Mayor Patrick L. McCrory Mayor Pro Tem Susan Burgess

Michael Barnes Nancy Carter Warren Cooksey Andy Dulin Anthony Foxx Patsy Kinsey John Lassiter James Mitchell, Jr. Edwin Peacock III Warren Turner

CITY COUNCIL MEETING Monday, January 14, 2008

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

Item #	Page #	Title
16-I	16	Optimist Park Sidewalks

CITY COUNCIL AGENDA Monday, January 14, 2008

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5:00 P.M. DINNER BRIEFING CONFERENCE CENTER

1. Mayor & Council Consent Item Questions

Resource: Curt Walton, City Manager

Time: 5 minutes

Synopsis

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

2. Drought Update

Staff Resource: Doug Bean, Utilities

Time: 20 minutes

Synopsis

- As the drought continues into 2008, Charlotte-Mecklenburg Utilities and its local and regional partners are making plans for the wintertime and spring. Staff will update City Council on
 - Current drought/weather conditions and the forecast for the near-term
 - An upcoming, enhanced winter-spring public communication campaign that includes urgent conservation messages
 - Contingency planning and likely actions if water conditions deteriorate
 - Rate restructuring and impacts

3. Northeast Corridor Preliminary Engineering

Staff Resources: Keith Parker, CATS Danny Rogers, CATS

Time: 20 minutes

Synopsis

- Council approved an interim contract for CATS to begin initial work on the development of the Northeast Corridor light rail project. The Northeast Corridor extends the existing LYNX Blue line from Center City through the UNCC campus to I-485. The presentation will cover the following:
 - Development process, schedule and budget
 - Description of the locally preferred alternative
 - Significant corridor coordination issues
 - Federal Transit Administration project development process
 - Areas covered in Preliminary Engineering
 - Light Rail vehicle procurement option

Future Action

Council action on the preliminary engineering contract is scheduled for the January 28 business meeting.

4. CharMeck 311 Update

Staff Resources: Saskia Thompson, City Manager's Office Kimberly Laney, CharMeck 311

Time: 20 Minutes

Synopsis

- CharMeck 311 was launched July 2005 and consolidated call-taking functions from five City and two County departments into one centralized call center, open 24 hours a day year-round.
- In FY 2007 CharMeck 311 received over 1.6 million calls, demonstrating an almost 25% increase in customer-driven demand for services.
- Current customer demand has outpaced the capacity of existing personnel and technology resources, resulting in:
 - Longer than acceptable hold times
 - High error rates
 - Low employee satisfaction
 - Increase in customer complaints
- Staff has been working on restructuring CharMeck 311 and the City's corporate approach to technology investment to better meet the needs of citizens.
- Staff's presentation includes:
 - The status of existing service at 311
 - Summary of operational challenges
 - Impact on technology, and
 - Plan for remedy moving forward

Future Action

Council will be asked to approve a lease amendment at the January 28 Business Meeting. The lease amendment will provide additional space at 10101 Claude Freeman Drive, the location of the existing CharMeck 311 call center, to house additional call center staff necessary to improve service delivery.

5. Answers to Mayor & Council Consent Item Questions

Resource: Curt Walton, City Manager

Time: 10 minutes

Synopsis

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

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

CONSENT

 Consent agenda items 16 through 32 may be considered in one motion except those items removed by a Council member. Items are removed by notifying the City Clerk before the meeting.

PUBLIC HEARING

7. Hotel/Motel Ordinances

Action: A. Conduct a public hearing on changes to Chapters 11 and 15 of the City Code regarding hotels/motels, and

B. Adopt ordinances amending Chapter 11 and Chapter 15 of the City Code, effective April 1, 2008.

Committee Chair: Warren Turner

Staff Resource: Major Diego Anselmo, CMPD

Explanation

- Council received a dinner briefing on proposed changes to the ordinances on December 10, 2007.
- CMPD and Code Enforcement came to the Community Safety Committee in 2006 regarding problems at local hotels/motels.
- These problems included excessive calls for police service at some properties, particularly robberies, disorderly conduct, drugs, prostitution and larceny from auto.
- There were also reports of unsanitary and unsafe conditions at some properties, but Code Enforcement has no inspection authority in hotels/motels.
- City staff met with stakeholders including the hotel/motel owners and operators to develop ordinance changes to address these issues.

Chapter 11 Amendments

- Amendments to Chapter 11 establish minimum fitness standards for hotels/motels and give Code Enforcement inspection authority in those hotels/motels not already regulated by the County or State.
- Referrals for inspections will be made by tenants, petitions or public agencies such as Police, Fire or the Health Department.
- Hotels/motels in violation of the ordinance will be fined \$1,000 plus \$100 per day for each additional day in violation.

Chapter 15 Amendments

- Amendments to Chapter 15 will address public safety issues. They will include
 - Requirement to number rooms
 - Presentation of valid government issued identification or credit card at check-in
 - No hourly rentals (with some appropriate exceptions)
 - Management cannot knowingly provide lodging to guests participating in observable criminal activity on the premises
 - Management must allow police officers to check guest registry for registration information regarding specific suspects involved in specific crimes; allows hotel managers to request to speak to officer's supervisor or require written confirmation prior to the release of guest information
 - No blocking of 911 calls by hotel/motel management
- Violations of Chapter 15 will be a misdemeanor.

• The ordinance will be effective April 1, 2008. Staff will work to educate hotel/motel owners and managers prior to the effective date of the ordinance.

Committee Discussion

- The Community Safety Committee discussed the ordinance at a number of meetings during the last year.
- Committee discussion centered on giving staff the necessary tools to deal with problems at hotels/motels while, at the same time, protecting the rights and privacy of legitimate guests. The Committee also did not want to displace those people who are dependent upon hotels/motels for longer term lodging.
- The Committee voted to recommend passage of the two ordinances to the full Council at its September 10 meeting. The vote was 3-0 (Kinsey, Dulin, Foxx voting yes; Turner and Mitchell absent). The Committee requested an evaluation from staff on the effectiveness of the ordinance in January 2009.
- After the September 10 meeting, staff received additional feedback, primarily from representatives of larger hotels/motels already being regulated by the County or state. They felt that the ordinance was overly burdensome relative to inspections. As a result, the proposed amendments to Chapter 11 were changed to apply to those hotels/motels that are not currently regulated by the county or state.
- The Community Safety Committee will meet on January 10 to discuss the ordinance. The Friday, January 11 Council-Manager Memorandum will contain the Committee's action and the ordinances.

POLICY

8. City Manager's Report

9. NCDOT's Proposals for I-277 Lighting

Action: A. Direct the vote of the City's Mecklenburg Union Metropolitan Planning Organization representative to support the Technical Coordinating Committee recommendation to include \$6.5 million in Transportation Improvement Project funds for Charlotte interstate lighting, and

> B. Adopt a resolution in support of the North Carolina Department of Transportation (NCDOT) requesting \$650,000 in additional funds from the North Carolina Board of Transportation.

Staff Resource:

Danny Pleasant, CDOT Barry Moose, NCDOT

- Council received a briefing on I-277 lighting at its November 26 meeting from Tim Boland, Division 10 Operations Engineer.
- On February 12, 2007 the Charlotte City Council unanimously supported the NCDOT's plan to replace the lighting along I-277, from I-77 to US 74, with solar lighting since the lighting system in this area is 35 years old and beyond the point of repair.
- Both NCDOT Division 10 staff and the City Council preferred solar lighting due to the lower cost, ability to implement quicker and beneficial environmental effect.
- In October 2007 Barry Moose, NCDOT Division 10 Engineer, informed the City that Raleigh NCDOT staff would not approve the solar freeway lighting solution because they do not believe it would light the highways adequately.
- Moose stated that the only available funding source to replace the conventional lighting would be from the Transportation Improvement Program (TIP). He estimated that a complete reconstruction of the lighting system would cost approximately \$6.5 million.
- Moose also stated that since each Division has the ability to over-program the TIP by 10%, this project could be added to the TIP without delaying any existing projects. However, future projects not currently funded may be impacted. Not all State road funding is subject to the Equity Formula, but this project is.
- At its December meeting, the Technical Coordinating Committee made a recommendation to the MPO Board to fund the lighting reconstruction program along I-277, between I-77 and US 74, with TIP funds. The Metropolitan Planning Organization Board will vote on this recommendation at their January 16 meeting.
- The Division has also committed to repair the remaining lighting system along interstates in Mecklenburg County at State expense. They have identified \$400,000 in Economic Development Funds and \$250,000 in Small Construction Funds to assist in the funding of these improvements.

 The Division requests a resolution of support from the Charlotte City Council to pursue these additional funds. These funds are outside the Equity Formula. There are not enough funds in these two programs to fund the \$6.5 million replacement project.

Funding State of North Carolina

Attachment 1

Resolution

10. FY2009 Federal Legislative Agenda

Action: Approve FY2009 Federal Legislative Agenda.

Staff Resource: Boyd Cauble, City Manager's Office

Explanation

- The attached 2008 Federal Legislative Agenda is the result of assembling requests from City staff and elected officials for federal assistance to help fund high priority projects/programs. The requests support Council's approved initiatives that are eligible for funding from several different federal agencies.
- Consideration was given to Council's highest priorities. Attention was given to project locations (different Delegation members' districts) and to eligible agency funding sources (not all requests from the same budget). Considerable attention was given to the highest priority areas rather than every worthwhile project. This strategy is compliant with comments staff has received from the Delegation in the past.
- Finally, after Council's review of the preliminary requests during the January 7th Workshop, additional information was added to each request for further clarity and to conform to current federal committee request formats.
- Upon Council adoption of the Federal Legislative Agenda, the document will be submitted to each of the Delegation members for their consideration for sponsorship and/or endorsement.

Next Step

Present Federal Legislative Agenda to Washington Delegation and work with them to accomplish the City of Charlotte's requests

Attachment 2

Proposed 2008 Federal Legislative Agenda

BUSINESS

11. Eastway Wrecker Litigation

Action: Adopt a budget ordinance appropriating \$296,154 from General Fund fund balance for remaining costs associated with conclusion of the Eastway Wrecker Litigation.

Staff Resource: Mac McCarley, City Attorney's Office Cindy White, City Attorney's Office

- In March 2002 Eastway Wrecker Service filed a lawsuit against the City in an effort to recover approximately \$2 million in damages relating to a "zone wrecker" contract that began in 1994 and ended in October 2001.
- The City was successful in having two of the four claims dismissed from the lawsuit; Eastway appealed to the North Carolina Court of Appeals and then the Supreme Court. The City prevailed on appeal and the matter came up for trial on November 5, 2007.
- The City settled this matter on the second day of the trial for \$50,000.
- Last October City Council adopted a budget ordinance appropriating \$300,000 for trial related expenses in the Eastway lawsuit based on a preliminary staff estimate.
- The \$296,154 supplemental appropriation represents legal fees and expenses in excess of the original appropriation. The original estimate did not include the settlement payout, assistance in responding to a public records request Eastway submitted in September 2007, nor did it include an audit of the 2007 wrecker service procurement process. Additionally, the trial preparation costs were higher than expected, due mainly to the number of witnesses that had to be prepared for trial, the high volume of documents that were considered for inclusion as exhibits and the breadth of issues that had to be dealt with in pre trial motions.
- Eastway's public records request covered tens of thousands of documents. Because the responsive documents were intermingled electronically with protected documents that should not be disclosed (such as personal identifying information about citizens, trial preparation materials for the lawsuit and legal advice about the current zone wrecker contracts), it was necessary to have outside counsel screen out the privileged and protected information.
- Cost components associated with the total \$596,154 spent on the Eastway lawsuit and public records request include:
 - \$385,073 to Moore & Van Allen for fees and expenses related to discovery, Eastway's appeal to the N.C. Supreme Court, trial preparation and settlement
 - \$50,000 to Eastway Wrecker for lawsuit settlement
 - \$49,500 to the McNair Law Firm for an audit of the 2007 wrecker service procurement process (performed by retired Superior Court Judge Chase Saunders)
 - \$111,581 to Moore & Van Allen for fees and expenses incurred in responding to a massive public records request Eastway submitted in September relating to the 2007 wrecker contract award process

Funding

General Fund fund balance. General Fund balance at the end of FY2007 is 17.6%. Council's General Fund balance policy is 16%.

Attachment 3

Budget Ordinance

12. Legal Counsel for South Carolina vs North Carolina Concerning Catawba River Water Rights

Action: A. Approve retaining the law firm of Hogan & Hartson to represent the City of Charlotte's interests in the law suit filed by South Carolina against North Carolina over water rights in the Catawba River under an initial agreement not to exceed \$400,000, and

B. Adopt a budget ordinance appropriating \$400,000 from Utilities operating fund balance.

Staff Resource: Mac McCarley, City Attorney's Office

Explanation

- South Carolina filed a suit against North Carolina before the United States Supreme Court on June 7, 2007 alleging that North Carolina was using more than its fair share of the water in the Catawba River. One of three examples cited in South Carolina's suit of improper water use is North Carolina's approval of an inter-basin transfer of water from the Catawba River by the City of Charlotte of up to 33 million gallons per day. Under long standing case law, the US Supreme Court has the authority to hear and resolve disputes between states over water rights in rivers that flow from one state into another.
- The US Supreme Court has agreed to hear the suit and ordered North Carolina to file an answer. The suit has the potential to reduce the ability of public water suppliers who depend on the Catawba River in North Carolina, including Charlotte, to meet needs for future growth.
- Both the City Attorney's Office and Charlotte-Mecklenburg Utilities believe that it is necessary for Charlotte to take an active role in the litigation. A number of firms specializing in a US Supreme Court practice and in water rights litigation were considered and several were interviewed. Staff recommends retaining the firm of Hogan & Hartson.
- The City Attorney has approved an initial agreement with Hogan & Hartson to begin work on a motion to intervene in the litigation, pending Council consideration of the proposed agreement. The costs of taking an active role in this litigation are expected to be substantial and to exceed the cost ceiling in the proposed agreement. Updates on the litigation and costs will be provided as the litigation progresses.

Funding

Utilities operating fund balance

Attachment 4

Budget ordinance

13. 2008 Council Meeting Schedule Amendment

Action: Direct the City Clerk to amend the Mayor and Council's regular meeting schedule by removing the February 4, 2008 Workshop from the Calendar.

Staff Resource: Brenda Freeze, City Clerk

Explanation

- The Clerk is required by State Statute 160A-171 to give notice of Council's Regular Meetings and does so by keeping the attached schedule.
- Council will hold its Annual Retreat on Wednesday, Thursday and Friday, January 30, 31 and February 1.
- A workshop is currently scheduled for the following Monday, February 4.
- Typically Council does not hold a meeting the Monday immediately following a three day retreat.

Attachment 5

Current Council Meeting Schedule

14. Nomination to Boards and Commissions

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

A. AIRPORT ADVISORY COMMITTEE

- One appointment for a Westside resident for an unexpired term beginning immediately and ending July 31, 2008.
 - John Z. Warlick moved out of the County and is not eligible for reappointment.

Attachment 6

Applications

B. BUSINESS ADVISORY COMMITTEE

- One appointment for an unexpired term beginning immediately and ending April 28, 2009.
 - Anthony W. Eisenhauer did not meet the 65% attendance requirement for 2007.

Attachment 7

Applications

C. CHARLOTTE MECKLENBURG DEVELOPMENT CORPORATION

- One appointment for an unexpired term beginning immediately and ending October 31, 2009.
 - Todd Mansfield resigned.

Attachment 8

Applications

D. FIREMEN'S RELIEF BOARD OF TRUSTEES

- One appointment for a two year term beginning January 19, 2008.
 - Wendell Fant missed all of the Board's three meetings in 2007.
 - Henry Donaghy sat in for Mr. Fant during his deployment to Iraq in 2006 and Mr. Donaghy is interested in being considered for appointment.

Attachment 9

Applications

E. KEEP CHARLOTTE BEAUTIFUL

- One appointment for an unexpired term beginning immediately and ending June 30, 2008.
 - Jerry Black resigned.

Attachment 10

Applications

F. MAYOR'S INTERNATIONAL CABINET

- Two appointments for three year terms beginning March 1, 2008
 - Randall F. Eaton is eligible and would like to be reappointed.
 - Hal Markowitz is eligible and would like to be reappointed.

Attachment 11

Applications

G. PAROLE ACCOUNTABILITY COMMITTEE

- One appointment for an unexpired term beginning immediately and ending June 1, 2010.
 - Jeannie F. Lee did not meet the 65% attendance requirement for 2007 due to hospitalizations. Ms. Lee is better now and would like to be reappointed.

Attachment 12

Applications

H. PRIVATIZATION/COMPETITION ADVISORY COMMITTEE

- One unexpired appointment for a two year term beginning immediately and ending March 1, 2009.
 - Frank L. Gentry resigned.
- Three appointments for two year terms beginning March 2, 2008.
 - David C. Cordes and Trent Gustafson are both eligible and would like to be reappointed.
 - Dwayne Campbell is not eligible for reappointment.

Attachment 13

Applications

I. TRANSIT SERVICES ADVISORY COMMITTEE

- One appointment for a local or express service passenger of Charlotte transit for a three year term beginning February 1, 2008.
 Marshall Grier is eligible and would like to be reappointed.
- One appointment for a local service passenger of Charlotte transit for an unexpired term beginning immediately and ending January 31, 2010.

- Sherry Helms-Miller resigned.
- One appointment for an express service passenger of Charlotte transit for a three year term beginning February 1, 2008.
 - Charles R. Wheeless is eligible and would like to be reappointed.

Attachment 14

Applications

J. WASTE MANAGEMENT ADVISORY COMMITTEE

- One appointment for a three year term beginning February 2, 2008 for recommendation to the Board of County Commissioners.
 - Brett Rhinehardt is eligible and would like to be reappointed.

Attachment 15

Applications

K. ZONING BOARD OF ADJUSTMENT

- One appointment for a three year term beginning January 31, 2008.
 - Andrew G. Zoutewelle is eligible and would like to be reappointed.

Attachment 16

Applications

15. Mayor and Council Topics

Council members may share information and raise topics for discussion.

Introduction to CONSENT

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

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

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

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

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

Contractors and Consultants All contractor and consultant selections follow the Council approved process unless described otherwise.

CONSENT I

- 16. Various Bids
 - A. Sanitary Sewer Replacements FY2008 CMU Contract One

Staff Resource: Doug Bean

Action

Award the low bid of \$988,703.10 to State Utility Contractors, Inc., of Monroe, North Carolina for replacing severely deteriorated sanitary sewer mains throughout Mecklenburg County.

Small Business Opportunity

Established SBE Goal: 7% Committed SBE Goal: 3.2% State Utility Contractors, Inc. failed to meet the SBE goal, but earned the required number of Good Faith Effort Points. They committed 3.2% (\$31,800) of the total contract amount to the following SBE firms: Union Paving.

B. Manhole Rehabilitation and Sewer Pipe Repair FY2008 Contract

CMU

Staff Resource: Doug Bean

Action

Award the low bid of \$3,024,756.40 to Reynolds Inliner, LLC of Charlotte, North Carolina for repairing and rehabilitating existing sanitary sewer manholes and service connections throughout Mecklenburg County.

Small Business Opportunity

Established SBE Goal: 7% Committed SBE Goal: 54.7% Reynolds Inliner, LLC committed 54.7% (\$1,654,245) of the total contract amount to the following SBE firms: Central Carolina Underground.

C. Wastewater Pumps

CMU

Staff Resource: Doug Bean

Action

Award the low bid to HD Supply Waterworks, LTD, Hickory, North Carolina, in the total amount of \$214,500 for the purchase of two horizontal split case wastewater pumps for the Sardis Road Booster Pump Station.

Small Business Opportunity

Pursuant to Appendix Section 18 of the SBO Program, no SBE goals are established for purchases of goods and equipment.

D. Wastewater Pump System

CMU

Staff Resource: Doug Bean

Action

Award the lowest responsive bid of \$150,938.32 to Integrated 8(a) Solutions, Inc., Newport Beach, California, for the purchase of a skid mounted wastewater pump system for the Sardis Road Booster Pump Station.

Small Business Opportunity

Pursuant to Appendix Section 18 of the SBO Program, no SBE goals are established for purchases of goods and equipment.

E. Reinforced Concrete Pipe

CDOT

Staff Resource: Jeff Black

Action

Award the lowest responsive unit price bid by Frankie Thompson Enterprises, Inc. of Riverdale, Georgia for providing reinforced concrete pipe in the amount of \$54,513.26 for the term of one year and authorize the City Manager to renew for two additional one year terms. Street Maintenance uses reinforced concrete pipe for maintenance and repair of storm drain systems in the City's right-ofway.

Small Business Opportunity

Pursuant to Appendix Section 18 of the SBO Program, no SBE goals are established for purchases of goods & equipment.

F. Bus Stop Sign Hardware

CATS

Staff Resource: Leonard Ganther

Action

Award a two year unit price contract to SouthWood Corporation for bus stop sign hardware, i.e. sign posts, foundations, corner bolts, sign brackets and schedule holders. The estimated annual expenditure for bus stop sign hardware is approximately \$50,000. The cost incurred, per fiscal year, will depend on the actual number of signs that will need to be replaced due to normal wear/tear, intentional damage, bus stop relocations and the number installed due to system expansion. Authorize the City Manager to renew the contract for three additional one year terms.

Small Business Opportunity

Pursuant to Appendix Section 18 of the SBO Program, no SBE goals are established for purchases of goods & equipment.

G. Airport Fuel System Improvements Aviation

Staff Resource: Jerry Orr

Action

Award the low bid of \$6,789,000 by Poling and Bacon Construction Company, Inc. of Poland, Ohio for the construction of two, 30,000 barrel jet fuel tanks and installation of associated piping and control systems to increase system capacity. The project expands the current fuel farm to meet additional demand for fuel storage by the airlines.

Small Business Enterprise

Established SBE Goal: 6% Committed SBE Goal: 7.6% Poling & Bacon committed 7.6% (\$518,719) of the total contract amount to the following SBE firms: Camps Construction (\$310,515) and Vector Electric (\$208,204).

H. Old Pineville Road South – Southern Section EPM and Extension

Staff Resource: Todd Thorne

Action:

Award the low bid of \$2,981,842.50 by United Construction Company of Charlotte, North Carolina. The work includes extending Old Pineville Road from the intersection of Arrowood Road and England Street to the sharp bend in existing Old Pineville Road near the Victory Christian Center and behind the South Oak Center. The bend will be converted into a three way intersection. Additionally, this project will provide bike lanes, drainage, curb and gutter, sidewalks, median islands and street lighting improvements in the road extension and existing Old Pineville Road from Arrowood Road to Lakemist Drive. Construction completion is scheduled for the first quarter of 2009.

Small Business Opportunity

Established SBE Goal: 8% Committed SBE Goal: 8.22% United Construction committed 8.22% (\$245,000) of the total contract amount to the following SBE firms: ACS Pavement Marking, Inc., Bardwil Trucking, LLC, Bullington Construction, Custom Lawn and Landscaping, Solano's Trucking, and Zion Trucking.

I. Optimist Park Sidewalks

EPM

Staff Resource: Valerie Hanes

Action

Award the low bid of \$120,741.50 to Carolina Cajun Concrete, Inc. of Charlotte, North Carolina on a unit price basis. This project will improve pedestrian access through the Optimist Park Neighborhood and to the greenway from Davidson Street to Myers Street along E. 15th Street. The work includes minor drainage, new curb, sidewalks, accessible ramps and drives, planting strip and pavement repair. Construction completion is scheduled second quarter of 2008.

Small Business Opportunity

Under the revised SBO Policy implemented in June 2007, construction contracts under \$200,000 are informal with regards to the SBE goal setting process. Pursuant to Part A, Section 23.1 of the SBO Program, informal contracts are exempt. Carolina Cajun Concrete is a certified SBE firm.

J. Curb Replacement FY2008

EPM

Staff Resource: Jeff Black

Action:

Award the low bid of \$1,154,608.87 by Gelder-Thompson Contracting of Raleigh, North Carolina. This contract will repair or replace damaged curb, sidewalks, accessible ramps and drives at various locations in the city. Selections are made by Street Maintenance supervisors, based on their knowledge of the area and citizen requests. The work also includes repair of damaged curb and asphalt sections at various CATS bus stops within Mecklenburg County. Construction completion is scheduled fourth quarter of 2008.

Small Business Opportunity

Established SBE Goal: 7% Committed SBE Goal: 8.17% Gelder -Thompson committed 8.17% (\$94,371) of the total contract amount to the following SBE firm: All Points Trucking, Inc.

K. Bridge Repairs FY2008

EPM

Staff Resource: Jimmy Rhyne

Action:

Award the low bid of \$677,725.92 by ECON International of Charlotte, North Carolina. Federal law requires inspection of all bridge structures on public roads every two years. On February 27, 2006 Council approved a contract to Inspect City Bridges. This contract is part of an on-going program to inspect and repair City owned bridges and will address repairs to 31 bridges identified in the 2006 bridge inspection cycle. Construction completion is scheduled for third quarter of 2008.

Small Business Opportunity

Established SBE Goal: 7% Committed SBE Goal: 7.76% Econ International, a certified SBE firm, committed 7.76% (\$52,600) of the total contract amount to the following SBE firms: Bullington Construction and Union Paving Contractors, Inc.

17. Refund of Property Taxes

Action: Adopt a resolution authorizing the refund of property taxes assessed through clerical or assessor error in the amount of \$42,645.92.

Staff Resource: Lee Madden

Attachment 17 Resolution List of Refunds

CONSENT II

18. Airport's Third Parallel Runway

Action: Approve change order #2 with E. S. Wagner Company, LLC of Piedmont, South Carolina in the amount of \$1,585,744.56 for additional work on the new runway.

Staff Resource: Jerry Orr, Aviation

Explanation

- On February 28, 2007 Council awarded a contract to E.S. Wagner Company, LLC in the amount of \$43,626,829 for grading of the new runway.
- On August 27, 2007 Council approved Change Order #1 in the amount of \$3,514,989 for additional work to take advantage of favorable bid prices for items that would have been accomplished later in the runway project.
- Change Order #2 includes:
 - \$476,335.55 payment for fuel escalation to date as calculated using the NCDOT fuel escalation formula as required by the contract
 - \$341,157 additional signage, barricades, and pavement markings for modifications to the road detours around the project
 - \$333,252.01 additional asphalt pavement needed to convert Wallace Neel Road from a curb and gutter section to a paved shoulder section, which will help with stormwater management post construction requirements. This will accelerate completion of road detours, a benefit to the neighborhood.
 - \$435,000 clears additional land of trees that would be removed later in the project to eliminate obstructions for aircraft approaches and improve line of sight from the Air Traffic Control Tower taking advantage of favorable bid prices

Disadvantaged Business Enterprise Participation

This change order includes 7% DBE participation.

Funding

Airport Capital Investment Plan

19. Airport Crew Training Facility Expansion

Action: Approve a contract with Rosser International, Inc. of Atlanta, Georgia in the amount of \$600,000 for professional services for design of an expansion of the US Airways Crew Training Facility.

Staff Resource: Jerry Orr, Aviation

Explanation

- In 1987 the City sold \$67 million in Special Facility Bonds and constructed the training and maintenance facilities including a building that held five flight simulators.
- In 1998 the City expanded the training building for five additional flight simulators, which was financed with proceeds of the 2000 Special Facility Bonds.
- US Airways has requested that the current crew training building be expanded to accommodate two new flight simulators to be delivered in August 2008. US Airways requested the project be fast tracked to meet this very aggressive schedule and use the design team that designed the last expansion for consistency.
- The flight simulators are used on a continuous basis and the airline has identified the need for additional simulator bays.
- The two additional flight simulators, which will be at US Airways expense, are estimated to cost \$24 million.
- This contract will provide design, bidding and construction administration services for a four simulator bay expansion of the building.

Small Business Opportunity

Established SBE Goal: 3% Committed SBE Goal: 3% Rosser International committed 3% (\$18,000) to Richa Graphics, Inc.

Funding

Airport Capital Investment Plan

20. Airport Lease Agreement Dispute Settlement

Action: Approve an agreement for Gate Gourmet, Inc. to pay the City \$2,000,000 to settle a contract dispute.

Staff Resource:

Jerry Orr, Aviation Mac McCarley, City Attorney's Office

- Dobbs International Services (Dobbs) began operating at the Airport in the late 1960's to provide catering services to airlines.
- On November 14, 1983 Council approved a lease agreement with Dobbs, the term of which runs to October 31, 2008.
- In 2000 Council approved a land lease with another catering service, LSG SkyChefs, which continues to operate at the Airport.
- In 2001 Dobbs changed its name to Gate Gourmet, Inc. (Gate Gourmet) and became party to the lease.

- On November 5, 2001 Gate Gourmet informed the City that it had ceased operations at the Airport on October 31, 2001 and was terminating its lease effective November 30, 2001. Gate Gourmet argued it was entitled to invoke the *force majeur* clause of the lease for early termination because of the detrimental effect the September 11th attacks had had on the airline industry.
- The City informed Gate Gourmet that it did not accept their attempt to terminate and that Gate Gourmet was still obligated under the lease.
- Because of the specialized nature and the age of the catering facility, the Airport has been unable to find a replacement tenant.
- The current amount due to the City under the lease to date is approximately \$4,265,000.
- Gate Gourmet has offered to fully and finally settle their financial obligation by paying the City \$2,000,000.
- Staff recommends the settlement.

21. Miscellaneous Water and Sewer Construction, Contract Renewal #2

Action: Approve renewal #2 of the contract with State Utility Contractors, Inc. of Monroe, North Carolina, in the amount of \$1,255,416.75. Contract provides for the repair and replacement of existing fire hydrants, valves, services and associated appurtenances as needed throughout Mecklenburg County.

Staff Resource: Doug Bean, Utilities

Explanation

- Original contract awarded by Council on February 13, 2006 and renewal #1 awarded by Council on February 26, 2007.
- At the option of the City, the contract may be renewed for three additional terms.
- This renewal provides for additional resources to expedite the repair and replacement of fire hydrants, valves and services. The contractor responds quickly to complex repairs such as water main breaks and repairs resulting from vehicle accidents.

Small Business Opportunity

Pursuant to Part B, Section 2.4 of the SBO Program, no SBO utilization goal was set for this contract because subcontracting is not anticipated.

Funding

Water and Sewer Capital Investment Plan

22. FY2008 Water Main Replacements

Action: A. Reject the low bid of \$1,594,462.06 by 7 Star Construction, Inc. of Rock Hill, South Carolina for failure to submit a responsive bid, and

B. Approve a contract with Dellinger, Inc. of Monroe, North Carolina in the amount of \$1,633,877.85 for replacement of aging water mains.

Staff Resource: Doug Bean, Utilities

Explanation

- 7 Star Construction, Inc. failed to submit the required Commercial Nondiscrimination Certification form and the Non-collusive Affidavit with their bid. These omissions made their bid non-responsive.
- This contract provides for the replacement of aging water mains throughout Mecklenburg County. Staff maintains a list of replacement projects, which originate from water quality/low pressure complaints, repeat repairs, and fire flow deficiencies identified by fire departments.

Summary of Bids

7 Star Construction, Inc.	\$1,594,462.06
Dellinger, Inc.	\$1,633,877.85
R.H. Price, Inc.	\$1,713,795.60
Propst Construction	\$1,714,888.45
Dallas 1 Construction	\$1,734,056.50
State Utility Construction	\$1,773,173.60
Triangle Grading & Paving	\$2,436,140.00

Small Business Opportunity

Established SBE Goal: 8%

Committed SBE Goal: 8.02%

Dellinger, Inc. committed 8.02% (\$131,000) of the total contract amount to the following SBE firms: Union Paving Contractors, Hazel Holmes Trucking, Wilson & Sons Construction, Bergman Brothers, Ms. Sybil's Seeding.

Funding

Water Capital Investment Plan

23. McAlpine Relief Sewer Consultant Contract

Action: Approve the professional services contract with McKim and Creed in the amount of \$2,100,000 for design and construction administration services for the McAlpine Relief Sewer Phases One and Two.

Staff Resource: Doug Bean, Utilities

Explanation

- The primary function of the McAlpine Relief Sewer is to eliminate overflows in the collection system and provide added capacity for future development.
- McKim and Creed was selected to design the McAlpine Relief Sewer project in 1999, pursuant to the Council approved qualifications-based selection process performed in accordance with state statutes.
- The project has been delayed due to funding, permitting issues and citizen input.
- McAlpine Relief Sewer Phase One is among the projects identified in an agreement with Environmental Protection Agency to reduce sanitary sewer overflows.
- The contract continues McKim and Creed's design work and includes construction administration and inspection services. McKim and Creed are the most knowledgeable about the construction site and the assumptions made during design.
- Phase One construction contract was awarded by City Council on December 10, 2007.
- Phase Two is scheduled to begin construction in the last quarter of 2008.

Small Business Opportunity

Pursuant to the SBO Program Policy for professional services contracts, the City negotiated a Committed SBE goal with the selected firm. McKim and Creed committed 19.76% (\$415,280) of the total contract amount to the following SBE firms: Avioimage, Gavel Engineering.

Funding

Sewer Capital Investment Plan

24. Health Resources and Services Administration Funding

Action:	Α.	Accept funding from the State of North Carolina's Department of Health and Human Services, Division of Facility Services, Office of Emergency Medical Services (NCOEMS) in the amount of \$100,000 to provide training for various statewide State Medical Assistance Teams (SMAT IIIs), and
	В.	Adopt a budget ordinance appropriating this funding of \$100,000 from NCOEMS.

Staff Resource: Jeff Dulin, Fire

Explanation

- The State of North Carolina requested that the Charlotte Fire Department serve as the administrator for all of the Urban Search and Rescue Disaster Medical Specialist Courses to be provided to members of NCOEMS sponsored State Medical Assistance Team (SMAT) III's.
- The primary focus of the training will be for the SMAT III teams located within the Charlotte Urban Area Security Initiative Region.
- CFD will develop the Disaster Medical Technician Course, which will include four components: Haz Mat, Swiftwater, Urban Search and Rescue (USAR), and a medical component.
- Training will better prepare the SMAT III teams to support the USAR teams during deployments.
- Some equipment procured will be retained by the Charlotte area SMAT III's after being used in class setting.

Funding

State of North Carolina grant

Attachment 18

Budget Ordinance

25. Voluntary Annexation Public Hearing Date

Action: Adopt a resolution setting public hearings for February 11, 2008 for Voluntary Annexations.

Staff Resources: Jonathan Wells, Planning

Policy

City Annexation Policy and State Annexation Statutes

- Several voluntary annexation petitions have been received for property in Charlotte's extraterritorial jurisdiction immediately outside the current City limits.
- The petitioner is Mecklenburg County.

- Petitions are
 - Gallant Lane, located off Brown Grier Road in Steele Creek area
 - Flat Branch Park, located along Ardrey Kell and Tom Short Roads in south Mecklenburg County
 - Burnt Umber, located south of Plaza Road extension
 - Reedy Creek Park II, which is a portion of Reedy Creek Park along Plaza Road extension
 - Hucks Road Park, located on the south side of Hucks Road east of NC115
 - Beatties Ford/485, located north of future I-485 west of Beatties Ford Road
 - Winget Road, located off Winget Road in the Steele Creek area
- In addition, the following City-owned property is included
 - Mallard Creek treatment plant property off North Tryon Street
- Many of the petitioned properties are located within 2009 annexation study areas adopted by City Council in June 2007. Annexation of these County-owned properties at this time will allow for a more orderly annexation process leading up to the 2009 annexation effective date of June 30, 2009.
- The petition properties are largely vacant, having been acquired for future parkland development and for nature preserve purposes; however, one area (Winget Road) is improved with an elementary school and adjoining park.
- Each of the petitioned areas shares boundaries with current City limits.
- Public hearings are required prior to City Council taking action on annexation requests.
- The purpose of the required public hearings is to obtain public input on these requested voluntary annexations.

Consistency with City Council Policies

- Consistent with voluntary annexation policies approved on March 24, 2003.
- Annexation will not adversely affect the City's ability to undertake future annexations.
- Annexation will not have undue negative impact on City finances or services.
- Annexation will not result in situation where unincorporated areas will be encompassed by new City limits.

Public Hearing Date

- The resolution sets Monday February 11, 2008 as the date for public hearings on the voluntary annexations.
- City Council will be asked to take action on voluntary annexations at the conclusion of public hearings.

Attachment 19

Resolutions Maps

26. Pipe Video Inspection FY2006 Renewal #2

Action: A. Approve renewal #2 for \$51,150 with Underground Camera Services, Inc. for Pipe Video Inspection FY2006, and

B. Authorize the City Manager to approve the third and final renewal in a not to exceed amount of \$51,150.

Staff Resource: Tim Richards, Engineering & Property Management

Explanation

- The project consists of remote video camera inspection of underground storm drainage systems for purposes of assessing pipe conditions at various locations throughout the City.
- The location and timing of the services are determined based upon customer service requests and project schedules.
- Work will be done under the original contract document, using original bid unit prices adjusted for inflation in accordance with the contract provisions.
- This is the second of three possible renewals allowed under the contract, at the City's option, as an incentive to the contractor for productivity and good workmanship.

Contract History

- The City Manager approved the original contract for \$51,150 on May 9, 2006.
- The City Manager approved renewal #1 for \$51,150 on October 11, 2006.
- The total contract amount for Pipe Video Inspection FY06, including renewal #2 and #3, will be \$204,600.

Small Business Opportunity

Pursuant to Part C: Section 2.4 of the SBO Program, no SBO utilization goal was set for this contract because subcontracting is not anticipated.

Funding

Storm Water Operating Fund

27. Reimbursement Agreement for Project at 6801 South Boulevard

Action: Authorize the City Manager to negotiate a reimbursement agreement with MD Investments of NC, LLC for storm drainage improvements at 6801 South Boulevard for an amount not to exceed \$175,000.

Staff Resource: Tim Richards, Engineering & Property Management

- By Council policy, Storm Water Services assists certain development projects by
 - Providing improvements to drainage infrastructure that conveys public storm water runoff

- Partnering with private development projects when both public and private storm drainage needs can be met
- Accelerating City-funded work to take advantage of the development schedule
- Storm Water Services is limited, by state statute, to a financial participation limit of \$175,000 per development project when it is not being publicly bid.
- The development project at 6801 South Boulevard will be designed and constructed by private entities.
- Studies show that the drainage system through 6801 South Boulevard should be replaced with an improved system having an increased capacity to convey storm water.
- Proposed improvements to the system through 6801 South Boulevard are part of a pending capital improvement project.
- Storm Water Services is sharing in the cost of the improvements because the pending capital improvement project will need to increase the size of the pipes on the property at a later date if not constructed with the development.
- The development project is a mixed-use retail development.
- The development project meets the requirements for assistance through the Storm Water Services program.
- Storm Water Services will inspect the construction of this project prior to paying for the work and will pay only for actual costs, not to exceed \$175,000.

Small Business Opportunity

Pursuant to Part A, Section 23.1 of the SBO Program Policy these agreements are exempt.

Funding

Stormwater Capital Investment Plan

28. Reimbursement Agreement for Storm Drainage Improvements in North Davidson Street Area

Action: Authorize the City Manager to negotiate a reimbursement agreement with NODA @ 28th Street, LLC (developer) for storm drainage improvement at North Davidson Street and 28th Street, for an amount not to exceed \$175,000.

Staff Resource: Tim Richards, Engineering & Property Management

- By Council policy, Storm Water Services assists certain development projects by
 - Providing improvements to drainage infrastructure that conveys public storm water runoff
 - Partnering with private development projects when both public and private storm drainage needs can be met
 - Accelerating City-funded work to take advantage of the development schedule
- Storm Water Services is limited by state statute to a financial participation limit of \$175,000 per development project when it is not being publicly bid.

- The development project at North Davidson and 28th Streets will be designed and constructed by private entities.
- In developing the property, a 72 inch corrugated metal pipe will be moved off the site property and into the right-of-way of 27th Street.
- The existing 72 inch pipe is in need of repairs and would be a future Storm Water Services project.
- The City and NODA@28th Street, LLC (Developer) have agreed that the Developer is in the best position to provide design and construction services for the project at this time.
- The development project meets the requirements for assistance through the Storm Water Services program.
- Storm Water Services will inspect the construction of this project prior to paying for the work and will pay only for actual costs, not to exceed \$175,000.

Small Business Opportunity

Pursuant to Part A, Section 23.1 of the SBO Program Policy these agreements are exempt.

Funding

Stormwater Capital Investment Plan

29. Memorandum of Agreement for Storm Debris Removal in State Right of Way

Action: Authorize the City Manager to negotiate and execute a Memorandum of Agreement (MOA) annually with the North Carolina Department of Transportation (NCDOT) for storm debris removal on NCDOT secondary routes.

Staff Resource: Bong Vang, Engineering & Property Management

- New Federal Emergency Management Agency (FEMA) guidelines require local municipalities to enter into a Memorandum of Agreement with the regulating state transportation agency for removing storm debris on state secondary routes within city limits.
- The MOA is part of a comprehensive county/city/town storm debris removal plan that will increase FEMA aid in the event of a federally declared disaster.
- This MOA will allow the City to receive full reimbursement from FEMA for storm debris removal services on state secondary routes. Without this MOA in place, the City will not receive reimbursement from FEMA for any storm debris removal services on state secondary routes.
- The storm debris removal on state secondary roads is a low priority for the State. This MOA will allow City forces to expedite the storm debris removal services to citizens residing in these areas.
- Under the MOA, the City may prioritize and provide storm debris removal services to these state secondary roads.
- The City has traditionally removed debris from secondary roads.
- The MOA is to help the federal government ensure only one agency is applying for reimbursement.

Small Business Opportunity

Pursuant to Part A, Section 23.8 of the SBO Program Policy these agreements are exempt.

30. Tyvola Intersection Condemnation Settlement Additional Compensation

Action:	Approve final legal settlement of \$215,000 in the condemnation case captioned City of Charlotte vs South Star Holdings-East
	Charlotte, LLC, 05 CVS 18813, Mecklenburg County Superior Court.

Staff Resource: DeWitt McCarley, City Attorney's Office Catherine Williamson, City Attorney's Office

- 4,827 square feet of fee simple and 5,576 square feet of temporary construction easement was acquired by condemnation from this property located at the corner of Tyvola Road and South Boulevard, the site of a Rite Aid Drug Store (formerly Eckerd's).
- Council authorized condemnation for the construction of Tyvola Intersection improvements in the appraised amount of \$87,100.
- The case proceeded to court-ordered mediation where the property owner presented evidence that the value of the land taken alone was \$228,000. In addition, tenant Eckerd's Drugs presented evidence that their leasehold interest was damaged in the amount of approximately \$140,000, for a total settlement demand of \$370,000. The case did not settle at mediation.
- The owner and tenant then asked the court to decide whether the tenant was entitled to any of the condemnation proceeds, and the court ruled that Eckerd's was entitled to both permanent and temporary damages.
- Eckerd's then obtained an appraisal in the amount of \$382,500 and staff again scheduled mediation.
- The case did not settle at the second mediation, but three days before the trial date, the parties did reach settlement for the total amount of \$215,000.
- At the time of settlement the City's appraisal was in the process of being updated for trial, and our appraised amount was expected to increase to approximately \$120,000.
- The settlement amount is \$127,900 over the City's deposit, but it is only \$95,000 above the evidence the City would present at trial. It is \$167,500 less than the evidence Eckerd's would present.
- In addition to being a good compromise of the City's risk, the settlement also avoids the payment of interest and court costs which would be owed on a jury verdict.

31. Property Transactions

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

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

Acquisitions

- Project: Airport FAR Part 150 Land Α. **Owner(s):** Ronald and Sandy Ridout Property Address: 6457 Shoreline Drive **Property to be acquired:** .5 acres Improvements: Single Family Residence Purchase Price: \$165,000 **Remarks:** The purchase price was determined by an independent appraiser and was reviewed by a second appraiser. Each appraisal takes into consideration the specific quality and quantity of the land. The tax value is determined on a more generic basis and will be higher or lower for land/house with certain attributes. Property is acquired per Federal Guidelines 49 CFR Part 24 of the Uniform Acquisition and Relocation Act of 1970. Acquisition costs are eligible for Federal Aviation Administration reimbursement Zoned R3 Use: Single Family Residential Tax Value: \$80,000 Tax Codes: 055-365-10
- Project: Dixie River Road Realignment, Parcel # 14 & 15 Β. **Owner(s):** Roy Herndon Freeman and Wife, Rachel S. Freeman Property Address: 9500 Steele Creek Road Property to be acquired: 52,809 sq. ft. (1.212 ac.) in Fee Simple, plus 2,415 sq. ft. (.055 ac.) in Existing Right-of-way, plus 17,987 sq. ft. (.413 ac.) in Temporary Construction Easement Improvements: None Landscaping: None Purchase Price: \$517,127 **Remarks:** Compensation was established by an independent, certified appraisal and appraisal review. Zoned: R-3 Use: Single Family Residential - Rural Acreage Tax Code: 199-193-14 / 199-193-13 Total Parcel Tax Value: \$327,200

Condemnations

- С. Project: Old Steele Creek Road Sidewalk, Parcel # 5 **Owner(s):** Michael David Armstrong and Jane A. Robinson F/K/A Jane A. Atkinson and Any Other Parties of Interest Property Address: 4300 West Tyvola Road Property to be acquired: Total Combined Area of 6,993 sq. ft. (.161 ac.) of Fee Simple, plus Existing Right-of-way, plus **Temporary Construction Easement** Improvements: None Landscaping: None Purchase Price: \$175 Remarks: Compensation was established by an independent, certified appraisal and an appraisal review. City staff has yet to reach a negotiated settlement with the property owner. Zoned: R-22MF Use: Single Family Residential Tax Code: 145-222-11 Total Parcel Tax Value: \$8,400
- D. Project: Old Steele Creek Road Sidewalk, Parcel # 7
 Owner(s): Michael D. Armstrong and Any Other Parties Of Interest
 Property Address: 4316 West Tyvola Road
 Demonstrate to be pervised. Total Combined Area of 1,752 and

Property to be acquired: Total Combined Area of 1,752 sq. ft. (.040 ac.) of Existing Right-of-way, plus Temporary Construction Easement Improvements: None Landscaping: None Purchase Price: \$25 Remarks: Compensation was established by an independent, certified appraisal and an appraisal review. City staff has yet to reach a negotiated settlement with the property owner. Condemnation is necessary because there is a legal issue with the title (ownership) of the property. Zoned: R-22MF Use: Commercial Tax Code: 145-222-13 Total Parcel Tax Value: \$19,000

Ε. Project: Old Steele Creek Road Sidewalk, Parcel # 9 Owner(s): Michael D. Armstrong, Sr. and Any Other Parties of Interest Property Address: West Tyvola Road Property to be acquired: Total Combined Area of 6,290 sq. ft. (.144 ac.) of Fee Simple, plus Existing Right-of-way, plus **Temporary Construction Easement** Improvements: None Landscaping: None Purchase Price: \$600 **Remarks:** Compensation was established by an independent, certified appraisal and an appraisal review. City staff has yet to reach a negotiated settlement with the property owner. Zoned: R-22MF **Use:** Multi Family

Tax Code: 145-222-08 Total Parcel Tax Value: \$9,800

F. Project: The Plaza Sidewalk Project (Armstrong Glen 05 01122), Parcel # 2 **Owner(s):** Jerry Gaston And Wife, Vera A. Young and Any Other Parties Of Interest Property Address: 6715 The Plaza Property to be acquired: Total Combined Area of 360 sq. ft. (.008 ac.) of Sidewalk and Utility Easement, plus Temporary **Construction Easement** Improvements: None Landscaping: None Purchase Price: \$250 Remarks: Compensation was established by an independent, certified appraisal and an appraisal review. City staff has yet to reach a negotiated settlement with the property owner. Zoned: R-4 **Use:** Rural Homesite Tax Code: 097-041-01 Total Parcel Tax Value: \$109,300

32. Meeting Minutes

Action:	 Approve the titles, motions and votes reflected in the Clerk's record as the minutes of: November 26, 2007 December 3, 2007 December 10, 2007
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