportation & Planning Committee Discussion

- Throughout calendar year 2016, staff provided information about the TAP to the Transportation & Planning Committee. Several discussions took place involving goals, policies, and implementation strategies.
- The Transportation & Planning Committee discussed the TAP five times throughout calendar year 2016.
- On December 12, 2016, the Committee voted unanimously (Lyles, Phipps, and Smith voted yes; Autry and Kinsey were not present) to recommend the TAP to the full City Council for public comment.

## **Next Steps**

- The Transportation & Planning Committee is expected to make a recommendation on the TAP at its regular meeting on February 13, 2017.
- Staff will ask City Council to adopt the TAP at the Business Meeting on February 27, 2017.

## Attachment

The Transportation Action Plan can be found online at: <a href="http://charlottenc.gov/Transportation/Programs/Documents/TAP%20Draft%20Plan.pdf">http://charlottenc.gov/Transportation/Programs/Documents/TAP%20Draft%20Plan.pdf</a>



Agenda #: 10.File #: 15-4558 Type: Public Hearing Item

## **Public Comment on Charlotte WALKS**

## Action:

**Receive public comments on Charlotte WALKS.** 

## **Committee Chair:**

Vi Lyles, Transportation & Planning

### Staff Resource(s):

Scott Curry, Transportation

## Explanation

- Charlotte WALKS is Charlotte's first comprehensive pedestrian plan. It brings together a number of
  existing walkability initiatives and identifies new strategies for meeting the pedestrian safety and
  walkability goals described in the Transportation Action Plan (TAP).
- Charlotte WALKS will become the guiding document for the City's ongoing efforts related to walkability.
- The Transportation & Planning Committee discussed the TAP five times and Charlotte WALKS three times during calendar year 2016. These two plans were developed jointly and directly complement each other as Charlotte strives to better integrate land use and provide more transportation choices.

### **Community Input**

- Since February 2015, City staff has conducted 30 public input events attended by over 1,000 people.
- Public input events were held throughout the city and included large transportation fairs, small pop -up meetings, walking tours, and specifically targeted sessions for youth and seniors.

### **Charlotte WALKS Recommendations**

- Charlotte WALKS includes specific action items, ranging from future capital investments and suggested policy changes, to potential amendments to the City's development ordinances.
- The action items are grouped into three chapters: Safe, Useful, and Inviting. These chapters correspond to the results of the public input for Charlotte WALKS.
  - Charlotte WALKS includes three high-priority action items:
    - Back-of-curb sidewalks (i.e. lacking a buffer between pedestrians and moving traffic);
    - Filling gaps in the sidewalk network; and
    - Installing more pedestrian crossings (especially on busy, high-speed thoroughfares).

## Agenda #: 10.File #: 15-4558 Type: Public Hearing Item

## **Transportation & Planning Committee Discussion**

- The Transportation & Planning Committee discussed Charlotte WALKS three times during calendar year 2016.
- On December 12, 2016, staff provided information about Charlotte WALKS to the Transportation & Planning Committee regarding ongoing public engagement and key goals, policies, and implementation strategies.
- The Committee voted unanimously (Lyles, Phipps, and Smith voted yes; Autry and Kinsey were not present) to recommend Charlotte WALKS to the full City Council for public comment.

### **Next Steps**

- The Transportation & Planning Committee will consider approving a recommendation on Charlotte WALKS at its regular meeting on February 13, 2017.
- Staff will ask the City Council to adopt Charlotte WALKS at the Business Meeting on February 27, 2017.

## Attachment

The Charlotte WALKS Plan can be found online at: <a href="http://charlottenc.gov/Transportation/Programs/Documents/Charlotte%20WALKS%20-%2011.14.16%20DRAFT%20-%20reduced.pdf">http://charlotte%20WALKS%20-%2011.14.16%20DRAFT%20-%20reduced.pdf</a>



Agenda #: 11.File #: 15-4520 Type: Public Hearing Item

## JELD-WEN, Inc. Business Investment Grant

## Action:

- A. Conduct a public hearing regarding approval of an economic development Business Investment Grant for JELD-WEN, Inc., and
- **B.** Approve the City's share of a Business Investment Grant to JELD-WEN, Inc. for an estimated amount of \$438,106 over five years.

## Staff Resource(s):

Kevin Dick, Neighborhood & Business Services

### Explanation

- On November 4, 2016, JELD-WEN, Inc. announced its selection of Charlotte for an investment of \$38 million for the expansion and development of a new headquarters campus and training center. The expansion will create 206 new jobs. Other competitive locations considered were York and Lancaster Counties in South Carolina and Kiamath Falls, Oregon.
- The total City/County combined grant is estimated to be \$1,184,635 over five years. Staff is requesting that City Council approve the City's share estimated at \$438,106.
  - In a closed session on October 10, 2016, the City Council indicated its intent to approve a Business Investment Grant of \$438,106 to JELD-WEN.
  - In a closed session on October 18, 2016, the Mecklenburg County Board of Commissioners indicated its intent to approve a Business Investment Grant of \$746,529 to JELD-WEN and subsequently approved its portion of the grant at its December 20, 2016 meeting.
  - In addition to the local contribution, the State of North Carolina has approved a \$2.4 million Job Development Investment Grant and \$350,200 in community college training funds.
- In addition to the \$38 million capital investment, JELD-WEN has committed to:
  - 206 new jobs over five years with an average annual wage of \$75,000 (155% of the regional average wage). Of those positions, 155 will be hired locally.
    - 124 corporate administration workers (legal, human resources, finance, sales, marketing and procurement).
    - 82 manufacturing related workers (engineering, information technology, and product line management).
  - 157 current employees to be retained for the term of the grant.

## Agenda #: 11.File #: 15-4520 Type: Public Hearing Item

## Background

- JELD-WEN, headquartered in Charlotte, is one of the world's leading manufacturers of doors and windows. The company moved from Oregon to Charlotte in 2012 but did not make a grant request at that time.
  - The company plans a 15-year lease for a new 120,000 square foot, Class A office building in Ayrsley. The office building is being developed by a private developer and leased back to JELD-WEN through a build-to-suit transaction.
  - The office building will be located at 2645 Silver Crescent Drive in Ayrsley (outside the Business Investment Zone).

## **Business Investment Grant**

- The request meets the City Council approved criteria for a five-year, 50% headquarters expansion grant.
- The general terms and conditions of this grant include:
  - The company will be asked to coordinate job fairs and recruitment events with the City and County for both temporary and permanent jobs. Community organizations and residents will receive ample notice of these employment activities in addition to training opportunities with Goodwill Industries of the Southern Piedmont, the Urban League of Central Carolinas and other City partners. This training will include career counseling, job readiness, intensive case management, computer and vocational training, as well as employment search and placement assistance.
  - Actual grant payments are based on the value of the investment as appraised by the Mecklenburg County Tax Office.
  - All property taxes due from JELD-WEN must be paid before a grant payment is made.
  - If JELD-WEN removes the investment from Charlotte during the grant term, it shall reimburse 100% of the investment grant paid to date.
  - If JELD-WEN moves the investment from Charlotte within five years of the end of the Business Investment Program (BIP) grant term, a portion of the grant must be repaid as follows:
    - Within One Year of the end of the BIP Term 90% of grant payments
    - Within Two Years of the end of the BIP Term 75% of grant payments
    - Within Three Years of the end of the BIP Term 60% of grant payments
    - Within Four Years of the end of the BIP Term 45% of grant payments
    - Within Five Years of the end of the BIP Term 30% of grant payments

### **Fiscal Note**

Funding: Business Investment Grant



Agenda #: 12.File #: 15-4726 Type: Public Hearing Item

## Lending Tree, LLC Business Investment Grant

## Action:

- A. Conduct a public hearing regarding approval of an economic development Business Investment Grant for Lending Tree, LLC, and
- **B.** Approve the City's share of a Business Investment Grant to Lending Tree, LLC for an estimated amount of \$245,064 over five years.

## Staff Resource(s):

Kevin Dick, Neighborhood & Business Services

## Explanation

- On November 2, 2016, Lending Tree, LLC announced its selection of Charlotte for an investment of \$22 million for the expansion of its headquarters in Charlotte. The expansion will create 314 new jobs. Other competitive locations considered were Lancaster County, South Carolina, Round Rock, Texas and Nashville, Tennessee.
- Total City/County combined grant is estimated to be \$662,650 over five years. Staff is requesting that City Council approve the City's share of the grant estimated to be \$245,064.
  - In a closed session on October 10, 2016, the City Council indicated its intent to approve a Business Investment Grant of \$245,064 to Lending Tree.
  - In a closed session on October 18, 2016, the Mecklenburg County Board of Commissioners indicated its intent to approve a Business Investment Grant to Lending Tree and approved a grant of \$417,586 at its December 20, 2016 meeting.
  - In addition to the grant for the headquarters expansion, the State of North Carolina has approved a \$3.8 million Job Development Investment Grant and \$519,000 in community college training funds.
- In addition to the \$22 million capital investment, Lending Tree has committed to:
  - 314 new jobs hired locally over five years and with an average annual wage of \$81,857 (169% of the regional average wage).
  - 123 corporate administration workers (legal, finance, marketing, sales & support, product managers);
  - 121 customer service staff; and
  - 70 technology staff.
- In addition to adding 314 new positions, 287 current employees will be retained for the term of the grant.

## Background

- Lending Tree, headquartered in Charlotte, is a leading online marketplace for home mortgages, personal loans, credit cards, business, automobile, and student loans. The company currently employs 287 persons in Charlotte.
  - The company plans to purchase two existing office buildings in the SouthPark area and invest \$22 million in building improvements and personal property.
  - The office buildings are located at 2100 & 2115 Rexford Road in SouthPark (outside the Business Investment Zone).

## **Business Investment Grant**

- The request meets the City Council approved criteria for a five-year, 50% headquarters expansion grant.
- The general terms and conditions of this grant include:
  - The company will be asked to coordinate job fairs and recruitment events with the City and County for both temporary and permanent jobs. Community organizations and residents will receive ample notice of these employment activities in addition to training opportunities with Goodwill Industries of the Southern Piedmont, the Urban League of Central Carolinas, and other City partners. This training will include career counseling, job readiness, intensive case management, computer and vocational training, as well as employment search and placement assistance.
  - Actual grant payments are based on the value of the investment as appraised by the Mecklenburg County Tax Office.
  - All property taxes due from Lending Tree must be paid before a grant payment is made.
  - If Lending Tree removes the investment from Charlotte during the grant term, it shall reimburse 100% of the investment grant paid to date.
  - If Lending Tree moves the investment from Charlotte within five years of the end of the Business Investment Program (BIP) grant term, a portion of the grant must be repaid as follows:
    - Within One Year of the end of the BIP Term 90% of grant payments
    - Within Two Years of the end of the BIP Term 75% of grant payments
    - Within Three Years of the end of the BIP Term 60% of grant payments
    - Within Four Years of the end of the BIP Term 45% of grant payments
    - Within Five Years of the end of the BIP Term 30% of grant payments

### **Fiscal Note**

Funding: Business Investment Grant



Agenda #: 13.File #: 15-4811 Type: Policy Item

**City Manager's Report** 



## Agenda #: 14.File #: 15-4836 Type: Policy Item

## **Passenger Vehicle for Hire Ordinance**

### Action:

Approve the Community Safety Committee's recommendation to adopt a Passenger Vehicle for Hire ordinance, with an effective date of July 1, 2017.

#### **Committee Chair:**

Julie Eiselt, Community Safety Committee

#### Staff Resource(s):

Thomas Powers III, City Attorney's Office Daniel Buckley, Police

#### Explanation

- On January 9, 2017, the City Council received a Dinner Briefing presentation on the proposed draft for a revised Passenger Vehicle for Hire ordinance (PVH Ordinance).
- The goals of the PVH Ordinance are:
  - Provide parity between the PVH Industry and Transportation Network Companies (Uber & Lyft);
  - Simplify organization and language, establishing clearer expectations and responsibilities; and
  - Eliminate redundancy.
- The proposed draft for a revised PVH Ordinance includes the following major changes:
  - Modifying criminal background check standards and procedures;
  - Requiring PVH companies to provide driver training program and to perform drug testing upon drivers;
  - Standardizes citation amount at \$100 for permittees and additional \$500 for illegal third parties;
  - Establishing a new standard of review for PVH appeals;
  - Authorizing vehicle infotainment systems, roof-mounted digital advertising, and vehicle panel advertising;
  - Authorizing a PVH driver to assess a one-time fee in an identical amount if the PVH driver is assessed a fee for Airport pickup/drop off.
  - Shrinking the PVH Board from eleven members to five members;
  - Authorizing PVH Chair to rule on citations under a specific dollar amount;
  - Instituting a new audit and enforcement focus by the PVH office;
  - Consolidating ten divisions into six new divisions; and
  - Eliminating 19 pages due to redundancy or duplication.

#### **Previous Actions**

- On July 25, 2011, the City Council adopted revisions to Chapter 22 of the City Code, the PVH Ordinance.
- On October 6, 2015, the PVH Board sent a letter requesting the City Council review the PVH Ordinance due to changes in the PVH industry and the recent state legislation authorizing Transportation Network Companies, such as Uber and Lyft.
- The Community Safety Committee received a referral to review and consider the current PVH regulations. The Committee discussed the PVH ordinance throughout calendar year 2016.
- On January 29, February 18, and March 22, 2016, City staff sought input from PVH stakeholders during City Council public forums, totaling 117 attendees, and 44 speakers. The stakeholders' feedback was presented to the Committee along with the City staff's recommendations.
- City staff conducted information sessions, totaling 42 attendees, with the PVH industry to communicate proposed changes to the framework and the proposed revised PVH Ordinance on the following dates: July 15, July 29, August 2, December 8, and December 14, 2016.
- On December 15, 2016, the Community Safety Committee voted (Eiselt, Phipps, and Smith voted yes; Fallon voted no; and Austin was not present) to recommend approval of the revised PVH ordinance to the full Council.

### Attachment

Revised PVH Ordinance

## AN ORDINANCE REPLACING ARTICLE II OF CHAPTER 22 OF THE CITY CODE, ENTITLED PASSENGER VEHICLES FOR HIRE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE, NORTH CAROLINA THAT:

<u>Section 1</u>: Article II of Chapter 22 of the City Code is hereby replaced.

<u>Section 2</u>: Chapter 22, Article II of the City Code is hereby adopted to read as shown in the attached Exhibit A, which is incorporated into and made a part of this ordinance herein.

Section 3: This ordinance shall become effective on July 1, 2017.

Approved as to form:

Senior Assistant City Attorney

#### ARTICLE II. - PASSENGER VEHICLES FOR HIRE

#### DIVISION 1. – PURPOSE, DEFINITIONS

#### Sec. 22-100. – Purpose

The purpose of this Article is to regulate For-Hire Vehicles in order to preserve the health, safety, and welfare of the people in this City and the protection of their property. It shall be unlawful for any Person to violate any of the sections of this Article

#### Sec. 22-101. – Definitions

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise.

- (a) Accessible Vehicle means a For-Hire Vehicle which (i) is capable of transporting passengers with disabilities or physical impairments; (ii) through the use of a wheelchair boarding ramp, lift, and/or gate; (iii) at the side or rear of the vehicle; and (iv) is operated by a Driver. An Accessible Vehicle shall not include any transportation services to passengers with disabilities or physical impairments being offered: (i) by any governmental agency as a public purpose; or (ii) by medical facilities exclusively to the patients of the medical facility. One Accessible Vehicle shall be equal to five Metered Vehicles.
- (b) Affiliation means an employer-employee relationship or the contractual or permissive arrangement for the provision of For-Hire Service. An Affiliation is presumed when a For-Hire Driver or For-Hire Vehicle Owner uses a For-Hire Company's logo or insignia. This term may also be referred to as Affiliated.
- (c) Agency Vehicle means a For-Hire Vehicle providing service pursuant to a written agreement with a governmental agency located within the City.
- (d) Article means the Passenger Vehicle For Hire Ordinance as amended by the Charlotte City Council.
- (e) Business Enterprise means a sole proprietorship, corporation, professional corporation, nonprofit corporation, limited liability company, limited partnership, limited liability partnership, or any other partnership whether or not formed under the laws of the State of North Carolina. All foreign Business Enterprises must be licensed by the Secretary of State of North Carolina to do business in North Carolina.
- (f) CDOT means the City's department of transportation as defined in chapter 14 of the City Code.
- (g) City means the Charlotte City Council, the City of Charlotte, and everything within its corporate limits.
- (h) Civil penalties mean only those penalties levied under this Article.
- (i) Company Operating Certificate means the valid license issued pursuant to this Article which has authorized a Business Enterprise to provide For-Hire Service.
- (j) Driver's Permit means the valid license issued pursuant to this Article to any Person which authorizes that Person to provide For-Hire Service in a Vehicle.
- (k) For-Hire means a transaction whereby any money, thing of value, charge tickets, surcharge, payment, pecuniary consideration or compensation, reward, donation, remuneration or profit is paid to, accepted by, or received by a Person in exchange for the temporary use by or for the transportation of a Person as a passenger, whether such is paid voluntarily or upon solicitation, demand, request, contract, agreement, or as a surcharge.
- (I) For-Hire Company means a Business Enterprise who provides or has provided For-Hire Services in the City.

- (m) For-Hire Driver means a Person who operates, is operating, or has operated a For-Hire Vehicle while providing For-Hire Service in the City.
- (n) For-Hire Service means any Person that engages in a For-Hire act and offers to transport any Person from a point of origin within the City to any specific destination within the United States. For-Hire Services shall not include the transportation services offered by the Charlotte Area Transit System.
- (o) For-Hire Vehicle means: (i) any Vehicle licensed by and registered with the North Carolina Division of Motor Vehicles or equivalent South Carolina state agency; and (ii) any Vehicle providing For-Hire Services. For purposes of this Article, For-Hire Vehicles shall not include: Vehicles owned and/or operated by the Charlotte Area Transit System; or (ii) any For-Hire Vehicle permitted by the State of North Carolina or the United States of America.
- (p) For-Hire Vehicle Owner means any Person whose name appears on the state-issued title of the For-Hire Vehicle.
- (q) Habitual Criminal Activity means a Person who has three (3) or more convictions of a Class 2 misdemeanor or higher.
- (r) Habitual User of Alcoholic Beverages or Drugs means a Person who has two (2) or more of the following within a three (3) year period: (i) alcohol or drug related misdemeanors; or (ii) alcohol or drug-related violations of state law or City ordinance.
- (s) Habitual Violator of Traffic Laws means the accrual on a Person's driving record or driver's license of either: (i) eight (8) points or more within a three-year period; or (ii) six (6) convictions of any type of traffic or moving offense.
- (t) Illegal Third Party means a Person (i) that has not been issued a Certificate Operating Certificate, Vehicle Operating Permit, and/or Driver's Permit, and (ii) provides For-Hire Service within the City.
- (u) Licensee means the Person and/or the Support Provider issued a Company Operating Certificate, Vehicle Operating Permit, and/or Driver's Permit pursuant to this Article.
- (v) Manifest means a daily record that: (i) is in electronic or paper form (ii) is prepared by the For-Hire Driver; (iii) shows all trips made by the For-Hire Vehicle; (iv) shows the time and place where each trip originated; (v) the destination of each trip; (vi) the fare amount for each trip; and (vii) the number of passengers.
- (w) Metered Vehicle means a Vehicle that: (i) is equipped with a meter; and (ii) calculates the For-Hire Service using the meter.
- (x) Nonmetered Vehicle means a Vehicle that: (i) is not equipped with a meter; and (ii) calculates the For-Hire Service pursuant to a Prearrangement.
- (y) On-Demand means For-Hire Service made indiscriminately and instantaneously by a Metered Vehicle on or along a Roadway. On-Demand shall include, but shall not be limited to: (i) the hailing of a Metered Vehicle; (ii) any other oral request for a Metered Vehicle; (ii) the movement of a Metered Vehicle in search of or for the purpose of attracting passengers. No Vehicle, other than a Metered Vehicle, shall be operated On-Demand.
- (z) Operate, operating, or operated means a Person that is either: (i) sitting in the driver's seat of a For-Hire Vehicle regardless of whether the For-Hire Vehicle is stationary or moving; or (ii) has access to the interior of a For-Hire Vehicle; or (iii) the For-Hire Vehicle's owner; or (iv) has control over the For-Hire Vehicle. Personal or off-duty use of a For-Hire Vehicle must comply with Section 22-161.
- (aa)Passenger Vehicle For Hire Board means a board charged with carrying out the duties set forth in Division 6 of the Article. This term shall also be referred to as the PVH Board.
- (bb)Person means any individual, firm, partnership, association, corporation, governmental agency, Business Enterprise, or combination thereof of whatsoever form or character.

- (cc)Prearrangement means a written or electronic agreement: (i) setting forth a fixed fee; (ii) to provide For-Hire Service; and (iii) prior to the trip's commencement. Prearrangement shall not include any activities constituting On-Demand.
- (dd)Passenger Vehicle For Hire Decal means an issued, nontransferable, numbered insignia providing exterior identification that a particular For-Hire Vehicle has a Vehicle Operating Permit. This term shall also be referred to as the PVH Decal.
- (ee)Passenger Vehicle For Hire Manager means the city employee, agent, or contractor responsible for the enforcement and administration of the Article. Any reference to PVH Manager shall include any city employees, agents, or contractors designated by the PVH Manager to assist in the enforcement and administration of this Article. This term shall also be referred to as the PVH Manager.
- (ff) Rate Sheet means the information displayed upon and within a Metered Vehicle that shall describe the schedule of fares and fees adopted by the PVH Board.
- (gg)Special Services Permit means a license issued by the PVH Manager to a Company Operating Certificate Licensee that allows the Company Operating Certificate Licensee to provide an infrequent and unusual For-Hire Service different from the For-Hire Services described in this Article. This infrequent and unusual For-Hire Service could require the pooling of unpermitted Vehicles to service the needs created by one-time citywide tourism events, fixed For-Hire Service routes, geographically or time-of-day/limited service, or any other innovative For-Hire Services.
- (hh)Roadway means any road, street, alley, avenue, highway, or any other public vehicular area within the City as they may exist or may be extended.
- (ii) Support Provider means the Person that satisfies, or guarantees to satisfy, the requirements of Section 22-125(b) and Section 22-125(c)(4).
- (jj) Unique Vehicle means a For-Hire Vehicle that shall be, but limited to, either of the following: (i) registered as an antique vehicle with the North Carolina Division of Motor Vehicles; (ii) manufactured at least thirty-five (35) years prior to its use as a For-Hire Vehicle; (iii) manufactured in a limited or small quantity; (iv) limousines that are stretched or have a lengthened wheelbase; (v) determined by the PVH Manager based upon the Vehicle's historical and sentimental value; or (vi) such other Vehicle as determined by the PVH Manager to be unique, vintage, or classic in nature.
- (kk) Vehicle means every motorized device in, upon, or by which any Person or property is or may be transported or drawn upon a Roadway. This term shall not include electric personal assistive mobility devices as defined in G.S. 20-4.01(7a), mopeds, golf carts, motorized devices moved by human power, or motorized devices used exclusively upon fixed rails or tracks. A Vehicle shall not include motor vehicles or motor vehicle carriers as defined in G.S. 62-259—62-279 or hotel courtesy vehicles that provide transportation services solely to patrons of the hotel.
- (II) Vehicle Operating Permit means: (i) any Vehicle with a valid license issued pursuant to this Article; (ii) any Vehicle operated by a For-Hire Driver; (iii) any Vehicle providing For-Hire Services by a Person; and (iv) any Vehicle registered with the North Carolina Division of Motor vehicles or equivalent South Carolina state agency.

Secs. 22-102—22-124. - Reserved.

#### **DIVISION 2. – REQUIREMENTS FOR NEW APPLICATIONS/RENEWALS/REINSTATEMENTS**

Sec. 22-125. - Application requirements.

- (a) All applications for a Company Operating Certificate, Vehicle Operating Permit, and/or Driver's Permit are to be submitted on forms provided by the PVH Manager. Each application shall contain the following information:
  - (1) Be at least eighteen (18) years of age;

- (2) For the last ten (10) years, a Person must disclose all addresses that the Person has ever used or resided at.
- (3) Each Person must disclose all legal names that the Person has ever used or any and all names the Person has ever gone by.
- (4) Reliable documentation evidencing the Person's eligibility to be a Licensee. Reliable documentation shall include, when necessary, a valid resident alien registration card, U.S. passport, certificate of naturalization or any other documents allowed under part 274(a)(2) of the Immigration and Naturalization Service Rules of the Immigration Reform and Control Act of 1986.
- (5) If the application is being submitted by a Business Enterprise, then the Business Enterprise must submit a certified copy of its articles, bylaws, or operating agreement.
- (6) If the Person has been charged with any criminal offense or infraction, then the Person must produce all criminal records and evidence of the court's judgment. If the application is being submitted by a Business Enterprise, then all criminal records of the officers, directors, and supervising employees, including the general manager, if any, shall be provided.
- (7) At least once every three (3) years, each Person shall provide the Person's fingerprints to the PVH Manager for submission to state and national criminal databases for the Person's criminal record. This information shall be kept privileged and confidential and shall not be a public record under G.S. ch. 132. The receipt of the Person's criminal history by the PVH Manager shall be used solely to determine eligibility for a Company Operating Certificate, Driver's Permit, and/or Vehicle Operating Permit.
- (8) Evidence that For-Hire Service will be provided by the Person and will not be provided by a different Person; provided, however, the Person may engage a Support Provider if the potential engagement is disclosed when the application is submitted for approval by the PVH Manager.
- (9) Any and all Affiliations.
- (b) Applications for a Company Operating Certificate shall include these application requirements in addition to Section 22-125(a):
  - (1) Certification that the Person has the ability to provide For-Hire Service twenty-four (24) hours a day, seven (7) days a week throughout the City.
  - (2) Certification that the Person has the ability to provide adequate supervision of For-Hire Drivers operating under the Company Operating Certificate.
  - (3) Certification that a For-Hire Driver training program will have the following components:
    - (a) Instruction on City Roadways and local landmarks;
    - (b) The requirements of a Licensee under this Article;
  - (4) Certification of a ten (10) panel drug testing program that will be administered to any For-Hire Driver. Thereafter, the drug testing program shall be administered at least once every three (3) years to each For-Hire Driver.
  - (5) Provide evidence demonstrating that the Person has met at least one of the For-Hire Vehicle requirements set forth below:
    - i. Twenty-Five Metered Vehicles.
    - ii. One Nonmetered Vehicle.
    - iii. One Agency Vehicle.
  - (6) A lawfully zoned depot or terminal on private property, if any.

- (7) The uniform color scheme and logos painted or to be painted on the Metered Vehicle. This provision applies solely to Company Operating Certificate involving a Metered Vehicle. This item is not subject to appeal.
- (8) The For-Hire Company's name, For-Hire Vehicle number, and logo to be affixed with permanent paint or permanent decals on both sides and the rear of each Metered Vehicle. The placement of a valid telephone number on a For-Hire Vehicle shall be optional. Lettering on the For-Hire Vehicle shall be at least three (3) inches in height.
- (9) The For-Hire Company's name shall be affixed to the Nonmetered Vehicle's front license plate. PVH Decals shall be affixed on windows at the For-Hire Vehicle's passenger entry doors. The placement of a valid telephone number on a For-Hire Vehicle shall be optional. Lettering on the For-Hire Vehicle shall be at least three (3) inches in height.
- (c) Applications for a Company Operating Certificate and/or Vehicle Operating Permit shall include these application requirements in addition to Section 22-125(a):
  - (1) The number of each Vehicle that is or will be a For-Hire Vehicle.
  - (2) The make, type, license plate number, and passenger capacity of each Vehicle that is or will be a For-Hire Vehicle.
  - (3) An appropriate license plate issued by the North Carolina Division of Motor Vehicles or equivalent South Carolina state agency to be placed on the For-Hire Vehicle.
  - (4) Proof of financial responsibility as defined in G.S. 20-280.
    - (a) Each Vehicle must be insured as a condition precedent to the operation of any For-Hire Vehicle on the Roadways.
    - (b) Any proof of financial responsibility must name and/or describe every For-Hire Vehicle covered under its terms.
    - (c) The Business Enterprise issuing the proof of financial responsibility shall provide written notice to the PVH Manager not less than fourteen (14) days prior to the cancellation, reduction in coverage, or other material change in the proof of financial responsibility.
    - (d) If a Licensee receives a notice cancelling the proof of financial responsibility, then the PVH Manager shall be notified by the Licensee within one (1) business day of receipt of the notice.
    - (e) Any proof of financial responsibility shall be conditioned upon the payment of any final judgment, within limits of the insurance policy, recovered by any Person as a result of the negligent operation of any For-Hire Vehicle under this Article, regardless of the Person operating the For-Hire Vehicle at the time of the injury or damage. Such insurance shall contain a provision for the continuing liability under the insurance to the full amount of the policy, notwithstanding any recovery thereon.
    - (f) If the For-Hire Vehicle is owned by a Person who operates under the Vehicle Operating Permit of another Vehicle Operating Permit Licensee, the other Vehicle Operating Permit Licensee shall be named as an additional insured in the policy covering the Vehicle.
  - (5) Certification by each Person that the For-Hire Vehicle shall be kept clean, in good mechanical condition, and in good physical condition
  - (6) The type of For-Hire Service authorized to provide.
- (d) Applications for a Driver's Permit shall include these application requirements in addition to Section 22-125(a):
  - (1) The Person's medical, mental, and/or physical condition. The PVH Manager shall have the authority to request a medical certification by a licensed practitioner regarding a Person's ability to drive a For-Hire Vehicle.

- (2) The Person's physical description, including age, race, height, weight, eye color, and hair color.
- (3) A valid North Carolina or South Carolina driver's license issued to the Person or issued within seven (7) days of the date of application.
- (4) Permission from the Company Operating Certificate Licensee and the Vehicle Operating Permit Licensee to operate a For-Hire Vehicle for the Company Operating Certificate Licensee and/or Vehicle Operating Permit Licensee.
- (5) A For-Hire Driver is exempt from the requirements of this Article if the For-Hire Driver: (i) exclusively operates a For-Hire Vehicle permitted by the State of North Carolina or the United States of America; and (ii) ceases operating all For-Hire Vehicles covered by this Article.
- (e) Applications for a Special Service Permit shall include these application requirements in addition to Section 22-125(a) shall:
  - (1) describe the special service or its nature in detail.
  - (2) provide an explanation of why the proposed special service is necessary.
  - (3) provide the proposed number of For-Hire Vehicles needed for the special service.
  - (4) provide an explanation of why the existing number of For-Hire Vehicles by type is inadequate.
  - (5) provide the number of For-Hire Vehicles presently operated by the Company Operating Certificate Licensee on the date of the application.
- (f) An application for a Company Operating Certificate, Vehicle Operating Permit, and/or Driver's Permit may be submitted concurrently by the same Person for review by the PVH Manager.
- (g) The Person shall swear under penalty of perjury that the information submitted in the application is neither false nor misleading. Submitting, or causing to be submitted, false or misleading information is unlawful and shall be grounds for denial of an application.
- (h) No application shall be accepted by the PVH Manager if a Person has a criminal summons or a criminal charge pending against the Person at the time of application. For purposes of this subsection, pending criminal charges shall not include traffic infractions.
- (i) No application for a Company Operating Certificate, Vehicle Operating Permit, Driver's Permit, or Special Service Permit shall be approved until the application meets all requirements under this Article.
- (j) No application for a Special Service Permit shall be accepted until after a Company Operating Certificate has been issued to a Person.

Sec. 22-126. - Issuance.

- (a) The City authorizes the PVH Manager to issue a Company Operating Certificate, Vehicle Operating Permit, Driver's Permit, and/or Special Services Permit to any Person; provided, however, any issuance shall: (i) be subject to such conditions as the City may deem advisable or necessary in the public interest, (ii) comply with this Article before the commencement of the For-Hire Service, and (iii) occur after payment of a regulatory fee provided by Section 22-228.
- (b) A separate Company Operating Certificate, Vehicle Operating Permit, and/or Driver's Permit shall be required for each type of For-Hire Service offered or to be offered by the Person.
- (c) Any Driver's Permit issued to a Person shall show the following:
  - (1) The photograph and name of the Driver's Permit Licensee;
  - (2) The issue date and expiration date; and
  - (3) Any Affiliation.

Sec. 22-127. - Expiration.

- (a) All Company Operating Certificates, Vehicle Operating Permits, and Driver's Permits shall expire on a yearly basis on a date determined by the PVH Manager.
- (b) All Special Service Permits shall expire within seven (7) days of issuance.

Sec. 22-128 - Renewal.

The PVH Manager may renew a Company Operating Certificate, Vehicle Operating Permit, and Driver's Permit from year-to-year by appropriate endorsement thereon. Any application shall comply with the requirements of Section 22-125.

Sec. 22-129 - Transferability.

- (a) The privilege of engaging in For-Hire Service in the City through a Company Operating Certificate, Vehicle Operating Permit, and/or Driver's Permit is personal to the specific Licensee. The rights, requirements, and responsibilities which attach to the Company Operating Certificate, Vehicle Operating Permit, and/or Driver's Permit remain with its Licensee at all times that For-Hire Service is being provided in the City.
- (b) These rights, requirements and responsibilities which include, but are not limited to, the requirements of this Article will remain unaffected by any agreement or contractual arrangement between Licensees or any Licensee and an Illegal Third Party, regardless of the form or characterization of the agreement.
- (c) Each Company Operating Certificate, Vehicle Operating Permit, and Driver's Permit shall not be transferable by the Licensee without prior approval of the PVH Manager. The PVH Manager shall not approve any transfer that would not comply with Section 22-125 or any restrictions placed by the City.
- (d) No transfer shall be approved by the PVH Manager if the Company Operating Certificate Licensee is a Business Enterprise and the Company Operating Certificate Licensee transfers a majority of its ownership interest in the Business Enterprise.

Secs. 22-130—22-149. - Reserved.

#### **DIVISION 3. – OPERATIONS**

Sec. 22-150. - Required.

No Person shall provide any For-Hire Service in the City without a valid Company Operating Certificate, Vehicle Operating Permit, and/or Driver's Permit.

Sec. 22-151. - Types of service.

A Company Operating Certificate Licensee is authorized to provide the following types of service:

- (a) Metered Vehicle. A Metered Vehicle may provide the following types of service:
  - (1) Exclusive ride. For-Hire Service involving the transportation of a single party by a Metered Vehicle from a single origin to a single destination for compensation.
  - (2) Group ride. For-Hire Service involving the transportation of several passengers by a Metered Vehicle from a single origin to a single destination.
  - (3) Shared ride. For-Hire Service involving the transportation of several passengers by a Metered Vehicle from one or more points-of-origin to one or more destinations.
- (b) Nonmetered Vehicle. For-Hire Service offered pursuant to a Prearrangement. No Nonmetered Vehicle shall operate or allowed to operate On-Demand.
- (c) Agency Vehicle. For-Hire Service offered pursuant to a written agreement between the Company Operating Certificate Licensee and the governmental agency. No Agency Vehicle shall operate or allowed to operate On-Demand.

- (d) Special Service.
  - (1) Any exemption to this Article shall be noted on the Special Service Permit.
  - (2) A Special Service Permit Licensee shall agree to be jointly and severally responsible for the conduct and actions of each Person on the Special Service Permit and shall ensure compliance with this Article.
  - (3) Nothing contained in this section shall relieve the Special Service Permit Licensee from the requirements of Chapter 4.
- Sec. 22-152. Display of Driver's Permit, Vehicle Operating Permit, And PVH Decal
  - (a) The For-Hire Driver shall place a copy of the Driver's Permit in the following location:
    - (1) In a Metered Vehicle, a copy of the Driver's Permit shall be displayed conspicuously at all times in the card frame attached to the back of the driver's seat or headrest area of the For-Hire Vehicle.
    - (2) In a Nonmetered Vehicle or an Agency Vehicle, a copy of the Driver's Permit shall be either clearly visible to a passenger seated in the rear seat of the For-Hire Vehicle or kept on the For-Hire Driver.
  - (b) The For-Hire Vehicle Owner shall place a copy of the Vehicle Operating Permit in a conspicuous location on the For-Hire Vehicle's dashboard.
  - (c) The For-Hire Vehicle Owner shall place a copy of the latest state safety inspection in the For-Hire Vehicle's glove box.
  - (d) A PVH Decal shall be affixed as follows: (i) inside of the For-Hire Vehicle; (ii) on the front windshield; (iii) on the passenger's side; (iv) in the lower right corner; and (v) in plain view for any Person outside the For-Hire Vehicle to see.
  - (e) No PVH Decal shall be affixed to a For-Hire Vehicle until the requirement of Section 22-152(b) above is met. No For-Hire Vehicle shall be operated without a PVH Decal affixed thereto and issued pursuant to this Article.

Sec. 22-153. – Rates and Charges, Prearrangement, Extra Charges, Amount of Cash

- (a) The PVH Board shall establish the rates, charges, and fare zones for Metered Vehicles pursuant to the procedures set forth in Section 22-235(f)(3).
- (b) Rates and charges for an Agency Vehicle will be established by the governmental agency contracting for For-Hire Service with the Company Operating Certificate Licensee.
- (c) Rates and charges for a Nonmetered Vehicle will be established in one-hour increments with a minimum one-hour period without regard to whether the trip requires less than one (1) hour or not. Each Company Operating Certificate Licensee shall file all rates and charges for its Nonmetered Vehicles with the PVH Manager. The Company Operating Certificate Licensee shall have uniform rates. All rates and charges must be filed annually with the application for a Company Operating Certificate. Rates and charges may be modified once after the filing of the application for a Company Operating Certificate if a Company Operating Certificate Licensee petitions for a modification to its rates and charges. All rates and charges shall become effective at least fifteen (15) days after the rates and charges has been filed with the PVH Manager.
- (d) Prearrangement shall be demonstrated by showing a copy of a written or electronic reservation for For-Hire Service from a specific location, at a specific date and time, for travel to any specific destination. All Persons must be able to present written or electronic proof of a reservation.
- (e) No extra charge shall be made for the transportation of a Person with a disability or for handling of manual wheelchairs, walkers, or other equipment reasonably necessary for the mobility of a Person with a disability.

- (f) No extra charge for excess baggage may be assessed unless authorized by the PVH Board or filed with the rates and charges for Nonmetered Vehicles by a Company Operating Certificate Licensee. However, a reasonable charge may be assessed for excess baggage for any of the following:
  - (1) Three or more bags or parcels per Person that are not ordinarily construed to be hand baggage.
  - (2) Large trunks accompanying a Person that is not ordinarily construed to be hand baggage.
  - (3) Other bulky items that are not ordinarily construed to be hand baggage.
- (g) A For-Hire Driver shall have a reasonable amount of cash in order to conduct business.

Sec. 22-154. - Posting Requirements.

- (a) For Metered Vehicles, the Rate Sheet:
  - (1) shall be conspicuously displayed inside the For-Hire Vehicle's passenger compartment on the back of the driver's seat or headrest area. The Rate Sheet also shall be conspicuously displayed outside of the For-Hire Vehicle.
  - (2) shall be in a type written notice, impressed upon a contrasting background, in at least 18point type.
  - (3) must have language that complaints may be filed with the PVH Manager and shall include the mailing address and telephone number of the PVH Manager's office.
  - (4) must display the rates and charges established by the PVH Board.
- (b) Nonmetered Vehicles shall post within the Nonmetered Vehicle's passenger compartment a conspicuous notice stating that complaints may be filed with the PVH Manager and shall include the telephone number for the PVH Manager's office. In addition, Nonmetered Vehicles must include a provision in any written contract for Prearrangement that complaints may be filed with the PVH Manager and shall include the mailing address and telephone number of the PVH Manager's office.
- (c) A sign or notice containing the Vehicle number, if any.

- (a) Anytime a For-Hire Vehicle is occupied by a passenger, then the For-Hire Vehicle shall not be occupied by any other Person except the For-Hire Driver and any Person accompanying the passenger.
- (b) If the initial passenger consents to the Metered Vehicle offering a shared ride, then the additional passengers may be picked up prior to arriving at the destination of the initial passenger; provided, however, the initial passenger consents to the amount of additional trip time required for the shared-ride as estimated in advance of commencing the shared-ride. A shared-ride shall not be offered to any Person under eighteen (18) years of age and unaccompanied by a Person eighteen (18) years of age or older unless the For-Hire Driver has permission prior to commencing the shared-ride from a Person eighteen (18) years of age.
- (c) This section shall not apply during authorized driver training.

Sec. 22-156. - Passenger Pays Lawful Fares; Receipt Furnished Upon Request.

- (a) It shall be unlawful for any Person providing For-Hire Service in the City to charge any rate that exceeds the rates filed with the PVH Manager or set by the PVH Board. However, this subsection is not intended to prohibit a passenger from giving a gratuity to the Driver's Permit Licensee.
- (b) No Person shall use any For-Hire Service and willfully refuse to pay the fare prescribed therefore by law.

Sec. 22-155. - Occupants.

(c) When requested by a passenger, the For-Hire Driver shall provide an accurate and legible receipt to the passenger showing the Vehicle Operating Permit number, name of the Company Operating Certificate Licensee, number on the Driver's Permit, the date, and the amount of fare paid. Refusal on the part of the For-Hire Driver to deliver such receipt upon request shall constitute a defense on behalf of a passenger charged with violating subsection (b).

Sec. 22-157. - Return of Passenger's Property.

- (a) Upon finding property left by a passenger in a For-Hire Vehicle, the For-Hire Driver shall immediately notify, if possible, the passenger and return the property. If the For-Hire Driver cannot notify the passenger, then For-Hire Driver shall promptly deliver the property to the For-Hire Company.
- (b) Upon delivery of the property to the For-Hire Company, the For-Hire Driver shall provide the For-Hire Company with any information available in regard to the property. The For-Hire Company shall record that information, including the time, date, name of For-Hire Driver, and For-Hire Vehicle number then attach such information to the property. The For-Hire Company shall hold the property in a secure place for three (3) months.
- (c) If requested by the For-Hire Driver who discovered the property, any unclaimed property in the possession of the For-Hire Company shall be returned to that For-Hire Driver within a time specified by the For-Hire Company which shall not exceed thirty (30) days following the required holding period.
- (d) No Person shall withhold property pending payment.

Sec. 22-158. - Conduct.

- (a) No For-Hire Company, For-Hire Vehicle Owner, and/or For-Hire Driver shall:
  - (1) deceive or attempt to deceive any passenger who uses For-Hire Service in any manner, especially as to the destination or the rate of fare to be charged.
  - (2) transport, or cause to be transported, any passenger to any place other than as directed by the passenger.
  - (3) direct, encourage, or allow any For-Hire Driver to take a longer route than reasonably necessary to the requested destination; provided, however, the For-Hire Driver is so requested by the passenger or for shared-ride service provided for in Section 22-151(a)(3).
  - (4) refuse or neglect to transport any Person requesting For-Hire Service on the basis of the time of day of the request or on the basis of the geographical area of the City to be served.
  - (5) refuse or neglect to transport any Person on the basis of race, color, religion, sex, or national origin.
  - (6) refuse or neglect to transport any Person on the basis of disability when such For-Hire Service can be provided to a Person with a disability with reasonable accommodation.
  - (7) knowingly use, sell, handle, or transport illegal or controlled substances at any time while operating a For-Hire Vehicle. In addition, no For-Hire Driver shall give any information to any passenger as to where or how illegal or controlled substances may be obtained.
  - (8) maintain, use, or possess a scanner or device capable of intercepting telephonic communications while operating a For-Hire Vehicle.
  - (9) knowingly solicit, procure, or give information in regard to or transport any passenger to any person for the purpose of prostitution.
  - (10)operate or allow a For-Hire Vehicle to be operated in a manner which threatens, endangers, or abuses a passenger or the general public.
  - (11)fail or refuse to surrender the Company Operating Certificate, Vehicle Operating Permit, PVH Decal, and/or Driver's Permit following a decision by the PVH Manager.

- (12)provide prompt, efficient service and shall be courteous at all times to another Person, to the PVH Manager, and to any officer of the Charlotte-Mecklenburg Police Department.
- (13)fail to notify the PVH Manager in writing of any change to the address or telephone number at least two (2) business days before the effective date of the change.
- (14)not operate any For-Hire Vehicle for any Person except the Company Operating Certificate Licensee shown on the Driver's Permit. Upon termination of the Affiliation between the Driver's Permit Licensee and the Company Operating Certificate Licensee, the Driver's Permit Licensee shall surrender the Driver's Permit to the PVH Manager within two (2) business days.
- (b) A For-Hire Company and For-Hire Vehicle Owner shall:
  - (1) be responsible for Affiliated For-Hire Driver complying with this Article.
  - (2) not allow any For-Hire Driver to operate a For-Hire Vehicle while consuming, while under the influence of, or while having the odor of an alcoholic beverage or controlled substance on or about the For-Hire Driver.
  - (3) not provide or allow to provide For-Hire Service while the Company Operating Certificate and Vehicle Operating Permit has been suspended or revoked.
  - (4) keep copies of the Vehicle Operating Certificate in the For-Hire Vehicle at all times.
- (c) A For-Hire Driver shall:
  - (1) comply with all reasonable and lawful requests of the passenger as to the speed of travel and the route to be taken.
  - (2) not allow the seating capacity of the For-Hire Vehicle to exceed the manufacturer's specifications.
  - (3) make visual contact with an orderly Person and form a belief that is reasonable under the circumstances that transporting such Person might be unsafe for the For-Hire Driver, prior to the For-Hire Driver refusing or neglecting to transport the Person requesting For-Hire Service.
  - (4) display an "off-duty" placard prior to the For-Hire Driver refusing or neglecting to transport a Person requesting For-Hire Service. Nothing contained in this subsection shall authorize a For-Hire Driver to refuse or neglect to transport any Person as a pretext to the driver's noncompliance with Section 22-158(a)(4), Section 22-158(a)(5), and/or Section 22-158(a)(6).
  - (5) not operate a Vehicle while consuming, while under the influence of, or while having the odor of an alcoholic beverage or controlled substance on or about the For-Hire Driver.
  - (6) notify the PVH Manager either: within two (2) business days of being charged with a criminal offense or infraction; or within two (2) business days upon release from confinement. Driver's Permit License must produce evidence of the disposition of the criminal case as soon as it is available.
  - (7) not provide or allow to provide For-Hire Service while the Driver's Permit has been suspended or revoked.
  - (8) specify any fare discounts authorized by the PVH Board to Metered Vehicle passengers participating in a shared-ride.
  - (9) advise of the probable time of delay, if For-Hire Service is not expected to be available within fifteen (15) minutes of the request or Prearrangement.
  - (10)not provide For-Hire Service continuously for more than sixteen (16) hours, meal time included, during any twenty-four (24) hour period. Each For-Hire Driver shall enter the time commencing active duty and ending active duty in the daily Manifest.

(11)not solicit passengers (i) by any word, sign, signal (audible or otherwise) or gesture; (ii) to annoy any Person, or (iii) while obstructing the movement of traffic or any Person. However, for the duration that a Metered Vehicle is located in a Metered Vehicle Stand, the For-Hire Driver may solicit passengers by word, sign, signal (audible or otherwise) or gesture. In such circumstances, the For-Hire Driver may solicit passengers from inside the For-Hire Vehicle or outside of the For-Hire Vehicle but within ten (10) feet of the Vehicle.

Sec. 22-159. – Metered Vehicle Stands

- (a) The PVH Manager and CDOT shall jointly establish and designate Metered Vehicle stands.
- (b) Metered Vehicles shall enter designated Metered Vehicle stands from the rear only, and each Metered Vehicle therein must be heading in the direction of the exit. No Metered Vehicle shall stop at a Metered Vehicle stand unless there is a vacancy therein. Unless a passenger requests otherwise, Metered Vehicles shall exit Metered Vehicle stands in the order in which they enter. A For-Hire Driver shall remain in the Metered Vehicles or within the Metered Vehicle stand so that normal operations of the Metered Vehicle stand are maintained. A For-Hire Driver may leave the Metered Vehicle stand only in an emergency or to assist passengers.
- (c) No Vehicle, except a Metered Vehicle, shall use Metered Vehicle stands in the City.
- (d) A list of all Metered Vehicle stands in the City shall be kept on file with the PVH Manager's office and shall be open to inspection by the public.

Sec. 22-160. - Compliance with state law and ordinances; safety; parking.

- (a) Every For-Hire Vehicle shall be operated in accordance with the laws of this state and the sections of this Article and City ordinances and with due regard: for the safety, comfort and convenience of passengers; for the safe and careful transportation of property; and for the safety of the general public. Nothing in this subsection shall prohibit a For-Hire Driver from alighting to the sidewalk for the purpose of assisting passengers into or out of the For-Hire Vehicle.
- (b) A For-Hire Vehicle shall not be operated at a rate of speed inconsistent with existing traffic regulations, road conditions, hazards at intersections and any other conditions then existing or in such manner or condition to endanger or to likely endanger the safety of passengers, pedestrians, or the Person and property of others.
- (c) No For-Hire Vehicle shall be permitted to park in a metered space as determined by CDOT. For purposes of this section, metered spaces include any spaces for which payment is required through either a parking meter or a parking pay station operated by the City. This subsection does not restrict a For-Hire Vehicle from parking in a parking space that does not require payment to the City through meters or parking pay stations. This subsection does not apply if a For-Hire Driver complies with Section 22-161 and remains a minimum of twenty (20) feet from the parking space occupied by the For-Hire Vehicle.

Sec. 22-161. - Off-Duty Placards.

An "off-duty" placard may be placed on the dashboard of For-Hire Vehicles. Any placard must be three inches by ten inches, with two-inch-high letters, and placed on a black on white background.

Sec. 22-162. – Vehicle Infotainment Systems

A For-Hire Vehicle may be equipped with a Vehicle infotainment system for use by a passenger. A Vehicle infotainment system may be of any size if installed by original manufacturer and cannot exceed 11" in height and 7.5" in length if installed by secondary manufacturer.

Sec. 22-163. - Advertising.

- (a) Nothing within this section authorizes the dissemination of obscene advertising on For-Hire Vehicles. Any and all obscene images are prohibited by N.C.G.S 14-190.1 or similar state statute.
- (b) Roof Mounted Advertising

- (1) Each For-Hire Vehicle may display one dual-sided advertising assembly that is mounted securely on the For-Hire Vehicle's roof area.
- (2) No advertising assembly shall not exceed an overall height of eighteen (18) inches, obscure any required For-Hire Vehicle markings, obscure any color scheme of a Metered Vehicle, extend beyond the For-Hire Vehicle's roof area to either the front or rear windshield.
- (c) Vehicle Panel Advertising
  - (1) Advertisements may be attached to each For-Hire Vehicle in a permanent or temporary form.
  - (2) No advertisement shall be placed in a manner that:
    - i. impairs the For-Hire Driver's range of vision when operating the For-Hire Vehicle.
    - ii. impairs the use of a For-Hire Vehicle's safety features or devices.
    - iii. obscures the For-Hire Company's name, logo, contact information, PVH Decal, or other information required to be displayed under this Article.
    - iv. obscures any color scheme or Rate Sheet of a Metered Vehicle.
    - v. adds weight, height, or length to the For-Hire Vehicle because the advertisement is attached to an apparatus or device, except as permitted by Section 22-163(a).
    - vi. violates any federal or state law or regulation.
    - vii. adds or attempts to add advertising to the For-Hire Vehicle's roof, except as permitted by Section 22-163(a).

Sec. 22-164. - Records

- (a) All reports shall be on a form furnished by the PVH Manager.
- (b) All accidents involving a For-Hire Vehicle shall be reported to the PVH Manager by the next business day after the accident. The For-Hire Company, For-Hire Vehicle Owner, and For-Hire Driver of the For-Hire Vehicle involved in an accident shall each be individually responsible for making the required report. A For-Hire Vehicle involved in an accident may be ordered out of For-Hire Service by the PVH Manager and shall be repaired before being returned to For-Hire Service.
- (c) Every For-Hire Company shall maintain a Person's drug test results for a period of three (3) years after the Person has taken the drug test.
- (d) Every For-Hire Company and For-Hire Vehicle Owner shall maintain the following information:
  - (1) Name, Driver's Permit number, address of all Affiliated For-Hire Driver,
  - (2) For-Hire Drivers who have completed a driver training program,
  - (3) When more than one For-Hire Vehicle Owner operates under the same Company Operating Certificate, the For-Hire Company may keep the records required by this Article on behalf of all For-Hire Vehicle Owners operating under the Company Operating Certificate. A failure of the For-Hire Company to comply with this section shall not relieve the other For-Hire Vehicle Owners operating under the Company Operating Certificate of responsibility for the records with respect to the Vehicles operated by them. It is the intent of this section to impose such responsibilities upon each For-Hire Vehicle Owners.
- (e) Every For-Hire Company and For-Hire Driver shall maintain the following information:
  - (1) A Manifest in a safe place for at least ninety (90) days, and shall be made available for inspection by the PVH Manager or any officer of the Charlotte-Mecklenburg Police Department

Sec. 22-165. – Contract Arrangements Between For-Hire Company, For-Hire Vehicle Owners, and/or For-Hire Driver

- (a) Nothing contained in this Article shall prohibit any Person from owning or operating a For-Hire Vehicle Affiliated with a For-Hire Company.
- (b) The For-Hire Company indemnifies the City and holds the City harmless for any claim or cause of action against the City arising from the conduct of the For-Hire Driver.
- (c) A For-Hire Company may enter into any contract, lease agreement or understanding with any For-Hire Driver as an independent contractor. Any contract, lease agreement, or understanding must contain the following:
  - (1) A payment arrangement between the For-Hire Driver and For-Hire Company for a fixed or determinable sum per day for the use of the For-Hire Vehicle. Nothing in this section restricts a For-Hire Driver from being entitled to all or a portion of the proceeds from For-Hire Service over and above the fixed or determinable sum.
  - (2) A For-Hire Driver shall comply with this Article, and failure to comply may be considered by the For-Hire Company as a material breach of the contract, lease agreement, or understanding.
  - (3) Any leased For-Hire Vehicle has and maintains insurance as required by the City and the state.
- (d) Nothing contained in this section shall prevent any For-Hire Company from paying a fixed fee or other compensation to another For-Hire Company for furnishing proof of financial responsibility required by this Article, for use of terminal facilities, and/or for the privilege of operating under the name of the other For-Hire Company.

Sec. 22-166. – For-Hire Vehicles At Charlotte Douglas International Airport

- (a) For-Hire Vehicles providing For-Hire Services at the Charlotte Douglas International Airport shall comply with the requirements set forth in Chapter 4 as well as this Chapter 22.
- (b) If a For-Hire Vehicle is assessed a charge or fee when a passenger is picked up from and/or dropped off at Charlotte Douglas International Airport, then the For-Hire Driver may add a onetime fee in an identical amount to the charge or fee assessed for that pick up from and or drop off at Charlotte Douglas International Airport.
- (c) Rights of appeal set forth under Section 22-234 do not apply to the imposition or enforcement of regulations adopted pursuant to Chapter 4.

Secs. 22-167-22-174. - Reserved.

#### **DIVISION 4. – VEHICLE STANDARDS**

Sec. 22-175. – For-Hire Vehicle Age Limits.

(a) All For-Hire Vehicles shall be no older than ten (10) years. Accessible Vehicles and Unique Vehicles are exempt from the For-Hire Vehicle age requirements set forth herein. Any For-Hire Vehicle exceeding the For-Hire Vehicle age shall be removed immediately from For-Hire Service.

Sec. 22-176. – For-Hire Vehicle Requirements

- (a) Minimum Requirements
  - (1) Magnetic signs, temporary signs, or removable decals which display the name of For-Hire Company or For-Hire Vehicle number are prohibited.
  - (2) Paint colors used for lettering and numbering shall be of sharp contrast. The surface paint color applied to the For-Hire Vehicle should be evenly visible at a reasonable distance, especially at night with streetlights. Lettering or numbering shall not be acceptable where it has been painted upon sheetmetal or other material which can be removed or detached from the For-Hire Vehicle.
  - (3) All For-Hire Vehicles shall be clean, operable and in good repair.

- (4) All For-Hire Vehicle trunk compartments shall be clean and empty.
- (5) Each For-Hire Vehicle must have a minimum of three (3) doors, two (2) doors allowing entry to the driver's compartment of the For-Hire Vehicle and one (1) door allowing entry to the passenger's compartment of the For-Hire Vehicle. Notwithstanding this subdivision, all doors of For-Hire Vehicle shall be operable from the inside and outside of the For-Hire Vehicle and constructed with a double or safety lock on each door.
- (6) All upholstery covering or interior lining in any For-Hire Vehicles shall be substantially free of cuts or tears.
- (7) Seat belts shall be provided for each passenger in the For-Hire Vehicle to the extent required as original equipment by the Vehicle's manufacturer.
- (8) A For-Hire Vehicle must comply with all state safety inspection standards.
- (9) Windshield wiper and defroster operable and adequate.
- (10) Mirrors free of cracks and defects.
- (11)Windshield shall be clean and clear from both the outside and inside, free of cracks, chips, scratches or any other condition that reduces clarity of vision.
- (12)Windows shall be intact and must open and close properly. No decals, posters, or other materials on windows, other than credit card acceptance decals and PVH Decals. Windows gaskets shall not have any dry rot or leak.
- (13)Heater and air conditioner operable. Heater must not produce smell of coolant in interior of vehicle. Air conditioner must cool interior air to sixty-five degrees (65°) Fahrenheit at the vent face without using the interior air recycle feature.
- (14)Headlights, tail lights, parking lights, turn signal lights, brake lights, back-up lights, license plate lights, side lights and emergency flashers operable. Must also be covered with undamaged lenses of appropriate type and color.
- (15)Door handles and locks. All doors shall operate easily, shall close securely from both the outside and inside of the vehicle, and shall be accessible to passengers. No devices that restrict the ability of a passenger from readily exiting the For-Hire Vehicle in an emergency are allowed.
- (16)Braking system including emergency brake.
- (17)Tires, including spare (with tire jack and handle), properly inflated and having minimum tread depth of 2/32-inch and free of defects. Spare tire and jack shall be properly secured using manufacturer's equipment in designated trunk area.
- (18)For-Hire Vehicle wheels properly aligned with matching hubcaps or wheel covers unless the wheels are of a design which does not require hubcaps or wheel covers.
- (19)Wheel rims of uniform type, size and color. Lug nuts must be attached.
- (20)Horn operable; loud, clear sound.
- (21)Interior panels properly secured, free of tears and dirt.
- (22)Interior lights and driver instrument displays (speedometer, odometer, gear selection indicator, seat belt warning light, and engine warning system) operable.
- (23)Floor covering. No metal showing and undamaged.
- (24)Headliner clean, completely attached to interior ceiling and along edges.
- (25)Seats clean, unbroken and fastened securely, no exposed springs, wires or framework.
- (26)Seat belts for driver and each passenger position clean, accessible, and operable.

- (27)Accelerator, brake, emergency brake, and clutch pedals. Rubber pads in good condition, no exposed metal.
- (28)Bumpers, grills, and body molding. All bumpers and body moldings shall be in good condition and properly attached as when manufactured. No decals, bumper stickers or advertisements unless specifically authorized by this Article or approved by the PVH Manager.
- (29)For-Hire Vehicle exterior clean, polished and well-painted.
- (30)Steering system. No excessive play in steering column or front wheel assemblies.
- (31)Suspension system meets manufacturer's specifications, components provide steady ride without excessive bouncing.
- (32) Transmission. No slippage, proper function of each gear including "Park" position.
- (33)Exhaust system. No exhaust leaks, no missing support for tail pipe.
- (34)For-Hire Vehicle body shall be free from dents, rust and holes which impair its safety or appearance. Unacceptable body defects (dents, creases, blemishes, ripples, rust or holes) which impair the appearance or serviceability of the For-Hire Vehicle include:
  - viii. A body defect six (6) linear inches or greater and where the deepest point of depression is one-quarter (1/4) inch or greater.
  - ix. A body defect three (3) inches in width or greater and three (3) inches in height or greater and where the deepest point of depression is one-quarter (1/4) inch or greater.
  - x. Any defect which is one-half (1/2) inch at the deepest point of depression regardless of width or height (this includes any hole in the surface area).
  - xi. Exterior paint which is not uniform in color, does not completely cover the vehicle, or is not in compliance with approved color scheme.
  - xii. Any body panel, trunk, or hood misalignment.
- (b) Additional Minimum Requirements For Metered Vehicles
  - (1) A Metered Vehicle shall be equipped with either a traditional meter or virtual meter facing towards a passenger seated in the rear of the For-Hire Vehicle.
    - i. Any meter shall be mounted in such a fashion that it does not present a sight obstruction
    - ii. All meters shall be mounted in such a fashion that it does not present a hazard should a passenger riding in the right front seat be thrown against the For-Hire Vehicle dashboard. If the meter is not mounted so as to satisfy this requirement, the right front seat cannot be occupied by a passenger.
    - iii. If using a traditional meter, then it should be a size and design approved by the PVH Manager and which conforms to National Institute of Standards and Technology (NIST) specifications as amended. No Person shall use or permit a Metered Vehicle to provide For-Hire Service while the traditional meter's hardware is unsealed or its gear is not intact.
    - iv. If using a virtual meter in lieu of a traditional meter, then the virtual meter shall meet the applicable standards as established in the NIST specifications as amended.
  - (2) A top light of a design approved by the PVH Manager. All toplights shall be equipped with a tamperproof switch and system of electrical distribution so (i) the Metered Vehicle's vacant sign (or center section of toplight) will be lit when the Metered Vehicle has no passengers or (ii) the Metered Vehicle's toplight will be unlit when the Metered Vehicle has a passenger and its meter indicator and tattle-tale lights are lit.

- (3) Metered Vehicles shall have an electronic card payment device which enables passengers to pay instantly for their fare. All electronic card payment devices shall be turned on, active, and usable for passengers to pay fares. Once a Person becomes aware that the electronic card payment device is inoperable, the For-Hire Driver shall remove the For-Hire Vehicle from For-Hire Service within twenty (12) hours.
- (4) Metered Vehicles shall have a global positioning system (GPS) that is usable for navigation by the For-Hire Driver.
- (5) Any time a Metered Vehicle is occupied by a Person other than the For-Hire Driver, the meter must be on and operating regardless of the actual fare charged. It shall be the duty of the For-Hire Driver to call to the passenger's attention the amount registered on the meter.
- (6) It shall be unlawful to reduce the size of wheels or tires of a Metered Vehicle or to change the gears that operate the meter.
- (c) Any For-Hire Vehicle found to be noncompliant with this Article shall have such repairs and alterations made as may be required. No For-Hire Company, For-Hire Vehicle Owner, and/or For-Hire Driver shall operate, or cause or permit to be operated, any such For-Hire Vehicle until all such repairs and alterations have been completed.
- (d) All For-Hire Vehicle components and equipment, and their replacements, shall operate properly and meet original manufacturer's specifications.

Secs. 22-177-22-199. - Reserved.

#### DIVISION 5. – DENIAL/SUSPENSION/REVOCATION

Sec. 22-200. – Actions or Events Constituting A Threat To Public Safety

- (a) The PVH Manager shall deny, suspend, or revoke a Company Operating Certificate, Vehicle Operating Permit, and/or Driver's Permit upon the commission, conviction, guilty plea, or plea of no contest to any of the following:
  - (1) Any violation relating to the use, possession, manufacturer or sale of alcoholic beverages or any substance regulated by the North Carolina Controlled Substances Act, G.S. 90-86 et seq., or the North Carolina Toxic Vapors Act, G.S. 90-113.8A et seq.
  - (2) A habitual user of alcoholic beverages or any substance regulated by the North Carolina Controlled Substances Act, G.S. 90-86 et seq., or the North Carolina Toxic Vapors Act, G.S. 90-113.8A et seq.
  - (3) Any criminal act by a Person against another Person which may be classified as a felony. For example, but not limited to, murder, voluntary manslaughter, involuntary manslaughter; felony death by vehicle; felonious assaults and/or batteries; robbery; rape and other sex offenses.
  - (4) Prostitution, any sex offense, or offense involving moral turpitude.
  - (5) Any criminal assault involving the For-Hire Service.
  - (6) Felonious drug offenses.
  - (7) A violation of the Federal Immigration Act.
  - (8) Any felony where citizenship rights have not been restored as provided by state law.
  - (9) A violation pertaining to the public health, safety, welfare, morals, or the protection of life.
  - (10)Any comparable provisions of federal, territory or possession of the United States of America, other state, or other local law for Section 22-200(a).

- (a1)The PVH Manager shall consider the following mitigating factors when evaluating an initial application for a Company Operating Certificate, Vehicle Operating Permit, and/or Driver's Permit under Section 22-200(a). The presence of one or more mitigating factors may demonstrate that a Person is not a threat to public safety. If the PVH Manager denies the initial application pursuant to Section 22-200(a), then the PVH Manager shall document the reasons why the mitigating factor(s) was outweighed by other considerations. These mitigating factors shall not be considered for all subsequent applications by the same Person. Mitigating factors include:
  - (1) Completing all probationary requirements.
  - (2) Having the Person's citizenship rights restored as provided by state law.
  - (3) Not committing any additional criminal offenses listed in Section 22-200(a).
  - (4) Engaging in mentor or volunteer programs aimed at reducing crime or lowering recidivism.
  - (5) Being released from incarceration at least two (2) years prior to the date of application.
  - (6) Being charged or convicted at least twenty-five (25) prior to the date of application for any criminal offense listed in Section 22-200(a).
- (b) The PVH Manager may deny, suspend, or revoke a Company Operating Certificate, Vehicle Operating Permit, and/or Driver's Permit upon the commission, conviction, guilty plea, or plea of no contest to any of the following within the last ten (10) calendar years:
  - (1) Any criminal act by a Person against another Person which may be classified as misdemeanor.
  - (2) Any criminal act by a Person involving property which may be classified as a felony or misdemeanor.
  - (3) An habitual violator of traffic laws.
  - (4) Any driving while impaired convictions.
  - (5) Two or more arrests for driving while impaired.
  - (6) Habitual criminal activity.
  - (7) Aided or abetted in the commission of any act listed in Section 22-200(a).
  - (8) Gambling.
  - (9) Any crime or infraction involving the operation of a Vehicle and resulting in an incapacitating class A injury to a Person as determined by the traffic accident report or the Person's death.
  - (11)Any comparable provisions of federal, territory or possession of the United States of America, other state, or other local law for Section 22-200(b).
- (c) The PVH Manager may deny, suspend, or revoke a Company Operating Certificate, Vehicle Operating Permit, and/or Driver's Permit for any of the following:
  - (1) Submitting, or caused to be submitted, false or misleading information in the application.
  - (2) Does not continue to meet the qualifications pursuant to Section 22-125;
  - (3) An accumulation under G.S. 20-16 of twelve (12) or more points within a three (3) year period.
  - (4) An accumulation under G.S. 20-16 of eight (8) or more points within the three (3) year period following the reinstatement of a state driver's license that has been suspended or revoked.
  - (5) The revocation or suspension of a state-issued driver's license.
  - (6) Nonpayment of a civil penalty.

- (7) Any complaints regarding the failure to conduct an electronic financial transaction while providing For-Hire Service.
- (8) Any complaints regarding the ability to read, write and speak the English language.
- (9) Noncompliance with this Article in the operation of any For-Hire Vehicle.
- (10)The For-Hire Vehicle Owner does not operate a For-Hire Vehicle for a period of thirty (30) consecutive days.
- (11)An act committed with the intent to defraud passengers of For-Hire Service.
- (12)The failure to maintain the minimum number of For-Hire Vehicles in Section 22-125(b)(5).
- (13)No proof of financial responsibility submitted with any application.
- (14)The failure to notify the PVH Manager about any notice canceling the proof of financial responsibility.
- (15) Any acts committed by a For-Hire Driver.

Sec. 22-201. - Suspension.

- (a) Violations of this Article that are determined to present a clear, substantial, and imminent hazard to life, safety, or property shall result is an immediate suspension.
- (b) Each suspension by the PVH Manager shall be for thirty (30) days (i.e. one (1) calendar month).
- (c) The PVH Manager may issue up to two (2) suspensions for a total of sixty (60) days (i.e. two (2) calendar months) within twelve (12) months. Any further violations subjects a Person to Section 22-202.
- (d) No Company Operating Certificate, Vehicle Operating Permit, and/or Driver's Permit shall be reinstated until the Licensee satisfies Section 22-125.
- (e) If a Licensee does not seek reinstatement within fifteen (15) days after the conclusion of the suspension period, then the PVH Manager shall revoke the Company Operating Certificate, Vehicle Operating Permit, and/or Driver's Permit.

Sec. 22-202. - Denial/Revocation.

- (a) No application by a Person, whose Company Operating Certificate, Vehicle Operating Certificate, or Driver's Permit has been denied or revoked, shall be accepted by the PVH Manager within two
   (2) years from the date of the PVH Manager's written decision. The two (2) years shall not be tolled if any right of appeal is exercised.
- (b) The two (2) year period shall not be reduced or lessened by the PVH Manager or PVH Board.
- (c) When a Company Operating Certificate, Vehicle Operating Certificate, or Driver's Permit is revoked, the For-Hire Service shall cease and the Company Operating Certificate, Vehicle Operating Permit, Driver's Permit, and PVH Decal for all For-Hire Vehicles shall be surrendered immediately to the PVH Manager.

Sec. 22-203. – No Civil Liability Standard

Nothing in this Article shall be construed as establishing a standard for civil liability for the evaluation of prospective or current For-Hire Company, For-Hire Vehicle Owners, and/or For-Hire Driver, and a violation of this Article shall not be considered as evidence of negligence.

Secs. 22-204—22-224. - Reserved.

#### DIVISION 6. – ADMINISTRATION, ENFORCEMENT, APPEALS

Sec. 22-225. – PVH Manager's Office Created; PVH Manager's duties, recommendations, and reports.

(a) The PVH Manager's office is hereby created and it shall be administered by a PVH Manager. The PVH Manager is charged with the duties required of the PVH Manager in this Article.

- (b) The PVH Manager shall advise the city manager, or designee, on matters covered or incidentally involved in the operation or administration of this Article. The PVH Manager shall make such reports, including the annual PVH Board report, to the city manager, or designee, and the City as may be required.
- Sec. 22-226. Enforcement by Police.

Officers of the Charlotte-Mecklenburg Police Department shall assist in the enforcement of this Article. A police officer observing a violation of this Article shall take necessary enforcement action to ensure the effective regulation of For-Hire Service in the City.

Sec. 22-227. - Hearing on Application.

The PVH Manager may request additional documents or an informal hearing if the PVH Manager is not convinced that a Person meets all eligibility criteria and has provided all necessary information to the PVH Manager for a Company Operating Certificate, Vehicle Operating Permit, and/or Driver's Permit.

Sec. 22-228. - Fees.

- (a) Regulatory fees to cover the administrative costs for obtaining, renewing, duplicating, transferring and reinstating a Company Operating Certificate, Vehicle Operating Permit, and/or Driver's Permit shall be collected. Also, a regulatory fee shall be collected for each PVH Decal issued to a For-Hire Vehicle. Fees shall be approved by the City and placed on file with the PVH Manager. Other fees permitted by law may also be collected.
- (b) Fees for Special Service Permit shall be set by the City.
- (c) Notwithstanding subsection (a), reduced fees may be assessed for any Accessible Vehicle.

Sec. 22-229. – Fare Disputes.

- (a) All disputes arising between the passenger and the For-Hire Driver to the proper fare shall be arbitrated first by the PVH Manager.
- (b) The PVH Manager shall request all appropriate and necessary documentation to investigate the facts of the fare dispute. Both the passenger and For-Hire Driver shall have twenty (20) days to respond to the PVH Manager's request.
- (c) If one Person fails to respond within twenty (20) days, then the PVH Manager shall close the investigation and render a decision in favor of the responding Person. If neither Person responds, then the PVH Manager shall close the investigation without rendering a decision.

Sec. 22-230. – Random Audits and Inspections by the PVH Manager.

- (a) The PVH Manager shall have the right, at any time and after displaying proper identification, to determine compliance with the Article by
  - (1) entering into any For-Hire Vehicle.
  - (2) requesting documentation from any Licensee.
- (b) The PVH Manager may perform no more than three (3) random audits or inspections within a calendar year.
- (c) If a For-Hire Company, For-Hire Vehicle Owner, or a For-Hire Driver fails or refuses to comply with a random audit of documentation within one (1) business day after being requested to do so or with a random inspection, then the PVH Manager may take such appropriate action authorized by this Article.

Sec. 22-231. – Civil Penalty

(a) Procedure.

- (1) A Person must pay a civil penalty within thirty (30) days after the PVH Manager issues or mails the civil penalty. However, if a Person files an appeal of the civil penalty, then the civil penalty must be paid prior to the hearing before the PVH Board in the form of a bond.
- (2) Any and all civil penalties assessed against a For-Hire Driver shall remain the obligation of the For-Hire Driver regardless of any change in Affiliation with a For-Hire Company.
- (3) The PVH Manager shall notify the For-Hire Company of any civil penalties issued to a For-Hire Driver or For-Hire Vehicle Owner having an Affiliation with the For-Hire Company.
- (4) No Company Operating Certificate, Vehicle Operating Permit, and/or Driver's Permit shall be issued if any civil penalty assessed under this Article against a Person is unpaid.
- (b) Amount.
  - (1) A civil penalty shall be assessed against a Person who fails to file an application renewing the Company Operating Certificate prior to its expiration. This civil penalty shall be in the amount of \$100.00 per day for each day beginning on the first day following the expiration of the Company Operating Certificate when the Person has not applied to renew the Company Operating Certificate.
  - (2) Each violation of this Article shall be assessed a \$100.00 civil penalty.
  - (3) An additional civil penalty of \$500.00 shall be assessed to each Illegal Third Party for each violation of this Article.
  - (4) Civil penalties may be levied against the For-Hire Company if its Affiliated For-Hire Drivers incur civil penalties above specific monetary thresholds. The amount of civil penalties levied against a For-Hire Company shall be determined by the number of For-Hire Vehicles under the For-Hire Company and the total amount of civil penalties incurred annually by the Affiliated For-Hire Driver. The chart below provides further illustration:

Number of For-Hire Vehicles	Annual Civil Penalties
1—15	Each \$1,000.00 in For-Hire Driver penalties shall result in a civil penalty of \$5,000.00
16—30	Each \$2,000.00 in For-Hire Driver penalties shall result in a civil penalty of \$5,000.00
31—50	Each \$3,000.00 in For-Hire Driver penalties shall result in a civil penalty of \$5,000.00
51—75	Each \$4,000.00 in For-Hire Driver penalties shall result in a civil penalty of \$5,000.00
Over 75	Each \$5,000.00 in For-Hire Driver penalties shall result in a civil penalty of \$5,000.00

Sec. 22-232. – Additional Remedies

- (a) The City or PVH Manager may seek enforcement of this Article by instituting a civil action for injunctive relief, an abatement order, or any other appropriate relief in a court of competent jurisdiction in the county.
- (b) This Article may be enforced by one, all or a combination of the remedies authorized and prescribed by this Article, section 2-21 of this Code, and state law.

Sec. 22-233. – Waiver.

PVH manager may issue a written waiver that a particular requirement under this Article is not applicable because of the For-Hire Vehicle's design or the nature of the For-Hire Vehicle's operation. Any waiver must set forth specific findings justifying the waiver.

Sec. 22-234. – Procedure For Appeals.

(a) Actions By An Appellant

- (1) A Person aggrieved by the decision of the PVH Manager or the issuance of a civil penalty shall submit a written notice of appeal within ten (10) days of the PVH Manager's decision or issuance of the civil penalty.
- (2) A Person shall submit a written notice of appeal on a form furnished by the PVH Manager. The Person should state the reason or basis for the appeal, why the alleged action is improper, and why the alleged action should be changed.
- (3) For appeals of the issuance of a civil penalty, a Person shall provide a bond covering the amount of the civil penalty.
- (b) Actions By PVH Manager
  - (1) The PVH Manager should schedule a hearing on the appeal to occur within a reasonable amount of time after the Person submits the written notice of appeal.
  - (2) The PVH Manager shall transmit all appropriate documents regarding the Person's written notice of appeal to the PVH Board Chairperson or PVH Board.
- (c) If a written notice of appeal is submitted within the allowed time, then the PVH Manager's decision shall be stayed until the issuance of the PVH Board's written decision. However, the PVH Manager's decision shall not be stayed if the PVH Manager determines the alleged action would impose an immediate threat or danger to public health, safety or welfare. The PVH Manager shall set forth the reasons in writing supporting the PVH Manager's determination that the alleged action would impose an immediate threat or danger to reason threat or danger to public health, safety, or welfare.
- (d) If no written notice of appeal is filed within the allowed time or a Person fails to submit a bond, then the decision of the PVH Manager or the issuance of a civil penalty shall be deemed proper and binding upon the Person aggrieved.

Sec. 22-235. – PVH Board.

- (a) A PVH Board is hereby established and is composed of five (5) members with three members appointed by the city council and two members appointed by the mayor. The mayor shall designate a chairperson. Such appointments shall be made as follows:
  - (1) one (1) representative of Persons with disabilities appointed by city council;
  - (2) one (1) representative of the hospitality/tourism industry appointed by city council;
  - (3) one (1) Company Operating Certificate Licensee appointed by city council;
  - (4) one (1) Person, who uses For-Hire Services and has no financial interest in or business affiliation with either the For-Hire Services or hospitality/tourism industries, appointed by the mayor.
  - (5) one (1) Vehicle Operating Permit Licensee or Driver's Permit Licensee appointed by the mayor.
- (b) All members of the PVH Board shall serve without compensation.
- (c) All terms of the PVH Board shall be for three (3) years with no member serving more than two (2) consecutive terms. No more than two (2) members shall have their terms expire in a given year.
- (d) Majority of the appointed members shall constitute a quorum in order to conduct business or hearings. Any member who fails to meet attendance requirements specified by city council policy shall be automatically removed from the board.
- (e) The PVH Board shall hold regular meetings on a monthly basis, unless the meeting is cancelled by the chairperson of the PVH Board.
- (f) The PVH Board shall have the following duties and responsibilities as set forth below:
  - (1) hearing appeals from a Person aggrieved by a decision of the PVH Manager.

- (2) establishing the standard rate schedule, fare zones, and the charges for Metered Vehicles. Standard charges including, but are not limited to, waiting time, additional passengers, discharge of bodily fluids, or luggage. The PVH Board shall hold a public hearing and provide notice of the public hearing prior to establishing new rate schedules, fare zones, or charges. Any new rate schedules, fare zones, or charges shall be effective on July 1 of each year. A current list of all rate schedules, fare zones, and other charges for all Metered Vehicles shall be kept on file at the PVH Manager's office.
- (3) reviewing petitions by a Company Operating Certificate Licensee for a midyear change to Metered Vehicle rate schedules, fare zones, and charges. The petitioning Company Operating Certificate Licensee shall have the burden of showing that such changes are necessary due to acts of God, substantial or unexpected increases in fuel costs, or events beyond the control of the Company Operating Certificate Licensee. A four-fifths vote of the PVH Board is required to approve a petition for a midyear change. After the PVH Board votes to establish new rate schedules, fare zones and other charges, a Person may appeal to the city council for a legislative review and final determination.
- (4) assessing the number of Accessible Vehicles having Vehicle Operating Permits. Upon determining the number of Accessible Vehicles needed to accommodate the needs of the City, the PVH Board may make recommendations to the City based on its findings. Upon reviewing the recommendation of the PVH Board, the City may mandate a minimum number of Accessible vehicles for each Company Operating Certificate Licensee providing For-Hire Service via Metered Vehicles.
- (5) evaluating, at least once every two (2) years, whether limits should be imposed on the number of Company Operating Certificates, Vehicle Operating Permits and/or Driver's Permits to be issued by the City during any calendar year. Any recommendation shall be made to the City. The decision to limit the number of Company Operating Certificates, Vehicle Operating Permits, or Driver's Permits shall be solely within the discretion of the City following the recommendation of the PVH Board. The City may impose limits where the public convenience so warrants. Limits imposed under this section shall be applied to any applications for Company Operating Certificates, Vehicle Operating Permits, or Driver's Permits after the City adopts the new limitation. The burden of showing that public convenience requires the issuance of Company Operating Certificates, Vehicle Operating Permits, and/or Driver's Permits rests with and shall be the responsibility of the Person applying for it.
- (6) The PVH Board shall promulgate rules and procedures to carry out its responsibilities under this division and shall keep such rules and procedures on file with the City clerk.
- (7) The PVH Board may have any other responsibilities as assigned by the City.
- (g) Procedure For Appeals
  - (1) If the appeal relates to the issuance of a civil penalty for less than \$500.00, then only the Chairperson of the PVH Board is empowered to read, review, and evaluate any and all written evidence submitted by the PVH Manager's office and the appealing Person. Any written evidence shall be subject to a penalty of perjury. No oral testimony should be considered by the chairperson of the PVH Board. If the chairperson finds an error in the application of these regulations, then the civil penalty shall be reversed. If the chairperson may elect to refer an appeal relating to the issuance of a civil penalty to the full PVH Board.
  - (2) If the appeal relates to a PVH Manager's decision or the issuance of a civil penalty for more than \$600.00, then the entire PVH Board will receive, review, and evaluate written evidence and oral testimony from the PVH Manager's office and the appealing Person.

- (3) If an appealing Person fails to appear before the PVH Board after being provided with a notice of hearing and no continuance has been granted, then the PVH Board shall dismiss the Person's appeal for a failure to prosecute the appeal. The appealing Person is not entitled to a rehearing after dismissal of the appeal.
- (4) Any appealing Person shall have the right to representation by a Person of his choice. The North Carolina Rules of Evidence, G.S. 8C, shall not strictly apply to the hearing, but the hearing shall afford the PVH Manager's office and the appealing Person an opportunity to offer evidence, cross-examine witnesses, and inspect documents. Hearsay evidence shall be considered only to the extent that the hearsay evidence would be permitted under the North Carolina Rules of Evidence G.S. 8C. Only sworn testimony shall be accepted and the chairperson of the PVH Board, as well as any board member designated by the chairperson, shall have the authority to administer the oath as set forth for witnesses in a civil matter by G.S. 11-11. The hearing shall be recorded, and the PVH Board's decision shall be in writing with copies provided to the PVH Manager's office and the appealing Person.
- (5) Hearings before the PVH Board shall be de novo. If the PVH Board finds an error in the application of these regulations, then the PVH Manager's decision shall be reversed or modified. If the PVH Board does not find an error, then the PVH Manager's decision shall be affirmed.
- (6) Decisions of PVH Board shall be either: (i) affirming or reversing the PVH Manager's decision; (ii) affirming or reversing the issuance of a civil penalty; (iii) imposing probationary status; (iv) imposing such other lesser penalties as it deems just and appropriate. Decisions of the PVH Board shall be subject to judicial review in a proceeding in the nature of certiorari instituted in the superior court of this county within thirty (30) days after the PVH Board.
- (7) The mailing address listed on the written notice of appeal by the appealing Person is presumed to be a valid and proper address for the appealing Person to receive the PVH Board's written decision.

Secs. 22-236—22-249. - Reserved.



# Agenda Date: 1/23/2017

# Agenda #: 15.File #: 15-4663 Type: Policy Item

# Amend the 2017 City Council Meeting Schedule

# Action:

Approve the amendment to the 2017 City Council and Budget Meeting Schedule.

# Staff Resource(s):

Stephanie Kelly, City Clerk's Office

## Explanation

- North Carolina General Statute 143-318.12 requires that the City Clerk maintain on file a schedule of the City Council's regular meetings and that the approved schedule shall be posted to the City's Web site. If a schedule is duly adopted and filed, no further notice of regular meetings is necessary.
- The North Carolina League of Municipalities Annual Conference normally scheduled in October has instead been scheduled for September in 2017. The aforementioned conference will be rescheduled to the following dates and location:
  - September 20-22, 2017, NC League of Municipalities Annual Conference, Greenville Conference Center
- The following meeting will be added to the 2017 Meeting Schedule:
  - October 23, 2017, Citizens' Forum and Business Meeting, Meeting Chamber

## Attachment

Amended 2017 City Council Meeting Schedule

	Council Workshop/Citizens' Forum		
<u>First Mondays</u>	<u>Council Workshop/Citizens' Forum</u> Meeting begins at 5:00 p.m. in Room 267 for the Workshop. The Citizens' Forum begins in the same room at 6:30 p.m.		
Second Mondays	Council Business Meeting		
	Meeting begins at 5:00 p.m. in Room 267 with Council/Manager Dinner Briefing and continues in the Meeting Chamber at 7:00 p.m. for the Council Business Meeting. <u>Zoning Meeting</u> Meeting begins at 5:00 p.m. in the Meeting Chamber Conference Room (CH-14) with Dinner Briefing and continues at 5:30 p.m. in the Meeting Chamber for Zoning Decisions and Hearings.		
<u>Third Mondays</u>			
Fourth Mondays	<u>Citizens' Forum/Council Business Meeting</u> Meeting begins at 5:00 p.m. in Room 267 with Council/Manager Dinner Briefing and continues in the Meeting Chamber at 6:30 p.m. for the Citizens' Forum and Council Business Meeting. The only exception is the December meeting.		
January 9	Council Business Meeting		
January 17 (Tuesday)	12:00 pm Council Zoning Briefing (Optional) 8 <sup>th</sup> Fl Conf Roc Zoning Meeting *		
January 23	Citizens' Forum/Council Business Meeting		
January 25-27	City Council Retreat Location - TBD		
February 6	Council Workshop/Citizens' Forum		
February 13	Council Business Meeting		
February 20	12:00 pm Council Zoning Briefing (Optional) 8th FI Conf Roc Zoning Meeting		
February 22 February 27	1:30 pm Budget Workshop           Citizens' Forum/Council Business Meeting		
(1	Aarch 11-15, NLC Congressional City Conference, Washington, DC)		
(1	March 11-15, NEC congressional City conference, washington, DC)		
	Council Workshop/Citizens' Forum		
March 6	Council Workshop/Citizens' Forum 12:00 pm Council Zoning Briefing (Optional) 8 <sup>th</sup> FI Conf Roc		
March 6 March 20	Council Workshop/Citizens' Forum 12:00 pm Council Zoning Briefing (Optional) 8 <sup>th</sup> Fl Conf Roc Zoning Meeting		
March 6 March 20 March 22	Council Workshop/Citizens' Forum           12:00 pm Council Zoning Briefing (Optional) 8th FI Conf Roc           Zoning Meeting           1:30 pm Budget Workshop		
March 6 March 20 March 22 March 27	Council Workshop/Citizens' Forum 12:00 pm Council Zoning Briefing (Optional) 8 <sup>th</sup> Fl Conf Roc Zoning Meeting		
March 6 March 20 March 22 March 27 (N	Council Workshop/Citizens' Forum           12:00 pm Council Zoning Briefing (Optional) 8th FI Conf Roc           Zoning Meeting           1:30 pm Budget Workshop           Citizens' Forum/Council Business Meeting           March 29, NC League of Municipalities Town Hall Day, Raleigh, NC)		
March 6 March 20 March 22 March 27 (1 April 3	Council Workshop/Citizens' Forum         12:00 pm Council Zoning Briefing (Optional) 8th FI Conf Roc         Zoning Meeting         1:30 pm Budget Workshop         Citizens' Forum/Council Business Meeting         March 29, NC League of Municipalities Town Hall Day, Raleigh, NC)         Council Workshop/Citizens' Forum		
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March 6 March 20 March 22 March 27 (N April 3 April 10 April 12 April 17 April 24 May 1	Council Workshop/Citizens' Forum         12:00 pm Council Zoning Briefing (Optional) 8th FI Conf Roc         Zoning Meeting         1:30 pm Budget Workshop         Citizens' Forum/Council Business Meeting         March 29, NC League of Municipalities Town Hall Day, Raleigh, NC)         Council Workshop/Citizens' Forum         Council Business Meeting         1:30 pm Budget Workshop         1:30 pm Budget Workshop         Council Business Meeting         1:30 pm Budget Workshop         1:2:00 pm Council Zoning Briefing (Optional) 8th FI Conf Roc         Zoning Meeting         Citizens' Forum/Council Business Meeting         Citizens' Forum/Council Business Meeting         Citizens' Forum/Council Business Meeting         Council Workshop/Citizen's Forum         7:00 pm Manager's Recommended Budget Presentation *		
March 6 March 20 March 22 March 27 (1 April 3 April 10 April 12 April 17 April 24 May 1 May 8	Council Workshop/Citizens' Forum         12:00 pm Council Zoning Briefing (Optional) 8th Fl Conf Roc         Zoning Meeting         1:30 pm Budget Workshop         Citizens' Forum/Council Business Meeting         March 29, NC League of Municipalities Town Hall Day, Raleigh, NC)         Council Workshop/Citizens' Forum         Council Business Meeting         1:30 pm Budget Workshop         Council Business Meeting         1:30 pm Budget Workshop         Council Business Meeting         1:30 pm Budget Workshop         12:00 pm Council Zoning Briefing (Optional) 8th Fl Conf Roc         Zoning Meeting         Citizens' Forum/Council Business Meeting         Citizens' Forum/Council Business Meeting         Citizens' Forum/Council Business Meeting         Council Workshop/Citizen's Forum         7:00 pm Manager's Recommended Budget Presentation *         Council Business Meeting         5:30 pm Budget Public Hearing		
March 6 March 20 March 22 March 27 (March 27 (March 27 (May 1 May 1 May 10	Council Workshop/Citizens' Forum         12:00 pm Council Zoning Briefing (Optional) 8th FI Conf Roc         Zoning Meeting         1:30 pm Budget Workshop         Citizens' Forum/Council Business Meeting         March 29, NC League of Municipalities Town Hall Day, Raleigh, NC)         Council Workshop/Citizens' Forum         Council Business Meeting         1:30 pm Budget Workshop         Council Business Meeting         1:30 pm Budget Workshop         Council Business Meeting         1:30 pm Budget Workshop         12:00 pm Council Zoning Briefing (Optional) 8th FI Conf Roc         Zoning Meeting         Citizens' Forum/Council Business Meeting         Citizens' Forum/Council Business Meeting         Council Workshop/Citizen's Forum         7:00 pm Manager's Recommended Budget Presentation *         Council Business Meeting         5:30 pm Budget Public Hearing         1:00 pm Budget Adjustments		
March 6 March 20 March 22 March 27	Council Workshop/Citizens' Forum         12:00 pm Council Zoning Briefing (Optional) 8th Fl Conf Roc         Zoning Meeting         1:30 pm Budget Workshop         Citizens' Forum/Council Business Meeting         March 29, NC League of Municipalities Town Hall Day, Raleigh, NC)         Council Workshop/Citizens' Forum         Council Business Meeting         1:30 pm Budget Workshop         Council Business Meeting         1:30 pm Budget Workshop         Council Business Meeting         1:30 pm Budget Workshop         12:00 pm Council Zoning Briefing (Optional) 8th Fl Conf Roc         Zoning Meeting         Citizens' Forum/Council Business Meeting         Citizens' Forum/Council Business Meeting         Citizens' Forum/Council Business Meeting         Council Workshop/Citizen's Forum         7:00 pm Manager's Recommended Budget Presentation *         Council Business Meeting         5:30 pm Budget Public Hearing		

June 5	Council Workshop/Citizens' Forum
June 12	Council Business Meeting
	Budget Adoption
June 19	12:00 pm Council Zoning Briefing (Optional) 8th Fl Conf Room Zoning Meeting
(June 23-2	26, US Conference of Mayors Annual Meeting, Miami Beach, FL)
June 26	Citizens' Forum/Council Business Meeting
	(June, Chamber Inter City Visit – TBA)
	(Summer Meeting Schedule)
July 17	12:00 pm Council Zoning Briefing (Optional) 8th Fl Conf Room
	Zoning Meeting
July 24	Citizens' Forum/Council Business Meeting
August 28	12:00 pm City Attorney's Evaluation CH14
	Citizens' Forum/Council Business Meeting
September 11	Council Business Meeting
September 18	12:00 pm Council Zoning Briefing (Optional) 8th Fl Conf Room
(Sentember 20-22, NC)	Zoning Meeting League of Municipalities Annual Conference, Greenville Conference Center)
September 25	Citizens' Forum/Council Business Meeting
October 2	Council Workshop/Citizens' Forum
October 9	Council Business Meeting
October 16	12:00 pm Council Zoning Briefing (Optional) 8 <sup>th</sup> Fl Conf Room Zoning Meeting
October 23	Citizens' Forum/Council Business Meeting
(October	22-24. NC League of Municipalities Annual Conference, TBA)
November 13	Council Business Meeting
	(November 15-18, NLC City Summit, Charlotte, NC)
November 20	12:00 pm Council Zoning Briefing (Optional) 8th Fl Conf Room Zoning Meeting
November 27	Citizens' Forum/Council Business Meeting
December 4	7:00 pm Organizational Meeting (Swearing-In Ceremony)
December 11	Citizens' Forum/Council Business Meeting
December 18	12:00 pm Council Zoning Briefing (Optional) 8th Fl Conf Room
	Zoning Meeting
	Monday holiday nmittee, the budget presentation will be held during a televised Special Meeting (Council Chamber) CMGC #267, unless notified otherwise.)
	2018 City Council Retreat – January 24-26, 2018



# Agenda Date: 1/23/2017

Agenda #: 16.File #: 15-4798 Type: Business Item

# **Discovery Place Science Facilities Master Plan**

# Action:

- A. Approve an allocation of \$950,000 to Discovery Place to fund a Facilities Master Plan, and
- **B.** Adopt a budget ordinance appropriating \$950,000 from the Cultural Facilities Operating (Tourism II) Fund for the Discovery Place Facilities Master Plan

# Staff Resource(s):

Catherine Horne, Discovery Place Randy Harrington, Management & Financial Services

## Explanation

- Discovery Place consists of four museums: Discovery Place Science, Discovery Place Nature, and two Discovery Place Kids.
- On January 9, 2017, the City Council received a Dinner Briefing on the Discovery Place Science Facilities Master Plan.
- Discovery Place Science opened in 1981 and is located on North Tryon Street. The City owns the facility.
- Previous capital investments by the City totaling \$35.8 million for upgrades, renovations and other infrastructure improvements to Discovery Place include:
  - \$3.5 million in FY2016 for technology-related upgrades to lab content and exhibit space;
  - \$31.6 million in FY2007 for facility renovations and new exhibits;
  - \$540,000 in FY2000 for the Dining Room Expansion;
  - \$88,795 in FY2000 for Phase II lighting improvements; and
  - \$40,000 in FY1999 for Phase I lighting improvements.
- Last year approximately 500,000 people visited Discovery Place Science.
- Discovery Place plays a vital role in growing Charlotte's workforce and preparing its students for jobs of the future in science, technology, engineering, and math (STEM).
- Discovery Place priorities include expanding exhibition and program space for a growing audience of citizens and visitors, creating public engagement with and community access to science, preparing students and educators for the growing STEM economy, and introducing the new wonders of science and innovation.
- To determine how best to maximize its Discovery Place Science facility on Tryon Street to meet these priorities and serve the needs of a growing and changing community, Discovery Place

# Agenda #: 16.File #: 15-4798 Type: Business Item

proposes to conduct a facilities master planning process that will identify facility needs and plan for the future of Discovery Place Science as an integral component of the North Tryon Vision Plan.

- The Discovery Place Science Facilities Master Plan will accomplish the following:
  - Analyze the visitor experience and business model to ensure the continued financial health of Discovery Place Science;
  - Engage the community and stakeholders, including City Council, in the planning and study;
  - Forecast how citizens use science museums to determine needs relating to facilities, content, and programs; and
  - Develop a vision for reimagining Discovery Place Science with a facility plan, budget and timeline.
- The Facilities Master Plan will be completed in approximately 18-24 months.
- Any recommended improvements to Discovery Place facilities will come to the City Council for consideration following completion of the Facilities Master Plan.
- While specific facility investment costs are not know at this time, the types of potential infrastructure improvements could include:
  - Redesigned facade and public amenities on Tryon Street, including but not limited to lobbies, access to parking deck, and public spaces
  - Improved functionality of building interior
  - Expanded facility to meet growing visitation and expectations of audiences for museum experiences, meetings, offices, and events
  - Longer term plan for second block of Discovery Place Science
  - Feasibility of commercial development over/on top of a portion of the property
  - Outdoor experiences and reimagined futures for two theaters
- The source of funding for the Discovery Place Science Facilities Master Plan will be the Cultural Facilities Operating (Tourism II) Fund, which is supported by revenues equivalent to 4% Vehicle Rental Car Tax revenues. Eligible uses of these funds include City-owned cultural and arts facilities, including Levine Center for the Arts Campus, Discovery Place, and other tourism assets.

## **Charlotte Business INClusion**

The action is only to approve the appropriation of funds and therefore no subcontracting goals are required at this time. MWSBE subcontracting goals will be established during subsequent contract approval phases.

## Fiscal Note

Funding: Cultural Facilities Operating (Tourism II) Fund

## Attachment

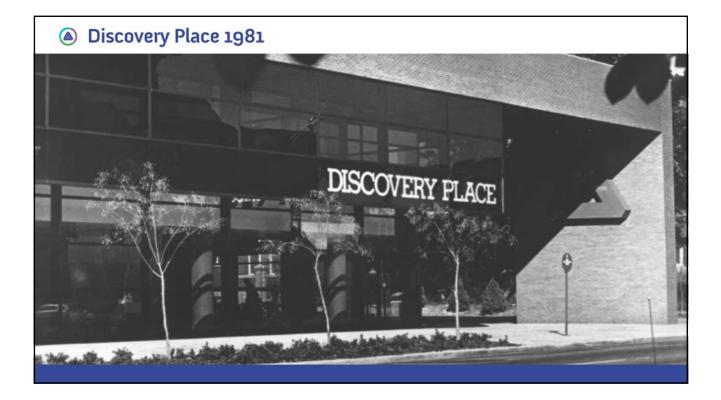
Discovery Place Master Plan Dinner Briefing Presentation on January 9, 2017 Budget Ordinance

# Discovery Place & North Tryon Vision Plan

January 9, 2017







Mecklenburg County Population

# **Discovery Place Growth**

1981	Discovery Place opens	413,915
1986	Expands for additional exhibition space	459,459
1991	Add IMAX Dome Theatre	530,897
1996	Add Education Building and Parking Complex	617,318
2010	Renovation of existing building	923,254
2014	Add Discovery Place Education Studio	990,000
2017	Today	1,000,000+

# **Discovery Place Today**

Total attendance	828,000
Uptown	485,000
Welcome visitors	44,000
Full Time Staff	116

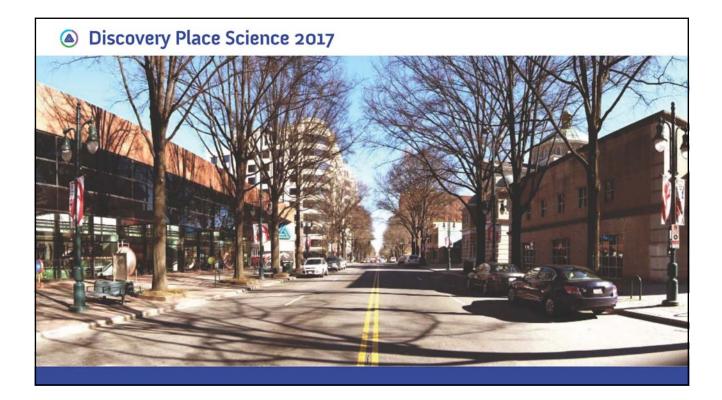
Part TimeStaff 78

#### Recognition

#1 cultural attraction in Charlotte#4 cultural attraction in North Carolina#1 field trip destination in North Carolina

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# Observery Place Uptown



# **Discovery Place Priorities**

#### **Top attraction**

Expand exhibition and program space for growing audience (citizens and visitors)

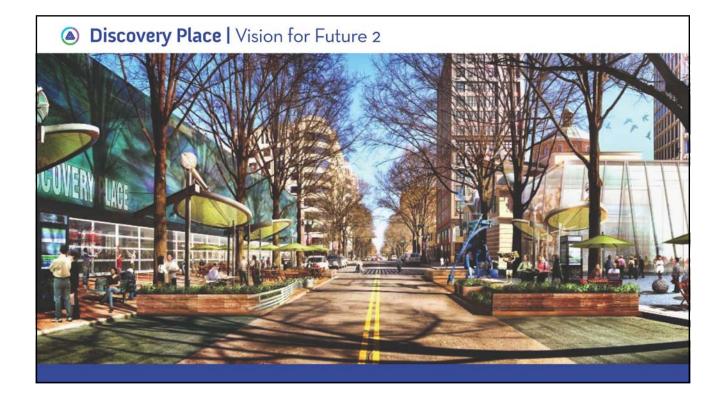
#### Community gateway

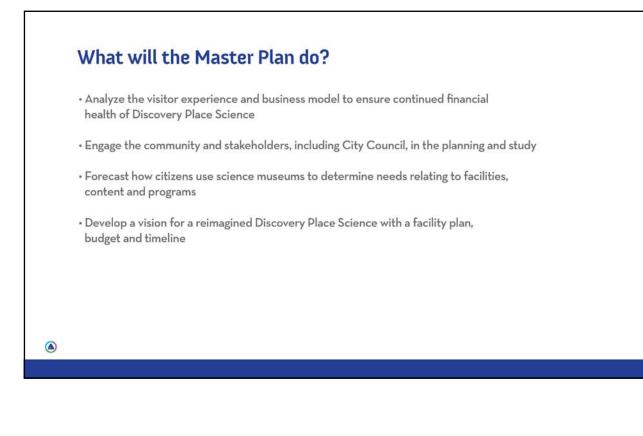
Create public engagement and community access to science

#### **Education partner**

Prepare students and educators for the growing STEM economy Introduce the new wonders of science and innovation







Proposed Budget	
Community engagement and input, site visits to new facilities	\$100,000
Engineering analysis of current facility and campus	\$125,000
Market, facility and audience analysis, development of facility/site vision (includes plans for education and exhibit plan, facility and operations/staffing)	\$300,000
Facility design (competition/selection)	\$100,000
Conceptual design for facility	\$200,000
Project management and documentation	\$125,000
Total budget	\$950,000

# **Final Thought**

For our young people to have the opportunity to become interested science opens up a whole new life to them, may open up a whole new profession to them...They learn about what is going on in the world and what can go on in the world... it opens their minds and when you open a child's mind, anything can happen.

- Hugh McColl

# Thank you



# Next Steps

- Council action request on January 23 for \$950,000 to fund a master plan (funded from Hospitality & Tourism taxes)
- 18-24 month planning period
- Any future capital facilities requests will come back to Council

ORDINANCE NO.

AN ORDINANCE TO AMEND ORDINANCE NUMBER 8040-X, THE 2016-2017 BUDGET ORDINANCE PROVIDING AN APPROPRIATION OF \$950,000 FOR RELATED DISCOVERY PLACE EXPENSES FOR THE DISCOVERY PLACE FACILITIES MASTER PLAN

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

- Section 1. That the sum of \$950,000 hereby estimated to be available from the Cultural Facilities Operating (Tourism II) Fund - Fund Balance
- Section 2. That the Chief Financial Officer or his designee is hereby authorized to advance the sum of \$950,000 from the Cultural Facilities Operating fund balance until permanent financing is arranged. When permanent financing is concluded the advance to the project shall revert to its original source. If permanent financing is not arranged, the advance shall become the permanent source of revenue for the project.
- Section 3. That the sum of \$950,000 is hereby appropriated in the Cultural Facilities Operating Fund (4022) into the following project: Discovery Place Facilities Study - 8010150056 GL: 4022-80-60-8010-801015-000000-000-530500-
  - FS: 4022-80-99-0000-000000-992001-000-489000-
- Section 4. That the existence of this project may extend beyond the end of the fiscal year. Therefore, this ordinance will remain in effect for the duration of the project and funds are to be carried forward to subsequent fiscal years until all funds are expended or the project is officially closed.
- Section 5. All ordinances in conflict with this ordinance are hereby repealed.
- Section 6. This ordinance shall be effective upon adoption.

Approved as to form:

City Attorney



City of Charlotte

Charlotte-Mecklenburg Government Center 600 East 4th Street Charlotte, NC 28202

Agenda Date: 1/23/2017

# Agenda #: 17.File #: 15-4812 Type: Business Item

# **Mayor and City Council Topics**

The City Council members may share information and raise topics for discussion.



# Agenda Date: 1/23/2017

# Agenda #: 18.File #: 15-4468 Type: Consent Item

# **Veterinary Services**

# Action:

- A. Approve a unit price contract with Chantilly Veterinary Services, Inc. for veterinary services at the animal shelter for an initial term of one year, and
- B. Authorize the City Manager to renew the contract for up to four additional, oneyear terms with possible price adjustments and to amend the contract consistent with the City's business needs and the purpose for which the contract was approved.

# Staff Resource(s):

Karl Bannerman, Police Sherie Pearsall, Police

#### Explanation

- Animal care and Control (AC&C) is responsible for the welfare of animals under its care which
  requires the services of a full time veterinarian.
- The shelter veterinarian will:
  - Provide preventative and diagnostic veterinary services for animals housed at the shelter or in foster care as well as for dogs assigned to the Police K-9 Unit;
  - Conduct wellness exams and complete medical records for animals being offered for adoption;
  - Assist in writing and updating medical and sanitation protocols;
  - Consult on animal cruelty and inadequate care investigations, including testifying in court as an expert witness; and
  - Train shelter staff on the administration of vaccinations and medications.
- On October 17, 2016, the City issued a Request for Proposals (RFP) for veterinary services.
- In response to the RFP, the City received one proposal from interested service providers despite extensive vendor outreach and discussion.
  - Vendors that did not submit a proposal indicated that they were not interested in providing the services due to the City's need of a veterinarian being onsite for 40 hours per week.
- The Project Team, consisting of staff from Police and Management & Financial Services, evaluated the proposal and determined that Chantilly Veterinary Services, Inc. meets the City's needs in terms of qualifications, experience, cost, and responsiveness to RFP requirements.
- Chantilly Veterinary Services, Inc. has provided these services for the past four years.
- The contract gives the City the option to renew for four additional, one-year terms with a price increase as negotiated in the contract.
- The company will be paid at the unit price set forth in the contract, a copy of which is available upon request.
- Estimated contract expenditures are \$85,000 annually.

# Agenda #: 18.File #: 15-4468 Type: Consent Item

#### **Charlotte Business INClusion**

No subcontracting goal was established because there are no subcontracting opportunities (Part C: Section 2.1 (a) of the Charlotte Business INClusion Policy).

# **Fiscal Note**

Funding: Police Operating Budget



# Agenda Date: 1/23/2017

# Agenda #: 19.File #: 15-4557 Type: Consent Item

# **Roadway Improvements Reimbursement Municipal Agreement**

## Action:

- A. Authorize the City Manager to execute a municipal agreement in an amount not to exceed \$1,830,000 with the University of North Carolina at Charlotte for roadway improvements along John Kirk Drive, and
- **B.** Adopt a resolution for the North Carolina Department of Transportation to use North Carolina State discretionary funds in the amount of \$500,000 for roadway improvements along John Kirk Drive.

# Staff Resource(s):

Johanna Quinn, Transportation

## Explanation

- The University of North Carolina at Charlotte (UNCC), the City of Charlotte, and the North Carolina Department of Transportation (NCDOT) are partnering to improve John Kirk Drive, between Cameron Boulevard and University City Boulevard.
  - The work will improve traffic, bicyclist, and pedestrian mobility and safety along and across John Kirk Drive, which is a City-maintained street.
- Improvements at John Kirk Drive and Cameron Boulevard include (see item "A" on the attached map):
  - Realigning both streets to accommodate a future fourth leg into east campus, and
  - Adding traffic and pedestrian signals to facilitate vehicular, pedestrian, and bicyclist access.
- Improvements at John Kirk Drive and Van Landingham Road include (see item "B" on the attached map):
  - Constructing a median on John Kirk Drive to restrict left turns out of Van Landingham Road, and
  - Adding a pedestrian traffic signal to facilitate pedestrian and bicycle movements across John Kirk Drive.
- Improvements at John Kirk Drive and University City Boulevard include widening for a second left turn lane from John Kirk Drive onto University City Boulevard (see item "C" on the attached map).
- The total estimated cost for improvements is \$4,470,000, divided as follows:
  - UNCC will provide funding of \$2,140,000;
  - The City of Charlotte will contribute up to \$1,830,000;and
  - NCDOT will contribute \$500,000.
- UNCC will design the project, secure required permits and construct the improvements.

Action A

• The Agreement will provide for the City's reimbursement to UNCC not to exceed \$1,830,000 towards the total cost of the project.

Action B

- NCDOT will contribute \$500,000 from North Carolina State Discretionary Funds towards the project.
- The NCDOT requires that City Council adopt a resolution in support of using these discretionary funds.

# **Fiscal Note**

Funding: Transportation Community Investment Plan

# Attachment

Map Resolution



# **Realigned Cameron Blvd.**

To Mallard Creek Church Rd.

# ITEM "A"

- Realignment of John Kirk Dr. (red outline)
- Add traffic signal to this intersection

Future 🚮

# ITEM "B"

• Median in John Kirk Dr. to restrict left

# Realigned John Kirk Dr.

49

To I-485

turns out of Van Landingham Rd. (green)

Pedestrian signal for crossing John Kirk Dr.

# ITEM "C"

R100'

Add 2nd left-turn lane from John Kirk Dr. onto outbound University City Blvd. (NC 49)



To Harris Blvd.



# RESOLUTION PASSED BY THE CITY COUNCIL OF THE CITY OF CHARLOTTE, NORTH CAROLINA ON JANUARY 23, 2017

A motion was made by \_\_\_\_\_\_ and seconded by \_\_\_\_\_\_ for the adoption of the following Resolution and upon being put to a vote was duly adopted:

WHEREAS, a Funding Agreement between the NCDOT and UNC-Charlotte to construct roadway improvements along John Kirk Drive, generally between Cameron Boulevard and NC 49, and

WHEREAS, roadway improvements are needed at the above location to improve traffic safety and access to and from the UNC-Charlotte main campus, and

WHEREAS, the NCDOT is requesting \$500,000 from State Discretionary funds toward NCDOT's share of the estimated cost, and

WHEREAS, the City supports the use of State Discretionary funds for the construction of these improvements, and

WHEREAS, the format and cost sharing philosophy is consistent with past Municipal Agreements.

NOW, THEREFORE, BE IT RESOLVED that the City of Charlotte supports the efforts of the NCDOT to secure \$500,000 from State Discretionary funds as needed for the construction of these improvements



# Agenda Date: 1/23/2017

# Agenda #: 20.File #: 15-4577 Type: Consent Item

# **Rocky River Road West Improvements Contract Amendment**

## Action:

Approve contract amendment #1 for \$238,603 with STV Engineers, Inc. for additional planning and design services on the Rocky River Road West Improvements project.

# Staff Resource(s):

Jim Keenan, Engineering & Property Management Keith Bryant, Engineering & Property Management

#### Explanation

- On June 22, 2015, the City Council approved a contract with STV Engineers, Inc. in the amount of \$625,000 for engineering services for the Rocky River Road West Improvements.
- This project is included in the Northeast Corridor Infrastructure Program and will include upgraded roadway, pedestrian and bicycle facilities along Rocky River Road West between North Tryon Street and Rockland Drive and Toby Creek.
- A 10-foot-wide bicycle/pedestrian facility connecting the Toby Creek Greenway, Newell Elementary School, and future facilities on North Tryon Street will also be included as part of the project.
- Amendment #1, in the amount of \$238,603, is needed for additional design efforts identified during the planning phase including:
  - Additional stream, storm drainage and retaining wall design to mitigate private property and environmental impacts,
  - Design efforts to comply with updated ordinance requirements and design guidelines, and
  - Water and sewer utility relocation design.
- The total contract amount to date, including amendment #1 is \$863,603.
- The additional cost is available in the project budget.

## **Charlotte Business INClusion**

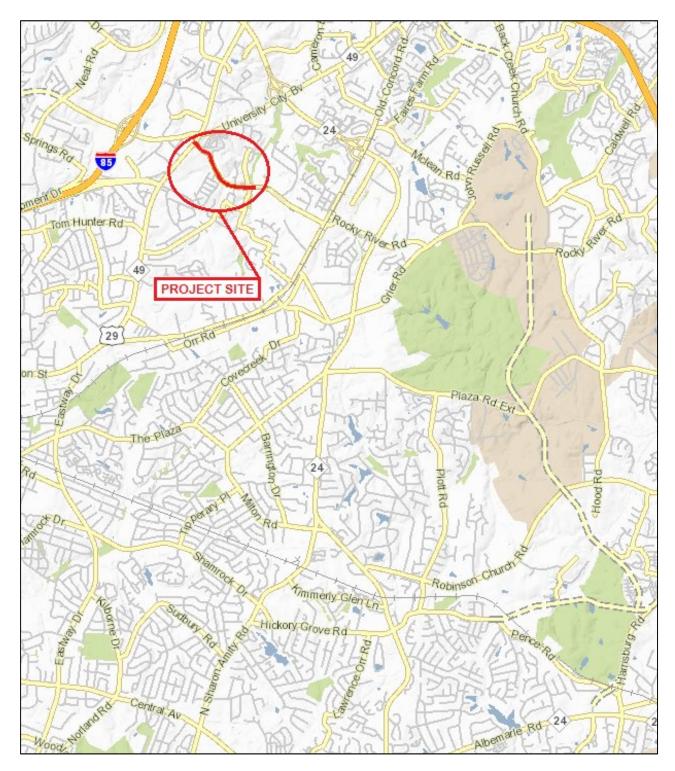
All additional work involved in this amendment will be performed by STV Engineers and their existing subconsultants (Part D: Section 6 of the Charlotte Business INClusion Policy).

## **Fiscal Note**

Funding: General Community Investment Plan

## Attachment

Мар



Location Map: Rocky River Road West Improvements (Council District 4)



### Agenda #: 21.File #: 15-4560 Type: Consent Item

## Waterproofing Services

Action:

Approve unit price contracts with the following companies for waterproofing services for a term of three years:

Strickland Waterproofing Co., Inc., and

Watertight Systems, Inc.

#### Staff Resource(s):

William Haas, Engineering & Property Management Steve Marlowe, Engineering & Property Management

#### Explanation

- The City's Engineering & Property Management Building Maintenance staff maintains approximately 4.5 million square feet of City buildings and parking deck structures that require waterproofing, including Police and Fire Stations, the Charlotte-Mecklenburg Government Center and cultural facilities.
- There are ongoing needs for unspecified waterproofing services, including emergency repairs across the portfolio of facilities.
- These contracts will include waterproofing walls and foundations to provide protection against water, water vapor and water-borne contamination.
- On October 27, 2016, the City issued a Request for Proposals (RFP) for Waterproofing Services. In
  response to the RFP, the City received four proposals from interested service providers.
- Engineering & Property Management Building Maintenance staff evaluated the proposals and determined that Strickland Waterproofing Co., Inc. and Watertight Systems, Inc. best meet the City's needs in terms of qualifications, experience, cost, and responsiveness to RFP requirements.
- Total expenditures for the contract with Strickland Waterproofing Co., Inc. are estimated to be \$450,000 over the three-year term, and total expenditures for the contract with Watertight Systems, Inc. are estimated to be \$75,000 over the three-year term, for an aggregate total of all contracts of \$525,000.

#### **Charlotte Business INClusion**

No subcontracting goal was established because there are no subcontracting opportunities (Part C: Section 2.1(a) of the Charlotte Business INClusion Policy).

#### **Fiscal Note**

Funding: General Community Investment Plan



Agenda #: 22.File #: 15-4590 Type: Consent Item

## Landscape Maintenance Services

#### Action:

Approve landscaping maintenance contracts with each of the following vendors:

- West District A Median: A-1 Services and John Todd Landscaping, \$275,340;
- North District B Median: Pristine Properties of NC, Inc., \$63,804;
- West District B Median: A-1 Services and John Todd Landscaping, \$340,860;
- East District A Median: The Byrd's Group, Inc., \$391,274;
- East District B Median: Champion Landscapes, Inc., \$247,390;
- South Corridor Infrastructure Project Area: Taylor's Landscaping Service, Inc., \$134,082,
- West Elmwood Cemetery Grounds: Roundtree Companies, LLC, \$315,000;
- East Elmwood Cemetery Grounds: Pristine Properties of NC, Inc., \$186,600;
- Center City East District Grounds: Taylor's Landscaping Service, Inc., \$183,300;
- Central District Grounds Maintenance: Pristine Properties of NC, Inc., \$377,520; and
- CATS South Tryon Bus Facility Grounds Maintenance: Roundtree Companies, LLC, \$41,262.

#### Staff Resource(s):

Quin Hall, Engineering & Property Management

#### Explanation

- These contracts provide continuous landscape maintenance services for City-owned facilities and properties.
- On November 1, 2016, four separate Requests for Proposals were advertised, 28 proposals were received from 10 interested service providers, for a total of 11 contracts, for the following areas:
  - City-owned properties located in the Central District and the Center City East District;
  - City-maintained medians in the north, west, east, and South Corridor Infrastructure Project districts;
  - City-owned cemeteries; and
  - CATS South Tryon Bus Facility
- The Evaluation Committee which included City staff from Engineering & Property Management and CATS selected the firms based on qualifications and experience of the firm in providing similar services for similar projects, qualifications and relevant experience of key team members, availability of team members, available equipment resources, price, and responsiveness of proposal package.
- Three of the City's SBE vendors included 50.91% utilization with the following firms:
  - Pristine Properties of NC, Inc.,
  - Taylor's Landscaping Service, Inc., and
  - Roundtree Companies, LLC.
  - Work is anticipated to begin March 1, 2017.

#### **Cemeteries**

• These contracts include turf, shrub, and limited tree maintenance, trash and debris removal, storm cleanup, insect, disease and weed control, and mulching.

#### <u>Median</u>

 These contracts include turf, shrub, groundcover, perennial and limited tree maintenance, trash and debris removal, insect, disease and weed control, and mulching.

#### Center City East District

- The contract consists of medians and rights-of-way in the center city east district.
- The contract includes turf, shrub, groundcover, perennial and limited tree maintenance, trash and debris removal, storm cleanup, insect, disease and weed control, and mulching.

#### Central District

- The contract consists of 15 facilities including Fleet Management Sweden Road Shop, Landscape Management, Building Services - Spratt Street, Charlotte Department of Transportation Street Maintenance Division (Sweden Road), Charlotte Department of Transportation Street Maintenance Division (Northpointe Industrial Boulevard), Wilmore Center, Wingate Center, Charlotte-Mecklenburg Police Department - Metro Division, Charlotte-Mecklenburg Police Department -Westover Division, Charlotte - Mecklenburg Police Department - SWAT, Greenville Center, Police Athletic League, Charlotte Fire Department Administration Headquarters, Charlotte Fire Department Logistics and Investigations, and Queens Table Monuments.
- The contract includes turf, shrub, groundcover, perennial and limited tree maintenance, trash and debris removal, storm cleanup, insect, disease and weed control, snow and ice removal, irrigation operation, maintenance, and repair, and mulching.

#### CATS South Tryon Bus Facility

The contract includes turf, shrub, groundcover, perennial and tree maintenance, trash and debris
removal, storm cleanup, insect, disease and weed control, snow and ice removal, and irrigation
operation, maintenance, and repair.

#### **Charlotte Business INClusion**

No subcontracting goals were established because there are no opportunities (Part C: Section 2.1(a) of the Charlotte Business INClusion Policy). However, 50.91% (\$1,301,568) of these contracts will be awarded to the following certified firms:

- Pristine Properties of NC, Inc. (SBE)
- Roundtree Companies, LLC (SBE)
- Taylor's Landscaping Services, Inc. (SBE)

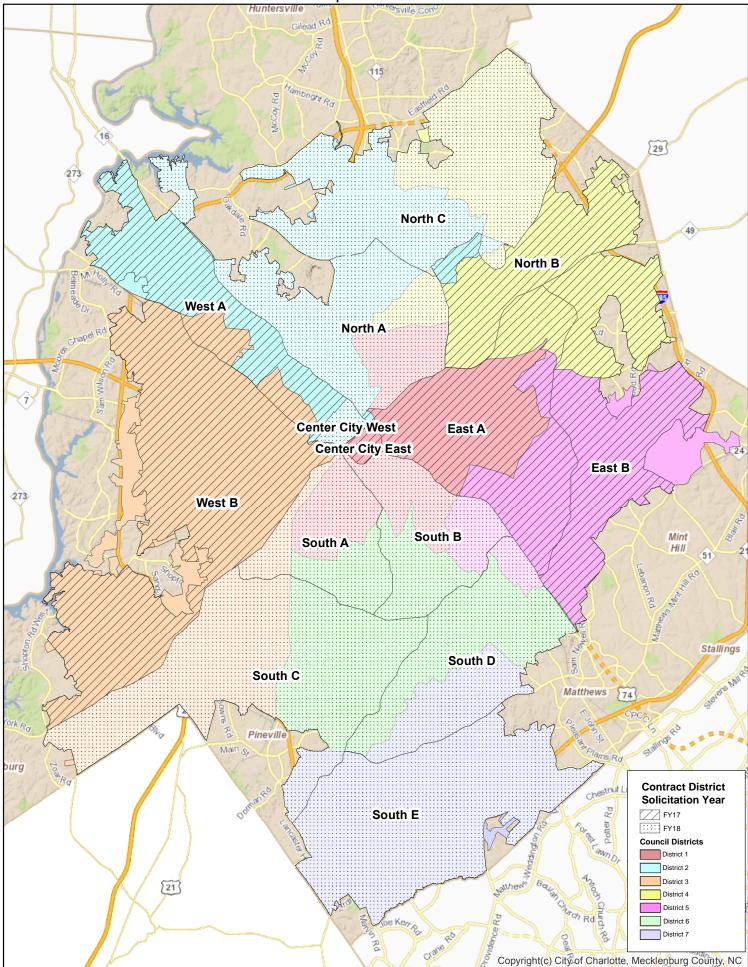
This project was one of a number of upcoming projects highlighted at the Landscape Management Division's 10th annual landscape contractors outreach event held on September 21, 2016, that encourages MWSBSE firms to participate as prime contractors.

#### **Fiscal Note**

Funding: Engineering & Property Management Operating Budget

#### Attachment

Мар



# Median Landscape Maintenance Contracts



Agenda #: 23.File #: 15-4734 Type: Consent Item

## **Greenhaven Lane and Pierson Drive Storm Drainage Improvement Project**

Action:

Award a contract in the amount of \$1,516,698.15 to the lowest responsive bidder B&N Grading, Inc. for the Greenhaven Lane and Pierson Drive Storm Drainage Improvement project.

#### Staff Resource(s):

Matthew Gustis, Engineering & Property Management

#### Explanation

- The Greenhaven Lane and Pierson Drive Storm Drainage Improvement project will reduce flooding of streets, properties, and structures.
- The project area is located in the Briar Creek watershed with boundaries of Pierson Drive to the north and east, Albemarle Road to the south and Independence Boulevard to the west.
- The work will include:
  - Storm drainage,
  - Curb and gutter,
  - Driveways,
  - Asphalt pavement and replacement,
  - Traffic control, and
  - Water and sanitary sewer installation.
- On December 20, 2016, the City issued an Invitation to Bid for Greenhaven Lane and Pierson Drive Storm Drainage Improvements; seven bids were received from interested service providers.
- B&N Grading, Inc. was selected as the lowest responsive, responsible bidder.
- The project is anticipated to be complete by third quarter of 2018.

#### **Charlotte Business INClusion**

Established SBE Goal: 19%

Committed SBE Goal: 23.01%

B&N Grading exceeded the established subcontracting goal, and has committed 23.01% (\$349,000) of the total contract amount to the following certified firms: (Part B: Section 3 of the Charlotte Business INClusion Policy):

- Silverback Brothers (SBE) (MBE) (\$110,000) (select & backfill material)
- Streeter Trucking (SBE, MBE) (\$65,000) (hauling)

## Agenda #: 23.File #: 15-4734 Type: Consent Item

- Landmark Materials (SBE) (\$64,000) (excavation)
- RRC Concrete (SBE) (\$57,000) (\$45,000) (concrete work)
- Jones Grading & Fencing (SBE, MBE) (\$8,000)

Established MBE Goal: 4% Committed MBE Goal: 12.06% B&N Grading exceeded the established subcontracting goal, and has committed 12.06% (\$183,000) of the total contract amount to the following certified firms: (Part B: Section 3 of the Charlotte Business INClusion Policy):

- Silverback Brothers (SBE) (MBE) (\$110,000) (select & backfill material)
- Streeter Trucking (SBE, MBE) (\$65,000) (hauling)
- Jones Grading & Fencing (SBE, MBE) (\$8,000)

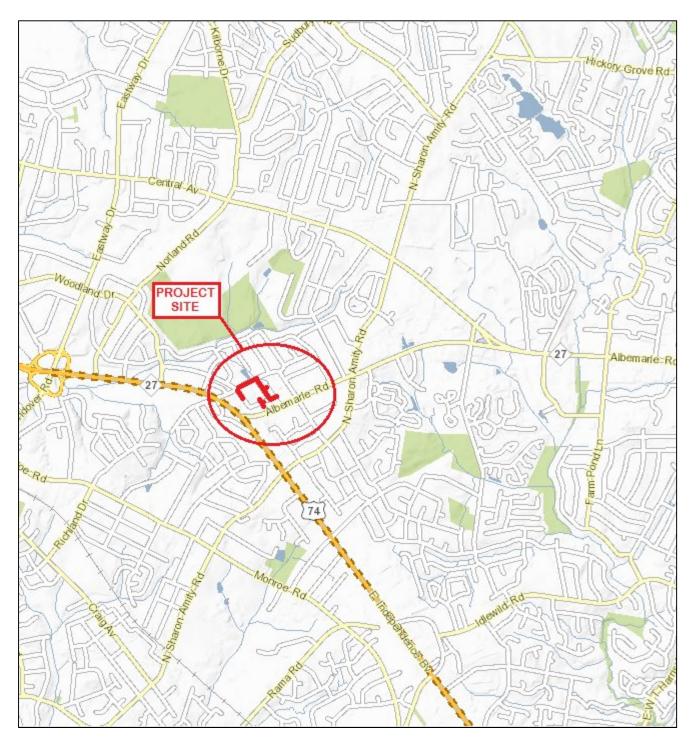
B & N Grading, Inc. is a City SBE

#### **Fiscal Note**

Funding: Storm Water Community Investment Plan

#### Attachment

Мар



Location Map: Greenhaven Lane and Pierson Drive Storm Drainage Improvements (Council District 5)



Agenda #: 24.File #: 15-4440 Type: Consent Item

## Information Technology Hosting, Managed Services, and Associated Professional Services Contract

Action:

- A. Approve a three-year contract with R&M Computer Consultants, Inc. d/b/a rmsource to provide application hosting, website hosting, managed services, and associated professional services,
- B. Authorize the City Manager to approve up to two, one-year renewals of the contract with possible price adjustments and to amend the contract consistent with the City's business needs and the purpose for which the contract was approved;
- C. Authorize the City Manager to approve expenditures for the provision of future project implementation services;
- **D.** Authorize the City Manager to purchase hosting and managed services for as long as the City uses the hosted websites and applications, and
- E. Authorize the City Manager to purchase such additional hosting, managed services, development, and other professional services as needed from time to time to optimize the City's use of the hosted software and systems.

#### Staff Resource(s):

Bellverie Ross, Innovation & Technology Jeffrey Stovall, Innovation & Technology

#### Explanation

- The City contracts with rmsource to provide application hosting, website hosting, and managed services.
  - Under this technology provisioning model, websites, software applications, and associated content is hosted on remote servers and other hardware is owned and operated by the vendor and accessed by the City and the public through a web browser or other desktop application.
  - In many circumstances, City departments have found this to be a cost-effective alternative instead of hosting websites, software, and content on hardware operated on premise by the City.
- Several departments currently use rmsource to host software applications and City websites under multiple contracts.

## Agenda #: 24.File #: 15-4440 Type: Consent Item

- The contract submitted for approval will create a master consolidated contract under which rmsource will provide all enterprise services purchased by the City.
- Should other Departments need services with the vendor in the future, their projects can be amended into the consolidated master contract, if appropriate.
- Benefits of a consolidated master contract include reduced costs by sharing private cloud infrastructure, and application licensing
- The vendor will continue to provide the following under the consolidated master contract:
  - Support and development resources for management of the infrastructure,
  - Protection for the City's websites from Internet security attacks,
  - Hosting the City's Internet presence in the vendor's data center, and
  - Training resources.
- The City has contracted with rmsource services since 2011.
  - The initial contract with rmsource was approved by City Council on November 28, 2011, to transition the hosting services for CharMeck.org (subsequently replaced by Charlottenc.gov). This contract was awarded after a competitive solicitation process in which rmsource was deemed to provide the best value.
- On August 30, 2016, a waiver of solicitation process was approved by the City Manager's Office to forego a solicitation for hosting, managed services, and associated professional services with rmsource because of the overall complexity of the managed services, and high cost to move to another vendor. As a result, City management deemed it to be in the City's best interest to continue to use rmsource under an enterprise master agreement
  - Specific services provided by this waiver include hosting and development services for CharlotteNC.gov, mobile and web application development for N&BS' Microsoft CRM platform, enterprise project management applications on the City's intranet, and hosting of the City's Emergency Operations Plan.
- Estimated expenditures are as follows:
  - Expenditures for ongoing hosting and managed services are estimated to be \$650,000 annually. Approval is requested for the City Manager to purchase the hosting and managed services for as long as the City uses the website and hosted applications.
  - Expenditures for development and professional services are estimated to be \$350,000.
    - Professional services include hosting, managed services, configuration and customization, upgrade and migration assistance, consulting, and support.
       Departments using rmsource have access to a monthly block of 40 professional services hours for support and development.
    - Developmental services involves application development, modifications, and enhancements needed for the products on the hosting service platform that require additional support beyond the standard 40 hour block, up to and including the development of new applications and pages.
- Approval is also sought for the City Manager to purchase such additional application hosting, managed services, and professional services as needed from time to time to optimize the City's use of the hosted software and systems.

#### **Charlotte Business INClusion**

No subcontracting goal was established because there are no opportunities (Part C: Section 2.1 (a) of the Charlotte Business INClusion Policy).

#### Fiscal Note

Funding: Various Departments' Operating Budgets



Agenda #: 25.File #: 15-4561 Type: Consent Item

## Standby Power and Electrical Improvements at the Lee S. Dukes Water Treatment Plant

Action:

Award a contract in the amount of \$1,307,565 to the lowest responsive bidder Hall Contracting Corporation for the transport and installation of a City-owned generator to the Lee S. Dukes Water Treatment Plant, and appropriate interconnections to the plant's electrical control system.

#### Staff Resource(s):

Carl Wilson, Charlotte Water

#### Explanation

- Charlotte Water owns and maintains three water treatment plants in Mecklenburg County. The Lee S. Dukes Water Treatment Plant (WTP) is in Huntersville.
- This project will move an existing 900 kilowatt Caterpillar generator from a decommissioned lift station to be used as a redundant power source at the Lee S. Dukes WTP.
- This contract will provide for the relocation of this generator to the Lee S. Dukes WTP, and interconnection into the WTP's electrical control system.
- On October 24, 2016, the City issued an Invitation to Bid for Standby Power and Electrical Improvements at the Lee S. Dukes WTP; one bid was received from an interested service providers.
  - In accordance to North Carolina General Statute 143-132, if three bids are not received from reputable and qualified contractors, the project must be re-advertised and the contract may then be let to the lowest responsible bidder even though only one bid is received.
- The project was re-advertised on November 17, 2016; four bids were received from interested service providers.
  - Wharton-Smith, Inc. failed to meet the established SBE goal and Good Faith Efforts and therefore their bid was deemed non-responsive.
  - Wharton-Smith, Inc.'s bid was \$1,206,450. Hall Contracting Corporation was the second lowest bidder at \$1,307,565 and exceeded the established SBE subcontracting goal.
- The project is anticipated to be complete by summer 2017.

#### **Charlotte Business INClusion**

Established SBE Goal: 4.00%

Committed SBE Goal: 7.27%

Hall Contracting Corporation exceeded the established subcontracting goal and has committed 7.27% (\$95,090) of the total contract amount to the following certified firms (Part B: Section 3 of the Charlotte Business INClusion Policy):

• On Time Construction Inc. (SBE, MBE) (\$83,500) (concrete)

## Agenda #: 25.File #: 15-4561 Type: Consent Item

- RAM Pavement Services Inc. (SBE) (\$8,910) (asphalt work)
- D's Trucking Service Inc. (SBÈ, WBÈ) (\$2,680) (hauling)

#### **Fiscal Note**

Funding: Charlotte Water Community Investment Plan



Agenda #: 26.File #: 15-4547 Type: Consent Item

## **Wastewater Odor Control Chemicals Contract**

#### Action:

- A. Award a unit price contract to the lowest responsive bidder Evoqua Water Technologies LLC for the purchase of Calcium Nitrate for up to 16 months, and
- **B.** Authorize the City Manager to renew the contract for up to two one-year terms with possible price adjustments and to amend the contract consistent with the City's business needs and the purpose for which the contract was approved.

#### Staff Resource(s):

John Huber, Charlotte Water

#### Explanation

- Charlotte Water currently operates 82 sewage lift stations in the wastewater collection system.
- Lift stations pump sewage from low areas up to the gravity mains which then flow to the various Wastewater Treatment Plants.
- During normal operations hydrogen sulfide, an odor that resembles rotten eggs, is produced and emitted from the system due to the retention times and the pump action.
- Charlotte Water would like to use calcium nitrate, an environmentally safe chemical, to effectively
  prevent sulfide from forming thereby eliminating odor from and corrosion in the wastewater
  collection system.
- On November 15, 2016, Charlotte Water issued an Invitation to Bid; one bid was received from an interested service provider.
  - One bid is acceptable per the North Carolina General Statutes for commodities.
     Furthermore, it is not unusual to receive one bid for a chemical due to the limited number of suppliers.
- Evoqua Water Technologies LLC was selected as the lowest responsive, responsible bidder.
- Unit prices may adjust at the renewal period based on the Producer Price Index.
- Estimated annual expenditures are \$627,900 based on the current number of sites and dosage.

#### **Charlotte Business INClusion**

No subcontracting goals were set because there are no subcontracting opportunities (Part C: Section 2.1 (a) of the Charlotte Business INClusion Policy).

#### Fiscal Note

Funding: Charlotte Water Operating Budget



Agenda #: 27.File #: 14-4454 Type: Consent Item

# Checked Baggage Inline System Parts and Software Maintenance and Support Services

Action:

- A. Approve the purchase of Allen-Bradley brand electrical control parts, as authorized by the sole source exemption of G.S. 143-129 (e)(6),
- **B.** Approve a contract with McNaughton-McKay Southeast, Inc. for the purchase of parts and software maintenance and support for the term of three years, and
- C. Authorize the City Manager to renew the contract for up to two, one-year terms with possible price adjustments and to amend the contract consistent with the City's business needs and the purpose for which the contract was approved.

#### Staff Resource(s):

Jack Christine, Aviation

#### Sole Source Exemption

- G.S. 143-129 (e) (6) provides that formal bidding requirements do not apply when:
  - Performance or price competition are not available;
  - A needed product is available from only one source or supply; or
  - Standardization or compatibility is the overriding consideration.
- Sole sourcing is necessary for this contract because standardization or compatibility is the overriding consideration.
- The City Council must approve purchases made under the sole source exception.

#### Explanation

- The Checked Baggage In-line System (CBIS) sorts and screens over four million pieces of checked baggage annually, and requires software system updates and part replacements to ensure ongoing operations and maintenance.
- Rockwell Automation software and Allen-Bradley products are used in the operation of CBIS at the Airport.
  - Allen-Bradley is a brand of electrical control parts produced by Rockwell Automation.
  - McNaughton-McKay Electric is the authorized distributor in the Charlotte area.
    - Full factory products and support is made available only to the local authorized distributor.
- The support agreement with McNaughton-McKay Electric provides technical support services, including product updates for hardware and software components.
  - The service also provides software updates as well as online support to troubleshoot

### Agenda #: 27.File #: 14-4454 Type: Consent Item

hardware and software issues.

- The company will be paid the unit prices set forth in the contract, a copy of which is available upon request.
- Annual expenditures under the contract are estimated to be \$125,000.

#### **Charlotte Business INClusion**

This is a sole source contract and is exempt (Part A: Appendix 27 of the Charlotte Business INClusion Policy).

#### **Fiscal Note**

Funding: Aviation Operating Budget



Agenda #: 28.File #: 15-4720 Type: Consent Item

# **Refund of Property and Business Privilege License Taxes**

#### Action:

- A. Adopt a resolution authorizing the refund of property taxes assessed through clerical or assessor error in the amount of \$4,982.34, and
- **B.** Adopt a resolution authorizing the refund of business privilege license payments in the amount of \$1,721.47.

#### Staff Resource(s):

Robert Campbell, Management & Financial Services

#### Explanation

 Notification of Property Tax and Business Privilege License Tax refunds due to clerical or assessor error are provided to the City by Mecklenburg County.

#### Pearson Review Update

- In accordance with the ordinance approved by the City Council on August 25, 2014, and the North Carolina law, a list of refunds, which have been paid since the last City Council Business Meeting as a result of the Pearson Review, is available at the City Clerk's Office.
- The amount of Pearson Review refunds paid since the last City Council Business Agenda Meeting on January 9, 2017, totaled \$3.94.

#### Attachment

Taxpayers and Refunds Requested Business Privilege License Refunds Requested Resolution Property Tax Refunds Resolution Business Privilege License Refunds

## **Taxpayers and Refunds Requested**

BAHNSON INC	\$	307.43
BAHNSON INC	\$	311.41
BAHNSON INC	\$	293.10
BAHNSON INC	\$	280.64
BOYD, LILLIE MAE	\$ \$	23.21
BROWN, LACHANDA ONEKA	\$	215.41
CAUDLE, GLADYS G	\$	0.58
CAUDLE, GLADYS G	\$	1.58
GREENE, JUDITH W	\$	20.51
JORDAN, ELIZABETH S	\$	194.59
LITTLE, CRAIG	\$	215.42
LOMAX, SAMUEL R JR	\$ \$ \$	0.98
LOVELOCK, ANNA MARIA		4.31
MCCAIN, DEANNA R	\$	156.29
MCNATT, MARY WISE & CLIFFORD	\$	7.22
MECKLENBURG COUNTY	\$	355.74
MECKLENBURG COUNTY	\$	122.55
MECKLENBURG COUNTY	\$	31.59
MECKLENBURG COUNTY	\$ \$ \$	418.38
MECKLENBURG COUNTY	\$	340.74
MECKLENBURG COUNTY		107.23
MITCHELL, JANE B	\$	11.95
MORROW, VIRGINIA MOORE	\$	523.46
NMHG FINANCIAL SERVICES INC	\$	172.39
PERRY, VERONICA D	\$	294.88
PHAN, LANHVONG THI	\$	136.39
PHILLIPS, EDITH C	\$	176.16
SADLER, MARIAN C	\$	62.17
YOUNG OPHELIA	\$ \$ \$ \$	196.03
	\$	4,982.34

## **Business Privilege License Tax Refund Requests**

SECO ARCHITECHURAL SYSTEMS INC	\$	719.72
FRANKLIN FAST STOP - C & D FRANKLIN INC	\$	35.00
MATTRESS FIRM # 24040	\$	206.67
INFINITE SOFTWARE RESOURCES LLC	\$	245.25
TIP TOP DAILY MARKET - BARNACLE PROPERTIES LLC	\$	52.50
TIP TOP DAILY MARKET - BARNACLE PROPERTIES LLC	\$	10.00
MICKEY AND MOOCH ARBORETUM	\$	45.00
CHARLOTTE ATHLETIC CLUB LLC	\$	235.08
ERRANDS OF THE CAROLINAS LLC	\$	75.00
DEL FRISCOS DOUBLE EAGLE STEAK HOUSE	\$	35.00
DUNKIN DONUTS	\$	62.25
	\$ 1	1,721.47

## A RESOLUTION AUTHORIZING THE REFUND OF PROPERTY TAXES

Reference is made to the schedule of "Taxpayers and Refunds Requested" attached to the Docket for consideration of the City Council. On the basis of that schedule, which is incorporated herein, the following facts are found:

- 1. The City-County Tax Collector has collected property taxes from the taxpayers set out on the list attached to the Docket.
- 2. The City-County Tax Collector has certified that those taxpayers have made proper demand in writing for refund of the amounts set out on the schedule within the required time limits.
- 3. The amounts listed on the schedule were collected through either a clerical or assessor error.

NOW, THEREFORE, BE RESOLVED by the City Council of the City of Charlotte, North Carolina, in regular session assembled this 23rd day of January 2017 that those taxpayers listed on the schedule of "Taxpayers and Refunds Requested" be refunded in the amounts therein set up and that the schedule and this resolution be spread upon the minutes of this meeting.

## <u>A RESOLUTION AUTHORIZING THE REFUND OF</u> <u>CERTAIN BUSINESS PRIVILEGE LICENSES</u>

Reference is made to the schedule of "Business Privilege License Refunds Requested" attached to the Docket for consideration of the City Council. On the basis of that schedule, which is incorporated herein, the following facts are found:

- 1. The City-County Tax Collector has collected certain taxes from the taxpayers set out on the list attached to the Docket.
- 2. The City-County Tax Collector has certified that those taxpayers have made proper demand in writing for refund of the amounts set out on the schedule within the required time limits.
- 3. The amounts listed on the schedule were collected through either a clerical or assessor error.

NOW, THEREFORE, BE RESOLVED by the City Council of the City of Charlotte, North Carolina, in regular session assembled this 23rd day of January 2017 that those taxpayers listed on the schedule of "Business Privilege License Refunds Requested" be refunded in the amounts therein set up and that the schedule and this resolution be spread upon the minutes of this meeting.



Agenda #: 29.File #: 15-4725 Type: Consent Item

# **Resolution of Intent to Abandon an Unopened Alleyway between E. 24<sup>th</sup> Street and E. 25<sup>th</sup> Street to Close**

#### Action:

- A. Adopt a Resolution of Intent to abandon an unopened alleyway between E. 24<sup>th</sup> Street and E. 25<sup>th</sup> Street, and
- B. Set a public hearing for February 27, 2017.

#### Staff Resource(s):

Jeff Boenisch, Transportation

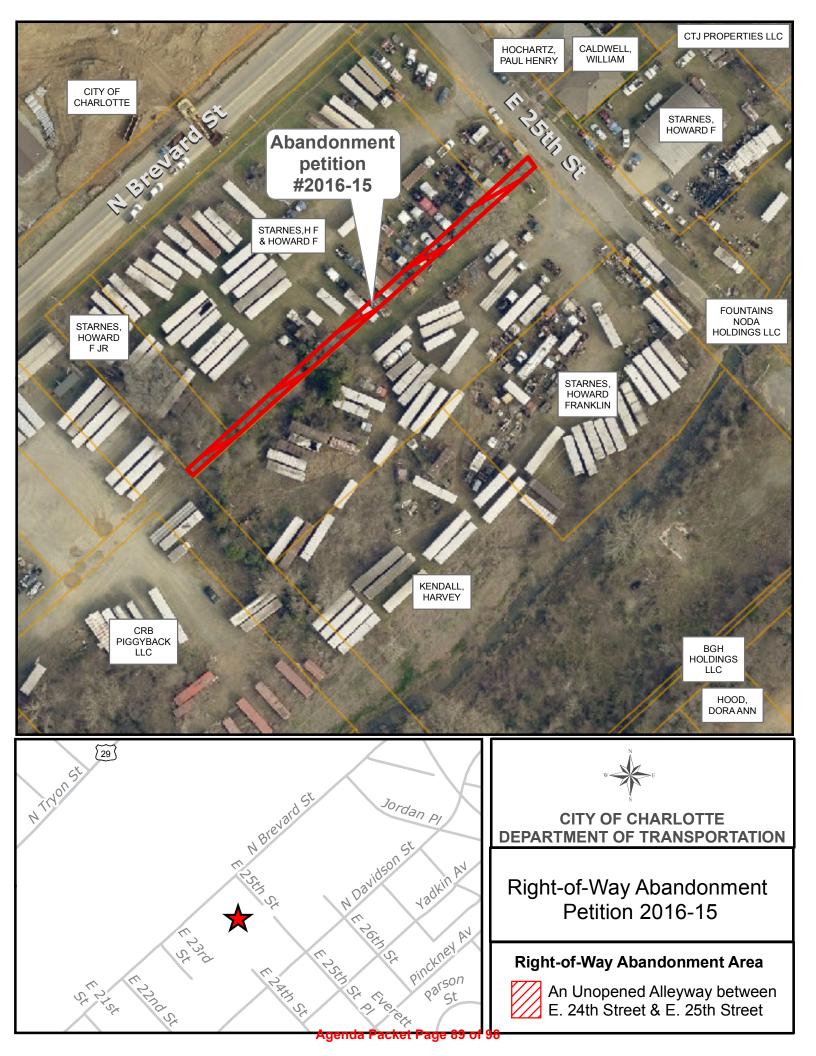
#### Explanation

• An unopened alleyway between E. 24<sup>th</sup> Street and E. 25<sup>th</sup> Street is located in Council District 1.

## Attachment

Мар

Resolution



RESOLUTION DECLARING INTENT TO ABANDON AND CLOSE an unopened alleyway between E. 24<sup>th</sup> Street and E. 25<sup>th</sup> Street in the City of Charlotte, Mecklenburg County, North Carolina

Whereas, **Tom Burkert with WP East Acquisitions, LLC**, has filed a petition to close an unopened alleyway between E. 24<sup>th</sup> Street and E. 25<sup>th</sup> Street in the City of Charlotte; and

Whereas, an unopened alleyway between E. 24<sup>th</sup> Street and E. 25<sup>th</sup> Street is a 10foot wide right-of-way that begins at its intersecting point with E. 24<sup>st</sup> Street, continuing approximately 400feet in a northeastward direction to its terminus at its intersecting point with E. 25<sup>th</sup> Street, and consists of 4,005 square feet, as shown in the maps marked "Exhibit A" and is more particularly described by metes and bounds in the document marked "Exhibit B" all of which are available for inspection in the office of the City Clerk, City Hall, Charlotte, North Carolina; and

Whereas, the procedure for closing streets and alleys as outlined in North Carolina General Statutes, Section 160A-299, requires that City Council first adopt a resolution declaring its intent to close the street and calling a public hearing on the question; said statute further requires that the resolution shall be published once a week for two successive weeks prior to the hearing, and a copy thereof be sent by registered or certified mail to all owners of property adjoining the street as shown on the county tax records, and a notice of the closing and public hearing shall be prominently posted in at least two places along said street or alley.

Now, therefore, be it resolved, by the City Council of the City of Charlotte, at its regularly scheduled session of January 23, 2017, that it intends to close an unopened alleyway between E. 24<sup>th</sup> Street and E. 25<sup>th</sup> Street and that the said street (or portion thereof) being more particularly described on a map and calls a public hearing on the question to be held at 7:00pm on Monday, the 27<sup>th</sup> day of February 2017, in CMGC meeting chamber, 600 East 4<sup>th</sup> Street, Charlotte, North Carolina.

The City Clerk is hereby directed to publish a copy of this resolution in the Mecklenburg Times once a week for two successive weeks next preceding the date fixed here for such hearing as required by N.C.G.S. 160A-299.



Agenda #: 30.File #: 15-4754 Type: Consent Item

## **Meeting Minutes**

Action:

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

December 12, 2016, Business Meeting

December 19, 2016, Zoning Meeting

Staff Resource(s): Stephanie Kelly, City Clerk's Office



Agenda #: 31.File #: 15-4802 Type: Consent Item

## **Aviation Property Transactions - 3401 Stafford Drive**

#### Action: Approve the following Property Acquisition.

Project: Airport Masterplan Land Program: Owner(s): Charlotte Board of Education Property Address: 3401 Stafford Drive Total Parcel Area: 38.47 acres Property to be acquired by Easements: N/A Structures/Improvements to be impacted: N/A Landscaping to be impacted: Trees and shrubs Zoned: I-2 & I-1 Use: Industrial (Vacant wooded lot) Tax Code: 061-266-01 Purchase Price: \$4,500,000 and all relocation benefits in compliance with federal, state, or local regulations. Council District: 3



Agenda #: 32.File #: 15-4796 Type: Consent Item

## **Property Transactions - Arrowood/Nations Ford Road Intersection Improvements, Parcel #5.1**

#### Action: Approve the following Property Acquisition: Arrowood/Nations Ford Road Intersection Improvements, Parcel #5.1

Project: Arrowood/Nations Ford Road Intersection Improvements, Parcel #5.1 Owner(s): OSEI Enterprises, LLC Property Address: 9001 Nations Ford Road Total Parcel Area: 72,284 sq. ft. (1.659 acres) Property to be acquired by Easements: 8,890 sq. ft. (.204 ac.) in Temporary Construction Easement Structures/Improvements to be impacted: None Landscaping to be impacted: None Zoned: B-1 Use: Commercial Tax Code: 205-171-17 Purchase Price: \$23,400 Council District: 3



Agenda #: 33.File #: 15-4813 Type: Consent Item

# **Reference - Charlotte Business INClusion Policy**

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

#### Part A: Administration & Enforcement

**Appendix Section 20: Contract:** For the purposes of establishing an MWSBE subcontracting goal on a Contract, the following are examples of contract types:

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

**Appendix Section 27: Exempt Contracts:** Contracts that fall within one or more of the following categories shall be "Exempt Contracts" from all aspects of the Charlotte Business INClusion Policy, unless the Department responsible for procuring the Contract decides otherwise:

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

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

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

Federal Contracts Subject to DBE Requirements: Contracts that are subject to the U.S. Department

## Agenda #: 33.File #: 15-4813 Type: Consent Item

of Transportation Disadvantaged Business Enterprise Program as set forth in 49 CFR Part 26 or any successor legislation shall be Exempt Contracts.

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

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

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

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

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

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

**Appendix Section 35: Informal Contracts:** Contracts and purchase orders through which the City procures services from a Business Enterprise that fall within one of the following two categories: **Construction Contracts Less Than or Equal To \$500,000:** 

Service and Commodities Contracts That Are Less Than or Equal To \$100,000:

#### Part B: Formal Construction Bidding

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

Part B: Section 2.3: No Goals When There Are No Subcontracting Opportunities.

The City shall not establish Subcontracting Goals for Contracts where: a) there are no subcontracting opportunities identified for the Contract; or b) there are no SBEs, MBEs or WBEs (as applicable) to perform scopes of work or provide products or services that the City regards as realistic opportunities for subcontracting.

#### **Part C: Services Procurement**

**Part C: Section 2.1:** When the City Solicitation Documents for a Service Contract do not contain an SBE Goal, each Proposer must negotiate in good faith with each MWSBE that responds to the Proposer's solicitations and each MWSBE that contacts the Proposer on its own accord. Additionally, the City may negotiate a Committed SBE Goal with the successful Proposer after the Proposal Opening.

**Part C: Section 2.1:** No Goal When There Are No MWSBE Subcontracting Opportunities. The City shall not establish an MWSBE Goal for Service Contracts where there are no MWSBEs certified to perform the

## Agenda #: 33.File #: 15-4813 Type: Consent Item

scopes of work that the City regards as realistic opportunities for subcontracting.

#### Part D: Post Contract Award Requirements

**Part D: Section 6:** New Subcontractor Opportunities/Additions to Scope, Contract Amendments If a Contractor elects to subcontract any portion of a Contract that the Contractor did not previously identify to the City as a subcontracting opportunity, or if the scope of work on a Contract increases for any reason in a manner that creates a new MWSBE subcontracting opportunity, the City shall either:

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



## Agenda #: 34.File #: 15-4814 Type: Consent Item

## **Reference - Property Transaction Process**

#### Property Transaction Process Following City Council Approval for Condemnation

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

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

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



## Agenda #: 35.File #: 15-4815 Type: Consent Item

# **Reference - Property Acquisitions and Condemnations**

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