COMMITTEE ON WAYS AND MEANS

1. Invocation – Councilmember Waring

2. Approval of Minutes:
   - December 1, 2020
   - December 15, 2020

3. Bids and Purchases (Executive Session in accordance with Section 30-4-70 (a)(2) of the South Carolina Code to receive legal advice if necessary)

4. Parks-Capital Projects: Approval of the 2021 Parks and Recreation Development (PARD) Grant Application for Johns Island Park Playground Phase II for an expansion of playground equipment including new play structures, safety surfacing, and site work for installation. The funding requested is $33,511.63 with a 20% City Match of $6,702.33.

5. Parks-Capital Projects: Approval of a Construction Contract with Mashburn Construction Company, Inc. in the amount of $1,967,532 for the construction of a multi-purpose building, restrooms, open air pavilion, decking, pervious path, playground and parking at Carr-Richardson Park, formerly known as Bender Street Park. With the approval of the project budget, Staff is authorized to award and/or amend contracts less than $40,000, to the extent contingency funds exist in the Council approved budget. The Construction Contract will obligate $1,967,532 of the $2,795,052 project budget. The funding sources for this project are: Land Sales ($350,025) and Hospitality Funds ($2,445,000).

6. The Committee on Real Estate (Meeting was held on Monday, January 11, 2021 at 3:30 p.m., Conference Call: 1-929-205-6099; Access Code: 835 678 884)
   
   a. A Resolution authorizing the Mayor to execute on behalf of the City of Charleston a release and all documents necessary to release a use restriction and possibility of reverter applicable to that certain real property designated as Charleston County TMS No. 502-00-00-021, located in the City of North Charleston, and more particularly shown and described as “Tract A 10.07 acres new area,” on that certain plat entitled “plat of the subdivision of Tract A (12.84 ac.) To create new tract a (10.07 ac.) and rail parcel (2.77 ac.),” recorded on November 16, 2020 in plat book l20 at page 0430 in the ROD Office for Charleston County, South Carolina, in consideration for $350,000.00.
b. Discussion and action regarding alternative location of Dominion Energy utility switch gear boxes on 179 Nassau St. (Property owned by the City of Charleston: TMS No. 459-05-03-001).

c. Update and action on the sale of 431 Meeting Street (Charleston School of Law property)

An ordinance authorizing the Mayor to execute on behalf of the City a Quit Claim Deed and elimination of possibility of reverter, such possibility of reverter contained in Deed recorded in Book J-543, at page 031 for the property located at the corner of Meeting and Wolfe Streets bearing TMS # 459-09-01-049 in the City and County of Charleston, State of South Carolina and to ratify and adopt any and all modifications or amendments to Ordinance # 2004-150.

d. Request authority for the Mayor to execute a rental agreement in the amount of $6,808 with St. Andrews Parish Parks and Playgrounds for pool space at St. Andrews Family Fitness Plus, 1642 Sam Rittenburg Blvd., Charleston, SC, from January 4, 2021 to March 25, 2021. Lease is for four lanes and cost of hiring lifeguards as set forth in the attached agreement. ($6,808)

e. Request authorization for the Mayor to execute a Resolution approving the submission of an application for greenbelt funds for the purchase of the property commonly known as the Howle Avenue tract on James Island, South Carolina, bearing TMS No. 343-07-00-055. (Exhibit to be provided under separate cover by the Parks Department)

f. An ordinance authorizing the Mayor to execute on behalf of the City of Charleston (“City”) a Real Property Exchange Agreement and other documents necessary to convey to America Street Ventures, LLC, or its assigns, the City’s property designated as a portion of TMS No. 459-05-04-209 and TMS No. 459-05-04-220, subject to affordable housing restrictions, in exchange for the conveyance to the City of property designated as TMS Nos. 459-05-04-001, 459-05-04-002, 459-05-04-048, 459-05-04-114, and 459-05-04-115, as shown on the attached map. (AS AMENDED) (See also City Council Agenda Item #L-4) (To be provided under separate cover by the Legal and Housing and Community Development Departments)

g. Consider the following annexation:

(i) 1946 Boeing Avenue (0.25 acre) (TMS# 350-13-00-028), 0.25 acre, West Ashley, (District 5). The property is owned by James Fitzgerald and Amanda L. Rhoden.
COMMITTEE / COUNCIL AGENDA

TO: John J. Tecklenburg, Mayor
FROM: Tom O'Brien
DEPT: Public Service
SUBJECT: JOHNS ISLAND AND WEST ASHLEY OUTSIDE I-526 WASTE COLLECTION SERVICES
REQUEST: Approval to establish a contract for Waste Collection Services on Johns Island & West Ashley outside I-526 with Trident Waste & Recycling, LLC
2701 Route St., N. Charleston, SC 29405. Solicitation #20-P029R

COMMITTEE OF COUNCIL: Ways & Means
DATE: January 12, 2021

COORDINATION: This request has been coordinated with: (attach all recommendations/reviews)

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<thead>
<tr>
<th>Corporate Counsel</th>
<th>Yes</th>
<th>N/A</th>
<th>Signature of Individual Contacted</th>
<th>Attachment</th>
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<td>Cap. Proj. Cmte. Chair</td>
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<tr>
<td>Public Service</td>
<td>X</td>
<td></td>
<td>Thomas F. Brown</td>
<td></td>
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<tr>
<td>Procurement Director</td>
<td>X</td>
<td></td>
<td>Lynne Jones</td>
<td></td>
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FUNDING: Was funding previously approved? Yes [ ] No [ ] N/A [ ]

If yes, provide the following:
Dept./Div.: 322000
Account #: 52206
Balance in Account [ ]
Amount needed for this item [ ]

Does this document need to be recorded at the RMC's Office? [ ] Yes [ ] No

NEED: Identify any critical time constraint(s).

CFO's Signature: [Signature]
FISCAL IMPACT: The cost is $10.75/house/month. Funding for this contract is budgeted in the 2021 Budget

Mayor's Signature: [Signature]

ORIGINATING OFFICE PLEASE NOTE: A FULLY STAFFED/APPROVED (except Mayor's Signature) PACKAGE IS DUE IN THE CLERK OF COUNCIL'S OFFICE NO LATER THAN 10:00AM THE DAY OF THE CLERK'S AGENDA MEETING.
## Score-Sheet

### Johns Island & West Ashley outside I-526 Waste Collection Services

**Technical Evaluation Sheet**

**Solicitation Number:** 20-P029R  
**October 29, 2020**

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<tr>
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<tr>
<td>Carolina Waste &amp; Recycling</td>
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<tr>
<td>Red River Waste Solutions</td>
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<td>456</td>
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<td>587</td>
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**CentralSquare Technologies**

Superion, LLC, a CentralSquare Company  
1000 Business Center Drive  
Lake Mary, FL 32746

Billing Inquiries: Accounts.Receivable@centralsquare.com

**Bill To**  
City of Charleston  
City of Charleston (OSSI)  
Dept of Information Technology  
Attn. Lin Beets  
2 George Street, Suite 2800  
CHARLESTON SC 29401  
United States

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<td>USD</td>
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Please include invoice number(s) on your remittance advice,  
made payable to Superion, LLC

**ACH**:  
Routing Number 121000358  
Account Number 1416612841  
E-mail payment details to: Accounts.Receivable@CentralSquare.com

**Check**:  
12709 Collection Center Drive  
Chicago, IL 60693

**Invoice**

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STATE OF SOUTH CAROLINA    
COUNTY OF CHARLESTON    

AGREEMENT BETWEEN THE CITY OF CHARLESTON  
AND TRIDENT WASTE & RECYCLING LLC FOR  
JOHNS ISLAND & WEST ASHLEY OUTSIDE I-526 WASTE COLLECTION SERVICES  

THIS AGREEMENT is entered into this _____ day of ____________, 20___ between the  
City of Charleston, a municipal corporation organized under the laws of the State of South Carolina  
(hereinafter referred to as “the City”), and Trident Waste & Recycling, LLC (hereinafter referred to as the  
“Contractor”).

NOW, THEREFORE, for and in consideration of the mutual promises, covenants and conditions  
stated herein, the parties agree as follows:

§1.       SCOPE OF SERVICES

The parties agree that the Contractor shall furnish the Johns Island & West Ashley outside I-526  
Waste Collection Services in accordance with Solicitation #20-P029R. All attachments and  
exhibits, including Exhibits A, B, C, D and E listed below, shall be incorporated herein:

Exhibit A:    Solicitation #20-P029R (the “Request for Proposal”)  
Exhibit B:    Addenda to Solicitation  
Exhibit C:    Insurance Requirements  
Exhibit D:    Contractor’s Proposal  
Exhibit E:    Cost Proposal

1. The Contractor shall diligently and in a professional and timely manner perform the services  
as described and set forth in Exhibit A, Exhibit B and Exhibit D as approved by the City in  
fulfilling its obligations as set forth in this Agreement. Unless modified in writing by the  
parties hereto, the duties of the Contractor shall not be construed to exceed the provision of the  
services pertaining to this Agreement.

2. The Contractor hereby warrants and represents to the City that it possesses all necessary  
licenses to perform the work as set forth in this Agreement, carries the requisite insurance  
policies as set forth in Exhibit C, and is competent and able to provide professional and high  
quality services to the City in accordance with this Agreement.

3. The Contractor shall bill only for work according to Exhibit A, Exhibit B and Exhibit D as  
approved by the City and the proposed pricing for such work as shown in Exhibit D. No  
additional work shall be performed unless requested by the City Official authorized for this  
project. If the City requests any additional work from the Contractor, the parties shall  
negotiate any possible additional costs related thereto prior to Contractor’s performance of  
such requested additional work.
4. The Contractor agrees to send any and all reports of work done by the Contractor to the City on a regular basis and to the agreed upon City Representative.

5. The Contractor agrees that any fuel surcharge added must first be approved by the City’s Procurement Director. The rate will be calculated based on updates on Diesel Fuel in the Eastern US from www.eia.gov/petroleum/gasdiesel/.

§2. CONTRACT TERM

The initial term of this Agreement shall be for a period of three (3) year from the date of execution. The City reserves the right to extend the Agreement if the City determines the extension is in its best interest; said extension will be on an annual basis and shall not exceed four (4) additional one (1) year periods.

§3. COMPENSATION AND PAYMENT TERMS

This Agreement authorizes payments of $10.75/house/month plus any fuel surcharges if incurred. The current number of homes is approximately 14,604. This number will increase as homes are added. These payments are to be made in accordance with the Request for Proposal, Addenda and the Contractor(s)’ Proposal Response and Cost Proposal, Exhibits A, B, D and E. Payment terms shall be Net 30 days after receipt of an approved invoice by the City. Payment to the Contractor shall be made after services have been rendered. The Contractor must submit an original invoice for each payment request to the City in care of Accounts Payable whose mailing address is PO Box 853, Charleston, SC 29402, and whose physical office is located at 116 Meeting Street, Charleston, SC 29401. Faxed and/or copied invoices from the Contractor to the City shall not be accepted. Rates shall not increase during the term of this Agreement or any agreement extensions. If the Contractor requests a price increase, it shall be in accordance with the US Department of Labor/Bureau of Labor Statistics/Consumer Price Indexes, and shall only be requested ninety (90) days prior to the anniversary date of the Agreement. The City shall have the sole discretion to honor or reject the Contractor’s request for a price increase.

§4. WARRANTIES AND REPRESENTATIONS

A. The Contractor hereby represents and acknowledges that it is a licensed, bonded contractor capable of performing the work hereunder.

B. All equipment, materials, and supplies incorporated in the work covered by this Agreement and provided by the Contractor are to be of the highest quality for their intended purpose. When requested, the Contractor shall furnish to the City for approval the name of the manufacturer, the model number, and other identifying data and information regarding the performance, capacity, nature and rating of the machinery, mechanical, and other equipment which the Contractor is required to incorporate into the project. Machinery, equipment, material and supplies used without the required prior approval of the City shall be at the risk of subsequent rejection by the City at no cost to the City.

C. The Contractor warrants and represents that its staff is knowledgeable about, and experienced in providing the materials specified in the work required in accordance with this Agreement and warrants that it will use its best skill and attention to provide the above described work and materials in a professional and timely manner.
§5. SUBCONTRACTORS

A. If any Subcontractor shall be used for this project, the Contractor shall provide to the City's Director of Procurement a list of names of any of the intended Subcontractors, the Subcontractor's applicable license number(s), and a description of the work to be done by each subcontractor, if requested by the City.

B. The Contractor shall not substitute any Subcontractor without the prior written consent of the City's Director of Procurement.

C. The Contractor shall be responsible for all services performed by a Subcontractor. Responsibilities include, but are not limited to, compliance with any applicable licensing and insurance regulations.

D. If at any time the City's Director of Procurement determines that any Subcontractor is incompetent or undesirable, he shall notify the Contractor accordingly, and the Contractor shall take immediate steps for the termination/cancellation of the Subcontractor from any further work on the project. In addition, the Contractor shall take the necessary steps to replace such terminated Subcontractor from work on the project with a Subcontractor who is acceptable to the City.

E. Nothing contained in any contract resulting from this Agreement shall create any contractual relationship between any Subcontractor and the City of Charleston.

§6. INDEMNIFICATION

Except for expenses or liabilities incurred by the Contractor arising from the negligence of the City, the Contractor hereby expressly agrees to indemnify and hold the City harmless against any and all expenses and liabilities arising out of the performance or default of this Agreement as follows:

The Contractor expressly agrees to the extent that there is a causal relationship between its negligent, reckless or intentionally wrongful action or inaction, or the negligent, reckless or intentionally wrongful action or inaction of any of its employees or Subcontractors or any person, firm, or corporation directly or indirectly employed by the Contractor, and any damage, liability, injury, loss or expense (whether in connection with bodily injury or death or property damage or loss) that is suffered by the City and its employees or by any member of the public, to indemnify and save the City and its employees harmless against any and all liabilities, penalties, demands, claims, lawsuits, losses, damages, costs and expenses arising out of the performance or default of this Agreement. Such costs shall include defense, settlement, court costs and reasonable attorneys' fees incurred by the City and its employees. This promise by the Contractor to indemnify the City shall include bodily injuries or death occurring to the City's officers, officials, employees and any person directly or indirectly employed by the City, the City's employees, the employees of any other independent contractors including Subcontractors, or to any member of the public. When the City submits notice, Contractor shall promptly defend any aforementioned action. This obligation of insurance coverage required herein shall not serve to limit this indemnity obligation. The recovery of costs and fees shall extend to those incurred in the enforcement of this indemnity.
§7. INSURANCE REQUIREMENTS

The Contractor shall comply with all insurance requirements which are set forth in Exhibit C.

§8. GRATUITIES AND KICKBACKS

**Gratuities.** It shall be unethical and a violation of this Agreement by the Contractor for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept, or agree to accept from another person a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter pertaining to any program requirement of a contract or subcontract, or to any solicitation or bid therefore.

**Kickbacks.** It shall be unethical and a violation of this Agreement by the Contractor for any payment, gratuity, or offer of employment to be made by or on behalf of a Subcontractor under a contract to the Contractor, or to hire any Subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

§9. TERMINATION

**For Convenience:** After the initial term, the City reserves the right to terminate the contract with the Contractor when it is in the best interest of the City, including, but not limited to non-appropriation of funds. If the contract is so terminated, the City shall provide the Contractor with a minimum of ninety (90) days written notice and shall compensate Contractor for all necessary and reasonable direct costs of performing the services actually accomplished as of the date of termination. No other costs shall be allowed for a termination for convenience. No damages shall be allowed for a termination for convenience.

**For Default:** If the Contractor fails to comply with the terms of the contract the City shall notify the Contractor in writing of the specifics regarding such noncompliance. If the Contractor fails to begin to cure the noncompliance within five (5) days after the notice, the City may terminate the contract by written notice to the Contractor with a minimum of thirty (30) days thereafter and Contractor shall only be compensated for services actually completed prior to termination, contractor shall not be entitled to any costs or damages resulting from a termination under this section.

§10. ASSIGNMENT

The Contractor shall not assign in whole or in part any part of this Agreement without the prior written consent of the City. The Contractor shall not assign any money due or to become due to it under this Agreement without the prior written consent of the City.

§11. NOTICES

All notices required under this Agreement to the parties shall be deemed properly given when deposited in the United States mail, either by registered or certified mail (postage prepaid) to:
To:          To:
City of Charleston    Trident Waste & Recycling, LLC
John J. Tecklenburg   G. Scott Fennell
Mayor                President & CEO
PO Box 304            2701 Rourk Street
Charleston, SC  29402    North Charleston, SC  29405

With copies to:

City of Charleston
Legal Department
50 Broad Street
Charleston, SC  29401

City of Charleston
Procurement Division
75 Calhoun Street, Suite 3500
Charleston, SC  29401

§12. CHANGE ORDERS

No oral statement of any person shall modify or otherwise change, or affect the terms, conditions or specifications stated in this Agreement. The City’s Procurement Director shall make all change orders to this Agreement in writing. The City shall \textit{not} be bound by any change in this Agreement unless approved in writing by the Procurement Director.

§13. ENTIRE AGREEMENT

This document and its Exhibits constitute the entire Agreement between the parties and all previous negotiations leading thereto. This Agreement shall be modified only by a written agreement signed by the City and the Contractor.

§14. GOVERNING LAWS

The laws of the State of South Carolina shall govern this Agreement. All litigation arising under this Agreement shall be litigated in the Circuit Court in the Ninth Judicial Circuit of Charleston County, South Carolina, in the Court of Common Pleas.

§15. LICENSE AND PERMITS

The Contractor shall, without additional expense to the City, be responsible for obtaining all necessary licenses and permits required by the State of South Carolina, or the City of Charleston or any other authority having jurisdiction as necessary to fully perform its obligations pursuant to this Agreement. The Contractor shall provide a copy of its valid City of Charleston Business License to the City upon the execution of this Agreement.
§16. PUBLICITY RELEASES

The Contractor agrees not to refer to the award of this Agreement in any commercial advertising in such a manner as to state or imply that the products or services provided are endorsed or preferred by the City. The Contractor shall not have the right to include the City’s name in its published list of customers without prior approval of the City. With regard to news releases, the Contractor shall only be permitted to use the name of the City and the type and duration of this Agreement in any news releases provided the Contractor shall first have obtained the prior written approval of the City. The Contractor also agrees not to publish, or cite in any form, any comments or quotes from the City’s employees unless it is a direct quote from the Public Information Officer of the City.

§17. INDEPENDENT CONTRACTOR

The Contractor is an independent contractor and shall not be deemed an employee of the City of Charleston for any purpose whatsoever. The Contractor acknowledges that it is the Contractor’s duty to verify identity and eligibility of its employees and all sub-contractors in accordance with IRCA as amended. The Contractor further agrees to indemnify the City if the Contractor fails to comply with IRCA as amended.

§18. SEVERABILITY

If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid and unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed and enforced as so limited.

§19. WAIVER OF CONTRACTUAL RIGHTS

The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party’s right to subsequently enforce and compel strict compliance with every provision of this Agreement.

§20. COMPLIANCE WITH LEGAL REQUIREMENTS

All applicable Federal, State and local laws, ordinances, and rules and regulations of any authorities (including but not limited to any laws, ordinances or regulations relating to the SC Department of Revenue or the SC Board of Contractors) shall be binding upon the Contractor during the term of this Agreement. The Contractor shall be responsible for compliance with any such law, ordinance, rule or regulation, and shall hold the City harmless and indemnify same in the event of non-compliance as set forth in this Agreement.

§21. BACKGROUND CHECK

The City reserves the right to conduct criminal background checks on individuals assigned to this project, including the Contractor, its employees, agents or Subcontractors.
§22. SC STATE AND LOCAL TAX

Except as otherwise provided, contract prices shall include all applicable state and local taxes.

If applicable, two percent (2%) income tax withholding shall be withheld from each and every payment pursuant to Section 12-9-310 of the South Carolina Code of Laws (1976, as amended) for certain out-of-state contractors, and such sums will be paid over to the South Carolina Department of revenue and Taxation (the “SCDRT”). When and if the City receives an executed SCDRT form I-312, Nonresident Taxpayer Registration Affidavit – Income Tax Withholding, such withholding shall cease.

Contractor shall calculate that portion of this Agreement that is subject to the nine percent (9%) South Carolina sales and/or use tax, which amount shall be itemized and shown on all invoices, and shall be paid to the SCDRT by the Contractor. If the Contractor is a non-South Carolina company, the City shall withhold said amount from all invoices and remit payment to the SCDRT, unless the Contractor furnishes the City with a valid South Carolina Use Tax Registration Certificate Number. The total of all sales tax to become due and payable in connection with this Agreement is listed herein.

The Contractor shall indemnify and hold harmless the City for any loss, cost, or expense incurred by, levied upon or billed to the City as a result of the Contractor’s failure to pay any tax of any type due in connection with this Agreement.

§23. NONDISCRIMINATION

The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of the contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.
IN WITNESS WHEREOF, the parties hereto, by their authorized representatives, have signed, sealed and delivered this Agreement at Charleston, South Carolina.

WITNESSES FOR THE CITY:

______________________________________________
John J. Tecklenburg
Mayor
Date: __________________________

Name
Date: __________________________

WITNESSES FOR VENDOR:

______________________________________________
G. Scott Fennell
President & CEO
Date: __________________________

Name
Date: __________________________
EXHIBIT A

Proposal Number: 20-P029R  Proposals will be received until: October 15, 2020 @ 12:00pm
Proposal Title: Johns Island and West Ashley outside of I-526 Waste Collection Services
Mailing Date: September 4, 2020  Direct Inquiries to: Robin B. Robinson
Vendor Name: FEIN/SS#: 
Vendor Address: 
City – State – Zip: 
Telephone Number: Fax Number:

Minority or Women Owned Business:
Are you a certified Minority or Women-Owned business in the State of South Carolina? □ Yes □ No
If so, please provide a copy of your certificate with your response.

Authorized Signature: ___________________________ Title: ___________________________
Date: ___________________________

I certify that this bid is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a bid for the same materials, supplies, equipment or services and is in all respects fair and without collusion or fraud. I agree to abide by all conditions of this bid and certify that I am authorized to sign this bid for the bidder. This signed page must be included with bid submission.

IMPORTANT

1. This solicitation seeks proposals responding to the Scope of Work for a Johns Island and West Ashley outside of I-526 Waste Collection Services. This solicitation does not commit the City of Charleston to award a contract, to pay any costs incurred in the preparation of applications submitted, or to procure or contract for the services. The City reserves the right to accept or reject any, all or any part of any proposal received as a result of this Solicitation, or to cancel in part or in its entirety this Solicitation if it is in the best interest of the City to do so. The City shall be the sole judge as to whether proposals submitted meet all requirements contained in this solicitation.

2. Offeror may mail, or hand-deliver response to the Procurement Division. Do Not Fax in the proposal response. Please show the solicitation number on the outside of any mailing package. The City of Charleston assumes no responsibility for unmarked or improperly marked envelopes. If directing any other correspondence to the Procurement Division not related to the solicitation, please do not include the solicitation number on the envelope. If the Bidder chooses not to respond to this solicitation, it is recommended to return the “No Bid Response Form” to our office.

3. DEADLINE FOR SUBMISSION OF OFFER: Any proposal or offer received after the Procurement Director or his designee has declared that the time set for opening has arrived, shall be rejected unless the offer has been delivered to the designated purchasing office or the governmental bodies’ mail room which services that purchasing office prior to the proposal opening.

4. Questions regarding this solicitation must be submitted in writing to Gary Cooper or Robin Barrett Robinson no later than 1:00pm on September 22, 2020. Questions may either be faxed to 843-720-3872 or emailed to Gary Cooper, cooperg@charleston-sc.gov or Robin Barrett Robinson, robinsonr@charleston-sc.gov.
INSTRUCTIONS TO OFFERORS

1. Number of Submittals required is stated in the General Information section of this Solicitation. Proposals must be mailed or hand-delivered. Responses received by fax or other electronic means (email, CD, etc.) will be rejected. Proposals must be submitted in a sealed envelope and must be addressed to the City of Charleston Procurement Division, 75 Calhoun Street, Suite 3500 Charleston, SC 29401. Failure to do so may result in a premature opening of, or failure to open such Proposal. Each sealed envelope containing a Proposal shall be marked on the outside with the Offeror’s complete Name, Address, Solicitation Number, Description of Services Requested by Solicitation (i.e., Elevator Maintenance, Road Construction), along with the Due Date and Time. If you do not choose to submit a proposal, please complete and return the enclosed “No Proposal” response form.

A “No Proposal” qualifies as a response; however, it is the responsibility of the Vendor to notify the Procurement Office if you receive solicitations that do not apply. Failure to respond to three (3) solicitations during the calendar year may result in removal from Vendor’s List.

All pages that require a Signature shall be included with the bid. Failure to include these required pages may result in the bid being deemed Non-Responsive.

2. Offerors must clearly mark as “Confidential” each part of their proposal which they consider to be proprietary information that could be exempt from disclosure under the South Carolina Freedom of Information Act, S.C. Code Ann. §§ 30-4-10 to – 165 (2007 & Supp. 2015). See paragraph 45 for more details. The City reserves the right to determine whether this information should be exempt from disclosure and no legal action may be brought against the state or its agents for its determination in this regard.

3. Proposals must be made in the official name of the individual, firm, company, partnership, corporation, joint venture or other legal entity under which the business is conducted (showing official business address) and must be signed in ink by a person duly authorized to legally bind the legal entity submitting the proposal.

4. Bids should be typewritten or computer-generated; however, if this is not possible, the handwriting must be legible. A Bid shall include, but is not limited to, addresses of all legal entities which will participate in the proposed services. The type of organization of the Bidder, whether individual, firm, partnership, corporation, joint venture or other legal entity, shall be stated. Any affiliations, parent-subsidiary relationships, and corporate identities including the names of the principals of such legal entity must be fully disclosed and clearly explained.

5. If an error is made before submitting the proposal, the error should be crossed out, corrections entered and initialed by the person signing the proposal. Erasures or use of typewriter correction fluid may be cause for rejection. No proposal shall be altered or amended after specified time for opening.

6. Proposals may be withdrawn by written request received from the Offeror prior to the time set for opening of Proposals, but not thereafter.

7. Proposals should be prepared simply and economically. All data, materials, and documentation shall be available in a clear, concise form and reproducible upon request “at cost” for the City’s
8. All Proposals shall provide a straight forward, concise description of Offeror’s ability to satisfy the requirements of the Solicitation.

9. All Addendum and Award Notices will be posted on our website: www.charleston-sc.gov, then click on the Bidline link.

10. The terms and conditions in this Solicitation shall prevail unless otherwise modified by the City of Charleston in an Addendum to this Solicitation. The City of Charleston reserves the right to reject, in whole or in part, any proposal which does not comply with such terms and conditions. The City of Charleston reserves the right to retain all proposals submitted and to use any ideas in a proposal regardless of whether that proposal is selected. Submission of a proposal indicates acceptance by the Offeror of the conditions contained in this Solicitation, unless clearly and specifically noted in the proposal submitted and confirmed in any resulting contract between the City of Charleston and the Offeror selected.

11. No substitutions shall be considered after the contract award except by Amendment.

12. The City seeks qualified vendors to be responsible for completion of the work described herein and the City reserves the option to award portions of the project to multiple Offeror if such is to the advantage of the City. Therefore, any one proposal submitted by more than one company shall be deemed to be a proposal for a joint venture between or among the companies submitting proposals unless the proposal clearly and unequivocally describes that only one firm proposes to act as principal and the other firm(s) contractual position is clearly defined. The companies submitting as a joint venture shall be held jointly and severally responsible for the entire project and shall not be permitted to limit their liability to the City.

13. All proposals should be complete and carefully worded and shall convey all of the information requested by the City. If errors or exceptions are found in a proposal, or if the proposal fails to conform to the requirements of the Solicitation, the City shall be the sole judge as to whether that variance is significant enough to reject the proposal.

14. The City reserves the right to request satisfactory evidence of their ability to furnish services in accordance with the terms and conditions listed herein. The City further reserves the right to make the final determination as to the Offeror’s ability to provide said services.

15. The Offeror is solely responsible for all costs and expenses associated with the preparation of the proposal and of any supplementary presentation (including any oral presentation) requested by the City.

16. GRATUITIES AND KICKBACKS
   A) Gratuities. It shall be unethical for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept, or agree to accept from another person a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory
capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore.

B) Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor, or to hire any subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

17. OFFEROR REPRESENTATIONS
Each Offeror by submitting a Proposal represents that:

A) The Offeror has read and understands this Solicitation (including all Specifications and Attachments) and that its Proposal is made in accordance therewith.

B) The Offeror has reviewed the Solicitation and has become familiar with the local conditions under which the Scope of Work is to be performed. The failure or omission of an Offeror to acquaint himself with existing conditions shall in no way relieve him of any obligation with respect to this proposal or any resulting contract.

C) The Proposal is based on the terms, materials, services and obligations required by this Solicitation, without exception.

D) The Offeror is qualified to provide the services and equipment required under this Solicitation and, if awarded the contract, shall do so in a professional, timely manner using successful Offeror's best skills and attention.

E) The Offeror is guaranteeing that all goods and services will meet the requirements of the Solicitation during the contract period.

18. COMPETITIVE PROCUREMENT
It is the intent and purpose of the City of Charleston that this Solicitation permits competition. It shall be each Offeror's responsibility to advise the City if any language, provision, or other requirement, or any combination thereof, inadvertently restricts or limits the satisfaction of the specifications stated in this Solicitation to a single source. Such notification must be submitted in writing, and must be received by the City of Charleston Procurement Division no later than the last date for written questions. Any such notification shall be reviewed by the City's Procurement Director.

19. ADDENDA/CHANGES
Any additions, deletions, modifications, or changes made to this Solicitation shall be processed through the City's Procurement Director. Any deviation from this procedure may result in the disqualification of the proposal or the cancellation of any contract resulting from this Solicitation. Requests for interpretation of this Solicitation and any other questions concerning the Solicitation shall be made in writing, and addressed to the City's Procurement Director, 75 Calhoun Street, Suite 3500, Charleston, South Carolina 29401. Questions may be transmitted by fax, but it shall be the responsibility of the sender to confirm receipt by the City. These requests must be submitted by the deadline for written questions. Responses to said requests shall be made at the discretion of the City's Procurement Director. When issued, such interpretations and answers to
such questions shall be in the form of an addendum to the Solicitation which shall be posted on the City’s website, www.charleston-sc.gov. All such addenda shall become part of the Solicitation and each Offeror shall be bound by such addenda whether or not received by the Offeror. The City of Charleston shall not be legally bound by any amendment or interpretation that is not in writing.

20. **EVALUATION PROCESS**
   During the evaluation process the City of Charleston reserves the right, where it may serve the City of Charleston’s best interest, to request additional information or clarification from Offerors, or to allow corrections of errors or omissions.

21. **AWARD OF CONTRACT**
   A) Award of contract shall be made to the most responsive and responsible Offeror(s) whose Proposal, conforming to the Solicitation, is most advantageous to the City of Charleston, price and other factors considered.

   B) The City of Charleston may, when in the best interest of the City, reject any or all Proposals or waive technicalities or informalities in any Proposals received.

   C) The City of Charleston shall be the sole judge of the suitability of the items or services to be provided pursuant to this Solicitation.

   D) The City may choose to award to more than one vendor if it is in the best interest of the City.

   E) Final approval may rest with members of the City Council for the City of Charleston.

   F) All things considered equal, a tie proposal will be resolved by the flip of a coin.

22. **CONTRACT ADMINISTRATION**
   Questions or problems arising after award of this contract shall be directed to the Contracts Coordinator by calling (843) 965-4184. Copies of all correspondence concerning this contract shall be sent to the Contracts’ Coordinator, 75 Calhoun Street, Suite 3500 Charleston, SC 29401.

23. **NOTICE OF AWARD OF CONTRACT**
   The successful Offeror shall be notified of acceptance of its Proposal by a written Notice of Award of Contract. Successful Offeror(s) shall not undertake any work, and City shall not be responsible for payment for any work whatsoever undertaken by the successful Offeror(s) prior to issuance of the Notice to Proceed.

24. **NOTICE TO PROCEED**
   A Notice to Proceed shall be issued after the Contractor(s) has executed the contract and has submitted acceptable Insurance Certificate(s) and Endorsement(s) and Performance and Payment Bonds to the City as well as other submittals specified herein as required to be delivered before the Notice to Proceed is issued. The Contractor(s) shall not commence work until it has received a written Notice to Proceed from the City’s Director of Procurement.
25. OTHER CONTRACTS
The City of Charleston may undertake or award other contracts for portions of the work or additional work, and the Contractor(s) shall fully cooperate with such other contractors and City of Charleston employees and carefully fit its own work to such work as may be directed by the City. The Contractor(s) shall not commit or permit any act which shall interfere with the performance of work by any other contractor or by City of Charleston employees.

26. MODIFICATION
The City’s Director of Procurement shall have the unilateral right to modify any contract resulting from this Solicitation, within the general scope of work, when said modification is in the best interest of the City. The right to issue change orders is not dependent upon the consent of the successful Offeror(s). At the direction of the Director of Procurement the successful Offeror is obligated to perform the revised contract. Contract fees or prices shall be equitably adjusted where an issued change order so demands. No claim by the successful Offeror(s) for an adjustment hereunder shall be allowed if asserted after final payment under aforesaid contract.

27. INDEPENDENT CONTRACTOR
Successful Offeror is an independent contractor and shall not be deemed the agent or employee of the City of Charleston for any purpose whatsoever.

28. INSURANCE REQUIREMENTS
Upon the consummation of the contract for the services being solicited in this Solicitation and receipt of the Notice of Award by the successful Offeror (the “Contractor”), the Contractor shall, at all times during the term of the contract, carry insurance as required by the insurance requirements outlined in the insurance attachment which is attached hereto and incorporated by reference. The City shall not issue a Notice to Proceed until the Contractor has submitted acceptable insurance certificates(s) or endorsement(s), which must be submitted within five (5) calendar days after receipt of the Notice of Award, and which reflect that the required coverages are in place and that all premiums have been paid. Refusal or failure to submit such certificate(s) or endorsement(s) shall constitute grounds for the City to revoke its notice of award, forfeit proposal security, and award the contract to another contractor. The City may contact the Contractor’s insurer(s) or insurer(s)’ agent(s) directly at any time regarding its coverages, coverage amounts, or other such relevant and reasonable issues related to this contract. The Contractor(s) shall also require any sub-contractors to carry the same coverages in the same amounts. Faxed Insurance Certificate(s) and Endorsement(s) shall be accepted if received no later than the time of contract execution and the original documents are received within one (1) business day after receipt of the fax transmittals.

29. INDEMNIFICATION
 Except for expenses or liabilities arising from the negligence of the City, the Contractor who enters into a contract with the City of Charleston as a result of this Solicitation (the “Contractor”) hereby expressly agrees to indemnify and hold the City harmless against any and all expenses and liabilities arising out of the performance or default of this contract as follows:

The Contractor expressly agrees to the extent that there is a causal relationship between its negligent, reckless or intentionally wrongful action or inaction, or the negligent, reckless or intentionally wrongful action or inaction of any of its employees or any person, firm, or corporation directly or indirectly employed by the Contractor, and any damage, liability, injury, loss or expense (whether in connection with bodily injury or death or property damage or loss)
that is suffered by the City and its employees or by any member of the public, to indemnify and save the City and its employees harmless against any and all liabilities, penalties, demands, claims, lawsuits, losses, damages, costs, and expenses arising out of the performance or default of this Contract. Such costs are to include defense, settlement and reasonable attorneys' fees incurred by the City and its employees. This promise to indemnify shall include bodily injuries or death occurring to Contractor's employees and any person directly or indirectly employed by Contractor (including without limitation any employee of any subcontractor), the City's employees, the employees of any other independent contractors, or occurring to any member of the public. When the City submits notice, Contractor shall promptly defend any aforementioned action. This obligation shall survive the suspension or termination of the contract. The limits of insurance coverage required herein shall not serve to limit this indemnity obligation. The recovery of costs and fees shall extend to those incurred in the enforcement of this indemnity.

30. OFFEROR'S QUALIFICATIONS
The City reserves the right to request satisfactory evidence of any Offeror's ability to furnish services in accordance with the terms and conditions listed herein. The City further reserves the right to make the final determination as to the Offeror's ability to provide said services. We reserve the right to investigate the qualifications of any respondent under consideration, require confirmations of information furnished, and require additional evidence of qualifications to perform the work described in this Solicitation, contact references, and request an audited financial statement in order to determine a potential contractor's capabilities.

31. ASSIGNMENT
The Contractor(s) shall not assign in whole or in part its duties under the contract without the prior written consent of the City of Charleston. The Contractor shall not assign any money due or to become due to it under this contract without the prior written consent of the City of Charleston.

32. SUBCONTRACTORS
A) If any subcontractors shall be used for this project, the Contractor shall provide to the City’s Director of Procurement a list of names of any of the intended subcontractors, the subcontractor's applicable license number(s), and a description of the work to be done by each subcontractor, if requested.

B) The Contractor(s) shall not substitute other subcontractors without the written consent of the City’s Director of Procurement.

C) Contractor(s) shall be responsible for all services performed by a subcontractor. Responsibilities include, but are not limited to, compliance with any applicable licensing regulations.

D) If at any time the City’s Director of Procurement determines that any subcontractor is incompetent or undesirable, he shall notify the Contractor(s) accordingly, and the Contractor(s) shall take immediate steps for cancellation of the subcontract and replacement thereof with a subcontract that is approved by the City of Charleston.

E) Nothing contained in any contract resulting from this Solicitation shall create any contractual relationship between any subcontractor and the City of Charleston.
33. **SUSPENSION OF WORK**

The City may order the Contractor in writing to suspend, delay, or interrupt all or any part of the Work for such period of time as the City may determine to be appropriate for the convenience of the City of Charleston, or for noncompliance with the contract requirements.

34. **TERMINATION**

A) **For Convenience:** The City reserves the right to terminate the contract with the Contractor when it is in the best interest of the City, including, but not limited to non-appropriation of funds. If the contract is so terminated, the City shall provide the Contractor with a minimum of sixty (60) days written notice and shall compensate Contractor for all necessary and reasonable direct costs of performing the services actually accomplished as of the date of termination. No other costs shall be allowed for a termination for convenience. No damages shall be allowed for a termination for convenience.

B) **For Default:** If the Contractor fails to comply with the terms of the contract the City shall notify the Contractor in writing of the specifics regarding such noncompliance. If the Contractor fails to begin to cure the noncompliance within five (5) days after the notice, the City may terminate the contract by written notice to the Contractor with a minimum of thirty (30) days thereafter and Contractor shall only be compensated for services actually completed prior to termination, contractor shall not be entitled to any costs or damages resulting from a termination under this section.

35. **MATERIAL AND WORKMANSHIP: WARRANTIES AND REPRESENTATIONS**

A) If equipment, materials and supplies are to be a part of the service provided, all equipment, materials, and supplies incorporated in the work covered by the Proposal and provided by the Contractor(s) are to be new and of the most suitable grade for the purpose intended. Unless otherwise specifically provided in this Solicitation, reference to any equipment, material, supply or patented process, by trade name, make or catalog number, shall not be construed as limiting competition. When requested, the Contractor(s) shall furnish to the City for approval the name of the manufacturer, the model number, and other identifying data and information respecting the performance, capacity, nature and rating of the machinery and mechanical and other equipment which the Contractor(s) contemplates incorporating in the work. When required by this Contract or when called for by the City the Contractor(s) shall provide full information concerning the material or supplies which he contemplates incorporating in the work. Machinery, equipment, material and supplies installed or used without the required prior approval shall be at the risk of subsequent rejection.

B) By signing its proposal, the successful Offeror(s) shall be deemed to have represented that its staff is knowledgeable about and experienced in performing the work required in this Solicitation and warrants that it shall use best skill and attention to provide the above described work in a professional, timely manner.

C) The City may, in writing, require the Contractor(s) to remove from the work any employee the City deems incompetent, careless or otherwise objectionable.

36. **COMPLIANCE WITH LEGAL REQUIREMENTS**

All applicable Federal, State and local laws, ordinances, and rules and regulations of any authorities shall be binding upon the Contractor(s) throughout the pendency of this Project. The Contractor(s) shall be responsible for compliance with any such law, ordinance, rule or regulation,
and shall hold the City harmless and indemnify same in the event of non-compliance as set forth in the Contract.

37. PERMITS AND LICENSES
   A) The Contractor(s) shall, without additional expense to the City of Charleston, be responsible for obtaining all necessary licenses and permits required by the State of South Carolina, or the City of Charleston or any other authority having jurisdiction.

   B) Contractors and subcontractors are responsible at all times for obtaining applicable work permits and licenses of any kind.

38. DISPUTES
   Any bona fide dispute concerning the bid, proposal, request for qualifications or Agreement shall be resolved by the courts of the State of South Carolina. In the event any litigation is commenced with respect to any matter set forth in the aforementioned documents, the prevailing party shall be entitled to recover reasonable attorneys' fees and all other reasonable direct costs associated with such litigation from the non-prevailing party.

39. STATE AND LOCAL TAXES
   A) Except as otherwise provided, contract prices shall include all applicable state and local taxes.

   B) If applicable, two percent (2%) income tax withholding shall be withheld from each and every payment pursuant to Sections 12-8-540 and 12-8-550 of the South Carolina Code of Laws (1976, as amended) for certain out-of-state contractors, and such sums shall be paid over to the South Carolina Department of Revenue (the "SCDOR"). When and if the City receives an executed SCDOR Form I-312, Nonresident Taxpayer Registration Affidavit - Income Tax Withholding, such withholding shall cease.

   C) Contractor shall calculate that portion of the contract which is subject to the nine percent (9%) South Carolina sales and/or use tax, which amount shall be itemized and shown on all invoices, and shall be paid to the SCDOR by Contractor. If Contractor is a non-South Carolina company, the City shall withhold said amount from all invoices and remit payment to the SCDOR, unless Contractor furnishes City with a valid South Carolina Use Tax Registration Certificate Number.

   D) Contractor shall indemnify and hold harmless the City for any loss, cost, or expense incurred by, levied upon or billed to the City as a result of Contractor's failure to pay any tax of any type due in connection with the contract.

40. INCORPORATION BY REFERENCE
   The contents of this Solicitation, including all drawings, attachments, specifications, exhibits, certificates, any addenda, Contractor's Proposal Response Form and Pricing List, and affidavits shall become part of the contract for this Project.

41. PRIME CONTRACTOR RESPONSIBILITIES
   The contractor shall be required to assume sole responsibility for the complete effort as required by this Solicitation. The City shall consider the contractor to be the sole point of contact with regard to contractual matters.
42. **OWNERSHIP OF MATERIAL**
Ownership of all data, material and documentation originated and prepared for the City pursuant to this contract shall belong exclusively to the City.

43. **DRUG-FREE WORKPLACE**
(Note: This clause applies to any resultant contract of $50,000 or more). The City of Charleston requires compliance with the South Carolina Drug Free Workplace Act. By submission of a signed proposal, you are certifying that you shall comply with this Act. See S.C. Code Section 44-107-30.

44. **FUNDING**
Offerors shall agree that funds expended for the purposes of the contract must be appropriated by the City of Charleston for each fiscal year included within the contract period. Therefore, the contract shall automatically terminate without penalty or termination costs if such funds are not appropriated. In the event that funds are not appropriated for the contract, the Offeror shall not prohibit or otherwise limit the City’s right to pursue and contract for alternate solutions and remedies as deemed necessary by the City for the conduct of its affairs. The requirements stated in this paragraph shall apply to any amendment or the execution of any option to extend the contract.

45. **SUBMITTING CONFIDENTIAL INFORMATION**
For every document Offeror submits in response to or with regard to this Solicitation that is confidential or protected from disclosure, Offeror must separately mark with the word "CONFIDENTIAL" or "PROTECTED" on every page, or portion thereof. By so designating Offeror contends the information is exempt from public disclosure pursuant to the South Carolina Freedom of Information Act, S.C. Code Ann. §§ 30-4-10 through 4-165 (2007 & Supp. 2015) or other relevant law. For every document Offeror submits in response to or with regard to this Solicitation, Offeror must separately mark with the words "TRADE SECRET" on every page, or portion thereof, that Offeror contends contains a trade secret as that term is defined by the South Carolina Trade Secrets Act, S.C. Code Ann. §39-8-10, et seq. All markings must be conspicuous: use color, bold, underlining, or some other method in order to conspicuously distinguish the mark from the other text. Offeror shall not mark its entire Proposal (bid, proposal, quote, etc.) as confidential, trade secret, or otherwise protected! If a Proposal or any part thereof, is improperly marked as confidential or trade secret or protected, the City may, in its sole discretion, determine it non-responsive. If only portions of a page are subject to some protection, Offeror shall not be allowed to mark the entire page. By submitting a Proposal to this Solicitation, Offeror (1) agrees to the public disclosure of every page of every document regarding this Solicitation that was submitted at any time prior to entering into a contract (including, but not limited to, documents contained in a response, documents submitted to clarify a response, and documents submitted during negotiations), unless the page is conspicuously marked "TRADE SECRET" or "CONFIDENTIAL" or "PROTECTED." (2) agrees that any information not marked, as required by these bidding instructions, as a "TRADE SECRET" is not a trade secret as defined by the Trade Secrets Act, and (3) agrees that, notwithstanding any claims or markings otherwise, any prices, commissions, discounts, or other financial figures used to determine the award, as well as the final contract amount, may be subject to public disclosure. In determining whether to release documents, the City shall detrimentally rely on Offeror's marking of documents, as required by these bidding instructions, as being either "CONFIDENTIAL" or "TRADE SECRET" or "PROTECTED." By submitting a Proposal, Offeror agrees to defend, indemnify and hold harmless the City of Charleston, its officers and employees, from every claim, demand, loss,
expense, cost, damage or injury, including attorney’s fees, arising out of or resulting from the City withholding information that Offeror marked as “CONFIDENTIAL” or “TRADE SECRET” or "PROTECTED.”

46. RECORDS RETENTION & RIGHT TO AUDIT
The City shall have the right to audit the books and records of the Contractor as they pertain to this contract. Such books and records shall be maintained for a period of three (3) years from the date of final payment under the contract. The City may conduct, or have conducted, performance audits of the Contractor. The City may conduct, or have conducted, audits of specific requirements of this proposal as determined necessary by the City. Pertaining to all audits, the Contractor shall make available to the City access to its computer files containing the history of contract performance and all other documents related to the audit. Additionally, any software used by the Contractor shall be made available for auditing purposes at no cost to the City.

47. COST
Costs submitted with a Proposal shall be firm for a period of at least ninety (90) days from the closing date. All prices shall be firm-fixed type, unless stated otherwise.

48. UNSUCCESSFUL OFFERORS
Offerors not awarded a contract under this solicitation, may request return of their proposals within thirty (30) days after notification of award is mailed. All cost of returns shall be paid by the Offeror. If Federal Express, UPS, or other shipping number is not received with request, all materials shall be destroyed.

49. PAYMENT FOR GOODS & SERVICES
Payment for goods & services arising out of the contract resulting from this Solicitation and received by the City shall be processed within 30 days of receipt of a valid invoice.

50. DISCUSSION/NEGOTIATION:
By submission of a proposal, an Offeror agrees that during the period following issuance of a proposal and prior to final award of contract, the Offeror shall not discuss this Procurement with any party except members of the City’s Procurement Division or other parties specifically designated in this solicitation.

51. NON-DISCRIMINATION
The Contractor(s) shall not discriminate against any individuals based upon age, sex, race, disability, religion, sexual orientation or gender identity and shall abide by the requirements contained in Federal Executive Order Number 11246, as amended, including specifically the provisions of the equal opportunity clause. The City’s Equal Employment Opportunity Plan Utilization Report is available on the city website on the Human Resources and Organization Development page at http://charleston-sc.gov/index.aspx?nid=246. To receive a paper copy of the report by mail, please contact Human Resources at (843) 724-7388.

52. DEFAULT
In case of default by the Contractor, the City reserves the right to purchase any or all items in default in the open market, charging the Contractor with any excessive costs. Should such charge be assessed, no subsequent response will be accepted from the defaulting Contractor until the assessed charge has been satisfied.
53. **FORCE MAJURE**
The Contractor shall not be liable for any excess costs if the failure to perform the contract arises out of causes beyond the control and without the fault or negligence of the contractor. Such causes may include, but are not restricted to acts of God or of the public enemy, acts of the Governments in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the failure to perform must be beyond the control and without the fault or negligence of the contractor. If the failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both the contractor and subcontractor, and without the fault or negligence of either of them, the contractor shall not be liable for any excess costs for failure to perform, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the contractor to meet the required delivery schedule.

54. **EXCEPTIONS AND DEVIATIONS**
Any deviation from specifications indicated herein must be clearly pointed out; otherwise, it will be considered that items offered are in strict compliance with these specifications, and successful Offeror will be held accountable. Deviations must be explained by accompanied documentation identifying and justifying all exceptions and deviations. Unidentified deviations found during the evaluation of the response may be cause for rejection.

55. **PROMPT PAYMENT DISCOUNT TERMS**
Prompt payment discount terms will be calculated from the point of complete order acceptance for services and/or commodities ordered.

56. **REJECTION**
The City reserves the right to reject any proposal that contains prices for individual items or services that are unreasonable when compared with the same or other proposals if such action is in the best interest of the City.

57. **ARBITRATION**
Under no circumstances and with no exception will the City of Charleston act as Arbitrator between the Contractor and any Sub-Contractor.

58. **GUARANTEE AND WARRANTIES**
The Offeror shall state his normal warranty and any extended warranties where available. Excluding any manufacturer’s warranties and in addition to other warranties as provided by law or herein, all labor and materials are warranted to be free from defects for a minimum period of twenty-four (24) months after the date of final payment by the City.

59. **PUBLICITY RELEASES**
Contractor agrees not to refer to any award of a contract in commercial advertising in such a manner as to state or imply that the products or services provided are endorsed or preferred by the user.

60. **AMENDMENTS**
All questions and written responses, interpretations, corrections or changes to the RFP will be made by Addendum. Addenda will be mailed or otherwise delivered to all Offerors who have notified the City Procurement Division of receipt of the proposal.
61. **WITHDRAWALS**
Proposals may be withdrawn by written request received from the Offeror prior to the time set for opening of Proposals, but not thereafter.

62. **AFFIRMATIVE ACTION**
The successful Offeror will take affirmative action in complying with all Federal and State requirements concerning fair employment and treatment of all employees, without regard or discrimination by reason of race, color, religion, sex, national origin or physical handicap.

63. **WAIVER**
The City reserves the right to waive any Instruction to Offerors, General or Special Provisions, General of Special Conditions, or specifications deviation if deemed to be in the best interest of the City.

64. **RESPONSE PERIOD**
All responses shall be good for a minimum period of ninety (90) calendar days.

65. **CONTRACT TERMS**
The initial term of the Agreement shall be for three (3) years. The City reserves the right to extend the Agreement if the City determines the extension is in its best interest; said extension will be on an annual basis and shall not exceed four (4) additional one (1) year periods.
NO PROPOSAL RESPONSE FORM

<table>
<thead>
<tr>
<th>Proposal Number: 20-P029R</th>
<th>Proposals will be received until: October 15, 2020 @ 12:00pm</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proposal Title: Johns Island and West Ashley outside of 1-526 Waste Collection Services</td>
<td></td>
</tr>
<tr>
<td>Mailing Date: September 4, 2020</td>
<td>Direct Inquiries to: Robin B. Robinson</td>
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<tr>
<td>Vendor Name: FEIN/SS#:</td>
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<tr>
<td>Vendor Address:</td>
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<td>City – State – Zip:</td>
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<td>Telephone Number:</td>
<td>Fax Number:</td>
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<tr>
<td>Minority or Women Owned Business:</td>
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</tr>
<tr>
<td>Are you a certified Minority or Women-Owned business in the State of South Carolina? ☐ Yes ☐ No</td>
<td></td>
</tr>
<tr>
<td>If so, please provide a copy of your certificate with your response.</td>
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<tr>
<td>Authorized Signature:</td>
<td>Title:</td>
</tr>
<tr>
<td>Date:</td>
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</tbody>
</table>

I certify that this bid is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a bid for the same materials, supplies, equipment or services and is in all respects fair and without collusion or fraud. I agree to abide by all conditions of this bid and certify that I am authorized to sign this bid for the bidder. This signed page must be sent if not sending in a submission.

To submit a “No Proposal” response for this project, this form must be completed for your company to remain on our Offeror’s list for commodities/services referenced. If you do not respond, your name may be removed from the Offeror’s list.

Please check statement(s) applicable to your “No Proposal” response

☐ Specifications are restrictive; i.e. geared toward one brand or manufacturer only (explain below).
☐ Specifications are ambiguous (explain below).
☐ We are unable to meet specifications.
☐ Insufficient time to respond to the solicitation.
☐ Our schedule would not permit us to perform.
☐ We are unable to meet bond requirements.
☐ We are unable to meet insurance requirements.
☐ We do not offer this product or service.
☐ Remove us from your vendor list for this commodity/service.
☐ Other (specify below).

Comments: ____________________________________________________________

____________________________________________________________________

____________________________________________________________________

22
CERTIFICATE OF FAMILIARITY

The undersigned, having fully familiarized himself with the information contained within this entire solicitation and applicable amendments, submits the attached proposal, and other applicable information to the City, which I verify to be true and correct to the best of my knowledge. I further certify that this proposal response is made without prior understanding, agreement, or connection with any corporation, firm or person submitting a proposal for the same materials, supplies, equipment or services in all respects, fair and without collusion or fraud. I agree to proposal by all conditions of this solicitation and certify that I am authorized to sign this proposal. I further certify all prices submitted shall remain effective for a minimum period of ninety (90) days, unless otherwise stated.

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<th>Company Name</th>
<th>Authorized Signature</th>
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**Minority or Women-Owned Business:**
Are you a certified Minority or Women-Owned business in the State of SC?
- [ ] Yes  - [ ] No
If so, please provide a copy of your certificate with your response.
**INSURANCE REQUIREMENTS**

Contractors working for the City of Charleston are required to procure and maintain for the duration of their contract with the City insurance against claims for injuries to persons or damages to property which may arise from or in connection with work performed by the Contractor, his agents, representatives, employees or Subcontractors. The cost of such insurance shall be the responsibility of the Contractor.

A. The Contractor shall carry liability insurance with a reliable company licensed to do business in South Carolina. Coverage shall be at least broad as:

1. Insurance Services Office Commercial General Liability Coverage Form (“occurrence”) CG 00 01 10 93.

2. Insurance Services Office Business Auto Coverage Form CA 00 01 6 92 covering automobile liability, code 1 “any auto”.

B. Contractor shall carry workers’ compensation as required by the State of South Carolina and Employers Liability insurance (including applicable occupation disease provisions and all state endorsements.)

C. Contractor shall maintain limits no less than the following:

1. **GENERAL LIABILITY:** $1,000,000 combined single limit per occurrence for bodily injury, property damage, and personal injury with a $2,000,000 general aggregate limit.

2. **AUTOMOBILE LIABILITY:** $1,000,000 combined single limit per accident for bodily injury and property damage.

3. **WORKERS’ COMPENSATION:** Statutory limits are required by South Carolina state law, and employer’s liability limits of $100,000 per accident.

4. **PROFESSIONAL LIABILITY:** $1,000,000 per claim/$1,000,000 aggregate limit, with a deductible of $20,000.

Contractor shall obtain and maintain a professional liability insurance policy covering the performance of the professional services specified in this agreement. Evidence of such insurance shall be satisfactory in form and content to the owner, the City. This coverage shall be maintained through the duration of this project and for a minimum of 1 year after substantial completion of the project as determined by the City.

The Contractor and any of its subcontractors will cause the professional liability insurance required in this paragraph C.4:

(a) to be excess insurance over any project professional liability policy, and

(b) to be primary insurance in the event the project insurance described in Paragraph E is canceled or not maintained, in the event the policy’s limits of liability are exhausted, or if the policy expires.
D. Required policies are to contain, or be endorsed to contain, the following provisions:

1. General Liability and Automobile Liability Coverages

The City of Charleston, its officials, employees and volunteers are to be covered as additional insureds as respects: Liability arising out of activities performed by or on behalf of the Contractors; premises owned, occupied or used by the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City of Charleston, its officials, employees or volunteers. To accomplish this objective, the City of Charleston shall be named as an additional insured under the Contractor’s general liability policy by attaching Insurance Services Office Commercial General Liability Endorsement CG2010 10 93 (Additional Insured - Owners, Lessees or Contractors - Form B) or its equivalent. Contractors’ insurance coverage shall be primary insurance as respects the City of Charleston, its officials, employees and volunteers. Any insurance or self-insurance maintained by the City of Charleston, its officials, employees, or volunteers shall be in excess of the Contractor’s insurance and shall not be required to contribute. To accomplish this objective, the following wording should be incorporated in the previously referenced additional insured endorsement.

Other Insurance: This insurance is primary, and our obligations are not affected by any other insurance carried by the additional insured whether primary, excess, contingent or on any other basis.

Any failure to comply with reporting provisions of the Contractor’s policies shall not affect coverage provided to the City of Charleston, its officials, employees or volunteers.

2. Workers’ Compensation

The Contractor shall agree to waive all rights of subrogation against the City of Charleston, its officials, employees and volunteers for losses arising from work performed by the Contractor for the City of Charleston.

E. Any deductibles or self-insured retentions shall be the responsibility of the Contractor.

F. Each insured policy required by the City of Charleston shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice has been given to the City of Charleston.

G. All coverages for Subcontractors shall be subject to all the requirements stated herein.

H. Insurance must be placed with an approved insurance company with current Best’s rating of A+, A, or A-. Exceptions to this requirement must be approved in writing by the Department of Risk Management.
I. Contractor shall furnish the City of Charleston with Certificates of Insurance noting the endorsements. The Certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by the City of Charleston, Procurement Division, before work commences. The City of Charleston reserves the right to require complete, certified copies of all required insurance policies, at any time.

Required certificates should be mailed to:

City of Charleston
Procurement Division
75 Calhoun Street, Ste. 3500
Charleston, SC 29401
MWBE Compliance Provisions and Instructions
 Minority/Women Business Enterprise Program Forms

This Project is covered under the City of Charleston’s Minority/Women Business Enterprise (MWBE) Program, administered by Ruth Jordan, MBE Manager, 2 George Street, Suite 3600, Charleston SC, 29401, (843) 724-7434.

The City has established goals for both Minority Business Enterprises (MBE) and Women Business Enterprises (WBE). An MBE is a small business owned and controlled by a minority. A WBE is a small business owned and controlled by a woman. The minority or woman must own fifty-one percent (51%) of the business and they must control the management and daily operations of the business in order to qualify.

Charleston City Council has adopted a policy setting 20% as the guidelines for combined minority-owned and women-owned business enterprise participation for this project. This MWBE requirement for participation in this Contract for services shall be made a part of any contract resulting from this solicitation. These requirements shall also apply to all subcontracts issued by the successful bidder(s).

All bidders must document the extent of their MWBE participation by completing the MWBE Compliance Provision Forms.

All MBE/WBE subcontractors must have a Certificate of Eligibility on file with the City’s Minority Business Enterprise Office. A list of certified minority and women-owned firms can be found on the City of Charleston’s web site www.charleston-sc.gov under “BIDLINE” link or by contacting Ruth Jordan, MBE Manager, 2 George Street, Suite 3600, Charleston SC, 29401, (843) 724-7434, jordanr@charleston-sc.gov.

COMPLIANCE REQUIREMENTS:

1. The Bidder shall provide, with their bid form submittal, the following Affidavits properly executed which signify that the Bidder understands and agrees to abide by the City’s MWBE Compliance Provisions.

- **Affidavit A - Listing of the Good Faith Effort to Identify & Secure Minority and Women-owned Business Participation.**

  AND

- **Affidavit B – Work to be Performed by Minority and/or Women-owned Firms**

  OR

- **Affidavit C – Intent to Perform Contract with Own Workforce**, in making this certification the Bidder states that the Bidder does not customarily subcontract elements of this type of Project and will perform all elements of the work with his/her own current work forces.

Failure to comply with any of the statements, certifications, or intentions stated in the affidavits, or the MBE/WBE compliance provisions shall constitute a breach of the Contract. Any such breach may result in termination of the Contract in accordance with the termination provisions contained in the Contract. It shall be solely at the option of the City of Charleston whether to terminate the contract for breach. In addition to terminating the Contract, the bidder may be prohibited from participation in future solicitations as determined by the City of Charleston.

Name of Company: ________________________________

Signature ___________________________________________ Date ____________________________

Print Name ________________________________ Title ________________________________

Witness ________________________________
AFFIDAVIT A
Page 1 of 2

City of Charleston, South Carolina Listing of the Good Faith Effort

Affidavit of __________________________________________ (Name of Bidder)

I have made a good faith effort to comply with the City of Charleston’s MWBE compliance provisions under the following checked areas:

(A minimum of 6 areas must be checked in order to have achieved a “good faith effort”)

☐ 1. Contacted MWBE businesses that reasonably could have been expected to submit a quote and that were known to the Bidder, or available on Federal, State or local government maintained lists, at least 10 business days before the submittal date and notified them of the nature and scope of the work to be performed. Complete Affidavit A, Page 2.

☐ 2. Followed up with contacted MWBE subsequent to the initial contact and at least 72 hours prior to submittal deadline/bid opening either by phone, facsimile or in person.

☐ 3. Made the construction plans, specifications, and requirements available for review by prospective MWBE businesses, or providing these documents to them at least 10 business days before the submittal deadline/bid opening.

☐ 4. Itemized elements of the work or combined elements of the work into economically feasible units to facilitate MWBE participation.

☐ 5. Attended any pre-solicitation meetings scheduled by the City.

☐ 6. Provided MWBE assistance with getting required bonding or insurance requirements or provided alternatives to bonding or insurance.

☐ 7. Negotiated in good faith with interested MWBEs and did not reject them as unqualified without sound reasons based on their capabilities. (Any rejection of a minority or woman-owned business based on lack of qualifications shall include reasons for rejection documented in writing.)

☐ 8. Provided MWBEs assistance with securing needed equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letters of credit, including waiving credit that is ordinarily required. Assisted MWBEs in obtaining the same unit pricing with the Bidder’s suppliers in order to help such businesses in establishing credit.

☐ 9. Provided training or mentoring to at least two (2) MWBEs within 120 days prior to submittal deadline/bid opening. The training or mentoring program should be in conjunction with local trade groups, technical schools or community organizations that provide recruitment, education or skill levels.

☐ 10. Negotiated joint venture, partnership or other similar arrangements with MWBEs in order to increase opportunities for MWBE participation.

☐ 11. Provided quick pay agreements and policies to enable MWBE contractors and suppliers to meet cash-flow demands.

I hereby agree to enter into a formal agreement with the firms listed in Affidavit B Work to be performed by Minority Firms conditional upon execution of a contract with the Owner. Failure to abide by this provision will constitute a breach of the contract.

I hereby certify that I have read and agree to the terms of the Minority / Women-Owned Business Enterprise Program, and I am the Bidder or I am authorized to bind the Bidder to the commitment herein set forth.

Date: ___________ Name of Authorized Officer (Print/Type): ________________________________

Signature: ________________________________

Title: ________________________________
I, __________________________, hereby certify that on this project we contacted the following minority/women-owned business enterprises as subcontractors, vendors, suppliers, or providers of professional services.

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<tr>
<th>1. Minority Firm Name and Contact</th>
<th>Minority Firm Address</th>
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<tr>
<td>Minority Firm Telephone Number</td>
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<tr>
<td>Minority Firm Fax Number</td>
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<tr>
<td>DBE Certification Number</td>
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<td>Minority Group Type</td>
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<td>☐ (African American)</td>
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<td>☐ (Asian American)</td>
<td>☐ (Hispanic)</td>
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<td>☐ (American Indian)</td>
<td>☐ (Other)</td>
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<td>☐ Follow up Verification</td>
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<th>2. Minority Firm Name and Contact</th>
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<td>☐ Follow up Verification</td>
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<th>4. Minority Firm Name and Contact</th>
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I certify, under penalties of perjury, that I have examined the information in this affidavit, and to the best of my knowledge and belief, this information is true, correct and complete.

Date: __________________________ Name of Authorized Officer (Print/Type): __________________________

Sworn to before me this _______ day of ______________, 20_._

Notary Public for the State of __________________________
My Commission Expires: __________________________
Print Name: __________________________
Phone Number: __________________________
Address: __________________________

Signature: __________________________

Title: __________________________

Notary Seal: __________________________
AFFIDAVIT B

City of Charleston, South Carolina
Work to be Performed by Minority/Women-Owned Businesses

Affidavit of ____________________________. I hereby certify that on the (Name of Bidder)
__________________________, Total Project Amount $____________________
(Project Name)
I will make a good faith effort to expend a minimum of ______% of the total dollar amount of the Contract with minority/women-owned business enterprises. Minority/women-owned businesses will be employed as subcontractors, vendors, suppliers, or providers of professional services. Such work will be subcontracted to the following businesses listed below:

(Attach additional sheets if needed)

<table>
<thead>
<tr>
<th>Name and Phone Number</th>
<th>*Minority Code</th>
<th>Work Description</th>
<th>Dollar Value</th>
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Total MBE Participation: ______ % $__________

* Minority categories: African American (B); Hispanic (H); Asian American (A), American Indian (I); Woman Owned (W); Other (D)

I will enter into a formal Contract with the above minority/women-owned business enterprises for the work listed in the above schedule conditional upon execution of a Contract with the Owner.

I certify that I have read the terms of this commitment and I am the Bidder or authorized to bind the Bidder to the commitment set forth herein. I certify, under penalties of perjury, that I have examined the information in this affidavit, and to the best of my knowledge and belief, this information is true, correct and complete.

Date:______________ Name of Authorized Officer (Print/Type):

Signature:__________________________________________

Title:_____________________________________________

Sworn to before me this _____ day of ________________, 20__. Notary Public for the State of ______________________

My Commission Expires: _________________________________ Notary Seal:

Print Name:_________________________________________

Phone Number:_____________________________________

Address:_____________________________________________
AFFIDAVIT C

City of Charleston, South Carolina
Intent to Perform Contract with Own Workforce.

Affidavit of ____________________________________________________________

(Name of Bidder)

I hereby certify that it is our intent to perform 100% of the work required for the ____________

__________________________ contract.

(Name of Project)

In making this certification, the Bidder states that the Bidder does not customarily subcontract elements of
this type Project, and normally performs and has the capability to perform and will perform all the
elements of the work on this Project with his/her own current work forces, and

The Bidder agrees to provide any additional information or documentation requested by the Owner in
support of the above statement.

I hereby certify that I have read this certification and I am the Bidder or I am authorized to bind the
Bidder to the commitments contained herein. I certify, under penalties of perjury, that I have examined
the information in this affidavit, and to the best of my knowledge and belief, this information is true,
correct and complete.

Date: __________ Name of Authorized Officer (Print/Type): ______________________________________

Signature: ______________________________________

Title: ______________________________________

Sworn to before me this _____ day of ____________, 20__. Notary Seal:

Notary Public for the State of ______________________________________

My Commission Expires: __________________________________________________________________

Print Name: __________________________________________________________________________

Phone Number: _______________________________________________________________________

Address: _____________________________________________________________________________

_________________________________________
References

Bidders must supply a minimum of four (4) references for which they have provided the same or similar services being requested here on a contract basis during the last three (3) years.

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GENERAL INFORMATION

The City of Charleston, South Carolina is soliciting proposals from qualified vendors to service the Johns Island and West of the Ashley outside of I-526 areas located within the City of Charleston for Solid Waste Disposal Services.

PROCUREMENT PROCESS
The RFP (Request for Proposal) is not a bid. In the event the City elects to negotiate a contract with the successful Vendor, any contract shall contain, at a minimum, the term and conditions (or substantially the same term and conditions) as hereinafter stated. The City reserves the right, in its sole discretion, to reject all submissions, reissue a subsequent RFP, terminate, restructure or amend this procurement process at any time. The final selection and contract negotiation rests solely with the City.

QUESTIONS
Every effort has been made to insure that all information needed by the Offeror is included herein; however, questions are allowed and encouraged to clear up any information as described herein, etc. The City will not accept telephone calls or visits regarding this RFP. All questions shall be in writing and addressed to: Robin B. Robinson or Gary Cooper, City of Charleston, Procurement Division, 75 Calhoun Street, Suite 3500, Charleston, South Carolina 29401, or email to: robinsonr@charleston-sc.gov or cooperg@charleston-sc.gov. Written Questions may also be faxed to: 843-720-3872. All questions must be received before 1:00pm on September 22, 2020. No interpretation shall be binding upon the City unless in writing from the City’s Corporate Counsel.

ORAL STATEMENTS
No oral statement of any person shall modify or otherwise change, or affect the terms, conditions or specifications stated in the resulting contract. The City of Charleston shall not be legally bound by any amendment or interpretation that is not in writing.

NON-ENDORSEMENT
If a Proposal is accepted, the successful Offeror shall not issue any news releases or other statements pertaining to the award or servicing of the agreement that state or imply the City’s endorsement of the successful Offeror’s product or services.

PROPRIETARY INFORMATION
If an Offeror does not desire proprietary information in the Proposal to be disclosed, the Offeror shall identify all proprietary information in the Proposal. This identification will be done by individually marking each page with the words “Proprietary Information” or “Confidential” on which such proprietary information is found. If the Offeror fails to identify proprietary information, it agrees that by submission of its Proposal that those sections shall be deemed non-proprietary and made available upon request through the Freedom of Information Act.

UNAUTHORIZED COMMUNICATIONS
Respondents’ contact regarding this RFP with employees or officials of the City of Charleston will result in disqualification from this procurement process. Any oral communications are considered unofficial and non-binding with regard to this RFP. The only authorized contacts for this procurement are any designated Procurement staff.
CONTRACTOR SOLELY RESPONSIBLE FOR PERFORMANCE
Vendor shall be responsible for the performance of the services required by the contract. Vendor is an independent contractor and does not act as the City’s agent or employee.

DISQUALIFICATION OF OFFERORS
Offerors may be disqualified for any of the following reasons:
- Reason to believe collusion exists among the Offerors
- The Offeror is involved in any litigation against the City
- The Offeror is in arrears on any existing contract or has defaulted on a previous contract with the City
- Lack of financial stability
- Failure to perform under previous or present contracts with the City
- Is currently debarred by the State of South Carolina Procurement Services

SUSPENSION AND DEBARMENT
The Offeror certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal, state or local agency. Where the Offeror is unable to certify to any of the statements in this certification, such Offeror shall attach an explanation to this proposal.

CONTRACT NEGOTIATIONS
The City will rank, based upon the evaluation criteria, all responsible and responsive Vendors. The City will begin negotiations with the top ranked Vendors and will continue with negotiation down the ranking until a satisfactory contract with the City is finalized, if any. The terms and conditions of the contract will be no less advantageous than the provisions of this RFP or the Vendor’s proposal. The City reserves the right to make a partial award or to split the award at its sole discretion.

VENDOR’S DUTY TO INSPECT & ADVISE AND DECLARE ALL COSTS
Each Vendor shall become fully acquainted with the City’s requirements and the scope of commodities and/or services to be provided. Vendor shall have a duty to request any information from the City as it deems necessary to prepare the RFP. No change order will be granted or additional compensation permitted if based upon information the Vendor knew or should have known as part of the Vendor’s duty to become acquainted with the City’s circumstances and requirements.

PROPOSAL PREPARATION
All proposals should be complete and carefully worded and must convey all the information requested by the City of Charleston. If significant errors are found in the Offeror’s proposal, or if the proposal fails to conform to the essential requirements of the RFP, the City, and the City alone, will be the judge as to whether that variance is significant enough to require rejection of the proposal.

RECEIPT OF PROPOSALS
Proposals must be submitted to and received by the City no later than the date and time specified within this RFP. Offerors mailing proposals should allow a sufficient mail delivery period to insure timely receipt (October 15, 2020 @ 12:00pm) of their proposal by the City. Proposals
received after the scheduled due date and time will not be considered. Proposals must be completed and delivered in sufficient time to avoid disqualification for lateness due to difficulties in delivery. The time and date stamp clock in the City Procurement Division is the official clock for determining whether submittals are submitted on time.

Late Proposal documents will not be accepted under any circumstances.

**REQUIRED FORMS AND SIGNATURE PAGES**
Offerors shall include as an appendix, all ancillary forms required in this Request for Proposal (RFP). Required forms include, but are not limited to the following:

- RFP Cover Page
- Certificate of Familiarity
- WMBE Good Faith Effort Form and appropriate Affidavit
- Any Addenda

**NUMBER OF PROPOSALS SUBMITTED**
Each Vendor must submit one (1) Unbound Original and eight (8) Bound Copies of the Proposal are required for submission, plus one (1) electronic copy (Flash Drive). Only original documents will be accepted; faxed or electronically mailed versions will not be accepted. The Vendor must mark on the envelope or wrapping containing the proposal, the RFP identification number specified in the RFP and note “Original” on the original proposal.

**RESPONSE FORMAT AND ORGANIZATION**
To assure similarity in proposal presentation and allow the evaluation team to easily compare competing proposals, Offerors shall include, in the order described, the material indicated below. It is not the intent of the City to constrain Offerors with regard to content, but to assure that the specific requirements set forth in this RFP are addressed in a uniform manner amenable to Evaluation and Selection Committee review. Offerors may include additional sections or appendices if desired, to present additional pertinent information. Offerors should submit information in a concise and responsive manner for every requirement and every question. Non-responsive or incomplete answers to information requests and/or City requirements may lead to disqualification of the Offeror’s submittal.

**COMPLETION OF RESPONSES**
Only information presented in the Proposal will be used to evaluate the vendor that best fits the needs of the City.

Responses shall be completed in accordance with the requirements of this RFP. Statements made by an Offeror shall be without ambiguity, and with adequate elaboration, where necessary, for clear understanding.

**PROPOSAL FORMAT**
Proposals are to be prepared in a manner designed to provide the City with a straightforward presentation of the Offeror’s capability to satisfy the requirements of this RFP. The Original shall be single sided and the copies can be bound in a single volume (double sided) and all documentation submitted with the proposal should be bound in that single volume, where practical.
a) All bid packages should be clearly marked “20-P029R Johns Island and West Ashley outside of I-526 Waste Collection Services” and submitted in a sealed envelope.
b) Technical and Price proposals should be submitted together; however, the price proposal should be in its own separate, sealed envelope, submitted with the original proposal.
c) Bids must be submitted by mail or hand delivered to Robin B. Robinson, City of Charleston, Procurement Division, 75 Calhoun Street, Suite 3500, Charleston, SC 29401.
d) Proposals must be received in the City’s Procurement Office no later than 12:00pm on October 15, 2020. Late proposals will not be accepted for any reason.
e) No more than one bid may be submitted by any Vendor.
f) The bid must be signed by an official authorized to contractually bind the Vendor.
g) All forms from this solicitation requiring signature must be included in the bid.
h) Offerors should submit proposals in the following format:

1. **Title Page:** Should show the RFP’s subject; the Offeror’s name; the name, address, telephone number and email address of a contact person; and the date of the proposal.

2. **Table of Contents:** Provide a Table of Contents to aid the evaluation of the proposal.

3. **Transmittal Letter:** Proposal should include a signed letter of transmittal briefly stating the Offeror’s understanding of the work to be undertaken, the commitment to perform the work within the time period, a statement of “why” the Offeror believes its firm to be the best qualified to perform the work and a statement that the proposal is a firm and irrevocable offer for ninety (90) calendar days.

4. **Detailed Proposal:** The purpose of the detailed proposal is for the Offeror to demonstrate its qualifications, competence, and capacity to provide Johns Island and West Ashley outside of I-526 Waste Collection Services to the City in conformity with the requirements of this RFP.

Offerors should address all the points outlined in the Criteria Factors.

**PROPOSAL EVALUATION PROCESS**
The City will conduct a comprehensive, fair and impartial evaluation of all Proposals received in response to this request for competitive sealed proposal as defined in this section.

An Evaluation and Selection Committee will be established to evaluate the Proposals and select a proposal which represents the best value to the City. The Evaluation and Selection Committee will be comprised of City personnel and any other persons as designated by the City. This Committee will determine the responsiveness and acceptability of each proposal. The Evaluation and Selection Committee may request additional information from Offerors.

The City will conduct a comprehensive, fair and impartial evaluation of all Proposals received in response to this RFP. Each Proposal received will first be analyzed to determine overall responsiveness and completeness to this RFP. Each Proposal will then be evaluated based on each of the criteria as outlined in Proposal Evaluation Criteria Factors, and after which identified
as either reasonably qualified or unqualified. A Proposal will be declared unqualified if it clearly fails to demonstrate, in any of the listed areas, a standard that the City believes necessary to meet the requirements set forth in this RFP.

Following their review of all submitted Proposals, the Selection Committee may select a shortlist of the highest ranked reasonably-qualified Offerors. Shortlisted Offerors will be invited to present their Proposal to the Evaluation and Selection Committee.

The City may issue a request for clarification to the shortlisted firms requesting additional information or clarifications. This request will also invite each of the Offerors to give a formal presentation to the Evaluation and Selection Committee and outline the format of the presentation.

The purpose of the presentations will be to allow Offerors to further present their proposal and allow members of the Evaluation and Selection Committee to ask questions of the proposed project team.

**PROPOSAL EVALUATION CRITERIA FACTORS**
The following weighted criteria will be used to evaluate the Proposals for purposes of selecting the Offeror(s) to negotiate with or to shortlist.

**Criteria Factors**
- Demonstration of Experience
- Proposed Equipment
- Company History/Stability
- Quality & Completeness of Proposal
- References
- Cost

It is the Offeror’s responsibility to effectively communicate their qualifications, services, and products to the City by thoroughly responding to each requirement contained in this RFP.
SCOPE OF WORK

1. SERVICES:
The Successful Bidder must provide the following services:

A. GARBAGE: The Successful Bidder shall provide garbage collection services once weekly to all affected City of Charleston citizens on Johns Island and West of the Ashley outside of I-526. Regular garbage collection services shall exclude construction debris except as noted: hazardous waste, tires, batteries, and toxic non-solid waste as determined by the Successful Bidder. All garbage shall be placed in 96, 64 or 34-gallon roll carts in order to be collected. The City reserves the right to request the Successful Bidder to also collect up to 2 bags per household in addition to the 96-gallon roll carts to which residents may have 2.

B. YARD DEBRIS: The Successful Bidder shall collect all yard debris, such as clippings, trimmings, and limbs, disposed of by households on a weekly basis. All yard debris must be placed in approved paper bags and all limbs should be trimmed to the stem, no longer than four feet (4”) in length and four inches (4”) in diameter. The Successful Bidder shall provide notice to residents of these requirements. Should the Successful Bidder encounter an unusual amount of yard debris that would require an excessive amount of time to collect, subsequently impacting the completion of the route, he or she shall collect a reasonable portion of the debris and move on. The Successful Bidder shall then leave notice explaining why the remainder was not collected and immediately contact the City for further instruction. The Successful Bidder is not required to offer land-clearing services such as tree and stump removal.

C. BULK ITEMS: The Successful Bidder shall collect up to two (2) white goods, such as refrigerators, ovens, and washing machines, or bulky items per household on a weekly basis.

D. HOMEOWNER GENERATED CONSTRUCTION DEBRIS: Homeowners shall be allowed to deposit and the Successful Bidder shall collect up to 1 cubic yard (pile of debris approximately 6’L x 3’W x 2.5’H) of homeowner generated construction debris in addition to their roll cart waste on each assigned collection day of yard waste, up to 2 bulky items per week and up to 1 cubic yard of construction debris may also be placed curbside for collections.

E. MISSED COLLECTIONS/IMPROPER PUT OUT: The Successful Bidder shall keep a log and report all missed collections and improper put outs to the City by the close of business on the day of the scheduled collection. The Successful Bidder shall be responsible for rescheduling all missed collections within one (1) business day following a report of missed collection by a citizen.

F. DISABLED SERVICE PICK-UPS: The Successful Bidder shall make collections for disabled persons at a site on their property agreed to by the citizen and the City of Charleston upon City’s verification of disability.
G. ADDITIONAL SERVICES: The Successful Bidder should have the ability and staff qualified to extend services to a portion of the Peninsula (Attachment A & B) for a period of six days the last week in July and first week in August. The successful bidder should expect to collect approximately 80 tons of trash and garbage associated with the College of Charleston student move out. The Successful Bidder must have the ability to service substandard roads (dirt & gravel) and a small truck in their fleet for narrow areas in the West Ashley area.

H. ROLL CART MANAGEMENT: The Successful Bidder shall have the ability to maintain/repair existing roll carts, as well as distribute new roll carts to City residents. The pickup of existing roll carts for maintenance, as well as the distribution of new roll carts shall take place on the same day as the garbage collection operation. Depending on the preference of the resident, these roll carts may be 96-, 64-, or 35-gallon in size. All new roll carts distributed to City residents must be green in color and bear the City’s seal, an example of which will be provided by the City. This seal must be embossed or affixed via adhesive (i.e., stickered).

2. ROUTES AND SCHEDULING:
A. ROUTES: The Successful Bidder shall have all routes intended for use under the Agreement approved by the City prior to the commencement use. Subsequently, all changes in established routes must be approved by the City prior to the implementation of the changes. Any Changes that are approved by the City of Charleston will require notification to the residents at Bidders expense.

B. SUSPENDED OPERATIONS: Should the Successful Bidder deem it necessary to suspend operations for any reason (to include severe weather, equipment malfunctions, personnel issues, etc.), the Successful Bidder shall immediately notify the designated City representative and upon approval of the request by the City shall proceed with notifying affected residents and re-scheduling services as required.

C. NEW AND DISCONTINUED COLLECTION POINTS: The Successful Bidder shall incorporate any new collection points within one (1) week notification of the new collection point by the City; and shall cease collecting from discontinued locations within one (1) week notification by the City. The fee and billing procedures for new collection points and discontinued collection points are described herein, Compensation and Payment Terms. The successful Bidder will not add any new collection points without the express written consent of the City. The Successful Bidder shall be responsible for providing routine services to a new collection point regardless of whether the refuse is in a City approved container until such time that the City is able to provide said container.

D. COMPENSATION AND PAYMENT TERMS: The Successful Bidder will bill the City monthly for the services to be provided within the scope of this Agreement. The City shall be billed a fee for each location serviced per roll cart per month. The City shall allow adjustments to the fee charged above on a quarterly basis for additional fuel costs only. All requests for fee adjustments must be submitted in writing to the City along with written documentation of the successful Bidder’s current fee schedule. Service initiated during a billing period shall be billed only for that portion of the period for which the successful Bidder actually provided services. All service locations, including new locations or discontinued locations, that are
billed for a partial month must be billed separately from locations receiving full month service. The City reserves the right to agree to or modify these terms as it is in the best interest of the City and the citizens of Johns Island and West of the Ashley outside of I-526.

All invoices must be submitted to the following address:
City of Charleston
Accounts Payable
PO Box 853
Charleston, SC 29402-0853

E. SCHEDULING: The Successful Bidder shall be able to service Johns Island and West of the Ashley outside of I-526 for solid waste collections every Monday. Any changes in schedules must be approved by the City prior to the implementation of schedule changes. Upon approval of schedule changes by the City, the Successful Bidder shall notify all affected citizens in writing at least two (2) weeks prior to any changes in their collection schedule. The Successful Bidder shall furnish each service location with a written collection schedule, which reflects service dates for all regular pick-ups, as well as instructions on how to schedule a pick-up of bulky items and white goods.

F. HOLIDAYS: Should a collection day coincide with an approved holiday listed below, collection shall occur the next business day. Residents shall be informed of the holiday schedule with make-up days.

- New Year’s Day January 1
- Martin Luther King, Jr. Day Third Monday in January
- President’s Day Third Monday in February
- Memorial Day Last Monday in May
- Independence Day July 4
- Labor Day First Monday in September
- Veterans’ Day November 11
- Thanksgiving Day Fourth Thursday in November
- Christmas Day December 25

3. LANDFILL REQUIREMENTS:
The Successful Bidder shall provide copies of all weight tickets broken down by week on a monthly basis at the same time as the prior month’s invoice.

The Successful Bidder shall be responsible for all landfill charges, if any. All charges shall be documented and certified by the Charleston County landfill and a copy of the original documents must be provided to the City.

4. COMMUNICATIONS:
The Successful Bidder shall provide the City a list of contract names and phone numbers including contact numbers where contacts can be reached before during and after working hours. The Successful Bidder shall insure that a representative is available to the City at all times on days where services are being performed under the Agreement.
5. **PERFORMANCE:**
The Successful Bidder shall be responsible for insuring that all collections occur as scheduled. Collections under this Agreement shall not take place before 7:00am. Should the Successful Bidder foresee that they are unable to complete a route on the day for which it is scheduled, the Successful Bidder must immediately contact the City to inform them of such. The City shall retain the right to complete the route on behalf of the Successful Bidder, and bill the Successful Bidder accordingly for staff time, fuel usage, equipment usage, and landfill fees as applicable.

6. **COMPLAINTS:**
The following procedure shall be used to resolve citizen complaints:
- The Successful Bidder shall report all complaints to the City at the end of each business day
- The contractor should direct all complaints to the City of Charleston’s citizen’s service desk. (843) 724-7311
- The City will log in all complaints.
- The City will inform the Successful Bidder of complaints for correction by the Successful Bidder.
- The Successful Bidder will respond immediately and shall be courteous to City personnel and especially to all citizens.
- The Successful Bidder shall notify the City within 24 hours on the status of the complaint or when the complaint is corrected and the City shall log in the reported status and verify with the complaining party.
- The Successful Bidder shall notify the City by close of business the day the complaint was received.
- There will be no extra cost for handling complaints.

7. **ADDITIONAL REQUIREMENTS:**
A. The Successful Bidder shall have 14' garbage trucks in their fleet for a portion of this project. If the use of a 1-arm Bandit is anticipated, education to residents must be provided. Which includes placement of the carts

B. The Successful Bidder is responsible for picking up any debris and litter spilled during handling and emptying of container(s).

C. The Successful Bidder will return collection containers to the area from which they were collected. Containers should not be thrown, will not be left in roadway, will not be blocking access to a mailbox or driveway and will not be left open (lid will be closed).

D. If at any time during the life of the contract, performance does not adhere to these specifications, the Successful Bidder will increase the workforce, tools, and/or equipment and take any other measures that are required to bring the service into conformance with these specifications. Failure of the County to direct such improvement of performance will not relieve the Successful Bidder of their obligations to perform the work in a manner and within the time(s) specified.
E. The Successful Bidder will take all necessary precautions for the safety of employees on the work site and shall maintain at all times, all necessary safeguards for the protection of the workers and the general public. All waste personnel will be required to wear safety vests and/or reflective clothing at all times while carrying out the services specified in the specifications.

F. The Successful Bidder will be fully responsible for the work and conduct of his employees and employees must be easily identifiable as employees of the Successful Bidder when providing service under the contract. The Successful Bidder shall give proper identification to customers as to his name, address and telephone number so that customers are fully informed about their authorized solid waste collector and identification of the Successful Bidder shall be shown on all solid waste collection vehicles, correspondence, statements, bills, and receipts used in the normal conduct of business.

G. A fully qualified force shall be maintained throughout the period of the contract with a sufficient number of workers to perform all required services within the hours indicated by the schedule. These workers shall be thoroughly instructed by their supervisors as to required duties and methods of performance. All personnel shall maintain a courteous and respected attitude toward the public at all times. At no time will there be any solicitation or requesting of gratuities of any kind. At no time shall the collectors accept money or other gratuities offered by the resident. The City shall recommend action to be taken by the Successful Bidder and may require the Successful Bidder to remove any employee from the City routes who is wanton, negligent or discourteous in the performance of duties as outlined in the contract. The Successful Bidder is expected to make certain all drivers meet the requirements set forth in appropriate local, state and federal laws and are properly licensed for the operation of vehicles used to carry out the requirements of the contract. The City reserves the right to require and inspect driving records without notice at the discretion of the Director of Public Service, or designee.

H. The Successful Bidder must have auxiliary equipment and vehicles available for use in the event the assigned equipment or vehicle becomes inoperative.

I. All vehicles shall be kept in a sanitary condition, presentable and clearly marked on its exterior with the name and telephone number of the Successful Bidder.

J. Collection vehicles will carry litter clean-up equipment and use it in the event of spillage or breakage by the collection crew.

K. The Successful Bidder must have the capability to go in and collect garbage & debris from alley ways.

L. The Successful Bidder must report within one (1) business day following any property damage (knowingly caused). The Successful Bidder must also make repairs to property damage within an agreed upon time and as agreed upon by the City. The Successful Bidder will be given a warning for the 1st and 2nd offense for any damages not reported; however, the 3rd offense will warrant a financial penalty.
8. **TRACKING AND DATA SHARING:**
The City will monitor the length of time it takes the Successful Bidder to resolve all citizen complaints and requests. Additionally, the City would like to track the following key performance metrics for each waste collection route:

- Number of property damage claims and corresponding location for each claim
- Number of missed collections, corresponding location (household) of each missed collection, and reason for each missed collection
- Route completion and reason for route incompletion if applicable
- Number and type of all other citizen requests/complaints (such as litter, leaking equipment, etc.) and corresponding location for each request/complaint
- Number and type of improper put-outs (such as yard debris in the garbage container or limbs not cut to proper specification) and corresponding location (household) for each improper putout
- Equipment failures
- Time to fulfill roll cart requests (new carts and/or maintenance)
- Tonnage per route

The City strongly prefers that the Successful Bidder be able to share these route-level data on a regular basis, preferably at the conclusion of the collection day. If the Successful Bidder does not have the ability to share these data in this fashion, he or she must be able to generate reports that summarize this information on a weekly and as-needed basis.

The City strongly prefers that the Successful bidder have or be able to acquire an onboard tablet system to track crews and other vital information. The successful bidder should be able to provide GPS coordinates or breadcrumb trails of trucks if requested by the City of Charleston.

Some of these performance metrics, along with information on complaint resolution times, will be used to monitor vendor performance over the course of the contract. Please see Performance Standards section below for further details.

9. **PERFORMANCE STANDARDS:** As described above, the City is seeking a vendor that can provide safe, clean, efficient, and on-time waste collection services to the residents of Daniel Island and Cainhoy. In order to ensure this goal is being met, the City has defined service delivery standards for several key aspects of the waste collection operation. Failure to adhere to these performance standards may result in the levy of a performance penalty, as described in the table below.

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<th>Aspect of the Work</th>
<th>Performance Standard + Potential Penalty</th>
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<td>Route completion</td>
<td>The Successful Bidder may be subject to a penalty up to $500 for each waste collection route for which fewer than 90% of households are serviced. Failure to notify the City of an incomplete route may result in an additional penalty up to $1000.</td>
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<td>Response time to missed collection complaints (and the correction of incomplete routes)</td>
<td>The Successful Bidder shall resolve all missed pickups within 24 hours of receiving the notice to proceed with corrective action from the City (see Section 5 of the Scope of Work). Failure to collect missed pickups within this timeframe may result in a performance penalty up to $200 missed location.</td>
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<td>Response time to roll cart requests</td>
<td>The Successful Bidder shall fulfill all requests for new roll carts and/or roll cart maintenance within seven (7) days of receiving notice of these requests from the City (see Section 4 of the Scope of Work). The Successful Bidder shall distribute all new and/or fixed roll carts on the day of the waste collection operation, and shall inform the City when a roll cart request has been completed. Failure to distribute roll carts in this fashion may result in a performance penalty up to $200.</td>
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| Response time to property damage claims | The Successful Bidder shall begin the complaint resolution process for all property damage claims within 24 hours of receiving the notice to proceed with corrective action from the City (see Section 5 of the Scope of Work). Failure to begin the resolution process within this timeframe may result in a performance penalty up to $500.  

The Successful Bidder shall work with the City to determine a course of action for all property damage claims. Failure to adhere to mutually agreed-upon timelines and carry out mutually agreed-upon steps may result in an additional performance penalty up to $500. |

10. **QUALIFICATIONS:**

A. Bidder shall provide a minimum of three (3) years’ experience in the solid waste industry. Companies that have been in business less than three (3) years may demonstrate the required experience by a showing that the principals and officers of the company who would be administering and managing the project have the requisite level of experience.

B. Bidder shall provide the names of four (4) references/clients with phone numbers, addresses and email addresses where the vendor has completed projects of comparable scope to the project listed in this solicitation for the City of Charleston.

C. The City or its designee may make such investigation as they deem necessary to determine the ability of the vendor to perform the work, and the vendor shall furnish the City all such information and data for this purpose as the City may request. The City reserves the right to reject any bid if the evidence submitted by, or investigation of, such bidder result in the determination that the bidder is not properly qualified to carry out the obligations of the Agreement and to complete the work contemplated therein within the time period set forth in the competitive sealed proposal.
**BIDDER'S INFORMATION QUESTIONNAIRE**  
(Must be completed by Bidder)

The information submitted herein will be used by the City of Charleston to assess the responsibility of the Bidder to perform as the Contractor on this project for Residential Solid Waste Disposal on Johns Island and West of the Ashley outside of I-526. Submittal of this information is mandatory; failure to do so will result in the Bidder being deemed non-responsive. Additionally, the Bidder is required to certify, under oath, that the information provided herein is truthful and complete.

The Bidder should prepare the requested information in the following sequence and format. Failure to provide all requested information may be considered grounds for rejection of the submittal.

1. Furnish the Organization’s name and principal address.

2. Is the Organization a corporation, partnership, joint venture or “other”?
   
   a) If corporation, furnish date and state of incorporation and names of the president, vice-president, secretary and treasurer.

   b) If partnership, furnish date of organization, type of partnership (if applicable) and name(s) of general partner(s).

   c) If joint venture, furnish names of participants and corresponding percentage of participation. Additionally, if the participants are a corporation, a partnership or “other”, furnish the information for the individual participants as requested herein for their respective types of organization.

   d) If “other”, furnish information sufficient to describe the organization’s ownership and business structure.

3. How many years has the Organization been in business under its present name?

4. Has the Organization operated under previous and/or other names? If so, furnish names, addresses and corresponding length of time in business.

5. Furnish the following information relating to the Organization’s performance in the solid waste industry. If the Organization is a partnership or joint venture, furnish the requested information on each of the participating entities. If the organization has operated under previous and/or other names, furnish the following information for those named businesses.

   a) Provide proof of Organizations’ experience as delineated by paragraph 8.A.

   b) Has the Organization ever failed to complete the work in any contract awarded to it? If so, furnish details.
c) Within the last five (5) years, has any officer or principle of the Organization or any of its participating entities been an officer or principle of any other organization that failed to complete the work on any contract awarded to it? If so, furnish details.

November 10

d) Furnish the total dollar volume of work the Organization has performed for each of the past five (5) years.

e) Furnish a list of the key personnel that will be involved with this project if the Organization is the Successful Bidder. Also include their resume/vita, their present job commitments and the anticipated level of involvement in this project.

6. Furnish the following information relating to the Organization’s history with regard to lawsuits, claims and arbitration. If the Organization is a partnership or joint venture, furnish the requested information on each of the participating entities. If the Organization has operated under previous and/or other names, furnish the following information for those named businesses.

   a) Are there any lawsuits, arbitration proceedings, judgments or claims pending or outstanding against the Organization, its officers or, if appropriate, any of its participating entities? If so, furnish details.

   b) Within the last five (5) years, has the Organization or any of its participating entities filed any lawsuits or arbitration requests? If so, furnish details.

7. Furnish an audited financial statement for the Organization’s latest balance sheet and income statement showing the following information. If the Organization is a partnership or joint venture, furnish the requested information on each of the participating entities. If the organization has operated under previous and/or other names, furnish the following information for those names businesses.

   ◈ Current Assets
   ◈ Net Fixed Assets
   ◈ Other Assets
   ◈ Current Liabilities
   ◈ Other Liabilities
   ◈ Name and address of the firm that prepared the statement

8. Furnish reference information including the names of four (4) clients in South Carolina with phone numbers and addresses where the Bidder has completed projects of comparable scope to this project.

9. Furnish an estimated implementation timeline showing when service can begin once award of contract.

10. The Response to this Questionnaire should be signed and attested as follows:
Date: __________________________

Name of Organization: ____________________________________________

By: __________________________________________________________________

Title: __________________________________________________________________

Mr./Ms. (Signatory) being duly sworn deposes and says that the information provided herein is true, complete and is not in any way misleading.

Subscribed and sworn before me this day ______________________________

Notary Public: ______________________________________________________

My Commission Expires: _____________________________________________
BIDDER/CONTRACTOR EQUIPMENT/VEHICLE LIST

Bidder/Contractor shall list all equipment/vehicles that he has immediately available to assign to this contract, attach additional sheet if necessary. (List shall be attached to the Bid Proposal.) If the Contractor plans to acquire additional equipment to assign to this contract, the make and model of the equipment to be acquired, the vendor of the equipment, and the time required to obtain the equipment must be made a part of this list. Upon request, the Contractor must provide a letter from the vendor stating that the equipment is available and that financing is secured.

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Business Name: ____________________________________________

Business Address: _________________________________________

_________________________________________________________________

Telephone Number: ____________________________

Fax Number: _________________________________________

Email Address: _________________________________________
Bidder agrees to perform all of the work described in the solicitation document for the following price per month, per household in the residential franchise area. The estimated number of homes to be serviced is 11,000.

Cost for garbage, once a week:

$ __________________ per month per household

Cost for yard waste and wood debris once a week:

$ __________________ per month per household

Cost for white goods, dry trash & furniture scheduled once a week:

$ __________________ per month per household

Cost for homes, greater than the estimated number given:

$ __________________ per month per household

Fuel Surcharge:

$ __________________ per month

Total Cost:

$ __________________ per month per household
# Deviations from Specifications

Please list all deviations from specifications in the space provided below. Please note item number for which you are showing deviations.

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<td>VALENTINE WAY</td>
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<td>WOLFFS LAIR RD</td>
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</table>
Offeror agrees to perform all of the work described in the solicitation document for the downtown area based on the Move Out Map.

Requirements are:
- 3 trucks for furniture and yard debris
- 1 truck for garbage
- 2 runs/day for 6 days

Fee: $_________________________ per day

Fuel Surcharge: $_________________________ per day

Total Cost: $_________________________/6 days
Vendor’s Checklist

1. Did you provide required information and sign the front page of the solicitation?  
   _____ Yes _____ No

2. Did you sign the Certificate of Familiarity form?  
   _____ Yes _____ No

3. Did you sign the City of Charleston M/WBE Compliance Provisions forms?  
   _____ Yes _____ No

4. Did you sign the applicable Affidavit?  
   _____ Yes _____ No

5. Did you mark your “Original” Bid and provide the required # of copies?  
   _____ Yes _____ No

6. Did you complete and include all pricing sheets?  
   _____ Yes _____ No

7. Did you include the required references?  
   _____ Yes _____ No

8. Did you provide a copy of insurance and all other documentation requested?  
   _____ Yes _____ No

9. Did you include and sign any addenda?  
   _____ Yes _____ No

10. Did you double check to make sure you have included everything that is requested?  
    _____ Yes _____ No

If you have any concerns, please do not wait until after opening to raise them. At that point, it is too late. If this solicitation includes a pre-bid conference or a question & answer period, raise your questions during this time. Please read the bid carefully.

This checklist is included only as a reminder to help Bidders avoid common mistakes. Responsiveness will be evaluated against the solicitation, not against this checklist. You do not need to return this checklist with your response.
EXHIBIT B

City of Charleston
Procurement Division
75 Calhoun Street, Suite 3500
Charleston, SC 29401

ADDENDUM #1 Q&A

DATE: September 28, 2020
TO: All Bidders
FROM: Robin B. Robinson
RE: 20-P029R – Johns Island West Ashley I-526 Waste Collection Services RFP

This addendum #1 Q&A to the solicitation is being made for the following reasons:

Q-1 Do you anticipate extending the bid due date?
A-1 Not at this time.

Q-2 What additional details are you willing to provide, if any, beyond what is stated in the bid documents concerning how you will identify the winning bid?
A-2 All information pertaining to award has been provided in the RFP document.

Q-3 Was this bid posted to the nationwide free bid notification website at www.mygovwatch.com/free?
A-3 It was not.

Q-4 Other than your own website, where was this bid posted?
A-4 We advertised in The Chronicle, the Post & Courier and the SCBO (South Carolina Business Opportunities) website.

Q-5 What is the start date of the agreement?
A-5 The intended start date will be June 1, 2021.
Q-6  Is it required that all routes be completed on Monday?
A-6  No. We did not realize we left that in. Routes do not have to be completed on Mondays

Q-7  What are the current rates?
A-7  The current rate is $8.92.

Q-8  Is the 14’ truck required? If so, how many homes will it be needed to serve?
A-8  No, This should have been removed from RFP. No truck requirements.

Q-9  How many trucks are currently being utilized each day during the “move out” portion of the agreement?
A-9  We currently utilize 2-4 trucks. We do supplement city trucks as well.

Q-10 Can you provide yearly disposal tonnage totals for each waste stream? MSW, Bulk and C&D
A-10 Garbage was 13,728 tons for 2019 and Yard waste / Bulk was 3,396 tons for 2019.

Q-11 What are the Charleston County Cap allocations for each of the waste streams? MSW, YW, Bulk and C&D
A-11 There are no caps.

Q-12 Can you provide a full list of addresses to be serviced?
A-12 We can provide a full list of addresses that would be serviced to the awarded vendor.

Q-13 Can Bulk be on a scheduled basis where the resident calls in the request?
A-13 No. We require bulk pick up to be completed weekly at this time. We do ask that residents give us a call to let us know, but it is not required.

Q-14 Is it required that MSW, YW, Bulk and C&D be serviced on the same day for each home?
A-14 No, It is not required but we would like for as many as possible be serviced on the same day.
Q-15  Performance Standards – the specifications reference Daniel Island and Cainhoy. Will the same performance standards apply?

A-15  Yes, The same ones will apply to this area as well.

Q-16  Will yearly escalators based on a mutually agreed upon CPI model be allowed for extension years?

A-16  You would need to request yearly CPI increases by August 1st.

Q-17  What was the last awarded amount for the contract?

A-17  It was awarded at $8.75/house/month; however, a requested increase was approved at $8.92/house/month.

Q-18  Are all of the current carts owned by the City?

A-18  Yes, All of the current carts are owned by the City of Charleston.

Q-19  Will all current carts be available for service when the agreement starts?

A-19  Yes, The carts stay with the properties as they are owned by the City of Charleston.

Q-20  What is the estimated percentage of carts for each? 96 gallon, 64 gallon, and 35 gallon?

A-20  I would say 90% is 95 gallon, 5% is 64 gallon, and 5% is 35 gallon.

Q-21  Will the Contractor be responsible for purchasing carts and cart parts for repair/replacement?

A-21  Yes, they must have the city seal and be the same color green as the existing carts.

Q-22  Will carts purchased by the Contractor during the contract term be turned over to the City of Charleston at the end of the contract term?

A-22  Yes.

Q-23  What are the current rates for monthly service (by line/material collection if possible)?
Q-24 What are the current rates for the 6-day College of Charleston move out cleanup?
A-24 The fee is $4,000.00/day, Fuel Surcharge at $600.00/day.

Q-25 Is there additional cap allotment for the College of Charleston move out tonnage?
A-25 We have no caps.

Q-26 Approximately how many customers require alleyway service via 14yd. truck?
A-26 None. This information should be removed from the RFP.

Q-27 Will an 18yd. single axle truck be acceptable in lieu of the 14yd. truck?

Q-28 Does the City field the resident’s phone calls or does the Contractor?
A-28 The City of Charleston takes the calls and then will pass on to the Contractor.

Q-29 Is all volume directed to Charleston County Bees Ferry Landfill (household garbage, yard debris, bulk, construction debris)?
A-29 Garbage and Yard Waste is directed to the Bees Ferry Landfill, while the County has directed C&D and Bulk go to Republic in North Charleston.

Q-30 Can yard debris, bulk item, and household construction be mixed together?
A-30 No, Yard waste must remain separate. Bulk and C&D may be mixed.

Q-31 Approximately how many carts are replaced each year?
A-31 We do not track this at the moment.

Q-32 Scope of Work item 2.E. “Scheduling” mentions Monday as the required service day. May the Contractor service the residents Monday through Friday instead?
A-32 Yes. Monday only was a miss print. You can service residents Monday through Friday.
Q-33  What is the disposal cap allotment for each type of material?

A-33  No Caps.

Q-34  How many routes does the incumbent contractor run each day?

A-34  They run 4 garbage trucks and 2 yard debris / bulk trucks per day. Monday through Thursday.

If you have any questions, please feel free to call 843-724-7312 or 724-7314. Thank you in advance for your cooperation.

______________________________  ________________________________
Signature of Acknowledgement                 Date

________________________________________
Company Name
City of Charleston
Procurement Division
75 Calhoun Street, Suite 3500
Charleston, SC 29401

ADDENDUM #2

DATE:    September 29, 2020
TO:      All Bidders
FROM:    Robin B. Robinson
RE:      20-P029R – Johns Island West Ashley I-526 Waste Collection Services RFP

This addendum #2 to the solicitation is being made for the following reasons:

This addendum is to correct the answer given for Q-34. The correct answer is:

Q-34    How many routes does the incumbent contractor run each day?

A-34    They run 5 garbage trucks, 3 yard debris / bulk trucks, and 1 knuckleboom per day. Monday through Thursday.

If you have any questions, please feel free to call 843-724-7312 or 724-7314. Thank you in advance for your cooperation.

__________________________________________  __________________________
Signature of Acknowledgement                Date

__________________________________________
Company Name

T: (843) 724-7314
F: (843) 720-3872
EXHIBIT C

INSURANCE REQUIREMENTS

Contractors working for the City of Charleston are required to procure and maintain for the
duration of their contract with the City insurance against claims for injuries to persons or
damages to property which may arise from or in connection with work performed by the
Contractor, his agents, representatives, employees or Subcontractors. The cost of such insurance
shall be the responsibility of the Contractor.

A. The Contractor shall carry liability insurance with a reliable company licensed to do
business in South Carolina. Coverage shall be at least broad as:

1. Insurance Services Office Commercial General Liability Coverage Form
   ("occurrence") CG 00 01 10 93.

2. Insurance Services Office Business Auto Coverage Form
   CA 00 01 6 92 covering automobile liability, code 1 "any auto".

B. Contractor shall carry workers’ compensation as required by the State of South Carolina
   and Employers Liability insurance (including applicable occupation disease provisions
   and all state endorsements.)

C. Contractor shall maintain limits no less than the following:

1. GENERAL LIABILITY: $1,000,000 combined single limit per occurrence for
   bodily injury, property damage, and personal injury with a $2,000,000 general
   aggregate limit.

2. AUTOMOBILE LIABILITY: $1,000,000 combined single limit per accident
   for bodily injury and property damage.

3. WORKERS’ COMPENSATION: Statutory limits are required by South
   Carolina state law, and employer’s liability limits of $100,000 per accident.

4. PROFESSIONAL LIABILITY: $1,000,000 per claim/$1,000,000 aggregate
   limit, with a deductible of $20,000.

Contractor shall obtain and maintain a professional liability insurance policy
covering the performance of the professional services specified in this agreement.
Evidence of such insurance shall be satisfactory in form and content to the owner,
the City. This coverage shall be maintained through the duration of this project
and for a minimum of 1 year after substantial completion of the project as
determined by the City.

The Contractor and any of its subcontractors will cause the professional liability
insurance required in this paragraph C.4:
(a) to be excess insurance over any project professional liability policy, and

(b) to be primary insurance in the event the project insurance described in Paragraph E is canceled or not maintained, in the event the policy’s limits of liability are exhausted, or if the policy expires.

D. Required policies are to contain, or be endorsed to contain, the following provisions:

1. General Liability and Automobile Liability Coverages

The City of Charleston, its officials, employees and volunteers are to be covered as additional insureds as respects: Liability arising out of activities performed by or on behalf of the Contractors; premises owned, occupied or used by the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City of Charleston, its officials, employees or volunteers. To accomplish this objective, the City of Charleston shall be named as an additional insured under the Contractor’s general liability policy by attaching Insurance Services Office Commercial General Liability Endorsement CG2010 10 93 (Additional Insured - Owners, Lessees or Contractors - Form B) or its equivalent. Contractors’ insurance coverage shall be primary insurance as respects the City of Charleston, its officials, employees and volunteers. Any insurance or self-insurance maintained by the City of Charleston, its officials, employees, or volunteers shall be in excess of the Contractor’s insurance and shall not be required to contribute. To accomplish this objective, the following wording should be incorporated in the previously referenced additional insured endorsement.

Other Insurance: This insurance is primary, and our obligations are not affected by any other insurance carried by the additional insured whether primary, excess, contingent or on any other basis.

Any failure to comply with reporting provisions of the Contractor’s policies shall not affect coverage provided to the City of Charleston, its officials, employees or volunteers.

2. Workers’ Compensation

The Contractor shall agree to waive all rights of subrogation against the City of Charleston, its officials, employees and volunteers for losses arising from work performed by the Contractor for the City of Charleston.

E. Any deductibles or self-insured retentions shall be the responsibility of the Contractor.

F. Each insured policy required by the City of Charleston shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice has been given to the City of Charleston.
G. All coverages for Subcontractors shall be subject to all the requirements stated herein.

H. Insurance must be placed with an approved insurance company with current Best’s rating of A+, A, or A-. Exceptions to this requirement must be approved in writing by the Department of Risk Management.

I. Contractor shall furnish the City of Charleston with Certificates of Insurance noting the endorsements. The Certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by the City of Charleston, Procurement Division, before work commences. The City of Charleston reserves the right to require complete, certified copies of all required insurance policies, at any time.

Required certificates should be mailed to:

City of Charleston
Procurement Division
75 Calhoun Street, Suite 3500
Charleston, SC 29401
Proposal Number: 20-P029R
Johns Island and West Ashley outside of I-526
Waste Collection Services

Trident Waste & Recycling, LLC
2701 Rourk Street
North Charleston, SC 29405
(843) 576-5050 – Office
(843) 297-0000 – Cell
www.tridentwastesc.com
sfennell@tridentwastesc.com

October 15, 2020 12PM
City of Charleston
Procurement Division
75 Calhoun Street, Suite 3500
Charleston, SC 29401

Trident Waste & Recycling, LLC is pleased to offer a proposal for the waste removal services for Proposal Number 20-P029R with a due date of October 15, 2020, 12PM. The newly formed company specializes in the collection of waste and recycling removal services located within the Trident area. We realized the need to start another company to focus on top quality service that only a local company can offer this community. Service and safety with remain our primary goals and we are extremely confident we can fulfill the needs for the City of Charleston.

The ownership and management group of Trident Waste & Recycling, LLC is intimately familiar with the waste service contract for West Ashley and Johns Island. Our team of Scott Fennell, Logan Bland, Kenny Younginer, Greg Padgett, and Pete Paulatos, while under the private ownership of Carolina Waste & Recycling, started the initial privatization of the contract 7 years ago for the City of Charleston. Our team departed from Waste Connections approximately 3 years ago to exit being involved in a publicly operated company. Additionally, Bob Shepard, former RVP of Republic Services, Inc., Southern Division, has joined the Trident Waste team. Bob is a forty (40) year veteran of the solid waste industry. He had profit and loss responsibility for all Republic operations in the Carolinas, Georgia, and Florida. He oversaw the operations of hundreds of residential waste and recycling contracts from 2000 – 2009. Our locally owned and operated waste collection firm, Trident Waste & Recycling, will collect residential, commercial, and industrial waste and recycling materials within Berkeley, Charleston and Dorchester Counties.

We have experience throughout the Trident area having previous contracts with the City of North Charleston, Town of Kiawah Island, Town of Summerville, and the Town of Mt. Pleasant to name a few. We started the City of Charleston contract with approximately 11,000 homes and the contract increased to over 15,000 homes. We know a more dramatic increase in the number of homes will occur and are basing our proposal on the upcoming growth.

We propose to purchase 4 Automated Side Loaders (ASL), 3 Rear End Loaders (REL) and 2 Grapple type vehicles at the start of the contract. All the vehicles will be factory new, nothing used will be purchased, as the combined vehicles will be in excess of $2,600,000 in capital. The ASLs and RELs will have a Mack chassis and Heil bodies. The grapple vehicles will be Kenworth Chassis and Peterson Grapple bodies. The 96 gallon carts for growth or replacement will be purchased from Rehrig Pacific.
We will always keep an ample supply of 50–100 carts in inventory on the yard with the City of Charleston embossed emblem for the added growth.

Trident Waste will operate from 2701 Rourk Street in North Charleston, just a few minutes away from the West Ashley service locations. Initially we will begin operations with 3 ASLs, 2 RELs, and 1 Grapple. We will have 3 additional vehicles as a backup or spares for the contract. Trident Waste will add more vehicles as the growth increases in the service area while maintaining the same spare vehicle ratio. Trident Waste will have 6 dedicated drivers and 2 helpers for the routes with 2 spare/swing drivers. The ASLs will collect MSW, the RELs will collect yard debris and bulk, and the grapple will collect bulk or yard debris.

Trident Waste intends to divide the service area into 6 routes over 5 days a week (Monday thru Friday) roughly having an equal number of homes per day. Routing 5 days per week will help us in optimizing asset and driver utilization. We will collect all waste materials; garbage, bulk, and yard debris on the same day of service, thereby reducing complaints.

Logan Bland, Operations Manager, will be involved daily with what transpires with the contract. The rest of the management team will assist Logan on a daily basis. As time progresses and the routes grow, Trident Waste will have a designated supervisor to oversee the contract who will report to Logan Bland.

Safety will be a priority with Trident Waste. All employees will be required to wear green Hi-Viz shirts and hats with company emblems, long pants, gloves, and proper footwear. Every employee will have pre-employment physicals for drug testing to include prescription drugs and random testing will occur periodically. Weekly and monthly safety meetings are required in which we will cover issues that have occurred or foreseeable or potential risks. We would encourage the City of Charleston to provide information or issues they see as beneficial to our safety meetings. Daily pre-trip and post trip inspections will occur on every vehicle to ensure all safety equipment is operational. A vehicle will not start the route without everything operating properly to include the alarms and cameras. We will also inspect the vehicles to ensure no leaks are observed. Our goal is for a zero complaint day.

Relative to what is occurring today with Covid 19, employees will be monitored and temperature checked on a daily basis. The single person Automated vehicles are beneficial as the driver services the cart from the cab thereby reducing the risk of the driver being infected or potential spread of the disease to another person.

As stated, Trident Waste will purchase Automated Side Loaders (ASLs) to service the 96 gallon carts. We have used Automated Front End Loaders (AFLs) in the past and know the potential risks having the units. We are extremely confident having ASL vehicles will be safer as we should see less tree limb or power line issues than the AFLs with the overhead lifting of the containers into the vehicle hopper.

Each vehicle will have a backup alarm and have up to 5 cameras per vehicle for complete visibility. The ASLs will have the HALO system by Heil. This will guarantee that the driver is lined up via a monitor perfectly to each cart before it is serviced. It also has a push button service lever versus a 4-
angle joystick to service the cart, both features reducing property damage and accidents. The HALO system adds an extra $25,000 to the overall price tag to each vehicle but we know it will help with safety for the driver or an issue outside the vehicle.

We are intimately aware of the importance of information transmission to the City of Charleston. All of the Trident Waste vehicles will have Third (3rd) Eye data and photo capability. With 3rd Eye, we will grant access to the City of Charleston to track the route in progress throughout the day or at the completion of each day. With satellite viewing, we will be able to get down to the street level to see a time and date of when cart was lifted at each address. A specific map color will show a popcorn trail of which portions of the route has been completed. Incomplete routes by street level will not show a color code. There will be visual proof of an actual service that has occurred. The information is stored for a minimum of 30 days. We would like to show the City of Charleston a presentation electronically of the 3rd Eye service capabilities.

The software will enable Trident Waste to visually see whether each cart or home has been serviced through Positive Recognition (PR). PR will show a photograph of every address before the cart is lifted if proof is requested. We also have the ability to provide a 2 minute video clip if a resident claims we damaged something or we missed them. As another example, a video clip could show excess materials on the street or yard debris being too large to service. Trident Waste has attached several photos or examples of the information we can provide through 3rd Eye cameras and software.

Upon award of the contract, vehicles will be ordered immediately. We will have all 9 vehicles at our facility 45-60 days before commencement of the contract. Drivers will start 30-45 days prior to the contract to start rolling out training on the trucks and routing. Twenty-one days prior, we will ride with each driver for the proper street by street routing in pickup trucks and will continue the daily driving up to the start date. On the 1st day of service, supervisors and management team members will either ride or follow the waste vehicles throughout the day. The entire week will be devoted to ensuring the route is followed and completed. When we are comfortable, the routes will be spot checked for the next month. Most problems occur during the 1st month of service so Trident Waste will endeavor to minimize the service issues from the start with the described plan.

With Operation Move Out, Trident Waste will converse with Dan Riccio one month prior to engagement. Logan Bland and a supervisor will coordinate with Dan to have a plan for a street by street service to collect the bulk or recyclable materials. Trident Waste will utilize 2 RELs, 1 Grapple, and a possible Roll Off vehicle to collect the waste materials over the 5 to 7 days.

Trident Waste is pleased to offer the proposal to collect the waste materials from the City of Charleston. We are extremely confident we can exceed the expectations the City of Charleston has with our described measures within our proposal. We do believe the 3rd Eye System is an important piece of what we can offer to ensure accountability from our driver team to the resident to the City of Charleston. When further enhancements in technology, efficiency, and safety can be introduced, Trident Waste, without hesitation, will add that portion to our service. Trident Waste is ready to earn your business and impress you with our service. Our pricing is guaranteed for 90 days.

Trident Waste & Recycling LLC

[Signature]
Information Questionnaire

1. Trident Waste & Recycling LLC
   2701 Rourke St.
   North Charleston, SC 29405

2. Trident Waste is an LLC that was formed on Oct. 5, 2020
   G. Scott Fennell – President, CEO
   Robert N. Shepard – Vice President
   Gregory D. Padgett – Secretary & Treasurer

3. Trident Waste is a newly formed LLC that started Oct. 5, 2020

4. N/A

5. Scott Fennell, Robert Shepard, and Kenny Younginer worked with Fennell Container Company, Inc. presale and post-sale with Republic Services. During this tenure, we serviced up to 50,000 homes throughout the Trident area. Carolina Waste & Recycling, LLC was formed in 2002 with Kenny Younginer, Logan Bland, and Scott Fennell. We serviced the Town of Kiawah, City of North Charleston, and the City of Charleston, and several other smaller communities in excess of 24,000 homes.

   a. The entire Trident Waste management team has over 100+ years of waste & recycling in the local market. We are extremely familiar with the Johns Island & West Ashley contract as the Trident Waste team started the transition from the City of Charleston service to Carolina Waste Services. Over the first 4½ years of the contract, we made modifications to the routing to help better the service we provided to the resident.

   b. Trident Waste management team has always completed the work within a contract it was awarded to perform.

   c. None of the officers or management team members of Trident Waste has ever failed to complete a contract it was awarded.
6. We have no history of lawsuits, claims, and arbitrations.
   a. No lawsuits, arbitration proceedings, judgments, or claims of any type with Trident Waste or its management team.
   b. We have not filed any suits
7. We do not have an Audited Financial Statement due to Trident Waste being newly formed. See attached Trident Waste Balance Sheet
8. References: See Attached
9. Implementation timeline has been provided within the proposal
10. Date: 10/14/20

Trident Waste & Recycling, LLC

By: [Signature]

Title: President

Mr./Ms. [Signature] being duly sworn depose and says that the information provided herein is true, complete and is not in any way misleading.

Subscribed and sworn before me this day October 14, 2020

Notary Public

My Commission Expires December 20, 2027
Proposal Number: 20-P029R  Proposals will be received until: October 15, 2020 @ 12:00pm
Proposal Title: Johns Island and West Ashley outside of I-526 Waste Collection Services
Mailing Date: September 4, 2020  Direct Inquiries to: Robin B. Robinson
Vendor Name: Trident Waste and Recycling Inc  FEIN/SS#: 85-2935577
Vendor Address: 5264 B International Blvd
City – State – Zip: North Charleston, SC 29418
Telephone Number: (843) 796-5050  Fax Number: (843) 723-0807

 Minority or Women Owned Business:
Are you a certified Minority or Women-Owned business in the State of South Carolina? □ Yes □ No
If so, please provide a copy of your certificate with your response.

Authorized Signature: __________________________  Title: President
Date: 10/14/20

I certify that this bid is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a
bid for the same materials, supplies, equipment or services and is in all respects fair and without collusion or fraud. I agree to abide by
all conditions of this bid and certify that I am authorized to sign this bid for the bidder. This signed page must be included with bid
submission.

IMPORTANT

1. This solicitation seeks proposals responding to the Scope of Work for a Johns Island and West
Ashley outside of I-526 Waste Collection Services. This solicitation does not commit the City of
Charleston to award a contract, to pay any costs incurred in the preparation of applications
submitted, or to procure or contract for the services. The City reserves the right to accept or reject
any, all or any part of any proposal received as a result of this Solicitation, or to cancel in part or
in its entirety this Solicitation if it is in the best interest of the City to do so. The City shall be the
sole judge as to whether proposals submitted meet all requirements contained in this solicitation.

2. Offeror may mail, or hand-deliver response to the Procurement Division. Do Not Fax in the
proposal response. Please show the solicitation number on the outside of any mailing package.
The City of Charleston assumes no responsibility for unmarked or improperly marked envelopes.
If directing any other correspondence to the Procurement Division not related to the solicitation,
please do not include the solicitation number on the envelope. If the Bidder chooses not to
respond to this solicitation, it is recommended to return the “No Bid Response Form” to our
office.

3. DEADLINE FOR SUBMISSION OF OFFER: Any proposal or offer received after the
Procurement Director or his designee has declared that the time set for opening has arrived, shall
be rejected unless the offer has been delivered to the designated purchasing office or the
governmental bodies’ mail room which services that purchasing office prior to the proposal
opening.

4. Questions regarding this solicitation must be submitted in writing to Gary Cooper or Robin
Barrett Robinson no later than 1:00pm on September 22, 2020. Questions may either be faxed
to 843-720-3872 or emailed to Gary Cooper, cooper@charleston-sc.gov or Robin Barrett
Robinson, robinsonr@charleston-sc.gov.
CERTIFICATE OF FAMILIARITY

The undersigned, having fully familiarized himself with the information contained within this entire solicitation and applicable amendments, submits the attached proposal, and other applicable information to the City, which I verify to be true and correct to the best of my knowledge. I further certify that this proposal response is made without prior understanding, agreement, or connection with any corporation, firm or person submitting a proposal for the same materials, supplies, equipment or services in all respects, fair and without collusion or fraud. I agree to proposal by all conditions of this solicitation and certify that I am authorized to sign this proposal. I further certify all prices submitted shall remain effective for a minimum period of ninety (90) days, unless otherwise stated.

Trident Waste & Recycling LLC
Company Name
As registered with the IRS
5264 B International Blvd
Correspondence Address Suite 100
North Charleston, SC 29418
City, State, Zip
sfennell@tridentwaste.com
Email
5264 B International Blvd
Remittance Address Suite 100
North Charleston, SC 29418
City, State, Zip
85-2935577
Federal Tax ID (FEIN)/SS Number

C. Scott Fennell
Authorized Signature
Printed Name
President
Title
(843) 723-0807
Telephone Number/Toll Free Also (If Available)
(843) 576-5050
Fax Number
10/14/20
Date
101023349
SC Sales Tax Number

Minority or Women-Owned Business:
Are you a certified Minority or Women-Owned business in the State of SC?
☐ Yes ☑ No
If so, please provide a copy of your certificate with your response.
MWBE Compliance Provisions and Instructions
Minority/Women Business Enterprise Program Forms

This Project is covered under the City of Charleston’s Minority/Women Business Enterprise (MWBE) Program, administered by Ruth Jordan, MBE Manager, 2 George Street, Suite 3600, Charleston SC, 29401, (843) 724-7434.

The City has established goals for both Minority Business Enterprises (MBE) and Women Business Enterprises (WBE). An MBE is a small business owned and controlled by a minority. A WBE is a small business owned and controlled by a woman. The minority or woman must own fifty-one percent (51%) of the business and they must control the management and daily operations of the business in order to qualify.

Charleston City Council has adopted a policy setting 20% as the guidelines for combined minority-owned and women-owned business enterprise participation for this project. This MWBE requirement for participation in this Contract for services shall be made a part of any contract resulting from this solicitation. These requirements shall also apply to all subcontracts issued by the successful bidder(s).

All bidders must document the extent of their MWBE participation by completing the MWBE Compliance Provision Forms.

All MBE/WBE subcontractors must have a Certificate of Eligibility on file with the City’s Minority Business Enterprise Office. A list of certified minority and women-owned firms can be found on the City of Charleston’s web site www.charleston-sc.gov under “BIDLINE” link or by contacting Ruth Jordan, MBE Manager, 2 George Street, Suite 3600, Charleston SC, 29401, (843) 724-7434, jordanr@charleston-sc.gov.

**COMPLIANCE REQUIREMENTS:**

1. The Bidder shall provide, **with their bid form submittal**, the following Affidavits properly executed which signify that the Bidder understands and agrees to abide by the City’s MWBE Compliance Provisions.

   - **Affidavit A – Listing of the Good Faith Effort to Identify & Secure Minority and Women-owned Business Participation.**

   **AND**

   - **Affidavit B – Work to be Performed by Minority and/or Women-owned Firms**

   **OR**

   - **Affidavit C – Intent to Perform Contract with Own Workforce**, in making this certification the Bidder states that the Bidder does not customarily subcontract elements of this type of Project and will perform all elements of the work with his/her own current work forces.

Failure to comply with any of the statements, certifications, or intentions stated in the affidavits, or the MBE/WBE compliance provisions shall constitute a breach of the Contract. Any such breach may result in termination of the Contract in accordance with the termination provisions contained in the Contract. It shall be solely at the option of the City of Charleston whether to terminate the contract for breach. In addition to terminating the Contract, the bidder may be prohibited from participation in future solicitations as determined by the City of Charleston.

Name of Company:  **Trident Waste & Recycling LLC**

Signature:  **Scott Fennell**  
Date:  **10/14/20**
Title:  **President**

Print Name:  **Scott Fennell**

Witness:  **Mark Elmore**
AFFIDAVIT C

City of Charleston, South Carolina
Intent to Perform Contract with Own Workforce.

Affidavit of Trident Waste Recycling LLC
(Name of Bidder)

I hereby certify that it is our intent to perform 100% of the work required for the Proposal Number 20-PO29R.

Johns Island and Wadmalaw outside I-526 Waste Collection Services contract.
(Name of Project)

In making this certification, the Bidder states that the Bidder does not customarily subcontract elements of this type Project, and normally performs and has the capability to perform and will perform all the elements of the work on this Project with his/her own current work forces, and

The Bidder agrees to provide any additional information or documentation requested by the Owner in support of the above statement.

I hereby certify that I have read this certification and I am the Bidder or I am authorized to bind the Bidder to the commitments contained herein. I certify, under penalties of perjury, that I have examined the information in this affidavit, and to the best of my knowledge and belief, this information is true, correct and complete.

Date: 10/14/20
Name of Authorized Officer (Print/Type): G. Scott Ferrall
Signature: G. Scott Ferrall
Title: President

Sworn to before me this 14th day of October, 2020
Notary Public for the State of South Carolina
My Commission Expires: 10/12/2024
Print Name: Pete M. Paulator
Phone Number: 843-723-0099
Address: 26 Avondale Ave.
Charleston, SC 29407

Notary Seal:

23
City of Charleston
Procurement Division
75 Calhoun Street, Suite 3500
Charleston, SC 29401

ADDENDUM #1 Q&A

DATE: September 28, 2020
TO: All Bidders
FROM: Robin B. Robinson
RE: 20-P029R – Johns Island West Ashley I-526 Waste Collection Services RFP

This addendum #1 Q&A to the solicitation is being made for the following reasons:

Q-1 Do you anticipate extending the bid due date?
A-1 Not at this time.

Q-2 What additional details are you willing to provide, if any, beyond what is stated in the bid documents concerning how you will identify the winning bid?
A-2 All information pertaining to award has been provided in the RFP document.

Q-3 Was this bid posted to the nationwide free bid notification website at www.mygovwatch.com/free?
A-3 It was not.

Q-4 Other than your own website, where was this bid posted?
A-4 We advertised in The Chronicle, the Post & Courier and the SCBO (South Carolina Business Opportunities) website.

Q-5 What is the start date of the agreement?
A-5 The intended start date will be June 1, 2021.
Q-6  Is it required that all routes be completed on Monday?
A-6  No. We did not realize we left that in. Routes do not have to be completed on Mondays.

Q-7  What are the current rates?
A-7  The current rate is $8.92.

Q-8  Is the 14’ truck required? If so, how many homes will it be needed to serve?
A-8  No, This should have been removed from RFP. No truck requirements.

Q-9  How many trucks are currently being utilized each day during the “move out” portion of the agreement?
A-9  We currently utilize 2-4 trucks. We do supplement city trucks as well.

Q-10 Can you provide yearly disposal tonnage totals for each waste stream? MSW, Bulk and C&D
A-10 Garbage was 13,728 tons for 2019 and Yard waste / Bulk was 3,396 tons for 2019.

Q-11 What are the Charleston County Cap allocations for each of the waste streams? MSW, YW, Bulk and C&D
A-11 There are no caps.

Q-12 Can you provide a full list of addresses to be serviced?
A-12 We can provide a full list of addresses that would be serviced to the awarded vendor.

Q-13 Can Bulk be on a scheduled basis where the resident calls in the request?
A-13 No. We require bulk pick up to be completed weekly at this time. We do ask that residents give us a call to let us know, but it is not required.

Q-14 Is it required that MSW, YW, Bulk and C&D be serviced on the same day for each home?
A-14 No, It is not required but we would like for as many as possible be serviced on the same day.
Q-15 Performance Standards – the specifications reference Daniel Island and Cainhoy. Will the same performance standards apply?
A-15 Yes, the same ones will apply to this area as well.

Q-16 Will yearly escalators based on a mutually agreed upon CPI model be allowed for extension years?
A-16 You would need to request yearly CPI increases by August 1st.

Q-17 What was the last awarded amount for the contract?
A-17 It was awarded at $8.75/house/month; however, a requested increase was approved at $8.92/house/month.

Q-18 Are all of the current carts owned by the City?
A-18 Yes, all of the current carts are owned by the City of Charleston.

Q-19 Will all current carts be available for service when the agreement starts?
A-19 Yes, the carts stay with the properties as they are owned by the City of Charleston.

Q-20 What is the estimated percentage of carts for each? 96 gallon, 64 gallon, and 35 gallon
A-20 I would say 90% is 95 gallon, 5% is 64 gallon, and 5% is 35 gallon.

Q-21 Will the Contractor be responsible for purchasing carts and cart parts for repair/replacement?
A-21 Yes, they must have the city seal and be the same color green as the existing carts.

Q-22 Will carts purchased by the Contractor during the contract term be turned over to the City of Charleston at the end of the contract term?
A-22 Yes.

Q-23 What are the current rates for monthly service (by line/material collection if possible)?
A-23 See A-7.
Q-24 What are the current rates for the 6-day College of Charleston move out cleanup?
A-24 The fee is $4,000.00/day, Fuel Surcharge at $600.00/day.

Q-25 Is there additional cap allotment for the College of Charleston move out tonnage?
A-25 We have no caps.

Q-26 Approximately how many customers require alleyway service via 14yd. truck?
A-26 None. This information should be removed from the RFP.

Q-27 Will an 18yd. single axle truck be acceptable in lieu of the 14yd. truck?

Q-28 Does the City field the resident’s phone calls or does the Contractor?
A-28 The City of Charleston takes the calls and then will pass on to the Contractor.

Q-29 Is all volume directed to Charleston County Bees Ferry Landfill (household garbage, yard debris, bulk, construction debris)?
A-29 Garbage and Yard Waste is directed to the Bees Ferry Landfill, while the County has directed C&D and Bulk go to Republic in North Charleston.

Q-30 Can yard debris, bulk item, and household construction be mixed together?
A-30 No, Yard waste must remain separate. Bulk and C&D may be mixed.

Q-31 Approximately how many carts are replaced each year?
A-31 We do not track this at the moment.

Q-32 Scope of Work item 2.E. “Scheduling” mentions Monday as the required service day. May the Contractor service the residents Monday through Friday instead?
A-32 Yes. Monday only was a miss print. You can service residents Monday through Friday.
Q-33 What is the disposal cap allotment for each type of material?
A-33 No Caps.

Q-34 How many routes does the incumbent contractor run each day?
A-34 They run 4 garbage trucks and 2 yard debris/bulk trucks per day. Monday through Thursday.

If you have any questions, please feel free to call 843-724-7312 or 724-7314. Thank you in advance for your cooperation.

[Signature]
Signature of Acknowledgement

[Date]
Date

[Company Name]
Trident Waste & Recycling LLC

ORIGINAL
ADDENDUM #2

DATE: September 29, 2020
TO: All Bidders
FROM: Robin B. Robinson
RE: 20-P029R – Johns Island West Ashley I-526 Waste Collection Services RFP

This addendum #2 to the solicitation is being made for the following reasons:

This addendum is to correct the answer given for Q-34. The correct answer is:

Q-34 How many routes does the incumbent contractor run each day?
A-34 They run 5 garbage trucks, 3 yard debris / bulk trucks, and 1 knuckleboom per day. Monday through Thursday.

If you have any questions, please feel free to call 843-724-7312 or 724-7314. Thank you in advance for your cooperation.

Signature of Acknowledgement
Trident Waste & Recycling, LLC
Company Name

Date: 10/12/20
STATE OF SOUTH CAROLINA
SECRETARY OF STATE

ARTICLES OF ORGANIZATION
Limited Liability Company – Domestic

The undersigned delivers the following articles of organization to form a South Carolina limited liability company pursuant to S.C. Code of Laws Section 33-44-202 and Section 33-44-203.

1. The name of the limited liability company (Company ending must be included in name*)

Trident Waste & Recycling LLC

*Note: The name of the limited liability company must contain one of the following endings: “limited liability company” or “limited company” or the abbreviation "L.L.C.", "LLC", "L.C.", "LC", or "Ltd. Co."

2. The address of the initial designated office of the limited liability company in South Carolina is
5264-B International Blvd., Ste. 100

(Street Address)
North Charleston, South Carolina 29418
(City, State, Zip Code)

3. The initial agent for service of process is
G. Scott Fennell
(Name)

(Signature of Agent)

And the street address in South Carolina for this initial agent for service of process is:
5264-B International Blvd., Ste. 100

(Street Address)
North Charleston South Carolina 29418
(City) (Zip Code)

4. List the name and address of each organizer. Only one organizer is required, but you may have more than one.

Nicholas C Sotile
(Name)

176 Croghan Spur Road, Suite 400
(Street Address)
Charleston, South Carolina 29407
(City, State, Zip Code)
Trident Waste & Recycling LLC

Name of Limited Liability Company

(Name)

(Street Address)

(City, State, Zip Code)

5. [X] Check this box only if the company is to be a term company. If the company is a term company, provide the term specified. 12/01/2070

6. [X] Check this box only if management of the limited liability company is vested in a manager or managers. If this company is to be managed by managers, include the name and address of each initial manager.

(a) Fennell Investments, LLC

(Street Address)

North Charleston, South Carolina 29418

(b) 

(Street Address)

(City, State, Zip Code)

7. [ ] Check this box only if one or more of the members of the company are to be liable for its debts and obligations under Section 33-44-303(c). If one or more members are so liable, specify which members, and for which debts, obligations or liabilities such members are liable in their capacity as members. This provision is optional and does not have to be completed.

8. Unless a delayed effective date is specified, these articles will be effective when endorsed for filing by the Secretary of State. Specify any delayed effective date and time ___________________.
9. Any other provisions not consistent with law which the organizers determine to include, including any provisions that
are required or are permitted to be set forth in the limited liability company operating agreement may be included on a
separate attachment. Please make reference to this section if you include a separate attachment.

10. Each organizer listed under number 4 must sign.

Nicholas C. Sotile

Signature of Organizer

Date: 09/09/2020

Signature of Organizer

Date: ________________
Trident Waste & Recycling LLC
Balance Sheet
As of October 13, 2020

Assets

Cash $1,000,000
Total Cash $1,000,000

Liabilities & Members' Equity

Contributions - Fennell Investments, LLC $900,000
Contributions - NTNEP, LLC 100,000

Total Liabilities & Members' Equity $1,000,000
George Scott Fennell (BS, Business Administration ’92) is the Chief Operating Officer of Fennell Holdings, Incorporated, a diversified investment holding company with an emphasis on the waste management, hospitality and security industries.

Scott Fennell was a founding member and President of Carolina Waste & Recycling LLC, which was founded in 2002 and began as an operation with a single truck. It grew into South Carolina’s largest locally-owned waste companies with a fleet of 100 trucks and 165 employees which service residential, commercial and construction & demolition waste hauling, recycling and disposal needs in the greater Charleston, South Carolina area.

In order to better control waste disposal costs incurred by Carolina Waste a vertical integration strategy became the focus, giving rise to the purchase of a Class II DHEC permitted landfill in 2008. Located in Dorchester, South Carolina, Scott served as the President of Carolina Landfill, LLC, which accepted industrial and C&D materials from Carolina Waste & Recycling as well as outside customers from the surrounding counties totaling over 220,000 tons per year.

In 2009, Scott built a new waste transfer and recycling station in North Charleston, South Carolina in an effort to increase recycling opportunities and extend the useful lives of local landfills by ultimately putting less waste into them. Carolina Processing & Recycling, LLC was a DHEC permitted transfer station which accepted approximately 1,500 tons per day of construction & demolition, industrial, municipal solid waste, and recyclable materials. The facility recycled brick, block, concrete, dirt, asphalt, tires, pallets, wood, yard debris, cardboard, plastics, ferrous and non ferrous metal, comingles, shingles, sheetrock, carpet, carpet pad, and e-waste.

October 5, 2020 Scott started Trident Waste & Recycling LLC to provide superior service only a locally owned and operated company can offer. With over $1,200,000 of equipment already delivered. Trident Waste is on a fast track to be the next leader in the Lowcountry.

Scott also serves as President of Fennell Holdings’ hotel division. The Ansonborough Inn of Charleston is a downtown Charleston boutique hotel consisting of 45 very unique guest rooms built into a historic stationer’s warehouse (circa 1901) and is a AAA Four Diamond property. A portfolio of Charleston International Airport and Convention Center hotels include a 168-room Hilton Garden Inn (2002), a 142-room Holiday Inn (2006) and a 127-room Holiday Inn Express & Suites (2012), a 108-room Staybridge Suites in Mt. Pleasant (2018) and a 255-room Homewood Suites and Hilton Garden Inn in Summerville (2020) and an attached 15,000 sq. foot Conference Center.

Scott has received the Newcomer of the Year Award given by Intercontinental Hotels Group (IHG) for most outstanding new hotel property (Holiday Inn Charleston Airport & Convention Center) while also being a 5-time winner (consecutively) of the Torchbearer Award winner, and awards given to the top 1% of Holiday Inns nationwide. In 2012 Scott received the Kemmons Wilson Award, an award is given to the hotel/owner that best demonstrates the “Spirit of Family” founding principles of Holiday Inn and its commitment to positive Guest Reviews, Employee Engagement and Community Involvement.

Scott also serves as President of Charleston Security Systems, a local security company specializing in access control, camera, and alarm systems serving over 1,500 customers in the local area. Since taking over in 2017 Charleston Security has grown 5 times the amount in customers and revenue.

Prior to joining Fennell Holdings Scott was the Vice President and General Manager of the Carolinas division of Republic Services, Inc., a nationally-recognized waste management company from 1997-
2000. While with Republic he managed over 400 employees and a company division producing over $50,000,000 in annual revenue and also spurred the growth of the division by closing seven acquisitions and development of three new landfills. From 1992-1997 he was the Sales Manager and later the General Manager of Fennell Waste Systems, Inc. in Greenville, South Carolina.

Scott has served as a member of the board of directors for Trident Technical College, Charleston Southern University, Charleston Regional Development Alliance, Porter Gaud Alumni Association, The Charleston Area Chamber of Commerce, The Executive Association of Charleston, Detachable Container Association and SunTrust Bank. He was a member of the Intercontinental Hotel Group’s Owner’s Association and served on IHG’s Hotel Development Committee and was a finalist for the Ernst & Young Entrepreneur of the Year for South Carolina and a Charleston Regional Business Journal 40-Under-40 award winner.
Logan E. Bland

4214 Home Town Lane, Ravenel SC, 29470 Phone: 843-297-1864 ibland3314@gmail.com

Skills & Abilities
Commercial Driver's License
SC Burglar & Fire alarm License
Heavy Machine Operator
Weigh Master Certified
Certified Smith System Driver Trainer
TWIC Card
Microsoft Word, Excel, PowerPoint

Professional Experience
Trident Waste & Recycling, LLC (October 2020- Present) North Charleston, SC

Charleston Security Systems (March 2018- Present)
Territory Sales Manager
North Charleston, SC

Carolina Waste & Recycling, LLC (January 2012- March 2018)
Management Trainee
Container Maintenance
Roll-off driver
Residential Supervisor
City of Charleston
Kiawah Island
Operations Manager-September 2016- Present
North Charleston, SC

Carolina Processing & Recycling, LLC
Heavy Equipment Operator
Back Hoe
Track Hoe
Front end Loader
Certified Weigh Master
North Charleston, SC

Carolina Landfill, LLC
Heavy Equipment Operator
Articulating Truck
Track Hoe
Weigh Master
Dorchester, SC

All-Star Sports
Retail Sales
Florence, SC

Florence Red Wolves- Internship
Managed Seasonal Employees
Florence, SC

Education
Spartanburg Methodist Scholarship
Associates in Science on a Baseball Scholarship
May 2008

Western Carolina University
Baseball Scholarship
Transferred in May 2009

Francis Marion University
BBA in Marketing on a Baseball Scholarship
December 2011
Robert N Shepard (Bob)

Bob, a forty (40) year veteran of the environmental industry, has significant expertise in all aspects of solid waste management including collection, disposal, and recycling. He served as Vice President of Fennell Container Company, Inc. and its affiliated companies from 1979 to the sale to Republic Services, Inc. (RSG) in 1995. He is co-founder of a number of successful waste management operations including Fenn-Vac, Inc., Fennell Waste Systems, Inc. based in the upstate, and other solid waste collection businesses in other Southern markets. He became Regional Vice President of (RSG) in 2000 and was responsible for all solid waste operations in the Carolinas, Georgia, and Florida until 2009. He has served on the Board of Directors and Governors of the National Solid Waste Management Association and the Environmental Industry Association, which is currently known as the National Waste and Recycling Association. He has also served on the Board of the Charleston Metro Chamber of Commerce. Bob graduated from Clemson University and is a Past Chair of the Clemson University Board of Visitors. Bob, a Charleston native, is currently the President of RN Shepard Investments, LLC which is invested in a number of environmental related service companies, including Green Rock Strategies, LLC and Shepard Woods, LLC.
Kenneth J. Younginer II

Director of Operations

28+ years of experience in the handling of day to day operations of multiple waste hauling companies and security company

Experience

October 2020
Trident Waste & Recycling, LLC – General Manager
Responsible for all daily tasks for the new waste and recycling firm to include safety, training, sales, operations, and maintenance.

January 2017 – Present
Charleston Security Systems – Director of Operations
Overseeing daily operations, problem solving, management of service technicians.

2002 - 2017
Carolina Waste & Recycling
Assisted with the start-up of a new waste hauling company. During this time, I became familiar with all aspects of the day-to-day operations of the business. This included Front End, Roll Off, Residential, Landfill, and Transfer Station operations. I was promoted to General Manager of Carolina Processing & Recycling in 2004 and Carolina Landfill in January 2008, and continued to assist in the daily operations of Carolina Waste. I ensured that each location of the company, and its employees, were operating at their fullest potential, as well as adhering to strict safety rules and regulations, which involved monthly reporting to various agencies.

1992 - 2001
Fennell Container Corporation – Manager of Landfill and Transfer Station
I started working for Fennell Container Company in 1992. I started my career as a thrower on the back of the residential truck. I performed this job on a daily basis for two years. I was then transferred to the sister company, Fenn-Vac. Fenn-Vac is the environmental cleanup, emergency response, and hazardous waste transportation division of the company, where I worked as a heavy equipment operator. After gaining experience with Fenn-Vac, I later moved to Pepperhill Landfill, another sister company of Fennell Container. I worked as a heavy equipment operator under the landfill General Manager. I gained experience in all aspects of landfill operations. I was promoted to Landfill Manager in 1998, and managed the day-to-day operations of the landfill, transfer station, and recycling center.

Education

Summerville High School

Skills

- Collaboration
- Strong Work Ethic
- Time Management
- Problem Solving
- Leadership
- Critical Thinking
- People Skills
- Adaptability
- Creativity
## References

Bidders must supply a minimum of four (4) references for which they have provided the same or similar services being requested here on a contract basis during the last three (3) years. References provided are from past history with Carolina Waste Recycling LLC.

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
<th>Phone/Fax</th>
<th>Email</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of North Charleston (Michele Lloyd)</td>
<td></td>
<td>(843) 480-3211</td>
<td></td>
</tr>
<tr>
<td>Town of Mt Pleasant (Jody Peck)</td>
<td></td>
<td>(843) 297-1549</td>
<td><a href="mailto:jpeck10@tompsc.com">jpeck10@tompsc.com</a></td>
</tr>
<tr>
<td>Town of Kiawah Island (Peta Reynolds)</td>
<td></td>
<td>(843) 768-9166</td>
<td><a href="mailto:p.reynolds@kiawah.island.org">p.reynolds@kiawah.island.org</a></td>
</tr>
<tr>
<td>Dorchester County (Jason Carragher)</td>
<td></td>
<td>(843) 832-0070 office (843) 607-5908 cell</td>
<td><a href="mailto:jcarragher@dorchestercounty.net">jcarragher@dorchestercounty.net</a></td>
</tr>
<tr>
<td>AMCS - multifamily / apartment group (Jimmy Kerr)</td>
<td></td>
<td>(843) 345-8165</td>
<td><a href="mailto:jimmy.kerr@amcs-inc.com">jimmy.kerr@amcs-inc.com</a></td>
</tr>
</tbody>
</table>
**BIDDER/CONTRACTOR EQUIPMENT/VEHICLE LIST**

Bidder/Contractor shall list all equipment/vehicles that he has immediately available to assign to this contract, attach additional sheet if necessary. (List shall be attached to the Bid Proposal.) If the Contractor plans to acquire additional equipment to assign to this contract, the make and model of the equipment to be acquired, the vendor of the equipment, and the time required to obtain the equipment must be made a part of this list. Upon request, the Contractor must provide a letter from the vendor stating that the equipment is available and that financing is secured.

<table>
<thead>
<tr>
<th>YEAR</th>
<th>MAKE</th>
<th>MODEL</th>
<th>SERIAL#</th>
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</table>

Business Name: Trident Waste & Recycling LLC

Business Address: 5264 B International Blvd

                     Suite 100
                     North Charleston, SC 29418

Telephone Number: (843) 576-5050

Fax Number: (843) 723-0807

Email Address: stevenwell@tridentwastec.com
<table>
<thead>
<tr>
<th>UNIT #</th>
<th>Year</th>
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<th>BODY TYPE</th>
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## Deviations from Specifications

Please list all deviations from specifications in the space provided below. Please note item number for which you are showing deviations.

<table>
<thead>
<tr>
<th>Item #</th>
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</table>

*Trident Waste & Recycling LLC*  
Company Name

*G. Scott Fennell*  
Name of Authorized Representative
Choose the industry leader in safety, productivity and lowest total cost of collection.

www.Heil.com
Command-SST™

Resetting a Fleet Owner's Expectations Regarding Safety, Performance, and ROI.

Automated side loaders have been synonymous with Hell® since their inception four decades ago. Productivity was always the goal of automation but with higher productivity, ASL's typically came with higher maintenance costs. The new Command-SST Automated Side Loader by Hell takes fleet productivity to the next level by fielding a vehicle that delivers the lowest Total Cost of Collection (TCC) of any ASL currently offered.

It all starts with listening to the customer and designing a tool that allows them to operate with a higher degree of safety, reliability, and productivity. The Command-SST and its revolutionary arm do just that.

First, we started with our proven DuraPack® body and then built the arm around that. We designed the arm to mount to the body instead of the chassis frame - to free up valuable real estate. We then designed the arm to be easy to access and work on. In fact, the Command-SST arm can be fully removed and replaced in an hour. No one else can say that. We also looked at lube points and designed the Command-SST to have a reduced number of lubrication points, and placed them in easy to access locations from the ground. We created an arm that provides a level of operational flexibility that the industry has not seen to date, i.e., above and below grade can access, integrated can shake features - built into the joystick, load-sensing hydraulics (proportional controls), tray-enclosed hydraulics to prevent hose snags, non-lubricated slide shoes, etc.

We also focused on the operator and created cab controls and arm/body sensors that provide visual guides to put the arm and grabber exactly where the operator needs them. Lines are generated on the monitor that guide even the novice operator to successfully grab the can. We even programmed in a “squeeze” feature that allows operators to access multiple cans during a single stop. This all rolls up into a TCC that elevates the Command-SST to the top of the list.

Delivering The Lowest Total Cost of Collection (TCC)

- Reduced Wear Parts
  - With fewer moving parts, there are less wear parts that require replacement.
  - Can add up to:
    - $27,500 Savings
    - Over the lifetime of the truck
- Fewer Grease Points
  - With fewer grease points, your preventative maintenance times are dramatically reduced.
  - Can add up to:
    - $22,100 Savings
    - Over the lifetime of the truck
- Higher Payloads
  - Reducing weight in the body allows an additional ton of payload.
  - Can add up to:
    - $34,200 Savings
    - Over the lifetime of the truck
- Operator Productivity
  - Features allow above/below grade capability help keep the operator in the cab.
  - Can add up to:
    - $25,000 Savings
    - Over the lifetime of the truck

The Command-SST™ from Hell®

Design, performance and reliability that delivers TCC.
Command-SST™ Features

+ **PROPORTIONAL CONTROLS** - Soft-touch grabbers move at 0-100% speed, based on how hard the operator presses the control button.
+ **REDUCED CAB SHAKE** - Odyssey™ hydraulic controls combined with a 3-axis arm make for a smoother, less tiring ride for operators compared to other arms.
+ **SERVICE CAN 20° ABOVE GRADE AND 15° BELOW GRADE EFFORTLESSLY** - Above and below grade functionality is enabled by 3D motion control.
+ **JOYSTICK FUNCTIONS: CAN SHAKE, PICK HEIGHT, PICK ANGLE** - Functions can all be adjusted and used via the 5-button joystick.
+ **ADJUSTABLE GRABBER PRESSURE** - Ability to adjust grabber pressure from the cab allows you adjust on-the-fly for can size and ambient temperature.
+ **IN-CAB OPERATOR MONITOR** - This unique feature provides on-screen guidelines to help line up the can faster — while keeping the operator’s eyes facing forward for an added sense of safety.
+ **SPEAR FEATURE** - Grabbers can be programmed to partially close, allowing operators to move quickly between cans placed close together.
+ **CAN WEIGHING** - Ability to set max threshold of 350lbs, that will automatically halt the lift if a can is overweight. This also allows you to monitor for repeat overload offenders and protects the arm (and the hopper) from damage.
+ **QUICK CHANGE ARM** - Arm can be completely removed and replaced in 90 minutes. Ask to see the time-lapsed movie.
+ **FAST & PRODUCTIVE ARM** - Combine 7-second cycle times with can-shake and above/below grade access — and you have an arm that delivers true TCC.
+ **FUEL SAVINGS** - Load-sensing hydraulics only run the pump when needed.
+ **LOW DUMP HEIGHT** - Lower dump height minimizes over head obstructions.
+ **REDUCED MAINTENANCE** - Fewer moving parts equates less downtime.
+ **WEAR PADS** - Easy to replace wear pads help eliminate the costly need to completely rebuild the arm.
+ **DURABLE ARM REQUIRES NO REBUILD** - Fewer moving parts, results in less maintenance and downtime. Over 4 million cycle times in testing, resulted in ZERO rebuilds.
+ **LARGE HOPPER** - The large hopper enables reduced pack cycles that translates into less wear-and-tear to the arm and the hopper.
+ **IN-CYLINDER AND ARC SENSING** - Pecker Arc Sensing eliminates proximity adjustments.
+ **DISTRIBUTED I/O** - Reduces wiring and aids in troubleshooting.
+ **PROVEN DURAPACK® BODY** - The Durapack body is a proven market leader in durability and payload. Now optimized to reduce weight by 2,000 lbs. without impacting strength or payload capability.
+ **BODY MOUNT ALLOWS EASY ACCESS & REDUCES FRAME STRESS** - The body-mounted arm frees up the frame rail for other chassis components, reduces frame rail fatigue and makes servicing the arm easy.
+ **ZINC-PLATED HYDRAULIC TUBES** - Use of zinc-plated hydraulic tubes eliminates corrosion, therefore reducing hydraulic leaks and preventing the need to replace components over the life of the body. This reduces maintenance and downtime costs.
+ **FULL EJECT** - The Command-SST is a full-eject body, and can be initiated with the press of one button on the joystick. Vehicle remains stable at a landfill or MRF during unloading.

Command-SST™ Optional Features

- **Curotto-Style Grippers** - Long, slender, straight grabber geometry gives you the ability reach in tight places and spear containers.
- **Optional 3rd Eye® Digital Package** - Includes factory-installed 3rd Eye Cam, Radar system, and up to five 3rd Eye cameras.
- **Optional CN-G® Tailgate** - The lower-profile, fully integrated CN-G tailgate fuel delivery system will revolutionize the way you use CN-gas trucks.
- **Grabber Camera with Container Grid Lines** - Camera and light integration into the hopper's sidewall allow for newly designed grid lines to be placed on monitor, allowing for quick line up of cans.
EXPEDE THE PURCHASE OF YOUR HEIL® UNIT THROUGH SOURCEWELL

Sourcewell Cooperative Purchasing Program has awarded Heil a nationally bid contract for "Solid Waste and Recycling Collection Equipment with Related Equipment, Accessories, and Supplies." Through the Heil contract, Sourcewell Members can purchase any of Heil's line of refuse and recycling equipment, including front-loading, side-loading, and rear-loading refuse collection vehicles, without having to create an RFP and send the project through a time-constraining duplicate bid process. By using the existing nationally bid contract, members can receive the products they need more quickly and cost effectively. Best of all, Sourcewell membership is free! Qualified agencies can join online via the Sourcewell purchasing website at www.sourcewell-tn.gov. To find out more about purchasing Heil equipment via the Sourcewell contract, please contact your local Heil Dealer at www.heil.com/dealers.

RELY ON EXPERIENCED LOCAL SUPPORT

When you buy from Heil, you gain the after-market support of the industry's strongest network of dealers in North America. We stand behind our dealers, so you get the product support you need for the life of your products. Our dealers are also trained to help you find the best product for your particular route needs. To find the Heil dealer nearest you, visit: www.heil.com/dealers.

COUNT ON THE LOWEST TCO

Helping you save money is our passion, and we apply tremendous resources to advance our product and service offerings to improve the profitability of your business and provide the lowest Total Cost of Collection and the maximum return on your investment. You can be confident that choosing Heil equipment brings a long-term partnership with the industry leader.

CONFIGURATION ASSISTANCE

Chassis layout drawings are available through your local Heil dealer. To find your dealer, visit www.heil.com/dealers.

INDUSTRY-LEADING TRAINING

Heil has completely revamped their training programs with the addition of both the Service Shack™ and their four-tiered Nexteligence™ Connected-Tech Training Program. Now, Heil customers can visit the Service Shack on the Heil website to learn the latest techniques and view helpful service and training videos any time, as well as sign up for Connected-Tech courses to better train technicians on Heil Refuse Products. Ensure your shops are servicing your Heil products correctly; check out Heil’s training offerings at www.heil.com/nexteligence.
DuraPack® 5000
High-Compaction Rear Loader
With over 20,000 built and nearly 30 years of reliability, Heil’s DuraPack 5000 high-compaction refuse vehicle has become the mainstay of collection fleets, from small independent haulers to the world’s largest municipal fleet.

Engineered to last. The DuraPack 5000 features Heil’s DP body, the only fully welded, interlaced subframe in a refuse collection truck. With formed channels for extra strength, high tensile strength steel to maximize performance at a minimum weight, and full welding for superior resistance to corrosion and cracking, the DuraPack 5000 is a sturdy package with the stamina to absorb years of tough hauling.

Outstanding weight distribution. But our engineers still weren’t satisfied. Their search for perfection led them to discover a way to create outstanding weight distribution and reduce wear on rearward chassis components. They incorporated a high cylinder mount into a compact design with a short overhang to maximize forward loading of both the body and the payload.

Easy to operate. The DuraPack 5000 is as functional as it is durable. Operators around the world appreciate the convenient one-handed manual packing controls that enable them to stop, start, or reverse either the upper panel or the blade at any point in the packing cycle. With a simple two-step cycle that reloads in just 8 to 8 seconds, and a complete cycle time of 16 to 18 seconds, it gets them through their routes quickly. (Cycle time varies based on pump application.)

To add the DuraPack 5000 to your fleet, contact your local Authorized Heil Dealer. To find the Dealer nearest you, visit www.heil.com.
Reliable Real Loader Performance
The DuraPack® 5000 was specifically designed to maximize your time on daily collection routes.

- Solid Foundation — The interlaced subframe provides exceptional strength and durability, which means your DuraPack 5000 will enjoy a long lifespan.

- Time-Saver — The DuraPack 5000 features a flat, abrasion-resistant steel floor, which eliminates the messy job of cleaning trash buildup out of dirty troughs.

- Frame-Mounted Oil Tank — Filter maintenance is easy with an oil tank that is mounted on the frame and includes standard sight gauge and in-cab filter bypass monitors.

- Superior Filtration — Our 3-micron filtration system keeps oil cleaner and extends the life of hydraulic components. Other manufacturers use 10-micron filtration, which can allow particulate matter to damage the hydraulic system.

- One-Handed Manual Packing — Convenient one-handed manual controls stop, start, or reverse the upper panal or blade at any point in the packing cycle.

Visit www.heil.com to learn more about how Heil refuse collection vehicles are making a difference around the world.
# DuraPack® 5000
High-Compaction Rear Loader Product Specifications

## Performance Specifications
- **Compaction**: 1000+ lbs. per yd³
- **Hopper Size**: 3.04 yd³
- **Packaging Cycle Time**: 18-18 seconds
- **Reload Time**: 6-8 seconds

*With two cycle pump option*

At any time, specifications and components may be altered by the manufacturer without notice. Data published herein is for information purposes only and shall not be construed to warrant suitability for any particular purpose. As performance may vary with the conditions encountered. The warranty is standard within Warrant Statement for this product in the terms of delivery.

## Hydraulic Specifications
- **Pump Type**: High pressure gear
- **Maximum Operating Pressure**: 3,200 PSI
- **GPM**: 42 GPM
- **Oil Reservoir**: 50 gallons (180 liters)
- **Filters**: 3 micron return filter with in-cab filter monitor; 140 micron suction line
- **Valves**: Ball valve in suction line between pump and reservoir
- **Packing Control**: Spool type
- **Ejector and Tailgate Raise**: Spool type

## Tailgate Specifications
- **Hopper Capacity**: 3.34 yd³
- **SIL Height Below Chassis Frame**: 3.8 in.
- **Hopper Loading Width**: 80 in.
- **Hopper Opening Height**: 55 in.
- **Cycle Time (seconds)**: 16.18

## Typical Chassis Configuration
- **Minimum GAWR**:
  - **Conventional**: 16,000 lb
  - **Cell-OVER-Engine**: 14,000 lb

## Body Specifications
- **Body Capacity**:
  - **yd³**: 18
  - **m³**: 15.7

## Cylinder Specifications

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<thead>
<tr>
<th>Body Cylinders</th>
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<th>Model</th>
<th>Stages</th>
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<td>Tailgate Raise</td>
<td>Single Acting</td>
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<td>4</td>
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<td>Packer Blade</td>
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<td>32 yd³</td>
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## Contact Your Local Dealer
A FIVE-STAR RATING PUTS THE KB-20 SERIES IN A CLASS OF ITS OWN.

Recognized for quality, safety, economic efficiency, user friendliness, and durability, this series really raises the bar. The KB-20 Series was designed for easy operator access, service, and maintenance, all with a low initial cost, making this the total package. DO IT RIGHT with Pac-Mac®!

F-PAC-MAC.COM

MANUFACTURED BY HOLMAC CORPORATION

40 BOX 22, EAVES SPRINGS, MS 38766 • 601/764-4313

© 2007 Holmac Corporation
TECHNICAL DATA AND SPECIFICATIONS:

GENERAL SPECIFICATIONS

<table>
<thead>
<tr>
<th>Requirement</th>
<th>Specification</th>
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<tbody>
<tr>
<td>Height of boom to ground (lowest travel position) (based on 37 in. chassis height)</td>
<td>11 ft</td>
</tr>
<tr>
<td>Boom length (16 ft. with 4 ft. extension)</td>
<td>20 ft</td>
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<tr>
<td>Optional boom lengths (fixed)</td>
<td>16 / 17 / 18 ft</td>
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<tr>
<td>Boom rotation</td>
<td>270° non-continuous</td>
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<tr>
<td>Lifting capacity at 20 ft. (with bucket)</td>
<td>3,300 lbs. (standard)</td>
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<tr>
<td></td>
<td>3,600 lbs. (optional)</td>
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<tr>
<td>H Style outriggers</td>
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<tr>
<td>Outrigger (extended)</td>
<td>11 ft. 8 in.</td>
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<tr>
<td>Outrigger (retracted)</td>
<td>8 ft.</td>
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<tr>
<td>Hydraulics</td>
<td>Tandem pump for simultaneous operation of multiple functions</td>
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<tr>
<td>Operator controls</td>
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<tr>
<td>Standup</td>
<td>Individual levers or pilot operated hydraulic joysticks</td>
</tr>
<tr>
<td>Rotating platform</td>
<td>Mechanical joysticks or pilot operated hydraulic controls</td>
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RECOMMENDED CHASSIS

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<th>Cab to axle (CA)</th>
<th>See Chassis Requirements</th>
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<td>Front axle</td>
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<tr>
<td></td>
<td>14,000 lbs. (minimum) - tandem rear axle</td>
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<tr>
<td>Rear axle</td>
<td>21,000 lbs. (minimum) - single rear axle</td>
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<td></td>
<td>40,000 lbs. (minimum) - tandem rear axle</td>
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<tr>
<td>GVW</td>
<td>33,000 lbs. (minimum) - single rear axle</td>
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<td>54,000 lbs. (minimum) - tandem rear axle</td>
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<td>Engine</td>
<td>225 HP (minimum)</td>
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<tr>
<td>Transmission</td>
<td>Automatic or manual</td>
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<tr>
<td>Frame</td>
<td>1,500,000 RMB</td>
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FEATURES:

- All hoses are enclosed within pedestal
- Pilot operated check valve integrated into booms and outriggers
- Pilot operated hydraulic joysticks
- Greaseless mechanical levers
- H-style outrigger design
- Bulkhead holding valves for safety
- Smooth pads for minimal street damage
- "Outrigger Up" safety feature (optional)
- Twin cylinders provide superior biting force (bucket)
- High strength tempered steel replaceable cutting edges (bucket)
- Anti-scalp design (bucket)
- 360 degree continuous rotation (bucket)
- Optional bucket designs available to meet your needs
- Ease of use when dealing with heavy, bulky materials
- Complete discharge due to fully opening, swinging door(s)
- Optional pneumatic air latch
- Bumper meets D.O.T. rear impact standards
- Twin telescopic dump cylinders
- Scissor hoist dump (optional)
- 45 degree body tilt for complete cleanout
- Integral holding valves in main and tip boom cylinders for increased safety
- Ductile iron gland/piston, chrome rods, replaceable bronze bushings
- 1 year hydraulic warranty

BODY

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<th>Requirement</th>
<th>Specification</th>
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<tbody>
<tr>
<td>Length</td>
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<tr>
<td>Capacity</td>
<td>20 / 24 / 25 / 30 cubic yds.</td>
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<td>Door style</td>
<td>Single, double, or scow</td>
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<td>Floor</td>
<td>3/16 in. (1/4 in. optional) - 8 in. main till</td>
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<td>4 in. joint with 12 in. spacing</td>
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<td>Sides</td>
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<td>Tarp</td>
<td>Spring assist with arm</td>
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<td>Spring assist oilless Electric with arm</td>
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<td>Lighting</td>
<td>Incandescent and L.E.D. Mid-body turn signals (where applicable)</td>
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<td>Smart light (optional)</td>
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<td>Customer specific light location</td>
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BUCKET

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<tr>
<td>Fully open</td>
<td>5 ft</td>
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ALL DESIGN, SPECIFICATIONS AND COMPONENTS ARE SUBJECT TO CHANGE AT THE MANUFACTURER’S SOLE DISCRETION AT ANY TIME WITHOUT NOTICE. DATA PUBLISHED HEREIN IS FOR INFORMATION PURPOSES ONLY AND SHALL NOT BE CONSTRUCTED TO WARRANT SUITABILITY OF THE UNIT FOR ANY PARTICULAR PURPOSE, AS PERFORMANCE MAY VARY WITH THE CONDITIONS ENCOUNTERED. THE ONLY WARRANTY IS OUR STANDARD WRITTEN WARRANTY FOR THIS PRODUCT AT THE TIME OF SHIPMENT.
FLEET ASSET LOCATION
EXCEPTIONS (RED CANS)
SIDE VIEW AUTOMATED SIDE LOADER CAMERA
SIDE VIEW AUTOMATED SIDE LOADER CAMERA
Bidder agrees to perform all of the work described in the solicitation document for the following price per month, per household in the residential franchise area. The estimated number of homes to be serviced is 11,000.

Cost for garbage, once a week:

\[ \$ 6.25 \] per month per household

Cost for yard waste and wood debris once a week:

\[ \$ 2.88 \] per month per household

Cost for white goods, dry trash & furniture scheduled once a week:

\[ \$ .48 \] per month per household

Cost for homes, greater than the estimated number given:

\[ \$ 10.75 \] per month per household

Fuel Surcharge:

\[ \$ 1.14 \] per month

Total Cost:

\[ \$ 10.75 \] per month per household
#20-P029R Solid Waste Disposal Johns Island and West of the Ashley outside of I-526

Downtown Cost Proposal

Offeror agrees to perform all of the work described in the solicitation document for the downtown area based on the Move Out Map.

Requirements are:
- 3 trucks for furniture and yard debris
- 1 truck for garbage
- 2 runs/day for 6 days

Fee: $ 4,400 per day

Fuel Surcharge: $ 500 per day

Total Cost: $ 29,400 /6 days
COMMITTEE / COUNCIL AGENDA

TO: John J. Tecklenburg, Mayor
FROM: Wes Ratteree, Information Technology
DEPT.

SUBJECT: RECORDS MGMT SYSTEM ANNUAL MAINTENANCE AND SUPPORT RENEWAL
REQUEST: APPROVAL OF RENEWAL OF POLICE DEPARTMENT'S RECORDS MANAGEMENT SYSTEM (RMS) ANNUAL MAINTENANCE AND SUPPORT WITH CENTRAL SQUARE TECHNOLOGIES, SOLE SOURCE VENDOR.

COMMITTEE OF COUNCIL: Ways & Means
DATE: January 12, 2021

COORDINATION: This request has been coordinated with: (attach all recommendations/reviews)

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<tr>
<th>Information Technology</th>
<th>Yes</th>
<th>N/A</th>
<th>Signature of Individual Submitted</th>
<th>Attachment</th>
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<tr>
<td>Procurement</td>
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FUNDING: Was funding previously approved? Yes [X] No [ ] N/A [ ]
If yes, provide the following:
Dept./Div.: IT
Account #: 235000-52206
Balance in Account $1,618,361.00
Amount needed for this item $259,152.18

Does this document need to be recorded at the RMC's Office? Yes [ ] No [X]

NOTES: Provides continued annual maintenance and support for the critical operations of the Police Department's Records Management System. Includes Mobile Field Reporting, Mapping and Computer Aided Dispatch module support.

CFO's Signature: [Signature]
FISCAL IMPACT:

Mayor's Signature: [Signature] John J. Tecklenburg, Mayor

ORIGINATING OFFICE PLEASE NOTE: A FULLY STAFFED/APPROVED (except Mayor's Signature) PACKAGE IS DUE IN THE CLERK OF COUNCIL'S OFFICE NO LATER THAN 10:00AM THE DAY OF THE CLERK'S AGENDA MEETING.
SOLE SOURCE JUSTIFICATION FORM

DEPARTMENT: Information Technology

PRODUCT: RMS Annual Software Maintenance and Support

REQUISITION NUMBER: PR210___

VENDOR: Central Square Technologies

DATE: January 1, 2021

1. Please state the use for this/these product(s).

   Required annual software maintenance and support renewal for the Police Department's Records Management System (RMS) in support of 911/Dispatch operations. Includes Mobile Field Reporting, Mapping, and CAD support.

2. Can the above product(s) be purchased from more than one distributor? If so, please list their company name and telephone number.

   No. Central Square is the developer of the software and the only source for the maintenance and support.

3. Please explain in detail why this product is considered a sole source. (i.e. accessories, replacement parts, disposable supplies, compatibility with existing equipment, or a change in this product would invalidate results of research). Please estimate completion date of research.

   Central Square is the developer of the software and the only source for the maintenance and support.

4. Have you evaluated comparable products within the last two years?

   YES or NO  X

   If yes, please state the complete results of the evaluation.

   If no, do you wish to evaluate this product? Explain why this item is the only acceptable product on the market, for your utilization at this time.

   This is a renewal for an existing system.

SIGNATURE  

TITLE  CIO
## Invoice

**Invoice No**
299640

**Date**
11/24/2020

**Page**
1 of 9

---

Superion, LLC, a CentralSquare Company  
1000 Business Center Drive  
Lake Mary, FL 32746

Billing Inquiries: Accounts.Receivable@centralsquare.com

**Bill To**
City of Charleston  
City of Charleston (OSSI)  
Dept of Information Technology  
Attn. Lin Beets  
2 George Street, Suite 2800  
CHARLESTON SC 29401  
United States

**Ship To**
City of Charleston  
City of Charleston (OSSI)  
Dept of Information Technology  
Attn. Lin Beets  
2 George Street, Suite 2800  
CHARLESTON SC 29401  
United States

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<td>5818LG</td>
<td>City of Charleston</td>
<td></td>
<td>USD</td>
<td>Net 30</td>
<td>12/24/2020</td>
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**Description**  
**Units**  
**Rate**  
**Extended**

1. **ONESolution MFR Client-Arrest - Annual Maintenance Fee**
   - **Units**: 1
   - **Rate**: $3,588.41
   - **Extended**: $3,588.41
   - **Maintenance**: Start: 12/19/2020, End: 12/31/2021

2. **ONESolution MFR Client - Annual Maintenance Fee**
   - **Units**: 1
   - **Rate**: $9,569.09
   - **Extended**: $9,569.09
   - **Maintenance**: Start: 12/19/2020, End: 12/31/2021

3. **ONESolution MCT Client-No CAD Interface - Annual Maintenance Fee**
   - **Units**: 1
   - **Rate**: $4,784.55
   - **Extended**: $4,784.55
   - **Maintenance**: Start: 12/19/2020, End: 12/31/2021

4. **ONESolution Canine Tracking - Annual Maintenance Fee**
   - **Units**: 1
   - **Rate**: $52.92
   - **Extended**: $52.92
   - **Maintenance**: Start: 1/1/2021, End: 12/31/2021

5. **ONESolution MFR Client-Canine - Annual Maintenance Fee**
   - **Units**: 1
   - **Rate**: $2,116.80
   - **Extended**: $2,116.80
   - **Maintenance**: Start: 1/1/2021, End: 12/31/2021

6. **ONESolution MFR Client - Annual Maintenance Fee**
   - **Units**: 1
   - **Rate**: $2,963.52
   - **Extended**: $2,963.52
   - **Maintenance**: Start: 1/1/2021, End: 12/31/2021

7. **ONESolution MFR Client-Arrest - Annual Maintenance Fee**
   - **Units**: 1
   - **Rate**: $1,111.32
   - **Extended**: $1,111.32
   - **Maintenance**: Start: 1/1/2021, End: 12/31/2021

8. **ONESolution MCT Client-No CAD Interface - Annual Maintenance Fee**
   - **Units**: 1
   - **Rate**: $1,481.76
   - **Extended**: $1,481.76
   - **Maintenance**: Start: 1/1/2021, End: 12/31/2021

9. **ONESolution Barcoding Hand-Held Client License - Annual Maintenance Fee**
   - **Units**: 1
   - **Rate**: $536.47
   - **Extended**: $536.47
   - **Maintenance**: Start: 1/1/2021, End: 12/31/2021
### Invoice

**Invoice No**: 299840  
**Date**: 11/24/2020

**Superion, LLC**, a CentralSquare Company  
1000 Business Center Drive  
Lake Mary, FL 32746

Billing Inquiries: Accounts.Receivable@centralsquare.com

**Bill To**  
City of Charleston  
City of Charleston (OSSI)  
Dept of Information Technology  
Attn. Lin Beets  
2 George Street, Suite 2800  
CHARLESTON SC 29401  
United States

**Ship To**  
City of Charleston  
City of Charleston (OSSI)  
Dept of Information Technology  
Attn. Lin Beets  
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CHARLESTON SC 29401  
United States

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Superion, LLC, a CentralSquare Company  
1000 Business Center Drive  
Lake Mary, FL 32746  

Billing Inquiries: Accounts.Receivable@centralsquare.com

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1000 Business Center Drive  
Lake Mary, FL 32746  

Billing Inquiries: Accounts.Receivable@centralsquare.com

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## Invoice

**Invoice No:** 299640  
**Date:** 11/24/2020  
**Page:** 6 of 9

**Superion, LLC, a CentralSquare Company**  
**1000 Business Center Drive**  
**Lake Mary, FL 32746**

**Billing Inquiries:** Accounts.Receivable@centralsquare.com

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**Invoice No**: 299640  
**Date**: 11/24/2020  
**Page**: 7 of 9

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COMMITTEE / COUNCIL AGENDA

TO: John J. Tecklenburg, Mayor
FROM: Tom O'Brien
DEPT: Public Service
SUBJECT: HEIL PYTHON 28 EJECT SIDE LOADER
REQUEST: Approval to purchase 2021 Heil Python 28 Eject Automated Loader
Mack from Carolina Environmental Systems, Inc. 306 Pineview Dr
Kernerville, NC 27284. Sourcewell Contract

COMMITTEE OF COUNCIL: Ways & Means DATE: January 12, 2021

COORDINATION: This request has been coordinated with: (attach all recommendations/reviews)

Corporate Counsel: Yes N/A Signature of Individual Contacted Attachment
Cap. Proj. Cmte. Chair: 
Public Service: X
Procurement Director: X

FUNDING: Was funding previously approved? Yes □ No □ N/A □
If yes, provide the following: Dept./Div.: Lease Purchase Account #: 002019-58010
Balance in Account □ Amount needed for this item $302,415.00

Does this document need to be recorded at the RMC's Office? Yes □ No □

NEED: Identify any critical time constraint(s).

CPO's Signature: Amy K. Wharton
FISCAL IMPACT: 2019 Lease Purchase

Mayor's Signature: John J. Tecklenburg, Mayor

ORIGINATING OFFICE PLEASE NOTE: A FULLY STAFFED/APPROVED (except Mayor's Signature) PACKAGE IS DUE IN THE CLERK OF COUNCIL'S OFFICE NO LATER THAN 10:00AM THE DAY OF THE CLERK'S AGENDA MEETING.
December 21, 2020

Mr. Ben Delliucci
Mr. Matt Alltop
City of Charleston
2150 Milford Street
Charleston, South Carolina 29405

Reference: Hell Python 28 Eject Automated Side Loader / 2021 Mack LR Sourcewell (Formally NJPA)

Gentlemen:

Per your request, we are pleased to quote to you the following Hell Python 28 Yd Full Eject Automated Side Loader per the standard factory specifications as follows:

1. Factory Mounting
2. Tri-Cuff Grabbers
3. 5.2 Cubic Yd Hopper
4. 108” Lift Reach
5. Street Side Access Door with Step and Grab
6. Under Hopper Liquid Sump
7. Body Props
8. Tailgate Props
9. Fully Automatic Shur-Lock Tailgate Locks
10. OIGAI Front Tandem Vane Pump
11. Chassis Frame Mounted Oil Tank w/ Temp Gauge and Shut Off
12. 3 Micron Return Line Filter
13. 100 Mesh Suction Line Strainer
14. In-Cab Packing Controls / Electric-Air
15. In-Cab Hoist Controls Air Electric Joystick
16. In-Cab Controls for Tailgate
17. IFM Controller “In Sight “ Diagnostic Display / Lift Cycle Counter
18. Select -O-Pack
19. Auto Lift
20. Arm Rest
22. LED Center Mounted Brake Light
23. LED Duplicate High and low mount stop , Turn and Tail Lights
24. LED Mid Body Turn Signals
25. LED Federal # 108 Clearance and Reflector Lights
26. ICC Reflective Tape  
27. Rear Mud Flaps  
28. Rear Underride Guard  
29. Rear Camera Bracket and Floodlights  
30. Body Undercoating  
31. Cavity Coat and Joint Sealer  
32. Remote Packer Lube Kit  
33. Safety Triangle Kit  
34. Dupont White Paint -One Color  
35. Hopper Lift and Worklight Kit  
36. Strobe Light @ Tailgate  
37. Grote Smart Lights  
38. Side Assist Lights  
39. Dual Front Oval Strobes  
40. Hopper Hood  
41. 20 # Fire Extinguisher  
42. Tool Box @ Bumper  
43. Outside Controls  
44. Mud Flaps — Front  
45. Mud Flaps — Rear  
46. 3rd Eye Four (4) Camera System and Monitor  
47. Tailgate Caution Decal Kit  
48. 12 Month Body  
49. 5 Year Packing — Eject Cylinder Warranty / Labor 12 Months  
50. Freight

1. Heil Python 28 — Full Eject / 2021 Mack LR ........ $285,965.00 / Ea

Delivery on the complete truck and body will be approximately 90-120 Days after receipt of a confirming purchase order depending on stock truck availability. Please know that all stock ready trucks are quoted subject to prior sale.

In addition, our standard terms of Full Net Invoice / Delivery will also apply.

The South Carolina state sales tax of $500.00 is not included in the above price and should be paid by the City of Charleston, SC to the DMV when licensing the vehicle.

Please know that all of our ready trucks are quoted subject to prior sale.

The enclosed pricing is based on the Heil Environmental contract that is currently in place with SOURCENWELL (Formally NJPA) per contract #091219-THE per for the truck and body.
The specifications are based on the Heil Python 28 Yd Full Eject Body and the 2021 Mack specs enclosed for your review.

We thank you for this opportunity and we look forward to hearing from you soon should there be any questions.

Kindest Regards,

Chip Taylor

Chip Taylor
Carolina Environmental Systems, Inc.

Mobile: (803) 238-3590

E-Mail: chiptaylor@sc.rr.com

Note: Effective January 15, 2021 HEIL has issued a steel sur-charge on all new orders. Any factory discount requests that are currently in the system will be honored until the expiration date of the discount. This order must be entered on or before January 7, 2021. After this date the Python body will cost an additional $6,000.00.
TO: John J. Tecklenburg, Mayor
FROM: Rodney Porter / Andrew Jones
DEPT. Parks - Capital Projects
SUBJECT: 2021 PARD GRANT APPLICATION-JOHNS ISLAND PARK PLAYGROUND PHASE II
REQUEST: Approval for the 2021 Park and Recreation Development (PARD) Grant Application for an expansion of playground equipment including new play structures, safety surfacing, and site work for installation. Requested funding of $33,511.63 with a 20% City Match of $6,702.33

COMMITTEE OF COUNCIL: Ways & Means DATE: January 12, 2021
COORDINATION: This request has been coordinated with: (attach all recommendations/reviews)

- CPR Committee Chair
- Corporate Counsel
- Capital Projects Director
- MBE Manager

FUNDING: Was funding previously approved? Yes [x] No [ ] N/A [ ]
If yes, provide the following: Dept/Div Parks-Capital Projects Acct #
Balance in Account $6,702.33 Amount needed for this item $6,702.33
Project Number CP2106

NEED: Identify any critical time constraint(s).

CFO's Signature: ____________________________

FISCAL IMPACT: City Match $6,702.33 from 523000-52435 Maintenance, Playground Equipment.

Mayor's Signature: ____________________________
John J. Tecklenburg, Mayor

ORIGINATING OFFICE PLEASE NOTE: A FULLY STAFFED/APPROVED (except Mayor's Signature) PACKAGE IS DUE IN THE CLERK OF COUNCIL'S OFFICE NO LATER THAN 10:00 A.M THE DAY OF THE CLERK'S AGENDA MEETING.
SOUTH CAROLINA DEPARTMENT OF PARKS, RECREATION & TOURISM PARK AND RECREATION DEVELOPMENT FUND

PROJECT APPLICATION

I. General Information

Project Sponsor____ City of Charleston, Department of Parks

Mailing Address____ 823 Meeting Street

_________________________ Charleston, SC 29403

Email porterr@charleston-sc.gov ___________________________ Zip 29403

Contact Person____ Rodney H. Porter, PLA

Phone Number____ (843)724-7322 __________________________ Fax____ (843)724-7300

Project Name____ Johns Island Park – New Playground Phase II

County____ Charleston

Federal Identification Number____ 57-6000226

Congressional District #____ 1 _______ PARD Class _____ A _______

Amount of Funds Requested____ $26,809.30

II. Project Description

This project will include the following work categories (Check the appropriate categories):

_____ X__ Development of New Facilities _____ X__ Renovation of Existing Facilities

_____ Planning

This project will include the following specific work elements (Check the appropriate elements):

_____ Athletic Fields _____ Athletic Courts _____ Multi-Purpose Courts

_____ Picnic Facilities _____ Swimming Facilities _____ Trails

_____ Boating/Fishing Facilities _____ Indoor Facilities

_____ Support Facilities _____ Consultant Services

_____ X__ Other (describe)_____ Expansion of playground equipment (including new play structures), safety surfacing, and site work required for installation,
III. Narrative Description
Describe in sufficient detail the work to be accomplished under this project and how the work will be accomplished.

Johns Island Park is one of two City of Charleston Parks on Johns Island. The park is located near the intersection of Maybank Highway (SC700), Main Road (SC S-10-20), and Brownswood Road (SC S-10-1442). There are two entrances to the park (Rewes Lane and Hay Road) with a paved road stretching the entire length of the park.

Johns Island Park began its evolution following Hurricane Hugo in 1989. In the early 1990’s the fields and tennis courts were constructed. The grassy park includes a playground, pond, picnic shelters, 6 tennis courts (Alan Fleming Memorial Tennis Center), volleyball court, multi-purpose field, soccer field, 3 baseball fields, concession stand, bathrooms, and a disc golf course. The playground was installed in 1996 and includes a 2-5-year age group play structure, swing set, and climbing dome. The play elements are scattered about the park under a grove of oak and pine trees.

In 2019 City of Charleston received a PARD grant for the Johns Island Park – New Playground. The implementation of the 2019 project has been delayed due to recent Covid-19 completion extensions. The 2019 project will be completed as directed per grant obligations by May 2021. The particular project the City of Charleston is seeking for the 2021 grant is Phase II of this Johns Island Park – New Playground.

This grant will provide for expanded play opportunities. Introduction of inclusive play equipment will aid multi-sensory play, provide welcoming social environments, and encourage play for all ages. New play structures will have engineered wood fiber surfacing with an expanded border system. Plans for the new playground equipment will be developed in consultation with interested neighbors and programming staff familiar with the site.

Construction, permitting and bidding will be developed by City staff as required. Work will be accomplished through contracts awarded to qualified contractors through the City’s standard procurement process. The removal of the existing play equipment will be handled through internal Department of Parks forces. Installation of the new play structure will be performed by an outside contractor. We anticipate the design, fabrication and installation to require approximately four months.

IV. Proposed Site Location
A. Park Name: Johns Island Park
B. Physical address of proposed site: 1770 Bozo Lane, Charleston, SC 29455
C. Latitude and Longitude (degrees/minutes/seconds/dir) of proposed site: 32°43’430.01” N, 80°05’05.35” W
D. Pictures (color) 8 ½ x 11 of the proposed site before development or renovation. See Attachment
E. Project Location Map. See Attachment

V. Time Table
Give a proposed time table for the accomplishment of this proposed work:
• 1Q 2021: Begin in-house work on design and community outreach on design, funding agreement approval, plan finalization. Award contract(s).
• 2Q 2021: Implement work on site. Remove old play equipment.
VI. Proposed Budget Breakdown for the Project:

- Develop plans and specifications --
- Solicit Bids --
- Site Preparations, remove old equipment --
- Play equipment, including installation $33,511.63

$33,511.63

PARD Funding request: $26,809.30
Cash Match (20%): $6,702.33
Total Funding: $33,511.63

ADDITIONAL REQUIRED APPLICATION MATERIAL

Project Location Map - Provide a map showing the location of each project site. The map(s) is to be in sufficient detail (or written directions) so that the site(s) can be found without additional assistance. (Please remember we are not from your area). SEE ATTACHMENT “A”.

Copy of the appropriate deed or lease/joint use agreement for each proposed site. SEE ATTACHMENT “B”.

Provide an original document showing the endorsements of the County's Legislative Delegation showing a weight factor of more than 50%. SEE ATTACHMENT “C”.

Historical Significance Certification Form. SEE ATTACHMENT “D”.

Pictures (color) 8 ½ x 11 of the proposed site before development or renovation. SEE ATTACHMENT “E”.

.
ATTACHMENT “A”
LOCATION MAP

US 17 to Main Road. Main Road to Brownswood Road (left). Brownswood Road to Rewes Lane (right). Entrance at intersection of Rewes Lane and Dunmovin Drive. Playground located mid-park.
ATTACHMENT “B”
State of South Carolina,
CHARLESTON County

Know All Men by These Presents:

That ALLSTOCK & GRIFFITH, A PARTNERSHIP

in consideration of the sum of One Hundred Forty Thousand ($140,000.00) DOLLARS, and the recitals contained on Exhibit "B" attached hereto and made a part hereof by reference to the grantor(s) in hand paid at and before the sealing of these presents by the grantee(s) (the receipt whereof is hereby acknowledged), have granted, bargained, sold and released, and by these presents do grant, bargain, sell and release unto the said CITY OF CHARLESTON, ITS Successors and Assigns, the following described property, to wit:

SEE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE.

Grantee's address:
P.O. Box 344
Charleston, SC 29407

In this warranty does not apply to Parcel II and no warranty is given thereunto.

TOGETHER with all and singular the Rights, Members, Hereditaments and Appurtenances of the said premises belonging, or in any way incident or appurtenant.

TO HAVE AND TO HOLD all and singular the said Premises before mentioned unto the grantee(s) hereinafore named, and ITS Successors and Assigns forever.

And the grantor(s) do(es) hereby bind the grantor(s) and the grantor(s)' Heirs, Executors and Administrators to warrant and forever defend all and singular the said premises unto the grantee(s) hereinafore named, and the grantee(s)' Heirs and Assigns against the grantor(s) and the grantor(s)' Heirs and against every person whatsoever lawfully claiming or to claim the same or any part thereof.

Witness the grantor(s)' hand and seal this 27th day of 1888 in the year of our Lord One Thousand Nine Hundred and eighty-eight.

Signed, Sealed and Delivered in the Presence of

[Signatures]

By: [Seal]

[Seal]

[Seal]

[Seal]

State of South Carolina,
CHARLESTON County

Personally appeared before me the undersigned witness

and made oath that (a) he saw the within named grantor(s)
proper officer(s) deliver the within written deed, and that (b) he, with the other witness
Sworn to before me this 27th day of September A.D. 1888.

[Signature]

Notary Public for South Carolina
My commission expires: 4-15-96
EXHIBIT "A"

Parcel I

ALL that certain piece, parcel or tract of land, together with the improvements thereon and being a part of Dunnovin Subdivision, John's Island, in the County of Charleston, State of South Carolina, being more specifically designated on a plat entitled "Plat of 28.162 Acres of Dunnovin Subdivision" by F. Steven Johnson, registered land surveyor, dated February 28, 1985, and recorded April 8, 1985 in Plat Book BD at page 118 in the RMC Office for Charleston County, South Carolina.

SAID TRACT of land measuring and containing twenty-eight and 162/1000 (28.162) acres, more or less, and having such size, shape, dimensions, buttings and bounding as are shown on said plat, reference thereto being made for a more complete and full description.

Subject to such easements, rights of way, covenants and restrictions of public record.

SAVING AND EXCEPTING THEREFROM, all of that piece, parcel or tract of land situate, lying and being on Johns Island, in the County of Charleston, State of South Carolina and more particularly described on a plat entitled: "Plat of Property on Johns Island, Charleston County, S.C. about to be conveyed to Tranquil Utilities", dated March 1, 1984 by W. Lucas Gaillard, Reg. Surv., and recorded as Exhibit "A-1" to a Deed from Arthur Ravenel, Jr. and Company to Ailstock & Griffith, a Partnership, recorded March 1, 1985 in Book P-143 at page 872 in the RMC Office for Charleston County, South Carolina.

BEING the same property conveyed to the Grantor herein by Deed of Arthur Ravenel, Jr. and Company, also known as Arthur Ravenel, Jr. and Company, Inc. dated March 1, 1985 and recorded March 1, 1985 in Book P-143 at page 882 in the RMC Office for Charleston County, South Carolina.

TMS#279-00-00-062
ALSO

PARCEL II

Grantor herein conveys unto Grantee herein all of its right, title and interest, including any reversionary interest in and to the following property described as follows:

All of that piece, parcel or tract of land situate, lying and being on Johns Island, in the County of Charleston, State of South Carolina and more particularly described on a plat entitled: "Plat of Property on Johns Island, Charleston County, S.C. about to be conveyed to Tranquil Utilities", dated March 1, 1984 by W. Lucas Gaillard, Reg. Surv., and recorded as Exhibit "A-1" to a Deed from Arthur Ravenel, Jr. and Company to Ailstock & Griffith, a Partnership, recorded March 1, 1985 in Book P-143 at page 872 in the RMC Office for Charleston County, South Carolina.

BEING the same premises conveyed to Grantor herein by deed of Arthur Ravenel, Jr. and Company, also known as Arthur Ravenel Jr. and Company, Inc., a South Carolina corporation, dated March 1, 1984, recorded March 1, 1985, in Book P 143, at page 872, in the R.M.C. Office for Charleston County, South Carolina.

TMS# 279-00-00-062
EXHIBIT B

WHEREAS, Ailstock & Griffith, a Partnership is conveying the property described in the attached deed in part as a sale and in part as a gift to City of Charleston; and

WHEREAS, the fair market value of the property described in this deed is in excess of $140,000.00; and

WHEREAS, Ailstock & Griffith, a Partnership intends that the portion of the property with a value in excess of $140,000.00 should be a gift to City of Charleston.
State of South Carolina,  
County  
RENUNCIATION OF DOWER  
Notary Public, do hereby certify  

unto all whom it may concern, that Mrs.  
wife of the within named  
did this day appear before me, and upon being privately and separately examined by me, did declare that she does freely, voluntarily, and without any compulsion, dread or fear of any person or persons whomsoever, renounce, release, and forever relinquish unto  

Heirs and Assigns, all her interest and estate,  
and also all her right and claim of Dower of, in or to all and singular the premises within mentioned and released.  

GIVEN under my hand and seal this  
day of  
A. D. 19  

(Seal)  
Notary Public for South Carolina  

Recorded this day of  
A. D. 19  

[Redacted]  
Title to Real Estate  
TO  

[Redacted]  
FILED, INDEXED & RECORDED  
S/78 - 675  
03 SEP 30 PH 2:56  

[Redacted]  
Register of Deeds  
County of Charleston  

[Redacted]  
William New
ATTACHMENT “C”
ENDORSEMENT FORM

We, the members of the Charleston County Legislative Delegation, endorse the following Project, Sponsor, and Amount for funding under the South Carolina Park and Recreation Development Fund (PARD) Program.

Sponsor: City of Charleston, Department of Parks

Project Name: Johns Island Park – New Playground Phase II

PARD Amount: $26,809.30

ENDORSEMENT: (Signatories combined weight factor must be greater than 50% for the above-mentioned county. Applications cannot be processed without weight factor listed.)

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<th>NAME (type or print)</th>
<th>SIGNATURE</th>
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</table>

(Form must be completed, signed and returned to us WITH the application. Applications cannot be processed without this signed and dated form.)
ATTACHMENT “D”
HISTORICAL SIGNIFICANCE CERTIFICATION FORM

AGENCY NAME: City of Charleston, Department of Parks

PROJECT NAME: Johns Island Park - New Playground Phase II

I hereby certify that the above named project:

(Select One)

X Will Not Have an impact on existing or potentially eligible National Register site(s).

____ Will Have an impact on existing or potentially eligible National Register site(s). Please explain:

________________________________________________________________________________________

________________________________________________________________________________________

________________________________________________________________________________________

Rodney H. Porter, PLA
PRINTED NAME

Senior Landscape Architect, Project Manager
TITLE

SIGNATURE

December 12, 2020
DATE

(Form must be completed, signed and returned to us WITH the application. Applications cannot be processed without this signed and dated form.)
ATTACHMENT “E”
Playground
Woods of Playground from Soccer Field
Swingset
CPR COMMITTEE and/or COUNCIL AGENDA

TO: John J. Tecklenburg, Mayor
FROM: Beth Brownlee / Andrew Jones DEPT. Parks - Capital Projects
SUBJECT: CARR-RICHARDSON PARK CONSTRUCTION CONTRACT

REQUEST: Approval of a Construction Contract with Mashburn Construction Company, Inc., in the amount of $1,967,632.00 for the construction of a multi-purpose building, restrooms, open air pavilion, decking, pervious path, playground and parking at Carr-Richardson Park, formerly known as Bender Street Park.

With the approval of the project budget, Staff is authorized to award and/or amend contracts less than $40,000, to the extent contingency funds exist in the Council Approved Budget.

COMMITTEE OF COUNCIL: Ways & Means DATE: January 12, 2021

COORDINATION: This request has been coordinated with: (attach all recommendations/reviews)

CPR Committee Chair
Corporate Counsel
Capital Projects Director
MBE Manager

FUNDING: Was funding previously approved? Yes ☒ No ☐ N/A ☐

If yes, provide the following: Dept/Div Parks-Capital Projects Acct # 051446-66240
Balance in Account $1,967,532.00 Amount needed for this item $1,967,532.00

NEED: Identify any critical time constraint(s).

CFO’s Signature: ____________________________

FISCAL IMPACT: The Construction Contract will obligate $1,967,532.00 of the $2,795,052.00 project budget. The funding source for this project are: Land Sales ($350,025.00), Hospitality Funds ($2,445,000.00).

Mayor’s Signature: ____________________________

ORIGINATING OFFICE PLEASE NOTE: A FULLY STAFFED/APPROVED (except Mayor’s Signature) PACKAGE IS DUE IN THE CLERK OF COUNCIL’S OFFICE NO LATER THAN 10:00 A.M THE DAY OF THE CLERK’S AGENDA MEETING.
<table>
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<th>Design/Engineering</th>
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### Construction

| Design/Engineering | CP1610 | 051446-59240 Building Demolition | $12,100.00 | $12,100.00 | $ | - | Target Contractors - P144861 |
|-------------------|--------|----------------------------------|-------------|-------------|------|-------|-----------------------------------------------|-------------|------|------|-----------------------------------------------|
| 051446-59240 Disposal of demolition material | $12,035.91 | $12,035.91 | | | | | | | |
| 051446-59240 Tree Trimming & Cleanup | $12,800.00 | $12,800.00 | | | | | | | |
| 051446-59240 Site Debris Removal | $ - | $ - | | | | | | | |
| 051446-59240 Site Debris Disposal Fee | $ - | $ - | | | | | | | |
| 051446-59240 Site Debris Removal | $ - | $ - | | | | | | | |
| 051446-59240 Site Debris Removal | $17,750.00 | $17,750.00 | | | | | | | |
| 051446-59240 Site Debris Disposal Fee | $1,701.57 | $1,701.57 | | 0.00 | | Republic Services - P145865 | | | | |
| 051446-59240 Parking Lights | $25,000.00 | $25,000.00 | | | | | | | |
| 051446-59240 Construction Contract | $1,967,032.00 | | | | | Marshburn Construction Co., Inc. | | | | |
| 051446-59240 Building Construction - Original Budget | | | | | | | | | |
| 051446-59240 Water line extension for fire hydrant | $ - | $ - | | | | | | | |

TOTAL CONSTRUCTION COSTS $2,048,699.48 | $56,167.48 | $25,000.00 |

TOTAL PROJECT COSTS |

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TOTAL FUNDING $2,785,025.00 | $588,292.64 |

PROJECT BALANCE $ - | $1,196,732.40 |

Printed 1/5/2021
AGREEMENT made as of the day of in the year 
(In words, indicate day, month and year.)

BETWEEN the Owner: 
(Name, legal status, address and other information)

City of Charleston 
Department of Parks, Capital Projects Division 
823 Meeting Street, Second Floor 
Charleston, SC 29403

and the Contractor: 
(Name, legal status, address and other information)

Masbush Construction Company, Inc. 
1202 Chuck Dawley Blvd 
Mount Pleasant, SC 29464

for the following Project: 
(Name, location and detailed description)

CP 1610 Carr-Richardson Park (FKA Bender Street Park) 
Construction of a multi-purpose building, restrooms, open air pavilion, decking, pervious path, playground and parking. Scope also includes but not limited to grading, drainage, utilities, hardscape, landscape, irrigation, site lighting, signage for the new City of Charleston park, and other indicated work in these Contract Documents.

The Architect: 
(Name, legal status, address and other information)

Stantec Consulting Services, Inc. 
4969 Centre Pointe Drive, Suite 200 
North Charleston, SC 29418

The Owner and Contractor agree as follows.
TABLE OF ARTICLES

1 THE CONTRACT DOCUMENTS
2 THE WORK OF THIS CONTRACT
3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
4 CONTRACT SUM
5 PAYMENTS
6 DISPUTE RESOLUTION
7 TERMINATION OR SUSPENSION
8 MISCELLANEOUS PROVISIONS
9 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS
The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

ARTICLE 2 THE WORK OF THIS CONTRACT
The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
§ 3.1 The date of commencement of the Work shall be:
(2) The date of this Agreement.
[ ] A date set forth in a notice to proceed issued by the Owner.
[ ] Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 3.3 Substantial Completion
§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

Init.
(Check one of the following boxes and complete the necessary information.)

[ X ] Not later than three hundred and sixty-five (365) calendar days from the date of commencement of the Work.

[ ] By the following date:

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

<table>
<thead>
<tr>
<th>Portion of Work</th>
<th>Substantial Completion Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>N/A</td>
<td></td>
</tr>
</tbody>
</table>

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be one million, nine hundred sixty-seven thousand, five hundred and thirty-two dollars and zero cents ($1,967,532.00), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum:

<table>
<thead>
<tr>
<th>Item</th>
<th>Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deductive Alternate #2 - elimination of North deck seating</td>
<td>($22,000.00)</td>
</tr>
</tbody>
</table>

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement. (Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

<table>
<thead>
<tr>
<th>Item</th>
<th>Price</th>
<th>Conditions for Acceptance</th>
</tr>
</thead>
<tbody>
<tr>
<td>N/A</td>
<td>N/A</td>
<td>N/A</td>
</tr>
</tbody>
</table>

§ 4.3 Allowances, if any, included in the Contract Sum: (Identify each allowance.)

<table>
<thead>
<tr>
<th>Item</th>
<th>Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allowance #1: Playground Equipment</td>
<td>$60,000.00</td>
</tr>
<tr>
<td>Allowance #2: Signage</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>Allowance #3: DAS radio enhancement system</td>
<td>$10,000.00</td>
</tr>
</tbody>
</table>

§ 4.4 Unit prices, if any: (Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

<table>
<thead>
<tr>
<th>Item</th>
<th>Units and Limitations</th>
<th>Price per Unit ($0.00)</th>
</tr>
</thead>
<tbody>
<tr>
<td>#1: Flowable Fill</td>
<td>CY</td>
<td>$155.00</td>
</tr>
<tr>
<td>#2: Muck, remove, dispose and place</td>
<td>CY</td>
<td>$35.00</td>
</tr>
<tr>
<td>#3: Removal of unknown debris</td>
<td>Ton as measured by weight tickets from disposal site</td>
<td>$95.00</td>
</tr>
<tr>
<td>#4: Off-site borrow &quot;controlled fill&quot; in-situ</td>
<td>CY</td>
<td>$30.00</td>
</tr>
</tbody>
</table>

§ 4.5 Liquidated damages, if any:
$500.00 per calendar day

§ 4.6 Other:
(Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)

N/A

ARTICLE 5 PAYMENTS
§ 5.1 Progress Payments
§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

(Paragraph Deleted)

§

(Paragraphs Deleted)

(Paragraphs Deleted)

§ 5.2 Final Payment
§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when
1. the Contractor has fully performed the Contract except for the Contractor’s responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment; and
2. a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner’s final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect’s final Certificate for Payment, or as follows:

§ 5.3 Interest
Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.
(Insert rate of interest agreed upon, if any.)

N/A %

ARTICLE 6 DISPUTE RESOLUTION
§ 6.1 Initial Decision Maker
The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.
(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

Init.
§ 6.2 Binding Dispute Resolution
For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201-2017, the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

[ ] Arbitration pursuant to Section 15.4 of AIA Document A201-2017

[ ] Litigation in a court of competent jurisdiction

[ X ] Other (Specify)

Disputes may be resolved by litigation in a court of competent jurisdiction should mediation efforts fail pursuant to Section 15.3 of A201-2017.

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 7 TERMINATION OR SUSPENSION
§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201-2017, as amended.

(Paragraphs Deleted)

§ 7.2 The Work may be suspended by the Owner for convenience as provided in Article 14 of AIA Document A201-2017. Contractor shall not be entitled to a termination fee in the instance of termination for convenience.

ARTICLE 8 MISCELLANEOUS PROVISIONS
§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201-2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner’s representative:
(NAME, ADDRESS, EMAIL ADDRESS, AND OTHER INFORMATION)

Elizabeth Blackwell Brownlee, RLA
City of Charleston
Department of Parks, Capital Projects Division
823 Meeting Street, 2nd Floor
Charleston, SC 29403
Telephone: 843-577-2173; Email: BrownleeE@charleston-sc.gov

§ 8.3 The Contractor’s representative:
(NAME, ADDRESS, EMAIL ADDRESS, AND OTHER INFORMATION)

Richard G. Kinard, Jr. - VP Coastal
Mashburn Construction Company, Inc.
1202 Chuck Dawley Blvd
Mount Pleasant, SC 29464
Telephone: 843-853-4303; Cell: 843-200-1499
Email: rkinard@mashburnconstruction.com

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User Notes:
§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

§ 8.5 Insurance and Bonds
§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™-2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™-2017 Exhibit A, and elsewhere in the Contract Documents.

(Paragraphs Deleted)

§ 8.7 Other provisions:

8.7.1 Contractor shall not incur any expense chargeable to the Owner on or about the Work of this Agreement until the Notice to Proceed is issued.

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS
§ 9.1 This Agreement is comprised of the following documents:

.1 AIA Document A101™-2017, Standard Form of Agreement Between Owner and Contractor
   Supplementary Conditions
.2 AIA Document A101™-2017, Exhibit A, Insurance and Bonds
.3 AIA Document A201™-2017, General Conditions of the Contract for Construction
   and Supplementary Conditions

(Paragraph Deleted)

.5 Drawings

<table>
<thead>
<tr>
<th>Number</th>
<th>Title</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>CP 1610 Bender St</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Park_Dwgs_bid_set</td>
<td></td>
</tr>
</tbody>
</table>

.6 Specifications

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Date</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Project Manual and Contract Documents for</td>
<td></td>
<td>916</td>
</tr>
<tr>
<td></td>
<td>CP 1610 Bender Street Park</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

.7 Addenda, if any:

<table>
<thead>
<tr>
<th>Number</th>
<th>Date</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Addendum #1</td>
<td>November 10, 2020</td>
<td>9</td>
</tr>
<tr>
<td>Addendum #2</td>
<td>November 17, 2020</td>
<td>113</td>
</tr>
<tr>
<td>Addendum #3</td>
<td>November 18, 2020</td>
<td>13</td>
</tr>
</tbody>
</table>

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

§ 8 Other Exhibits: None

Init.

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User Notes:
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

(Paragraphs Deleted)

(Paragraph Deleted)

(Table Deleted)

(Paragraph Deleted)

(Table Deleted)

.9 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™—2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor’s bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

N/A

This Agreement entered into as of the day and year first written above.

OWNER (Signature)

John J. Tecklenburg, Mayor
(Printed name and title)

CONTRACTOR (Signature)

Paul Mashburn, CEO
1/05/21
(Printed name and title)
Additions and Deletions Report for
AIA® Document A101® – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 09:27:07 ET on 01/05/2021.

PAGE 1

City of Charleston
Department of Parks, Capital Projects Division
923 Meeting Street, Second Floor
Charleston, SC 29403

Mashburn Construction Company, Inc.
1202 Chuck Dawley Blvd
Mount Pleasant, SC 29464

CP 1610 Carr-Richardson Park (FKA Bender Street Park)
Construction of a multi-purpose building, restrooms, open air pavilion, decking, pervious path, playground and parking. Scope also includes but not limited to grading, drainage, utilities, landscape, irrigation, site lighting, signage for the new City of Charleston park, and other indicated work in these Contract Documents.

Stantec Consulting Services, Inc.
4969 Centre Pointe Drive, Suite 200
North Charleston, SC 29418

PAGE 2

A date set forth in a notice to proceed issued by the Owner.

PAGE 3

Not later than __three hundred and sixty-five__ (365) calendar days from the date of commencement of the Work.

N/A
§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be one million, nine hundred sixty-seven thousand, five hundred and thirty-two dollars and zero cents ($1,967,532.00), subject to additions and deductions as provided in the Contract Documents.

Deductive Alternate #2 - elimination of North dock seating ($22,000.00)

N/A

<table>
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<th>Price</th>
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</thead>
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<td>$5,000.00</td>
</tr>
<tr>
<td>Allowance #3: DAS radio enhancement system</td>
<td>$10,000.00</td>
</tr>
</tbody>
</table>

Item                          | Units and Limitations          | Price per Unit (Price) |
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>#1: Flowable Fill</td>
<td>CY</td>
<td>$155.00</td>
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<td>CY</td>
<td>$35.00</td>
</tr>
<tr>
<td>#3: Removal of unknown debris</td>
<td>Ton as measured by weight</td>
<td>$95.00</td>
</tr>
<tr>
<td>#4: Off-site borrow &quot;controlled fill&quot; in-situ</td>
<td>tickets from disposal site CY</td>
<td>$30.00</td>
</tr>
</tbody>
</table>

$500.00 per calendar day

N/A

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§5.4.3 Provided that an Application for Payment is received by the Architect not later than the—day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the—day of the—month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than (—) days after the Architect receives the Application for Payment.

...(Federal, state or local laws may require payment within a certain period of time.)

...

§5.4.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

...

§5.4.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

...

§5.4.6 In accordance with AIA Document A201™-2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

...

§5.4.6.1 The amount of each progress payment shall first include:

...

1. That portion of the Contract Sum properly allocable to completed Work;

...

2. That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and

...

3. That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

...

§5.4.6.2 The amount of each progress payment shall then be reduced by:


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User Notes:
... The aggregate of any amounts previously paid by the Owner;

... The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201-2017;

... Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;

... For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201-2017, and

... Retention withheld pursuant to Section 5.4.7.

§ 5.4.7 Retention

§ 5.4.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retention, from the payment otherwise due:

...(Insert a percentage or amount to be withheld as retention from each Application for Payment. The amount of retention may be limited by governing law)

...

§ 5.4.7.1.1 The following items are not subject to retainage:

...(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

...

§ 5.4.7.2 Reduction or limitation of retainage, if any, shall be as follows:

...
(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)

...§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

...((Insert any other conditions for release of retainage upon Substantial Completion.))

...§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201-2017.

...§ 5.1.9 Except with the Owner’s prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

...N/A  %

PAGE 5

[X] Other (Specify)

...Disputes may be resolved by litigation in a court of competent jurisdiction should mediation efforts fail pursuant to Section 15.3 of A201-2017.

...§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201-2017, as amended...

...§ 7.4.4 If the Contract is terminated for the Owner’s convenience in accordance with Article 14 of AIA Document A201-2017, then the Owner shall pay the Contractor a termination fee as follows:

...((Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner’s convenience.))
§ 7.2 The Work may be suspended by the Owner for convenience as provided in Article 14 of AIA Document A201–2017. Contractor shall not be entitled to a termination fee in the instance of termination for convenience.

Elizabeth Blackwell Brownlee, RLA
City of Charleston
Department of Parks, Capital Projects Division
823 Meeting Street, 2nd Floor
Charleston, SC 29403
Telephone: 843-577-2173; Email: BrownleeE@charleston-sc.gov

Richard G. Kinard, Jr. - VP Coastal
Mashburn Construction Company, Inc.
1202 Chuck Dawley Blvd
Mount Pleasant, SC 29464
Telephone: 843-853-4303; Cell: 843-200-1499
Email: rkinard@mashburnconstruction.com

PAGE 6

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

8.7.1 Contractor shall not incur any expense chargeable to the Owner on or about the Work of this Agreement until the Notice to Proceed is issued.

.1 AIA Document: A101™–2017, Standard Form of Agreement Between Owner and Contractor
Supplementary Conditions

.4 AIA Document: E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below and Supplementary Conditions

(Insert the date of the E203–2013 incorporated into this Agreement)
3. Other Exhibits: None.

PAGE 7

[---AIA Document E204™, 2017, Sustainable Projects Exhibit, dated as indicated below:

(Insert the date of the E204-2017 incorporated into this Agreement.)

[---The Sustainability Plan:

[---Supplementary and other Conditions of the Contract:

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User Notes:
N/A

John J. Tecklenburg, Mayor

Paul Mashburn, CEO
Certification of Document's Authenticity
AIA® Document D401™ – 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 09:27:07 ET on 01/05/2021 under Order No. 9134434819 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A101™ – 2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed) 

>Title

(Dated)
Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the day of ___ in the year
(In words, indicate day, month and year.)

for the following PROJECT:
(Name and location or address)

Carr-Richardson Park (FKA Bender Street Park)
1071 Bender Street
Charleston, SC 29407

THE OWNER:
(Name, legal status and address)

City of Charleston
Department of Parks, Capital Projects Division
823 Meeting Street
Charleston, SC 29403

THE CONTRACTOR:
(Name, legal status and address)

Mashburn Construction Company, Inc
1202 Chuck Dawley Blvd
Mount Pleasant, SC 29464

TABLE OF ARTICLES

A.1 GENERAL

A.2 OWNER'S INSURANCE

A.3 CONTRACTOR'S INSURANCE AND BONDS

A.4 SPECIAL TERMS AND CONDITIONS

ARTICLE A.1 GENERAL
The Owner and Contractor shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A201™–2017, General Conditions of the Contract for Construction.

ARTICLE A.2 OWNER'S INSURANCE
§ A.2.1 General
Prior to commencement of the Work, the Owner shall secure the insurance, and provide evidence of the coverage, required under this Article A.2 and, upon the Contractor’s request, provide a copy of the property insurance policy or policies required by Section A.2.3. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.
§ A.2.2 Liability Insurance
The Owner shall be responsible for purchasing and maintaining the Owner’s usual general liability insurance.

§ A.2.3 Required Property Insurance
§ A.2.3.1 Unless this obligation is placed on the Contractor pursuant to Section A.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance written on a builder’s risk “all-risks” completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner’s property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

§ A.2.3.1.1 Causes of Loss. The insurance required by this Section A.2.3.1 shall provide coverage for direct physical loss or damage, and shall not exclude the risks of fire, explosion, theft, vandalism, malicious mischief, collapse, earthquake, flood, or windstorm. The insurance shall also provide coverage for ensuing loss or resulting damage from error, omission, or deficiency in construction methods, design, specifications, workmanship, or materials. Sub-limits, if any, are as follows:

(Indicate below the cause of loss and any applicable sub-limit.)

<table>
<thead>
<tr>
<th>Causes of Loss</th>
<th>Sub-Limit</th>
</tr>
</thead>
<tbody>
<tr>
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</tbody>
</table>

§ A.2.3.1.2 Specific Required Coverages. The insurance required by this Section A.2.3.1 shall provide coverage for loss or damage to falsework and other temporary structures, and to building systems from testing and startup. The insurance shall also cover debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and reasonable compensation for the Architect’s and Contractor’s services and expenses required as a result of such insured loss, including claim preparation expenses. Sub-limits, if any, are as follows:

(Indicate below type of coverage and any applicable sub-limit for specific required coverages.)

<table>
<thead>
<tr>
<th>Coverage</th>
<th>Sub-Limit</th>
</tr>
</thead>
<tbody>
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§ A.2.3.1.3 Unless the parties agree otherwise, upon Substantial Completion, the Owner shall continue the insurance required by Section A.2.3.1 or, if necessary, replace the insurance policy required under Section A.2.3.1 with property insurance written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 12.2.2 of the General Conditions.

§ A.2.3.1.4 Deductibles and Self-insured Retentions. If the insurance required by this Section A.2.3 is subject to deductibles or self-insured retentions, the Owner shall be responsible for all loss not covered because of such deductibles or retentions.

§ A.2.3.2 Occupancy or Use Prior to Substantial Completion. The Owner’s occupancy or use of any completed or partially completed portion of the Work prior to Substantial Completion shall not commence until the insurance company or companies providing the insurance under Section A.2.3.1 have consented in writing to the continuance of coverage. The Owner and the Contractor shall take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance, unless they agree otherwise in writing.

§ A.2.3.3 Insurance for Existing Structures
If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, “all-risk” property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damage from the causes of loss identified in Section A.2.3.1, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties.
§ A.2.4 Optional Extended Property Insurance.
The Owner shall purchase and maintain the insurance selected and described below.

(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. For each type of insurance selected, indicate applicable limits of coverage or other conditions in the fill point below the selected item.)

[  ] § A.2.4.1 Loss of Use, Business Interruption, and Delay in Completion Insurance, to reimburse the Owner for loss of use of the Owner’s property, or the inability to conduct normal operations due to a covered cause of loss.

[  ] § A.2.4.2 Ordinance or Law Insurance, for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.

[  ] § A.2.4.3 Expediting Cost Insurance, for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.

[  ] § A.2.4.4 Extra Expense Insurance, to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.

[  ] § A.2.4.5 Civil Authority Insurance, for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.

[  ] § A.2.4.6 Ingress/Egress Insurance, for loss due to the necessary interruption of the insured’s business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.

[  ] § A.2.4.7 Soft Costs Insurance, to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

§ A.2.5 Other Optional Insurance.
The Owner shall purchase and maintain the insurance selected below.

(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance.)
§ A.2.5.1 Cyber Security Insurance for loss to the Owner due to data security and privacy breach, including costs of investigating a potential or actual breach of confidential or private information. (Indicate applicable limits of coverage or other conditions in the fill point below.)

§ A.2.5.2 Other Insurance
(List below any other insurance coverage to be provided by the Owner and any applicable limits.)

<table>
<thead>
<tr>
<th>Coverage</th>
<th>Limits</th>
</tr>
</thead>
</table>

ARTICLE A.3 CONTRACTOR’S INSURANCE AND BONDS
§ A.3.1 General

§ A.3.1.1 Certificates of Insurance. The Contractor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article A.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner’s written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section A.3.2.1 and Section A.3.3.1. The certificates will show the Owner as an additional insured on the Contractor’s Commercial General Liability and excess or umbrella liability policy or policies.

§ A.3.1.2 Deductibles and Self-Insured Retentions. The Contractor shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Contractor.

§ A.3.1.3 Additional Insured Obligations. To the fullest extent permitted by law, the Contractor shall cause the commercial general liability coverage to include (1) the Owner, the Architect, and the Architect’s consultants as additional insureds for claims caused in whole or in part by the Contractor’s negligent acts or omissions during the Contractor’s operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor’s negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner’s general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect’s consultants, CG 20 32 07 04.

§ A.3.2 Contractor’s Required Insurance Coverage
§ A.3.2.1 The Contractor shall purchase and maintain the following types and limits of insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below. (If the Contractor is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

§ A.3.2.2 Commercial General Liability
§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than ($ ) each occurrence, ($ ) general aggregate, and ($ ) aggregate for products-completed operations hazard, providing coverage for claims including:
1. damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
2. personal injury and advertising injury;
3. damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
4. bodily injury or property damage arising out of completed operations; and
5. the Contractor’s indemnity obligations under Section 3.18 of the General Conditions.

Init.
§ A.3.2.2 The Contractor’s Commercial General Liability policy under this Section A.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

.1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.
.2 Claims for property damage to the Contractor’s Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.
.3 Claims for bodily injury other than to employees of the insured.
.4 Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.
.5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.
.6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.
.7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.
.8 Claims related to roofing, if the Work involves roofing.
.9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.
.10 Claims related to earth subsidence or movement, where the Work involves such hazards.
.11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than ($ ) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.

§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ A.3.2.5 Workers’ Compensation at statutory limits.

§ A.3.2.6 Employers’ Liability with policy limits not less than one hundred thousand ($ 100,000 ) each accident, one hundred thousand ($ 100,000 ) each employee, and five hundred thousand ($ 500,000 ) policy limit.

§ A.3.2.7 Jones Act, and the Longshore & Harbor Workers’ Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and docks.

§ A.3.2.8 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than ($ ) per claim and ($ ) in the aggregate.

§ A.3.2.9 If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than ($ ) per claim and ($ ) in the aggregate.

§ A.3.2.10 Coverage under Sections A.3.2.8 and A.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than ($ ) per claim and ($ ) in the aggregate.

§ A.3.2.11 Insurance for maritime liability risks associated with the operation of a vessel, if the Work requires such activities, with policy limits of not less than ($ ) per claim and ($ ) in the aggregate.
§ A.3.2.12 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits of not less than ($ ) per claim and ($ ) in the aggregate.

§ A.3.3 Contractor's Other Insurance Coverage
§ A.3.3.1 Insurance selected and described in this Section A.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:
(If the Contractor is required to maintain any of the types of insurance selected below for a duration other than the expiration of the period for correction of Work, state the duration.)

§ A.3.3.2 The Contractor shall purchase and maintain the following types and limits of insurance in accordance with Section A.3.3.1.
(Select the types of insurance the Contractor is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. Where policy limits are provided, include the policy limit in the appropriate fill point.)

[ ] § A.3.3.2.1 Property insurance of the same type and scope satisfying the requirements identified in Section A.2.3, which, if selected in this section A.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section A.2.3.1.3 and Section A.2.3.3. The Contractor shall comply with all obligations of the Owner under Section A.2.3 except to the extent provided below. The Contractor shall disclose to the Owner the amount of any deductible, and the Owner shall be responsible for losses within the deductible. Upon request, the Contractor shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:
(Where the Contractor's obligation to provide property insurance differs from the Owner's obligations as described under Section A.2.3, indicate such differences in the space below. Additionally, if a party other than the Owner will be responsible for adjusting and settling a loss with the insurer and acting as the trustee of the proceeds of property insurance in accordance with Article 11 of the General Conditions, indicate the responsible party below.)

[ ] § A.3.3.2.2 Railroad Protective Liability Insurance, with policy limits of not less than ($ ) per claim and ($ ) in the aggregate, for Work within fifty (50) feet of railroad property.

[ ] § A.3.3.2.3 Asbestos Abatement Liability Insurance, with policy limits of not less than ($ ) per claim and ($ ) in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

[ ] § A.3.3.2.4 Insurance for physical damage to property while it is in storage and in transit to the construction site on an "all-risks" completed value form.

[ ] § A.3.3.2.5 Property insurance on an "all-risks" completed value form, covering property owned by the Contractor and used on the Project, including scaffolding and other equipment.

[ ] § A.3.3.2.6 Other Insurance
(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)

Coverage Limits
§ A.3.4 Performance Bond and Payment Bond

The Contractor shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:

(Specify type and penal sum of bonds.)

<table>
<thead>
<tr>
<th>Type</th>
<th>Penal Sum ($0.00)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Payment Bond</td>
<td></td>
</tr>
<tr>
<td>Performance Bond</td>
<td></td>
</tr>
</tbody>
</table>

Payment and Performance Bonds shall be A1A Document A312™, Payment Bond and Performance Bond, or contain provisions identical to AIA Document A312™, current as of the date of this Agreement.

ARTICLE A.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:
Additions and Deletions Report for
AIA® Document A101® – 2017 Exhibit A

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 09:27:24 ET on 01/05/2021.

PAGE 1

Carr-Richardson Park (FKA Bender Street Park)
1071 Bender Street
Charleston, SC 29407

...

City of Charleston
Department of Parks, Capital Projects Division
823 Meeting Street
Charleston, SC 29403

...

Mashburn Construction Company, Inc.
1202 Chuck Dawley Blvd
Mount Pleasant, SC 29464

PAGE 5

§ A.3.2.6 Employers’ Liability with policy limits not less than one hundred thousand (100,000) each accident,

one hundred thousand (100,000) each employee, and five hundred thousand (500,000) policy limit.
CITY OF CHARLESTON
SUPPLEMENTARY CONDITIONS
A101-2017-EXHIBIT A

The following supplementary conditions modify and supersede the "Insurance and Bonds," AIA Document A201-2017 Exhibit A. Where a portion of a section of the Insurance and Bonds Exhibit is modified or deleted by these Supplementary Conditions, the unaltered portions of the General Conditions shall remain in effect. In the event of any conflict between these Supplementary Conditions and any other contract documents, the provisions of these Supplementary Conditions shall govern.

ARTICLE A.2 OWNER’S INSURANCE

Article A.2-Delete Article A.2 in its entirety.

ARTICLE A.3 CONTRACTOR’S INSURANCE AND BONDS

§ A.3.1.1 – Add the following sentence to the end of the paragraph:

“The certificates shall be ACORD Form 25.”

§ A.3.2.2.1 – Delete paragraph and substitute the following:

"Commercial General Liability insurance for the Project shall be written on an occurrence form and shall protect the Contractor from claims set forth below which may arise out of or result from the Contractor’s operations and completed operations under the Contract and for which Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, including:

(1) Damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
(2) Personal injury and advertising injury;
(3) Damages because of physical damage to, or destruction of, tangible property, including the loss of use of such property;
(4) Bodily injury or property damage arising out of completed operations; and
(5) The Contractor’s indemnity obligations under Section 3.18 of the General Conditions.

Liability insurance shall include all major divisions of coverage and be on a comprehensive basis including:

(1) Premises Operations (including X, C and U coverage as applicable);
(2) Independent Contractor’s Liability;
(3) Products-Completed Operations;
(4) Personal injury Liability with Employment exclusion deleted;
(5) Contractual, including specified provision for Contractor’s obligation under Section 3.18 of the General Conditions;
(6) Owned, non-owned and hired motor vehicles;
(7) Broad Form Property Damage including Completed Operations.

The policy limits shall not be less than the following amounts:

- **$1,000,000,000** Each Occurrence
- **$1,000,000,000** Damage to Rented Premises (each occurrence)
- **$1,000,000,000** Medical Expenses (any One Person)
- **$1,000,000,000** Personal and Advertising Injury
- **$2,000,000,000** General Aggregate
- **$2,000,000,000** Products-Completed Operations Aggregate

The policy shall be endorsed to have the General Aggregate apply to this project only.

The Contractual Liability insurance shall include coverage sufficient to meet the obligations under Paragraph 3.18

Products and Completed Operations insurance shall be maintained for a minimum period of at least 2 years after either 90 days following Substantial Completion or final payment, which is earlier.

Owner shall be listed as an additional insured on all liability insurance policies carried by Contractor.”

§ A.3.2.2.2-Delete subparagraph .9 in its entirety.

§ A.3.2.3-Delete paragraph and substitute the following:

“Automobile Liability covering non-owned vehicles used or hired, by the Contractor, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, with policy limits not less than the following amounts:

- **Bodily Injury (per person)** $1,000,000
- **Bodily Injury (per accident)** $2,000,000
- **Property Damage (per accident)** $500,000

§ A.3.2.5-Add the following sentences:

“If exempt from statutory coverage, maintain voluntary workers’ compensation coverage at the same limits specified for mandatory coverage. A waiver of subrogation shall be required.”

§ A.3.2.6-Edit to read as follows:
“Employers' Liability with policy limits not less than ($100,000) each accident, ($100,000) each employee, and ($500,000) policy limit.”

§ A.3.4-Add the following paragraph to this section:

"the bonds shall remain in force until the Work has been completed and accepted by the Owner, the provisions of all guarantees have been fulfilled, and for correction of Work in Article 12, or the period for filing mechanic’s liens has expired, whichever shall occur latest, after which time the bonds shall lapse. The Contractor shall bear all costs in connection with the bonds as a part of the contract. Bonds shall be attached to each document prior to the execution of the Contract Documents by the Owner. The Contractor shall require the attorney-in-fact who executes the required bonds on behalf of the surety to provide a current copy of its power of attorney."

§ A.4 SPECIAL TERMS AND CONDITIONS

1. Add the following sentence:

"Contractor will be required to purchase Builder’s Risk Insurance, subject to modification at the sole discretion of the Owner."
General Conditions of the Contract for Construction

for the following PROJECT:
(Name and location or address)

Carr-Richardson Park (FKA Bender Street Park)
1071 Bender Street
Charleston, SC 29407

THE OWNER:
(Name, legal status and address)

City of Charleston
Department of Parks, Capital Projects Division
823 Meeting Street
Charleston, SC 29403

THE ARCHITECT:
(Name, legal status and address)

Stantec Consulting Services, Inc.
4969 Centre Pointe Drive, Suite 200
North Charleston, SC 29418

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3 CONTRACTOR
4 ARCHITECT
5 SUBCONTRACTORS
6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS
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10 PROTECTION OF PERSONS AND PROPERTY
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13 MISCELLANEOUS PROVISIONS

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An Additions and Deletions Report that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.
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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor’s bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect’s consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect’s consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect’s duties.

§ 1.1.3 The Work

The term “Work” means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor’s obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect’s consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent
consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties’ intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization
Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation
In the interest of brevity the Contract Documents frequently omit modifying words such as “all” and “any” and articles such as “the” and “an,” but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service
§ 1.5.1 The Architect and the Architect’s consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect’s or Architect’s consultants’ reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect’s consultants.

§ 1.6 Notice
§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission
The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.
§ 1.8 Building Information Models Use and Reliance
Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™-2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party’s sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER
§ 2.1 General
§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner’s approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term “Owner” means the Owner or the Owner’s authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic’s lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner’s interest therein.

§ 2.2 Evidence of the Owner’s Financial Arrangements
§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner’s obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner’s obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner’s ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor’s request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor’s reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as “confidential,” the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose “confidential” information, after seven (7) days’ notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose “confidential” information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner
§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements,
assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practising architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner’s control and relevant to the Contractor’s performance of the Work with reasonable promptness after receiving the Contractor’s written request for such information or services.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.4 Owner’s Right to Stop the Work
If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner’s Right to Carry Out the Work
If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner’s expenses and compensation for the Architect’s additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR
§ 3.1 General
§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term “Contractor” means the Contractor or the Contractor’s authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect’s administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.
§ 3.2 Review of Contract Documents and Field Conditions by Contractor
§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor’s review is made in the Contractor’s capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor’s notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures
§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor’s best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the job site safety thereof and shall be solely responsible for the job site safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor’s proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor’s employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.4 Labor and Materials
§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.
§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor’s employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

§ 3.5 Warranty
§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor’s warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.6 Taxes
The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices and Compliance with Laws
§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions
If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor’s cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect’s determination or recommendation, that party may submit a Claim as provided in Article 15.
§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.9 Allowances
§ 3.9.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.9.2 Unless otherwise provided in the Contract Documents,
  .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
  .2 Contractor’s costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
  .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.9.1.1 and (2) changes in Contractor’s costs under Section 3.9.2.

§ 3.9.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent
§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner’s consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor’s Construction and Submittal Schedules
§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner’s and Architect’s information a Contractor’s construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect’s approval. The Architect’s approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor’s construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the
Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 Documents and Samples at the Site
The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples
§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or or Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.
§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 3.13 Use of Site
The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.14 Cutting and Patching
§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up
§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.
§ 3.16 Access to Work
The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights
The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

§ 3.18 Indemnification
§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect’s consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys’ fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers’ compensation acts, disability benefit acts, or other employee benefit acts.

ARTICLE 4 ARCHITECT
§ 4.1 General
§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract
§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner’s representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor’s rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the
Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor’s failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications
The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect’s services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect’s consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

§ 4.2.5 Based on the Architect’s evaluations of the Contractor’s Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor’s submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect’s action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect’s professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect’s review of the Contractor’s submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect’s review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect’s approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner’s review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect’s responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect’s response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations
and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

ARTICLE 5 SUBCONTRACTORS
§ 5.1 Definitions
§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term “Subcontractor” is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term “Subcontractor” does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term “Sub-subcontractor” is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work
§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor’s Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsibly in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 Subcontractual Relations
By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor’s Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor,
prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Subcontractors.

§ 5.4 Contingent Assignment of Subcontracts
§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

1. assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and

2. assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor’s rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor’s compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor’s obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS
§ 6.1 Owner’s Right to Perform Construction and to Award Separate Contracts
§ 6.1.1 The term “Separate Contractor(s)” shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner’s own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term “Contractor” in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner’s own forces and each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner’s own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility
§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor’s construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor’s Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work,
promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor’s Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner’s or Separate Contractor’s completed or partially completed construction is fit and proper to receive the Contractor’s Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor’s delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor’s delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner’s Right to Clean Up
If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK
§ 7.1 General
§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.2 Change Orders
§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:
.1 The change in the Work;
.2 The amount of the adjustment, if any, in the Contract Sum; and
.3 The extent of the adjustment, if any, in the Contract Time.

§ 7.3 Construction Change Directives
§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:
.1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
.2 Unit prices stated in the Contract Documents or subsequently agreed upon;
.3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
.4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:
.1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers’ compensation insurance, and other employee costs approved by the Architect;
.2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
.4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
.5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor’s agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor’s agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect’s professional judgment, to be reasonably justified. The Architect’s interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work
The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect’s order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will
affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect’s order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8  TIME
§ 8.1 Definitions
§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term “day” as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion
§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 Delays and Extensions of Time
§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, or an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor’s control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9  PAYMENTS AND COMPLETION
§ 9.1 Contract Sum
§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values
Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor’s Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and
unless objected to by the Architect, shall be used as a basis for reviewing the Contractor’s subsequent Applications for Payment.

§ 9.3 Applications for Payment
§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor’s right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner’s title to such materials and equipment or otherwise protect the Owner’s interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor’s knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.4 Certificates for Payment
§ 9.4.1 The Architect will, within seven days after receipt of the Contractor’s Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect’s reasons for withholding certification in part as provided in Section 9.5.1, or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect’s reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect’s evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect’s knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor’s right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.
§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect’s opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect’s opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of:

.1 defective Work not remedied;
.2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
.3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
.4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
.5 damage to the Owner or a Separate Contractor;
.6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
.7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect’s decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor’s portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor’s payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.
§ 9.9.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.9.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.9.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney’s fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment
If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor’s Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days’ notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor’s reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.3 Substantial Completion
§ 9.3.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor’s list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect’s inspection discloses any item, whether or not included on the Contractor’s list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of reimation applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.
§ 9.9 Partial Occupancy or Use
§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and remittance of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.8.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.8.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment
§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.
§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from
.1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
.2 failure of the Work to comply with the requirements of the Contract Documents;
.3 terms of special warranties required by the Contract Documents; or
.4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of
claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of
final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY
§ 10.1 Safety Precautions and Programs
The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs
in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property
§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to
prevent damage, injury, or loss to
.1 employees on the Work and other persons who may be affected thereby;
.2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site,
under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
.3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways,
structures, and utilities not designated for removal, relocation, or replacement in the course of
construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes,
rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their
protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of
the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings
against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of
the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are
necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under
supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property
insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in
whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed
by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under
Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the
extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or
indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable
to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the
Contractor’s obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor’s organization at the site whose duty
shall be the prevention of accidents. This person shall be the Contractor’s superintendent unless otherwise
designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or
create an unsafe condition.
§ 10.2.8 Injury or Damage to Person or Property
If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials and Substances
§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

§ 10.3.2 Upon receipt of the Contractor’s notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor’s reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect’s consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys’ fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor’s fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner’s fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

§ 10.4 Emergencies
In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor’s discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.
ARTICLE 11 INSURANCE AND BONDS
§ 11.1 Contractor's Insurance and Bonds
§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Owner's Insurance
§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.
§ 11.3 Waivers of Subrogation
§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect’s consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect’s consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance
The Owner, at the Owner’s option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner’s property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner’s property, due to fire or other hazards however caused.

§ 11.5 Adjustment and Settlement of Insured Loss
§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgage clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK
§ 12.1 Uncovering of Work
§ 12.1.1 If a portion of the Work is covered contrary to the Architect’s request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect’s examination and be replaced at the Contractor’s expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to
the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor’s expense.

§ 12.2 Correction of Work
§ 12.2.1 Before Substantial Completion
The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect’s services and expenses made necessary thereby, shall be at the Contractor’s expense.

§ 12.2.2 After Substantial Completion
§ 12.2.2.1 In addition to the Contractor’s obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor’s correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor’s liability with respect to the Contractor’s obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work
If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS
§ 13.1 Governing Law
The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction’s choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.
§ 13.2 Successors and Assigns
§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner’s rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies
§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and inspections
§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner’s expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect’s services and expenses, shall be the Contractor’s expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect shall do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest
Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate the parties agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.
ARTICLE 14  TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

.1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;

.2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;

.3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1. or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or

.4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days’ notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner’s obligations under the Contract Documents with respect to materials important to the progress of the Work, the Contractor may, upon seven additional days’ notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

.1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;

.2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;

.3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or

.4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor’s surety, if any, seven days’ notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

.1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;

.2 Accept assignment of subcontracts pursuant to Section 5.4; and

.3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect’s services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance,
the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience
§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent
   .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
   .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience
§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner’s convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner’s convenience, the Contractor shall
   .1 cease operations as directed by the Owner in the notice;
   .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
   .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner’s convenience, the Owner shall pay the Contractor for work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

ARTICLE 15 CLAIMS AND DISPUTES
§ 15.1 Claims
§ 15.1.1 Definition
A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term “Claim” also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims
The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims
§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.
§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance
§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker’s decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost
If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time
§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor’s Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 15.1.7 Waiver of Claims for Consequential Damages
The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and

.2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party’s termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision
§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the
Initial Decision Maker’s sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner’s expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor’s default, the Owner may, but is not obligated to, notify the surety and request the surety’s assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic’s lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.
§ 15.3.4 The parties shall share the mediator’s fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 15.4 Arbitration
§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

§ 15.4.4 Consolidation or Joinder
§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 15.4.4.2 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.
Additions and Deletions Report for
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Charleston, SC 29407

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City of Charleston
Department of Parks, Capital Projects Division
823 Meeting Street
Charleston, SC 29403

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Stantec Consulting Services, Inc.
4969 Centre Pointe Drive, Suite 200
North Charleston, SC 29418
Certification of Document's Authenticity
AIA® Document D401™ - 2003

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 17:36:39 ET on 01/04/2021 under Order No. 2548237641 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A201™ - 2017, General Conditions of the Contract for Construction, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Titled)

(Dated)
CITY OF CHARLESTON
SUPPLEMENTARY CONDITIONS
A201-2017

The following supplementary conditions modify and supercede the “General Conditions of the Contract for Construction,” AIA Document A201-2017. Where a portion of a section of the General Conditions is modified or deleted by these Supplementary Conditions, the unaltered portions of the General Conditions shall remain in effect. In the event of any conflict between these Supplementary Conditions and any other contract documents, the provisions of these Supplementary Conditions shall govern.

ARTICLE 1-GENERAL PROVISIONS

1.1.1 THE CONTRACT DOCUMENTS

1. Add the following sentence at the end of Paragraph 1.1.1:

“The executed Contract Documents signed by the Owner and Contractor shall prevail in case of an inconsistency with subsequent versions made through manipulatable electronic operations involving computers. In the event of any conflict among the Contract Documents, the Documents shall be construed according to the following priorities:

<table>
<thead>
<tr>
<th>Highest Priority:</th>
<th>Change Order, and Construction Change Directive, with later date having priority Agreement.</th>
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<tbody>
<tr>
<td>Second Priority:</td>
<td>Agreement, including supplementary conditions</td>
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<tr>
<td>Third Priority:</td>
<td>Addenda with later date having greater priority</td>
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<tr>
<td>Fourth Priority:</td>
<td>Modifications to General Conditions</td>
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<td>Fifth Priority:</td>
<td>General Conditions</td>
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<td>Sixth Priority:</td>
<td>Drawings and Specifications</td>
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<tr>
<td>Seventh Priority:</td>
<td>Bid Documents”</td>
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ARTICLE 2-OWNER

2.1.1 GENERAL

1. Add the following Clause 2.1.1.1 to Paragraph 2.1.1:

“§ 2.1.1.1 The legal name of the Owner of the Work is:

City of Charleston
Department of Parks
Capital Projects Division
823 Meeting Street
Charleston, SC 29403”

2. Delete Paragraph 2.1.2 and replace it with the following:
“§ 2.1.2 The Owner shall furnish to the Contractor within 15 days after receipt of the written request, a correct statement of the record legal title to the property on which the project is located, usually referred to as the site, and the Owner’s interest therein.”

2.2 EVIDENCE OF OWNER’S FINANCIAL ARRANGEMENTS

1. Remove the following sentence from Paragraph 2.2.1:

“The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

2. Remove the following sentence from Paragraph 2.2.2:

“If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor’s request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor’s reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.”

3. The first sentence of Paragraph 2.2.4 shall be modified to read as follows:

“§ 2.2.4 All information furnished under this Section 2.2 shall be deemed “confidential.” the Contractor shall keep the information confidential and shall not disclose it to any other person.”

4. The first sentence of Paragraph 2.3.4 shall be modified by replace “shall” to “may” and will not read as follows:

“The Owner may furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.”

2.3 INFORMATION AND SERVICES REQUIRED OF THE OWNER

1. Delete Paragraph 2.3.4 in its entirety.

2. Delete Paragraph 2.3.6 and substitute the following:
"§ 2.3.6 The Contractor will be furnished free of charge one copy of the Contract Documents. Additional sets will be furnished at the cost of reproduction, postage and handling."

2.4 OWNER'S RIGHT TO CARRY OUT THE WORK

1. Add the following Clause Paragraph 2.5.1 to Paragraph 2.5:

   "§ 2.5.1 If, after achieving Substantial Completion, the Contractor then defaults, or neglects to complete or fails to provide resources adequate to complete the Project within the adjusted Contract Time for Final Completion as defined in Subparagraph 8.2.5, the Owner may carry out the work after giving the Contractor a single seven-day written notice of the Contractor’s default or neglect. In such case, an appropriate Change order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including Owner’s expenses, including attorney fees, and compensation for the Architect’s additional services made necessary by such default, neglect, or failure. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor or its Surety shall pay the difference to the Owner."

ARTICLE 3-CONTRACTOR

3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

1. Add the following sentence to Paragraph 3.2.1:

   "§ 3.2.1 Extra payment will not be authorized for work that could have been determined by careful examination of the site and conditions."

2. Add the following Paragraph 3.2.5 to Section 3.2:

   "The Owner is entitled to reimbursement from the Contractor for amounts paid to the Architect for evaluating and responding to the Contractor’s requests for information that are not prepared in accordance with the Contract Documents or where the requested information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided informant, Contractor-prepared coordination drawings, or prior Project correspondence or documentation."

3.4 LABOR AND MATERIALS

1. Add the following Paragraphs 3.4.4 and 3.4.5 to Section 3.4:

   "§ 3.4.4 The Contractor shall disclose the existence and extent of financial interest, whether direct or in direct, that Contractor has in subcontractors or material suppliers which Contractor may propose for the project."
§ 3.4.5 Products are generally specified by ASTM or other referenced standards, or by manufacturer's name and model number or trade name. When specified only by reference standard, the Contractor may select any product meeting the standard, by any manufacturer. When several products by manufacturer are specified as being equally acceptable, the Contractor has the option of using any product and manufacturer combination listed. When only one product and manufacturer is specified, there shall be no substitution or exception.

2. Add the following Clauses 3.4.1.1 and 3.4.1.2 to Paragraph 3.4.1:

"§ 3.4.1.1 The Contractor shall not allow the use of asbestos containing products, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work, even if the products are nonfriable and/or contain minimal amounts of asbestos, and even though such products may still be legally installed.

§ 3.4.1.2 The Contractor shall not allow the use of lead materials in public water applications. Lead free solder, flux and pipe must be used in all public drinking water and wastewater applications. Lead free solder and flux are defined as containing less than 0.2% lead, while valves, pipes and appurtenances must contain less than 8.0% lead."

3.5 WARRANTY

1. Add the following sentence at the end of Paragraph 3.5.1:

"Should the abuse, modification, insufficient or improper maintenance, improper operation or other cause of damage be done by the Contractor, it shall be the Contractor’s responsibility to correct the Work."

2. Insert the following sentence to the end of Paragraph 3.5.1 to read as follows:

"§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor’s warranty excludes remedy for damage or defect caused by abuse of others (excluding Contractor’s subcontractors or sub-subcontractors), alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. All warranties from subcontractors, suppliers and manufacturers shall be assigned to the Owner or have the Owner named as an additional obligee on the warranty."
3. Add the following Clauses 3.5.3 through 3.5.10 to Paragraph 3.5:

"§ 3.5.3 The Contractor shall be responsible for determining that all materials furnished for the Work meet all requirements of the Contract Documents. The Architect may require the Contractor to produce reasonable evidence that a material meets such requirements, such as certified reports of past tests by qualified testing laboratories, reports of studies by qualified experts, or other evidence which, in the opinion of the Architect, would lead to a reasonable certainty that any material used, or proposed to be used in the Work meets the requirements of the Contract Documents. All such data shall be furnished at the Contractor's expense. This provision shall not require the Contractor to pay for periodic testing of different batches of the same material, unless such testing is specifically required by the Contract Documents to be performed at the Contractor's expense.

§ 3.5.4 In all cases in which a manufacturer's name, trade name, or its proprietary designation is used in connection with materials or articles to be furnished under this Contract, whether or not the phrase "or equal" is used after such name, the Contractor shall furnish the product of the named manufacturer(s) without substitution, unless a written request for a substitute has been submitted by the Contractor and approved in writing by the Architect as provided in Subparagraph 3.5.4.

§ 3.5.5 If the Contractor proposes to use a material which, while suitable for the intended use, deviates in any way from the detailed requirements of the Contract Documents, the Contractor shall inform the Architect in writing of the nature of such deviations at the time the material is submitted for approval, and shall request written approval of the deviation from the requirements of the Contract Documents.

§ 3.5.6 In requesting approval of deviations or substitutions, the Contract shall provide, upon request, evidence leading to a reasonable certainty that the proposed substitution or deviation will provide a quality of result at least equal to that otherwise attainable. If, in the opinion of the Architect, the evidence presented by the Contractor does not provide a sufficient basis for such reasonable certainty, the Architect may reject such substitution or deviation without further investigation.

§ 3.5.7 The Contract Documents are intended to produce a Project of consistent character and quality of design. All components of the Project including visible items of mechanical and electrical equipment have been selected to have a coordinated design in relation to the overall appearance of the Project. The Architect will judge the design and appearance of proposed substitutes on the basis of their suitability in relation to the overall design of the Project, as well as for their intrinsic merits. The Architect will not approve as equal to materials specified, proposed substitutes which, in the Architect's opinion, would be out of character, obstructive, or otherwise inconsistent with the character or quality of design of the Project. In order to permit coordinated design of color and finishes the Contractor shall, if required by the Architect, furnish the substituted material in any color, finish, texture, or pattern which would have been available from the manufacturer originally specified, at no additional cost to the Owner.
§ 3.5.8 Any additional cost, or any loss or damage arising from the substitution of any material or any method for those originally specified shall be borne by the Contractor, notwithstanding approval or acceptance of such substitution by the Owner or the Architect, unless such substitution was made at the written request or direction of the Owner or the Architect.

§ 3.5.9 The warranty provided in this Paragraph 3.5 shall be in addition to and not in limitation of any other warranty required by the Contract Documents or otherwise prescribed by law.

§ 3.5.10 The Contractor shall procure and deliver to the Architect, no later than the date claimed by the Contractor as the date of Substantial Completion, all special warranties required by the Contract Documents. Delivery by the Contractor shall constitute the Contractor's guarantee to the Owner that the warranty will be performed in accordance with its terms and conditions.”

3.6 TAXES

1. Add the following Paragraph 3.6.2 to Paragraph 3.6:

“§ 3.6.2 The Contractor shall comply with all State and Federal law with respect to withholding taxes for nonresidents, employees, contractors and subcontractors.”

3.7 PERMITS, FEES, NOTICES AND COMPLIANCE WITH LAWS

1. Delete Paragraph 3.7.1 and substitute the following:

“§ 3.7.1 The Contractor shall apply for, secure and pay for the Building Permit and the permits, governmental fees, licenses and inspections necessary for proper execution and completion of the Work, including, but not limited to, a City of Charleston Business License.”

2. Add the following Clause 3.7.1.1 to Paragraph 3.7.1:

“§ 3.7.1.1 Building Permits are issued through the City of Charleston Building Department.”

3. Insert the following sentence to Paragraph 3.7.3 so that it reads as follows:

“§ 3.7.3 It is the Contractor's responsibility to review the Contract Documents prior to implementation and ensure that the plans comply with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the
Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.”

3.10 CONTRACTOR’S CONSTRUCTION AND SUBMITTAL SCHEDULES

1. Sections 3.10.1 and 3.10.2 are deleted and replaced with the following:

“§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner’s and Architect’s information a Contractor’s construction schedule for the Work. The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

This Schedule shall:

§ 3.10.1.1 indicate the dates for the start and completion of the various elements of the Work, and shall be affirmed or revised monthly as required by conditions of the Work and upon execution of a Change Order that affects time.

§ 3.10.1.2 provide a graphic representation of activities and events that will occur during performance of the Work in sufficient detail, and as acceptable to the Owner, to show the sequencing of the various trades for each floor level, wing, or work area;

§ 3.10.1.3 identify each phase of construction and occupancy; and

§ 3.10.1.4 set forth dates that are critical in ensuring the timely and orderly completion of the Work in accordance with the requirements of the Contract Documents (hereinafter referred to as “Milestone Dates”).

§ 3.10.2 The Contractor shall prepare and keep current, for the Architect’s approval, a schedule of submittals which is coordinated with the Contractor’s construction schedule and allows the Architect reasonable time to review submittals.

§ 3.10.3 The Contractor shall perform the Work in accordance with the most recent schedules submitted to and approved by the Owner.

§ 3.10.3.1 If the Contractor submits a schedule or schedule progress report indicating an intention to achieve Substantial or Final Completion of the Work or any portion thereof, prior to any completion date required by the Contract Documents or to the expiration of the Contract Time, no liability to the Owner for any failure of the Contractor to do so complete the Work shall be created or implied. The Contractor shall not be entitled to an adjustment in the Contract Sum or the Contract Time for failure to achieve such early completion dates.”
3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES


2. Add Paragraph 3.12.11 to Section 3.12:

“§ 3.12.11 The Architect’s review of Contractor’s submittals will be limited to examination of an initial submittal and one resubmittal. The Architect’s review of additional submittals will be made only with the consent of the Owner after notification by the Architect. The Owner shall be entitled to deduct from the Contractor Sum amounts paid to the Architect for evaluation of such additional resubmittals.”

3. Insert the following clauses to Paragraph 3.12.5:

“§ 3.12.5.1 Sprinkler shop drawings shall be prepared by a licensed sprinkler Contractor. The sprinkler shop drawings shall be reviewed and approved by the Architect’s engineer of record before submittal to the City of Charleston Fire Marshal or other authorities having jurisdiction.

§ 3.12.5.2 The Contractor shall submit a copy of the City of Charleston Fire Marshal’s approval letter to the Architect.”

3.18 INDEMNIFICATION

1. Sections 3.18.1 and 3.18.2 are deleted in their entirety and replaced with the following:

“§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the Owner, its agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys’ fees, arising out of or resulting, in whole or in part, from performance of the Work, or by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by the Architect, its subconsultants or a party indemnified hereunder. The Contractor is not required to indemnify the Owner if such claims or damages are caused solely by the Owner. This indemnity obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 3.18. The Owner shall be entitled to recover attorney fees and costs incurred in pursuing or enforcing these indemnity obligations.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages,
compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

§ 3.18.3 The obligations of the Contractor under this Paragraph 3.18 shall not extend to the liability of the Architect, the Architect's consultants, and agents and employees of any of them arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs, or specifications, or (2) the giving of or the failure to give directions or instructions by the Architect, the Architect's consultants, and agents and employees of any of them provided such giving or failure to give is the primary cause of the injury or damage."

ARTICLE 4-ARCHITECT

4.1 GENERAL

1. Delete section 4.1.1 and replace with the following:

"The term "Architect," "Architect/Engineer," or "A/E" is the entity named as such in the "Invitation For Construction Bids"."

2. Add Clause 4.1.3 to Paragraph 4.1 that reads as follows:

"§ 4.1.3 If the employment of the architect is terminated, the owner shall employ a successor architect as to whom the contractor has no reasonable objection and whose status under the contract documents shall be that of the architect."

4.2 ADMINISTRATION OF THE CONTRACT

1. Clauses 4.2.1, 4.2.2, 4.2.3 and 4.2.4 are deleted in their entirety and replaced with the following:

"§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents, and will be an Owner's representative (1) during construction, (2) until final payment is due and (3) with the Owner's concurrence, from time to time during the one-year period for correction of Work described in Section 12.2. Notwithstanding these responsibilities, no act or omission by the Architect shall be considered a waiver of any of the Owner's rights or interests. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

§ 4.2.2 The Architect, as a representative of the Owner, will visit the site as necessary to fulfill its obligations to the Owner for inspection services, and, at a minimum, to assure conformance with the Architect's design as shown in the Contract Documents and to observe the progress and quality of the various components of the Contractor's Work. The Architect will (1) keep the Owner informed about the progress and quality of Work completed, (2) endeavor to guard the Owner against defects and deficiencies in the Work,
and (3) determine if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, except as provided in Section 3.3.1.

4.2.2.1 The Contractor shall reimburse the Owner for compensation paid to the Architect for additional site visits made necessary by the fault, neglect or request of the Contractor.”

§ 4.2.3 The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications Facilitating Contract Administration. Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Contractor shall endeavor to communicate with each other through the Architect about matters arising out of or relating to the Contract. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with separate contractors shall be through the Owner.”

2. Clause 4.2.11 is deleted in its entirety and replaced with the following:

“§ 4.2.11 The Architect will, in the first instance, interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. Upon receipt of such request, the Architect will promptly notify the non-requesting party in writing of the details of such request. The Architect’s response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Paragraph 4.2, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until fourteen (14) days after written request is made for them.

4.2.11.1 Subject to review pursuant to Paragraphs 4.3, 4.4 and 4.5, as appropriate, the Contractor shall proceed diligently with performance of the Contract in accordance with the Architect’s written interpretations or decisions and the Owner shall continue to make payments in accordance with the Contract Documents.”
3. Add the following Clause 4.2.15 to Paragraph 4.2:

"§ 4.2.15 In the Specifications or on the Drawings, where the words “as directed,” “as required,” “as approved,” “as permitted” or words of like effect are used, it is to be understood that direction, requirement, approval or permission of the Architect is intended. Similar words, such as “approved,” “acceptable,” “satisfactory,” or words of like import mean approved by, acceptable to, or satisfactory to the Architect.”

ARTICLE 5-SUBCONTRACTORS

5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

1. The Contractor shall be required to submit a list of identifying proposed subcontractors to the Owner for review and approval with the Bid Form.

2. Add the following sentence to Clause 5.2.4:

“The Contractor’s Request for Substitution must be made to the Architect in writing, accompanied by supporting information.”

3. Add the following clause 5.2.5 to Paragraph 5.2:

“§ 5.2.5 To the extent it applies, the substitution of a subcontractor is governed by the laws of the State of South Carolina. Paragraph 5.2 is to be construed as complementary thereto.”

5.3 SUBCONTRACTUAL RELATIONS

1. Add the following sentence at the end of Paragraph 5.3:

“All subcontracts shall specifically provide that the Owner is an intended third-party beneficiary of the subcontract. All subcontracts shall be in writing and in form and substance substantially similar to the Contractor’s standard form subcontract.”

2. Add Clauses 5.3.1 Paragraph 5.3:

“In addition, every subcontract shall:

1. Require that such Work be performed in accordance with the requirements of Contract Documents;
2. Require the Subcontractor to carry and maintain liability insurance adequate with respect to the type of Work the Subcontractor will be performing;
3. Require the Subcontractor to furnish such certificates and waivers of liens as any lender or title insurer may reasonably request prior to receiving any payments for
Work performed, including releases of claims and waivers of mechanics lien rights to the extent permitted by law;
4. Indemnify the Owner to the same extent as required by the Contractor under the Contract Documents;
5. Make the same warranties for the applicable portion of the Work to the Owner as required by the Contractor under the Contract Documents; and
6. Agree to the dispute resolution procedures as set forth in the Contract Documents.”

3. Add Clauses 5.3.2, with subsections to Paragraph 5.3:

“§ 5.3.2 Without limitation on the generality of the foregoing, each Subcontract agreement and each Sub-subcontract agreement shall include, and shall be deemed to include, the following:

§ 5.3.2.1 An agreement that the Owner is a third-party beneficiary of the Subcontract (or Sub-subcontract), entitled to enforce any rights thereunder for its benefit, and that the Owner shall have the same rights and remedies against the Subcontractor (or Sub-subcontractor) as the Contractor (or Subcontractor) has, including but not limited to the right to be compensated for any loss, expense, or damage of any nature whatsoever incurred by the Owner resulting from any breach of representations and warranties, expressed or implied, if any, arising out of the agreement and any error, omission, or negligence of the Subcontractor (or Sub-subcontractor) in the performance of any of its obligations under the agreement; and,

§ 5.3.2.2 A requirement that the Subcontractor (or Sub-subcontractor) promptly disclose to the Contractor (or Subcontractor) any defect, omission, error, or deficiency in the Contract Documents or in the Work of which it has, or should have had, knowledge; and,

§ 5.3.2.3 The following Paragraphs or Subparagraphs as appropriate, of the Conditions of the Contract: 3.2, 3.5.1, 3.18, 4.3.10, 5.4, 13.1, 13.13, 14.3 and 14.4.

§ 5.3.3 The Contractor shall assure the Owner, by affidavit or in such other manner as the Owner may approve, that all agreements between the Contractor and its Subcontractor(s) incorporate the provisions of Subparagraph 5.3.1 and 5.3.2 as necessary to preserve and protect the rights of the Owner and the Architect under the Contract Documents with respect to the work to be performed by Subcontractors so that the subcontracting thereof will no prejudice such rights.

§ 5.3.4 Upon request, the Contractor shall provide to the Owner copies of all executed or issued subcontracts, purchase orders and other documents related to the Work.”

ARTICLE 7-CHANGES IN THE WORK

7.2 CHANGE ORDERS

1. Add the following sections (4) – (5) to paragraph 7.2.1:
4. The Contractor shall not proceed with the Work of the Change Order until the Change Order is approved by the Owner. Any adjustment in the Contract Sum made pursuant to this Paragraph 7.2 shall be determined in accordance with Paragraph 7.5 of this Contract.

5. All Change Orders shall be submitted on City of Charleston form, “Construction Change Order,” with appropriate documentation attached.”

2. Add the following Clause 7.2.2 to Paragraph 7.2:

“§ 7.2.2 Contractor’s signatures on a change order is a full, final and complete waiver of any and all claims, demands, impact costs, damages or causes of action arising out of or related to the change orders.”

7.3 CONSTRUCTION CHANGE DIRECTIVES

1. In the first sentence of Paragraph 7.3.4, delete the words “an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount” and substitute “an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, in accordance with Paragraph 7.3.11.”

2. Add the following sentence to Paragraph 7.3.7:

“The Contractor agrees that when it executes a Change Order, it waives any and all further claims for damages or time extensions for the matters contained in the Change Order and that certifies that it has been fully compensated for all aspects of the Change Order.”

3. Delete 7.3.9 in its entirety.

7.4 MINOR CHANGES IN WORK

1. Modify Paragraph 7.4 as follows:

“The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect’s order for minor changes shall be in writing and shall be binding on the Owner and Contractor, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.”

7.5 PRICE ADJUSTMENTS

1. Reinsert Paragraph 7.5 and its associated subparts thereto as follows:

“§ 7.5.1 Methods of Adjustment. Any adjustment in the Contract Sum made pursuant to this Paragraph 7.5 shall be consistent with this Contract and shall be arrived at through whichever
one of the following ways in the most valid approximation of the actual cost to the Contractor.

7.5.1.1.1 by agreement on a fixed price adjustment;
7.5.1.1.2 by unit prices specified in the Contract or subsequently agreed upon;
7.5.1.1.3 by the costs attributable to the event or situation covered by the relevant clause, including profit if otherwise allowed, all as specified in the Contract; or subsequently agreed upon;
7.5.1.1.4 in such other manner as the parties may mutually agree; or,
7.5.1.1.5 in the absence of agreement by the parties, through a unilateral initial determination by the Architect of the costs attributable to the event or situation covered by the clause, including profit if otherwise allowed, all as computed by the Architect in accordance with Clause 7.5.3.2, but subject to final resolution in accordance with the provisions of Paragraph 4.5, it being acknowledged that the unilateral initial interpretation by the Architect is respected, but advisory.

§ 7.5.2 Final Agreement
When any adjustment in the Contract Sum made pursuant to clauses in this Contract becomes final (e.g., by agreement or dispute resolution), the adjustment shall be computed and documented on City of Charleston “Construction Change Order.”

§ 7.5.3 Documentation of cost reasonableness
§ 7.5.3.1 Contractor’s Change Order Proposal. The Contractor shall submit a written proposal for review by the Architect and the Owner. The proposal shall be submitted to the Owner’s representative within the time limits specified in the Subparagraph 4.3.2. All costs claimed by the Contractor shall be justifiable compared with prevailing industry standards, as adjusted for local cost conditions. Costs shall be properly itemized and supported by substantiating data sufficient to permit evaluation before commencement of the pertinent performance or as soon thereafter as practicable.

§ 7.5.3.2 Construction Change Directives. For a Construction Change Directive wherein the proposed method of compensation is actual costs, and pending the collection and evaluation of actual costs as required Clause 7.5.1.3, the Contractor shall estimate the value of the changed Work. The Contractor shall itemize the estimated cost into building components and shall use the labor, material and equipment unit direct costs as listed in the most current issue of the Construction Cost Data Book most applicable to the nature of the changed Work, as published by R.S. Means, with a cost index adjusted for the project locale. The Contractor shall also be permitted to add overhead and profit as shown in Subparagraph 7.5.4. Where the Contractor does not properly itemize the proposed costs as requested, the Architect shall provide the Owner with the itemization and this amount shall be the initial basis for compensation under Subparagraph 7.3.8. Upon conversion of the Construction Change Directive to a Change Order, the Architect’s cost for providing this itemization shall be deducted from the final adjustment in the Contract Sum as described in Clause 7.3.7.

§ 7.5.4 Agreed Overhead And Profit Rates
§ 7.5.4.1 For any adjustment to the Contract Sum for which overhead and profit may be recovered, other than those made pursuant to Subparagraph 4.3.9, the Contractor agrees to charge and accept, as full payment for overhead and profit, the following percentages of costs attributable to the change in the Work. The percentages cited below shall be considered to include all indirect costs including, but not limited to: field and office managers, supervisors and assistants, incidental job burdens, small tools, and general overhead allocations. “Commission” is defined as profit on work performed by others. The allowable percentages for overhead, profit, and commission area as follows:

1. To the Contractor or subcontractors on work performed by their own forces:
   
<table>
<thead>
<tr>
<th>Overhead (%)</th>
<th>Profit (%)</th>
<th>Commission (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>7</td>
<td>0</td>
</tr>
</tbody>
</table>

2. To the Contractor on worked performed by its subcontractors:

<table>
<thead>
<tr>
<th>Overhead (%)</th>
<th>Profit (%)</th>
<th>Commission (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>0</td>
<td>3</td>
</tr>
</tbody>
</table>

3. To a first tier subcontractor on work performed by its subcontractors:

<table>
<thead>
<tr>
<th>Overhead (%)</th>
<th>Profit (%)</th>
<th>Commission (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>0</td>
<td>3</td>
</tr>
</tbody>
</table>

§ 7.5.4.2 Not more than three levels of overhead, profit, and commission shall be allowed regardless of the number of subcontractor tiers.

§ 7.5.4.3 The Contractor or subcontractor shall not be allowed overhead or commission on the overhead, profit, and/or commission received by its subcontractors.

§ 7.5.4.4 Using the percentages stated in Clause 7.5.4.1, any adjustment to the Contract Sum for deleted work shall include any overhead, profit and/or commission attributable to the cost for the deleted Work.

§ 7.5.4.5 If the Contractor initiates a Change Order proposal and the Owner is not obligated to pay for all or any part of the proposal, then the Contractor shall be responsible for any Architect’s fees to evaluate and process that Change Order proposal. Compensation shall be based on the Owner’s contract with the Architect and the rates for Additional Services contained therein, and shall be withheld from the final payment.

§ 7.5.5 Cost Or Pricing Data

§ 7.5.5.1 The Contractor shall submit cost or pricing data for any element of changed Work (other than Unit Price Work), and shall certify that, to the best of its knowledge and belief, the cost or pricing data submitted is accurate, complete, and current as of a mutually determined specified date prior to the date of the pricing. This data shall be itemized and supported by substantiating data sufficient to permit evaluation before commencement of the pertinent Work, or as soon thereafter as practicable, and shall be justifiably compared with prevailing industry standards, as adjusted for local conditions. As requested by the Architect or the Owner, the Contractor’s submittal shall provide an itemized breakdown of all increases and decreases in the Contract for the Contractor and each subcontractor (at any tier) in at
least the following detail: material, equipment and supply quantities and costs; direct labor hours and rates for each trade; the associated FICA, FUTA, SUTA, and Worker's Compensation Insurance; equipment hours and rates, and costs of premiums for bonds and insurance, permit fees and sales, use or similar taxes related to the Work.

§ 7.5.5.2 Any Change Order or Change Directive for which certification is required shall contain a provision that the price to the Owner, including profit or fee, shall be adjusted to exclude any significant sums by which the Owner finds that such price was increased because the cost or pricing data furnished by the Contractor was inaccurate, incomplete or not current as of the date agreed upon between the parties. Notwithstanding Subparagraph 9.10.4, such adjustments may be made after final payment and shall not be deemed to be waived.”

**ARTICLE 8-TIME**

1. Insert the following Clauses 8.2.4 to 8.2.12 to Paragraph 8.2:

§ 8.2.4 Failure by the Contractor to commence actual physical work on the project within twenty-one (21) days from the Date of Commencement, as established in the Notice to Proceed, will entitle the Owner to consider the Contractor in substantial breach of its obligations under this Contract. In this event, the Owner may withdraw the Notice to Proceed and terminate the Contract in accordance with the Contract Documents.

§ 8.2.5 Within two (2) weeks after award of the Contract, the Contractor shall submit to the Architect a Progress Schedule showing for each class of Work included in the Schedule of Values, the percentage completion to be obtained and the total dollar value of Work to be completed as of the first of each month until Substantial Completion. All calculations shall be on the basis of Work in place, but not including the value of materials delivered but not in place.

§ 8.2.6 The Progress Schedule shall be based on an orderly progression of the Work, allowing adequate time for each operation (including adequate time for submission and review of submittals), and leading to a reasonable certainty of Substantial Completion by the date established in the Agreement. The Progress Schedule will be reviewed by the Architect for compliance with the requirements of this Article and will be accepted by the Architect or returned to the Contractor for revision and resubmittal. Unless specifically required by law, no payment under this Contract shall be due until the Progress Schedule has been approved by the Architect.

§ 8.2.7 If in any Application for Payment the total value of the completed Work in place, as certified by the Architect, is less than ninety percent (90%) of the total value of the Work in place estimated in the Progress Schedule, the Owner may, at the Owner’s option, require the Contractor to accelerate the progress of the Work without cost to the Owner by increasing the work force or hours of work, or by other reasonable means approved by the Architect.
§ 8.2.8 If each of three successive applications, as certified by the Architect, indicate that the actual work completed is less than ninety percent (90%) of the values estimated in the Progress Schedule to be completed by the respective dates, the Owner may at the Owner’s option, treat the Contractor’s delinquency as a default justifying the action permitted under Paragraph 14.2.

§ 8.2.9 If the Architect has determined that the Contractor should be permitted to extend the time for completion as provided in Paragraph 8.3, the calendar dates in the Progress Schedule shall be adjusted accordingly to retain their same relationship to the adjusted date of Substantial Completion, and the dollar value of Work to be completed as of the first of each month shall be adjusted pro rata.

§ 8.2.10 If the Contractor fails to submit any Application for Payment in any month, the Architect will, for the purpose of this evaluation of progress, certify separately to the actual value of the Work in place completed as of the first of the month to the best of the Architect’s knowledge.

§ 8.2.11 Nothing herein shall limit the Owner’s right to liquidated damages for delays by the Contractor or to any other remedy which the Owner may possess under other provisions of the Contract Documents or by law.

§ 8.2.12 The Contractor shall prepare Daily Reports of job site activities in a form provided by the Owner. Reports shall be submitted to the Owner and the Architect on a weekly basis.”

8.3 DELAYS AND EXTENSIONS OF TIME

1. Add Clauses 8.3.4 to 8.3.7 to Paragraph 8.3 to read as follows:

“§ 8.3.4 The Contractor shall, within twenty-one (21) days after the beginning of such delay notify the Owner and Architect, in writing, of the causes of the delay. The Architect will then ascertain the facts and extent of delay, and notify the Contractor within twenty-one (21) days of the Owner’s decision in this matter. Notice of delay and requests for extension of time shall set forth the cause, and number of additional working days Contractor desires Contract extended.

§ 8.3.5 No claims for extension of time will be considered when based on delays caused by conditions existing at the time bids were received, and of which the Contractor might be reasonably expected to have full knowledge at the time of bidding, or upon delays caused by failure on the part of the Contractor to anticipate properly the requirements of the work contracted for as to materials, labor and equipment. All claims for extension of time shall be made in writing to the Architect with the next application for payment.

§ 8.3.6 No claim for delay shall be allowed on account of failure of the Architect to furnish Drawings, Specifications, or instructions or to return Shop Drawings or samples until fifteen (15) days after receipt by the Architect by registered or certified mail of
written demand for such instructions, Drawings, or Samples, and not then unless such claim be reasonable.

§ 8.3.7 The Contractor hereby agrees that the Contractor shall have no Claim for damages of any kind against the Owner or the Architect on account of any delay or suspension of any portion of the Work, whether such delay is caused by the Owner, the Architect, or otherwise. The Contractor acknowledges that the Contractor’s sole remedy for any such delay and/or suspension will be an extension of time provided in this Article.”

ARTICLE 9-PAYMENTS AND COMPLETION

9.1 CONTRACT SUM

1. Remove Paragraph 9.1.2 in its entirety.

9.2 SCHEDULE OF VALUES

1. Add Clause 9.2.1 to Paragraph 9.2 stating as follows:

“Any schedule of values or trade breakdown that fails to include sufficient detail, is unbalanced, or exhibits “front-loading” of the value of the Work, shall be rejected. If either the schedule of values or trade breakdown had been initially approved and subsequently used, but later was found improper for any reason, then sufficient funds shall be withheld from future Applications for Payment to ensure an adequate reserve (exclusive of normal retainage) to complete the Work.”

9.3 APPLICATIONS FOR PAYMENT

1. Delete Paragraph 9.3.1 and Clauses 9.3.1.1 and 9.3.1.2 in their entireties and substitute the following:

“9.3.1 Applications for payment shall be made at approximately 30 day intervals in accordance with the dates established in the Standard Form of Agreement Between Owner and Contractor. At least 28 days before each progress payment falls due, the Contractor shall submit to the Architect, an itemized Application for Payment, supported by such data substantiating the Contractor’s right to payment as the Owner or the Architect may require, and shall reflect retainage if provided for in the Contract Documents. The form of Application for Payment shall be AIA Document G702 (1992)-Application and Certificate for Payment, supported by AIA Document G703 (1992)-Continuation Sheet. The Architect will authorize, as provided in Paragraph 9.4 and until the final pay request, monly payments equal to ninety percent (90%) of the portion of the Contract Sum properly allocable to labor, material and equipment incorporated in the Work, and allocable to material and equipment suitably stored until the total value of the completed Work in place is less than fifty percent (50%), as certified by the Architect, at which time the above-stated ninety percent (90%) shall be modified, at the option of the Owner, to ninety-five percent (95%) of the portion of the Contract Sum properly allocable to labor, material and equipment incorporated in the
Work, and allocable to material and equipment suitably stored. After fee reduction has taken place, if the quality or progress of the work decreases or slows down, in the opinion of the architect, full retainage may be reinstated until the completion of the work.

9.3.1.1 Such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives but not yet included in Change Orders.

9.3.1.2 Contractor shall submit with each monthly Application for Payment 1) an Affidavit with payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the previous Application was submitted and the Owner or his property might in any way be responsible, have been paid or otherwise satisfied, and 2) release or waivers of liens arising out of the Contract from each Subcontractor, material supplier, and laborer of the Contractor.”

2. Add the following sentence and Clauses 9.3.2.1 through 9.3.2.7 to Paragraph 9.3.2:

“Payment to Contractor for materials stored off site is discouraged. Where circumstances indicate that the Owner’s best interest is served by off-site storage, the Contractor shall make written request to the Architect for approval to include such material costs in his next progress payment. The Contractor’s request shall include the following information:

(1) A list of the fabricated materials consigned to the project (which shall be clearly identified), giving the place of storage, together with copies of invoices and reasons why materials cannot be delivered to the site.
(2) Certification that items have been tagged for delivery to the project that they will not be used for another purpose.
(3) A letter from the Bonding Company indicating agreement to the arrangements and that payment to the Contractor shall not relieve either party of their responsibility to complete the project.
(4) Evidence of adequate insurance coverage the material in storage, which shall name the Owner as an Additional Insured.
(5) Costs incurred by the Architect to inspect material in off-site storage shall be paid by the Contractor.
(6) Subsequent pay requests shall itemize the materials and their cost that were approved on previous pay requests and remain in off-site storage.
(7) When a partial payment is allowed on account of material delivered on the site of the Work or in the vicinity thereof or under possession and control of the Contractor but not yet incorporated therein, such material shall become the property of the Owner, but if such material is stolen, destroyed or damaged by casualty before being used, the Contractor will be required to replace it at his own expense.”

3. Add Clause 9.3.4 to paragraph 9.3 stating as follows:

“§ 9.3.4 Each Application for Payment or periodic estimate requesting payment shall be accompanied at the Owner’s option by (i) a waiver of liens from each subcontractor or
(ii) a certificate from each subcontractor stating that the subcontractor has been paid all amounts due the subcontractor on the basis of the previous periodic payment to the Contractor, or else stating the amount not so paid and the reason for the discrepancy. In the event of any such discrepancy, the Contractor shall furnish the Contractor’s own written explanation to the Owner through the Architect. Such waiver or certificate shall be in a form acceptable to the Owner.”

9.5 DECISIONS TO WITHHOLD CERTIFICATION

1. Add the following subsections 9.5.1(8) to (10) to Paragraph 9.5:

"8 a lien or attachment is filed; or
9 failure of mechanical trade or electrical trade subcontractors to comply with mandatory requirements for maintaining record drawings. The contractor shall check record drawings each month. Written confirmation that the record drawings are current will be required by the Architect before approval of the Contractor's monthly payment requisition.

2. Delete Clause 9.5.4 in its entirety.

9.7 FAILURE OF PAYMENT

1. Delete Paragraph 9.7 and replace with the following:

"§9.7 If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor’s Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days’ written notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor’s reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.”

9.8 SUBSTANTIAL COMPLETION

1. Delete Paragraph 9.8 in its entirety and replace with the following:

"§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof designated in the Contract Documents for separate completion, is substantially complete and the premises comply with Subparagraph 3.15.1, the Contractor shall submit to the Architect (i) a list of items to be completed or corrected, (ii) all special warranties required by the
Contract Documents, endorsed by the Contractor and in a form reasonably acceptable to the Architect, and (iii) the permits and certificates referred to in Subparagraph 13.5.4. The failure to include any items on the list mentioned in the preceding sentence shall not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. When the Architect, on the basis of an inspection, determines that the Work or designated portion thereof is substantially complete, and the other conditions have been met, the Architect will then prepare a Certificate of Substantial Completion which shall establish the Date of Substantial Completion, shall state the responsibilities of the Owner and the Contractor for security, maintenance, heat, utilities, damage to the Work, and insurance, and shall fix the time within which the Contractor shall complete the items listed therein. Warranties required by the Contract Documents shall commence on the Date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion. The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of the responsibilities assigned to them in such Certificates.

§ 9.8.2.1 The Contractor’s list shall be in writing and attached to the “Contractors Request for Certificate of Substantial Completion”, which shall be submitted at least ten (10) days in advance of the proposed date of inspection and shall be forwarded through the Architect, who will attach its written endorsement as to whether or not it concurs with the Contractor’s statement that the Work will be ready for inspection and testing on the date given. The Architect’s endorsement is a convenience to the Owner only and shall not relieve the Contractor of its responsibility in the matter, nor shall the Architect’s endorsement be deemed to be evidence that the Work was substantially complete and ready for inspection and testing. In the event that the Architect does not concur with the Contractor’s statement, the Architect shall inform the Contractor of the basis for the Architect’s non-concurrence. The Contractor may then, at its sole option, (i) defer the inspection; or, (ii) request the inspection be performed in accordance with Subparagraph 9.8.3.

§ 9.8.3 Upon receipt of the Contractor’s list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect’s inspection discloses any item, whether or not included on the Contractor’s list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.3.1 Inspection and testing shall take place at a time (s) mutually agreeable to the Contractor, Owner and Architect.

§ 9.8.3.2 The inspection shall include a demonstration by the Contractor that all equipment, systems and operable components of the Work function properly and in accordance with the Contract Documents. The Contractor shall furnish access for the
inspection and testing as provided in this Contract. The inspection and testing shall determine whether Substantial Completion has been accomplished and shall result in the Architect’s issuance of a written list of Unfinished Work and Defective Work, commonly referred to as a “punch list”, each item of which must be finished and correct prior to Final Completion.

§ 9.8.3.3 The Architect and its Consultants shall conduct all Substantial Completion inspections. The Owner may elect to have other persons of its choosing also participate in the inspections. Representatives of authorities having jurisdiction may be present, at their sole discretion, at the Substantial Completion Inspection or otherwise inspect the completed Work and advise the Owner whether the Work meets their respective requirements.

§ 9.8.3.4 If the inspection discloses any item which is not in accordance with the requirements of the Contract Documents and will prevent the Owner from occupying or utilizing the Work for its intended use, the Contractor shall complete or correct such item upon notification by the Architect. The Contractor shall then submit a request for a follow-up inspection by the Architect to determine Substantial Completion.

§ 9.8.3.5 The Contractor shall proceed promptly and diligently to complete and correct items on the list of Unfinished or Defective Work. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3.6 If more than one Substantial Completion inspection is required, the Contractor shall reimburse the Owner for all costs of re-inspections or, at the Owner’s option, the costs may be deducted from payments due to the Contractor.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion by the Architect which shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion by the Architect.

§ 9.8.5 The Certificate of Substantial Completion by the Architect shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate.

§ 9.8.5.1 Upon such acceptance of Substantial Completion of the Work, or designated portion thereof and upon application by the Contractor and certification by the Architect, the Owner shall make a payment for such Work or portion thereof as provided in the Contract Documents. The balance payable shall include the retainage of five percent
(5%) of the Contract Sum, less any retainage released under conditions of Subparagraph 9.6.2, plus an amount equal to the cost to complete or to correct, as determined by the Architect, of the Uncompleted or Defective Work, plus the full amount of Liquidated Damages. The Contractor acknowledges that the Owner will suffer financial loss if the Project is not substantially completed on the date set forth in the Contract Documents. The Contractor (and its Surety) shall be liable for any the Owner may retain from payment the sums herein stipulated as fixed, agreed and liquidated damages for each calendar day of delay that the Work remains incomplete. The Contractor further acknowledges that the Owner has the right to elect to enforce Liquidated Damages or any other damages or legal or equitable relief as this Contract provides or as permitted by law. Retainage shall continue until Final Completion and Final Payment.

§ 9.8.5.2 Notwithstanding the foregoing, the payment of retainage shall be consistent with §11-35-3030 (4), Code of Laws of South Carolina, as amended.”

9.10 FINAL COMPLETION AND FINAL PAYMENT

1. Add the following Clauses 9.10.1.1 to 3 to Paragraph 9.10.1:

“§ 9.10.1.1 Final Completion shall be achieved no later than thirty (30) days after Substantial Completion unless modified by a Change Order. Failure of the Contractor to achieve Final Completion within the time allowed under this Subparagraph shall entitle to Owner to consider the Contractor in substantial breach of its obligations under this Contract.

§ 9.10.1.2 The Contractor shall notify the Owner, in writing on the “Certificate of Completion by the Contractor”, of the date when the Work has reached or will reach Final Completion and will be ready for final inspection and testing. The notice shall be given at least ten (10) days in advance of said date and shall be forwarded through the Architect, who will attach its endorsement as to whether or not it concurs in the Contractor’s statement that the Work will be ready for inspection and testing on the date stated. The Architect’s endorsement is a convenience to the Owner only and shall not relieve the Contractor of its responsibility in the matter. nor shall the Architect’s endorsement be deemed to be evidence that the Work was finally complete and ready for inspection and testing. In the event that the Architect does not concur with the Contractor’s statement, the Architect shall inform the Contractor of the basis for the Architect’s non-concurrence. The Contractor may, at its sole option, (i) defer the inspection; or, (ii) request the inspection be performed in accordance with this Subparagraph. The final inspection and testing shall be conducted in the same manner as the inspection for Substantial Completion, including, but not limited to, the requirements of Clauses 9.8.3.3, 9.8.3.4, 9.8.3.5 and 9.8.3.6 of this Contract.

§ 9.10.1.3 The Contractor shall then submit a request for a follow-up inspection to determine Final Completion. If more than one Final Completion inspection is required, the Contractor shall reimburse the Owner for all costs of reinspections or, at the Owner’s option, the costs may be deducted from payments otherwise due to the Contractor.
§ 9.10.1.4 Approval of Work as a result of any inspection required herein shall not release the Contractor or its surety from responsibility for complying with the Contract.”

2. Delete Paragraph 9.10.4 in its entirety

3. Delete Paragraph 9.10.5 in its entirety

9.11 LIQUIDATED DAMAGES

1. Add the following Section 9.11 and Paragraph 9.11.1 to Article 9:

“9.11 LIQUIDATED DAMAGES

§ 9.11.1 The Contractor and the Contractor’s surety, if any, shall be liable for and shall pay the Owner as liquidated damages, and not as a penalty, the amount of a total of $1,000.00 for each calendar day of delay after the date established for Substantial Completion in the Contract Documents until the Work is substantially complete. This amount is subject to modification at the sole discretion of the Owner.”

ARTICLE 10-PROTECTION OF PERSONS AND PROPERTY

1. Modify Paragraph 10.2.8 by changing “21 days” to “45 days” in line 3 of this paragraph.

2. Delete Paragraph 10.3.1 in its entirety and replace with the following:

“§ 10.3.1 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons or serious losses to real or personal property resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner and Architect in writing.

§ 10.3.1.1 The Owner and Contractor hereby agree that this Paragraph shall apply only to hazardous, toxic or radioactive materials or substances subject to the regulations of agencies having jurisdiction, such as, but not limited to, the S.C. Department of Health and Environmental Control (SCDHEC), the U.S. Environmental Protection Agency (USEPA) and the U.S. Nuclear Regulatory Commission (USNRC).”

3. Delete Paragraph 10.3.3 in its entirety.

ARTICLE 11-INSURANCE AND BONDS

11.1 CONTRACTOR’S INSURANCE AND BONDS

1. Add the following sentence to Clause 11.1.1:
"Contractor’s insurance requirements are more fully explained in A101-2017 Exhibit A, including Supplementary Conditions, which is incorporated into the Contract Documents."

11.2 OWNER’S INSURANCE

1. Delete Section 11.2 in its entirety, including Paragraphs 11.2.1, 11.2.2 and 11.2.3.

11.3 WAIVERS OF SUBROGATION

1. Delete Paragraph 11.3.1 in its entirety.

2. Delete Paragraph 11.3.2 in its entirety.

11.4 LOSS OF USE, BUSINESS INTERRUPTION, AND DELAY IN COMPEITION INSURANCE.

1. Delete Paragraph 11.4 in its entirety.

ARTICLE 12-UNCOVERING AND CORRECTION OF WORK

12.1 UNCOVERING OF WORK

1. Add to the last sentence of Clause 12.1.2 as follows:

“If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor’s expense, unless the condition was caused by the Owner or a separate contractor in which event the owner shall be responsible for payment of such costs.”

12.2 CORRECTION OF WORK

1. Add the following sentence at the end of Paragraph 12.2.1:

“If, prior to the date of Substantial Completion, the Contractor, or Subcontractor, or anyone for whom either is responsible, uses or damages any portion of the Work, including without limitation, mechanical, electrical, plumbing, and other building systems, machinery, equipment, or other mechanical device, the Contractor shall cause such item to be restored to “like new” condition at no expense to the Owner.”

2. Modify Paragraph 12.2.2.3 to read as follows:

“The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2, unless otherwise provided in the Contract Documents.”
3. Add the following Clause 12.2.2.4 to Paragraph 12.2.2:

"Upon request by the Owner and prior to the expiration of one year from the date of Substantial Completion, the Architect will conduct and the Contractor shall attend a meeting with the Owner to review the facility operations and performance."

ARTICLE 13-MISCELLANEOUS BUSINESS

13.1 GOVERNING LAW

1. Delete Paragraph 13.1 in its entirety and substitute the following:

"The Contract shall be governed by the laws of the State of South Carolina. If the parties have selected arbitration as the method of binding resolution, the South Carolina Uniform Arbitration Act in Section 15-48-10, et.seq., of the South Carolina Code (1976), as amended, shall govern Section 15.4."

13.6 POLICIES OF EMPLOYMENT

1. Add Section 13.6 and Paragraphs 13.6.1 and 13.6.2 to Article 13:

"13.6 POLICIES OF EMPLOYMENT

13.6.1 The Contractor and Subcontractors shall not discriminate against employee or applicant for employment because of race, religion, color, sex or national origin. The Contractor shall take affirmative action to insure that applicants are employed, and that employees are treated during employment without regard to their race, religion, color, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the policies of nondiscrimination.

13.6.2 The Contractor and Subcontractors shall, in solicitations or advertisements for employees placed by them on their behalf, state that qualified applicants will receive consideration for employment without regard to race, religion, color, sex or national origin.

13.7 WRITTEN NOTICE

1. Add Section 13.7 and Paragraphs 13.3.1 and 13.3.2 to Article 13:
§ 13.3 Written Notice
§ 13.3.1 Unless otherwise permitted herein, all notices contemplated by the Contract Documents shall be in writing and shall be deemed duly given:

.1 upon actual delivery to the person identified in the A101, if delivery by hand; or,
.2 upon receipt by the transmitting party of confirmation or reply, if delivery is by facsimile, telex or telegram; or,
.3 upon receipt by the person identified in the A101, if delivery is by deposit into the United States mail, certified mail, return receipt requested.

§ 13.3.2 Each such notice shall be sent to the respective party at the address provided in the A101, or to any other address as the respective party may designate by notice delivered pursuant hereto.

13.4 TESTS AND INSPECTIONS

1. Delete Paragraph 13.4.1 in its entirety and replace with the following:

"Tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations or orders of public authorities having jurisdiction shall be made at an appropriate time. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections or approvals which do not become requirements until after bids are received or negotiations concluded."

2. Add the following sentence to Paragraph 13.4.5:

"The Contractor shall give the A/E timely notice in advance of tests, inspections or approvals."

3. Delete Paragraph 13.5 in its entirety.

4. Add Paragraphs 13.7, 13.8, 13.9, 13.10, 13.11, and 13.12 as follows

"§ 13.7 Time limits on Claims
The Owner and Contractor shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise, against the other arising out of or relating to the Contract within the times established by the laws of the State of South Carolina.

§ 13.8 Drug-free Workplace"
The Contractor certifies to the Owner that the Contractor will provide a Drug-Free Workplace, as required by Title 44, Chapter 107 of the South Carolina Code of Laws, as amended.

§ 13.9 Cancellation after Award
Pursuant to § 11-35-1520 of the SC Code of Laws, as amended, and South Carolina Regulation 19-445.2085, this Contract may be cancelled after award, but prior to issuance of the Notice to Proceed. In such event, the Contractor shall recover, as its sole remedy, its reasonable bid preparation costs.

§ 13.10 Bankruptcy
In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish written notification of the bankruptcy to the Owner. This notification shall be furnished within five (5) days of the initiation of the proceedings relating to the bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of State or governmental contracts against which final payment has not been made. This obligation remains in effect until final payment under this Contract.

§ 13.11 Retention and Audit of Contractor’s Records
The Contractor and all subcontractors shall comply with all applicable obligations of §11-35-2220 of the SC Code of Laws, as amended. Accordingly, the Owner shall be entitled, at reasonable times and places, to audit the books and records of both the Contractor and any subcontractor who has submitted cost or pricing data pursuant to either this Contract or to §11-35-1830 to the extent that such books and records relate to such cost or pricing data. If any cost or pricing data is required for this Contract or any Modification, the Contractor and any subcontractor shall maintain such books and records that relate to such cost or pricing data for three (3) years from the date of final payment under the Contract; provided, however, that such records shall be retained for additional periods of time beyond this three-year period upon request of the Owner. If this Contract or any Modification (other than a firm fixed price contract) is negotiated, the Owner shall be entitled to audit the books and records of the Contractor and any subcontractor to the extent that such books and records relate to the performance of the Contract or any Modification. Such books and records shall be maintained by the Contractor for a period of three years from the date of final payment under the prime contract and by any subcontractor for a period of three years from the date of final payment under the subcontract.

§ 13.12 Unit Price Work
§ 13.12.1 Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, the initial Contract Sum will be deemed to include an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as identified in the Contract. The estimated quantity for each item of Work represent the Owner’s best estimate of the amount of each item to be required of the Contractor, but the amounts are not guaranteed, and are solely for the
purpose of comparison of Bids and determining an initial Contract Sum. Determinations of the actual quantities, and classifications of Unit Price Work performed by the Contractor will be made by the Architect as described below.

§ 13.12.2 Subject to an adjustment pursuant to Subparagraph 4.3.9, each unit price will be deemed to include an amount considered by the Contractor to be adequate to cover the Contractor's total costs, including overhead and profit, for each separately identified item.

§ 13.12.3 The Architect will determine the actual quantities and classifications of Unit Price Work performed by the Contractor. The Architect will review with the Contractor its preliminary determinations on such matters before rendering a written decision or issuing a recommendation on the Contractor's Applications for Payment. The Architect's written decisions or recommendations will be final and binding on the Owner and the Contractor, except as modified by the Architect to reflect changed factual conditions or more accurate data, and subject to Paragraph 4.4. For purposes of Paragraph 4.4, the Architect's written decisions or recommendations shall serve as the Architect's initial decision.

§ 13.13 Procurement of materials by Owner
§ 13.13.1 The Contractor accepts assignment of, and liability for, all purchase orders and other agreements for procurement of materials and equipment that are identified as part of the Contract Documents. The Contractor shall be responsible for such pre-purchased items, if any, as if the Contractor were the original purchaser. The Contract Sum includes, without limitation, all costs and expenses in connection with delivery, storage, insurance, installation, and testing of items covered in any assigned purchase orders or agreements. All warranty and correction of the Work obligations under the Contract Documents shall also apply to any pre-purchased items, unless the Contract Documents specifically provide otherwise.”

ARTICLE 14-TERMINATION OR SUSPENSION OF THE CONTRACT

14.1 TERMINATION BY THE CONTRACTOR

1. Modify Paragraph 14.1.3 as follows:

“If one of the reasons described in Section 14.1.1. or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contractor and recover from the Owner payment for Work executed.”

14.4 TERMINATION BY THE OWNER FOR CONVENIENCE

1. Modify Paragraph 14.4.3 as follows:
“In case of such termination for the Owner’s convenience, the Owner shall pay the Contractor solely for Work properly executed and costs directly incurred by reason of the termination.”

2. Delete Clause 14.4.2 in its entirety and replace with the following:

“§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner’s convenience, the Contractor shall complete the performance of the Work not terminated, if any:

.1 cease operations as directed by the Owner in the notice;
.2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work;
.3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders; and,
.4 complete the performance of the Work not terminated, if any.”

ARTICLE 15-CLAIMS AND DISPUTES

15.1 CLAIMS

1. Delete Paragraph 15.1.2 in its entirety.

2. Modify Paragraph 15.1.3.1 by changing “21 days” to “45 days” in lines 4 and 5 of this paragraph.

3. Add the following Clauses to 15.1.6.3 and 15.1.6.4 to Paragraph 15.1.6:

“15.1.6.3 Claims for increase in the Contract Time shall set forth in details the circumstances that form the basis for the Claim, the Date upon which each cause of delay began to effect the progress of the Work and the number of days’ increase in the Contract Time claimed as a consequence of each such cause of delay. The Contractor shall provide such supporting documentation as the Owner may require including, where appropriate, a revised construction schedule indicating all the activities affected by the circumstances forming the basis of the claim.

15.1.6.4 The Contractor shall not be entitled to a separate increase in Contract Time for each one of the number of causes of delay which may have concurrent or interrelated effects on the progress of the Work, or for concurrent delays due to the fault of the Contractor.”

15.2 INITIAL DECISION

1. Modify the second to last sentence of Paragraph 15.2.1 as follows:
“If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may request mediation without a decision having been rendered.”

2. Delete the last sentence of Paragraph 15.2.3.

3. Modify Paragraph 15.2.5 by adding the phrase “selected in the Agreement” at the end of the last sentence.

4. Modify Paragraph 15.2.6 by deleting the phrase “subject to the terms of Section 15.2.6.1” at the end of the sentence.

15.3 MEDIATION

4. Delete Paragraphs 15.3.1 through 15.3.4 in their entirety and replace them with the following:

“Any claim, dispute, or controversy arising under or in connection with this Agreement shall be subject to mediation as a condition precedent to pursuing the method of binding resolution selected in the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the proposed mediator. Mediation shall be conducted in Charleston County, South Carolina. The mediator shall be a member of the South Carolina Bar and shall be selected by mutual consent and agreement of the parties. If a party fails to object to the mediator proposed by the party requesting mediation within 30 days of the initial request for mediation, the mediator shall be deemed selected as proposed. If the parties fail to agree upon a mutually acceptable mediator within 60 days of the initial request for mediation the mediator shall be selected from the official roster of active certified mediators in Charleston County, as provided by the South Carolina Supreme Court’s Commission on Alternative Dispute Resolution and Board of Arbitrator and Mediator Certification, by choosing in alphabetical order the first available circuit court mediator from the roster. The parties shall equally divide the mediator’s fee and any filing fees. Agreements reached in mediation shall be enforceable as settlement agreements in any court of competent jurisdiction. Nothing contained in Article 15 or the Contract Documents shall preclude either party from seeking enforcement of the terms of mediation pursuant to the Section 15.3 through a court of competent jurisdiction, and the prevailing party shall also be entitled to reimbursement by the losing party for all reasonable fees and costs, including attorney’s fees, incurred in the proceedings seeking enforcement of this Section 15.3.”

15.4 ARBITRATION

1. Delete Paragraphs 15.4, and all subparts in its entirety

2. .
City of Charleston
Bid Form

BID SUBMITTED BY: Name: McBurney Construction Company, Inc.

Address: 123 Main St., Dept. Park, SC 29403

FOR PROJECT: CP 1610 - Bender Street Park
(Number) (Name)

OFFER

1. In response to the Invitation for Construction Bids, and in compliance with the Instructions to Bidders for the above-named Project, the undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into a Contract with the City of Charleston ("Owner") in the form included in the Bidding Documents, and to perform all Work as specified or indicated in the Bidding Documents, for the prices and within the time frames indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

2. Bidder has submitted Bid Security as follows in the amount and form requested by the Bidding Documents:
   - [X] Bid Bond with Power of Attorney
   - [ ] Cashier's Check

   (Bidder check one)

3. Bidder, by submitting this Bid, affirms that it has carefully examined the Bidding Documents and the other related information and data identified in the Bidding Documents, has visited the actual location of the Work, has satisfied itself as to all conditions and understands that, in signing this Bid Form it waives all rights to plead any misunderstanding regarding same and agrees to be bound by the provisions of said Bidding Documents and all statements made therein.

4. Bidder acknowledges the receipt of the following Addenda to the Bidding Documents and has incorporated the effects of said Addenda into its Bid:
   ADDENDUM No.(s).
   1, 2, 3

5. Bidder acknowledges that neither the Owner nor any of its employees or agents shall be responsible for any bid preparation costs, or any costs or charges of any type, should all bids be rejected or the Project cancelled for any reason prior to the issuance of the Notice to Proceed.

6. By submitting this Bid, Bidder hereby agrees to all of the terms and conditions of the Invitation for Construction Bids and to all of the terms and conditions of the Instructions to Bidders. Bidder agrees that this Bid, including all Bid Alternates, if any, may not be revoked or withdrawn after the opening of bids, and shall remain open for acceptance for a period of 60 days following the Bid Date, or for such longer period of time that Bidder may agree to in writing upon request of the Owner. Bidder understands that Bid Alternates that are not accepted in an Initial award shall remain open for acceptance for the entire period set above and for such longer period as requested by Owner and agreed to by Bidder.

7. Bidder herewith submits its offer to provide all labor, materials, equipment, tools of trades and labor, accessories, appliances, warranties and guarantees, and to pay all royalties, fees, permits, licenses and applicable taxes necessary to complete the construction work in accordance with the Bidding Documents:
7.1 BASE BID: $1,889,532

Written: One Million, Nine Hundred Eighty-Nine, Five Hundred Thirty-Two

7.2 ALTERNATE BID WORK (as indicated in the Bidding Documents and generally described as follows): (Bidder shall STRIKE THROUGH "ADD" or "DEDUCT" so as to clearly indicate the price adjustment offered for each alternate)

| ALTERNATE NO. 1: | Exclude the 10 wooden sliding doors (shutters) and associated hardware per dashed line noting alternate on floor plans | ADD/DEDUCT $98,000 (to or from BASE BID)
| ALTERNATE NO. 2: | Deduct the north deck seating, including wood & concrete structure associated with the seating. The stairs remain in the project. | ADD/DEDUCT $42,000 (to or from BASE BID)
| ALTERNATE NO. 3: | Deduct the walkway canopy, including removal of the wood columns, beams, 2x4 trellis structure and polycarbonate roofing as noted in the floor plans and elevations. See electrical and structural plans for full extent of modifications. | ADD/DFHLCT $22,000 (to or from BASE BID)
| ALTERNATE NO. 4: | Install permeable pavers in lieu of asphalt paving at the entry court as identified on Sheet C302 and L303. | ADD/DFPLCT $36,000 (to or from BASE BID)

7.3 UNIT PRICE WORK

Bidder offers for the Owner's consideration and use the following UNIT PRICES. The UNIT PRICES offered by Bidder indicate the amount to be added to or deducted from the Base Bid for each item-unit combination. UNIT PRICES include all costs to the Owner, including those for materials, labor, equipment, tools of trades and labor, fees, taxes, insurance, bonding, overhead, profit, etc. The Owner reserves the right to include or not to include any of the following UNIT PRICES in the Contract and to negotiate the UNIT PRICES with Bidder.

<table>
<thead>
<tr>
<th>NO.</th>
<th>ITEM</th>
<th>UNIT OF MEASURE</th>
<th>UNIT PRICE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Flowable Fill</td>
<td>CY</td>
<td>$155</td>
</tr>
<tr>
<td>2</td>
<td>Mucking of unsuitable soils, including placement of controlled fill, in-situ</td>
<td>CY</td>
<td>$35</td>
</tr>
<tr>
<td></td>
<td>*truck measure will not be allowed</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Removal of Unknown Debris</td>
<td>TON</td>
<td>$95</td>
</tr>
<tr>
<td></td>
<td>*as measured by weight tickets from disposal site</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Off-Site Borrow &quot;controlled fill&quot;, in-situ</td>
<td>CY</td>
<td>$30</td>
</tr>
</tbody>
</table>
8. BIDDER'S TAXPAYER IDENTIFICATION

FEDERAL EMPLOYER'S IDENTIFICATION NUMBER: 57-0651861

OR

SOCIAL SECURITY NUMBER:

9. CONTRACTOR'S CLASSIFICATIONS AND SUBCLASSIFICATIONS WITH LIMITATIONS

BD-5
(Classification)

Unlimited
(Limitations)

G11007
(Subclassification)

(SC Contractor's License Number)

SIGNATURE

Mashburn Construction Company, Inc.
(Legal Name of Person, Firm or Corporation Submitting Bid)

11/24/20
(Date)

Paul Mashburn, CEO
(Title)

843-853-4303
(Phone)
City of Charleston
Minority/Women-Owned Business Enterprise (MWBE)
Compliance Provisions

This document shall be included with the submittal of the bid or offer. If the bidder or offeror fails to submit the form with the bid or offer as required, the procurement officer shall deem the bid non-responsive or shall determine that the offer is not reasonably susceptible of being selected for award.

APPLICATION:

Charleston City Council has adopted a policy setting 20% as the guidelines for combined women-owned and minority-owned business enterprise participation for this project.

Definitions:

MBE is defined as a small business owned and controlled by minorities.

WBE is defined as a small business owned and controlled by women.

This means that fifty-one percent (51%) of the business must be owned by minorities or women and that they must control the management and daily operations of the business.

The guidelines for participation in City of Charleston's contracts for services, including construction, are hereby made a part of any contract resulting from this solicitation. These requirements shall apply to all contracts and resulting subcontracts issued by contractors. A list of certified minority-owned and women-owned business enterprises can be found on the City of Charleston's website [www.charleston-sc.gov](http://www.charleston-sc.gov) or by contacting Ruth Jordan, MBE Manager, 2 George St., Ste. 3000 Charleston, SC 29401, (843) 724-7434, jordanr@charleston-sc.gov

COMPLIANCE REQUIREMENTS:

1. The Offeror shall provide, with the submittal, the following Affidavits properly executed which signify that the Offeror understands and agrees to the incorporated contract provisions:

   ☑ Affidavit A - Listing of the Good Faith Effort & Identification of Minority and Women-owned Business Participation as certification that efforts were made to use MWBE businesses on this project,

   AND

   ☑ Affidavit B – Work to be Performed by Minority and/or Women-owned Firms

   OR

   ☑ Affidavit C – Intent to Perform Contract with Own Workforce, in making this certification the Offeror states that the Offeror does not customarily subcontract elements of this type project and will perform all elements of the work with his/her own current work forces.

2. All affidavits supplied by the Offeror shall become a part of the agreement between the Contractor and the City of Charleston for performance of this contract. Failure to comply with any of these statements, certifications, or intentions stated in the Affidavits, or with the MBE/WBE provisions shall constitute a breach of the contract. Any such breach may result in termination of the contract in accordance with the termination provisions contained in the contract. It shall be solely at the option of the City of Charleston whether to terminate the contract for breach. In addition, any breach may result in the bidder being prohibited from participation in future construction bids as determined by the City of Charleston.

The Contractor shall provide an itemized statement of payments to each MBE and WBE subcontractor before final payment is processed.

Name of Company: Mashburn Construction Company, Inc.

______________________________
Signature

______________________________
Print Name

______________________________
CEO

Title

11/24/20

Date

Attest: Jennifer W. Lavine

2018
AFFIDAVIT A
Page 1 of 2

City of Charleston, South Carolina Listing of the Good Faith Effort

Affidavit of Mashburn Construction Company, Inc. (Name of Offeror)

I have made a good faith effort to comply under the following checked areas:
(A minimum of 6 areas must be checked in order to have achieved a "good faith effort")

☒ 1. Contacted MBE businesses that reasonably could have been expected to submit a quote and that were known to the contractor, or available on Federal, State or local government maintained lists, at least 10 business days before the submittal date and notified them of the nature and scope of the work to be performed. Complete Affidavit A, Page 2.

☒ 2. Followed up with contacted MBE subsequent to the initial contact and at least 72 hours prior to submittal deadline/bid opening either by phone, facsimile or in person.

☒ 3. Made the construction plans, specifications, and requirements available for review by prospective MBE businesses, or providing these documents to them at least 10 business days before the submittal deadline/bid opening.

☒ 4. Itemized elements of the work or combined elements of the work into economically feasible units to facilitate minority participation.

☒ 5. Attended pre-solicitation meetings scheduled by the City.

☐ 6. Provided MBE with assistance in getting required bonding or insurance requirements or provided alternatives to bonding or insurance for subcontractors.

☒ 7. Negotiated in good faith with interested MBEs and did not reject them as unqualified without sound reasons based on their capabilities. (Any rejection of a minority or woman business based on lack of qualifications shall include reasons for rejection documented in writing.)

☐ 8. Provided MBEs with assistance in need of equipment, loan capital, lines of credit, or joint pay agreements to secure loans, supplies, or letters of credit, including waiving credit that is ordinarily required. Assisted MBEs in obtaining the same unit pricing with the Offeror’s suppliers in order to help such businesses in establishing credit.

☐ 9. Provided training or mentoring to at least two (2) MBEs within 120 days prior to submittal deadline/bid opening. The training or mentoring program should be in conjunction with local trade groups, technical schools or community organizations that provide recruitment, education or skill levels.

☐ 10. Negotiated joint venture, partnership or other similar arrangements with MBEs in order to increase opportunities for minority business participation.

☐ 11. Provided quick pay agreements and policies to enable minority contractors and suppliers to meet cash-flow demands.

The undersigned hereby agrees to enter into a formal agreement with the firms listed in Affidavit B Work to be performed by Minority Firms conditional upon execution of a contract with the Owner. Failure to abide by this provision will constitute a breach of the contract.

The undersigned hereby certifies that he/she has read the terms of the minority business commitment and is authorized to bind the Offeror to the commitment herein set forth.

Date: 11/24/20 Name of Authorized Officer (Print/Type): Paul Mashburn

Signature: [Signature]
Title: CEC

Page 2 of 5
City of Charleston, South Carolina Minority Business Participation Efforts
(Use as many sheets as necessary)

I, Paul Mashburn, hereby certify that on this project we contacted the following minority business enterprises as subcontractors, vendors, suppliers, or providers of professional services.

<table>
<thead>
<tr>
<th>1. Minority Firm Name and Contact</th>
<th>Minority Firm Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Premier Building, Pablo Checa</td>
<td>9860 Black Tupelo Lane, Ladson, SC 29456</td>
</tr>
<tr>
<td>Minority Firm Telephone Number</td>
<td>703-930-3481</td>
</tr>
<tr>
<td>Minority Firm Fax Number</td>
<td>N/A</td>
</tr>
<tr>
<td>DBE Certification Number</td>
<td>04102919191</td>
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<table>
<thead>
<tr>
<th>Minority Group Type</th>
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<tbody>
<tr>
<td>(African American)</td>
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<tr>
<td>(Asian American)</td>
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<tr>
<td>(American Indian)</td>
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<td>(Women)</td>
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<td>(Hispanic)</td>
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<tr>
<td>(Other)</td>
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| Follow up Verification |

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<thead>
<tr>
<th>2. Minority Firm Name and Contact</th>
<th>Minority Firm Address</th>
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</thead>
<tbody>
<tr>
<td>Amped Electric LLP, Michael Jennace</td>
<td>4540 Rivers Ave, Ste E, N. Charleston, SC 29405</td>
</tr>
<tr>
<td>Minority Firm Telephone Number</td>
<td>843-633-1565</td>
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<tr>
<td>Minority Firm Fax Number</td>
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<tr>
<td>DBE Certification Number</td>
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| Follow up Verification |

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<thead>
<tr>
<th>3. Minority Firm Name and Contact</th>
<th>Minority Firm Address</th>
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<tbody>
<tr>
<td>Passion Masonry, LLC, Ross Gwin</td>
<td>4218 River Road, Johns Island, SC 29455</td>
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<tr>
<td>Minority Firm Telephone Number</td>
<td>843-437-1230</td>
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<tr>
<td>Minority Firm Fax Number</td>
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<td>DBE Certification Number</td>
<td>04-043020-230</td>
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| Follow up Verification |

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<tr>
<th>4. Minority Firm Name and Contact</th>
<th>Minority Firm Address</th>
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<td>Minority Firm Fax Number</td>
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<td>DBE Certification Number</td>
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<td>(Hispanic)</td>
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<td>(Other)</td>
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</tbody>
</table>

| Follow up Verification |

We certify, under penalties of perjury, that we have examined the information in this affidavit, and to the best of our knowledge and belief, this information is true, correct and complete.

Date: 11/24/20
Name of Authorized Officer (Print/Type): Paul Mashburn

Sworn to before me this 24th day of November 2020
Notary Public for the State of South Carolina
My Commission Expires: March 28, 2023
Title: CEO
Print Name: Jennifer W. Lavine
Phone Number: 843-853-4303
Address: 1202 Chuck Dawley Blvd., Mt. Pleasant, SC 29464

2018
City of Charleston, South Carolina  
Work to be Performed by Minority Businesses

Affidavit of ___Mashburn Construction Company, Inc.____________. I hereby certify that on the  
(Bender Street Park) ________________, Total Project Amount $ _1,989,532____  
(Project Name)  
I will make a good faith effort to expend a minimum of ___20____% of the total dollar amount of the contract  
with minority business enterprises. Minority businesses will be employed as subcontractors, vendors,  
suppliers, or providers of professional services. Such work will be subcontracted to the following firms listed  
below:

<table>
<thead>
<tr>
<th>Name and Phone Number</th>
<th>*Minority Code</th>
<th>Work Description</th>
<th>Dollar Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Premier Building</td>
<td>H</td>
<td>Framing</td>
<td>$ 107,000</td>
</tr>
<tr>
<td>Amped Electric</td>
<td>W</td>
<td>Electric</td>
<td>$ 70,000</td>
</tr>
<tr>
<td>Passion Masonry</td>
<td>H, W</td>
<td>Masonry</td>
<td>$ 137,000</td>
</tr>
</tbody>
</table>

Total MBE Participation: 15.8 % $ 314,000

* Minority categories: African American (B); Hispanic (H); Asian American (A), American Indian (I);  
Woman Owned (W); Other (D)

The undersigned will enter into a formal agreement with minority firms for work listed in this schedule  
conditional upon execution of a contract with the Owner.

The undersigned hereby certifies that he/she has read the terms of this commitment and is authorized to bind  
the Offeror to the commitment set forth herein. We certify, under penalties of perjury, that we have examined  
the information in this affidavit, and to the best of our knowledge and belief, this information is true, correct  
and complete.

Date: 11/24/20  
Name of Authorized Officer (Print/Type): Paul Mashburn  
Signature: ___________________________  
Title: CEO

Sworn to before me this 24th day of November, 2020  
Notary Public for the State of South Carolina  
My Commission Expires: March 15, 2023  
Notary Public Seal:  
Print Name: Jennifer W. Laviole  
Phone Number: 843-853-4303  
Address: 1202 Chuck Dawley Blvd., Mt. Pleasant, SC 29464
AFFIDAVIT C

City of Charleston, South Carolina
Intent to Perform Contract with Own Workforce.

Affidavit of ____________________________________________

(Name of Offeror)

I hereby certify that it is our intent to perform 100% of the work required for the ____________________________

contract.

(Name of Project)

In making this certification, the Offeror states that the Offeror does not customarily subcontract elements of
this type project, and normally performs and has the capability to perform and will perform all the elements of
the work on this project with his/her own current work forces, and

The Offeror agrees to provide any additional information or documentation requested by the Owner in support
of the above statement.

The undersigned hereby certifies that he/she has read this certification and is authorized to bind the Offeror to
the commitments contained herein. We certify, under penalties of perjury, that we have examined the
information in this affidavit, and to the best of our knowledge and belief, this information is true, correct and
complete.

Date: __________ Name of Authorized Officer (Print/Type): __________________________

Signature: ____________________________________________

Title: ________________________________________________

Sworn to before me this day of ___________, 20__ Notary Seal:

Notary Public for the State of
My Commission Expires:
Print Name:
Phone Number:
Address: __ __
CITY OF CHARLESTON LOCAL VENDOR RECOGNITION AFFIDAVIT

Personally appeared before me ____________________________ (the "Bidder seeking Local Vendor Recognition") who, after being duly sworn, does hereby depose and certify that the Bidder seeking Local Vendor Recognition identified in this bid response and who signs below meets the following qualifications for local vendor recognition as provided in Sections C and E of the City of Charleston’s Procurement Policy:

1. The bid is for construction services or goods and supplies only and is greater than $20,000;
2. Has a physical business address located within the City of Charleston and has been doing business in the City of Charleston for a period of 12 months or more prior to the bid opening date - (A post office box or temporary construction or office trailer will not be considered a place of business);
3. Has a valid City of Charleston business license which was issued at least 12 months prior to the bid opening date;
4. Provides a copy of its current City of Charleston business license with its bid;
5. Provides proof of payment of all applicable City of Charleston licenses, taxes and fees with its bid;
6. In compliance with any applicable federal, state and local requirements regarding the type of business in which the Local Vendor is engaged.

By submitting this Affidavit, the Bidder seeking Local Vendor Recognition understands that in addition to meeting the requirements set forth above, in order for the Bidder seeking Local Vendor Recognition to qualify for local vendor recognition, his bid must be within 4% or $10,000, whichever is lower, of the bid amount of the lowest responsive and responsible non-local bidder for said construction services or goods and supplies, and he requests that the local vendor recognition as set forth in Sections C and E of the City’s Procurement Policy be exercised in consideration of the contract award of this bid. Failure to complete and return this Affidavit with the specified attachments set forth above with his bid will result in not being eligible to receive the benefits of the local vendor recognition.

BUSINESS NAME: ____________________________________

CHARLESTON STREET ADDRESS: ____________________________

SIGNATURE: _______________________________ TITLE: ______________

By: ___________________________________________ (Print Name)

Sworn to and subscribed before me at ____________________________
State of _______ _______, this _______ day of ________, 20____.

_____________________________________(SEAL)
Notary Public for ____________________________
My Commission Expires __________________

City of Charleston Local Vendor Recognition Affidavit 3-12-2013
FORM OF BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we the undersigned, Mashburn Construction Company Inc. (Name of Principal), as PRINCIPAL, and Liberty Mutual Insurance Company (Name of Surety), are held and firmly bound unto The City of Charleston hereinafter called the "Owner", in the penal sum of $500,000, Five Percent of Amount Bid, lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal has submitted the accompanying bid, dated November 24, 2020, for Project Name: Bender Street Park and Project Number: CP1610.

Now, THEREFORE, if the Principal shall not withdraw said bid within the period specified therein after the opening of the same, or if no period be specified, within sixty (60) days after the said opening, and shall within the period specified therefore, or if no period be specified within ten (10) days after the prescribed forms are presented to him for signature, enter into a written contract with the Owner in accordance with the bid as accepted, and give bond with good and sufficient surety or securities, as may be required, for the faithful performance and proper fulfillment of such contract; or in the event of the withdrawal of said bid within the period specified, or the failure to enter into such contract and give such bond within the time specified, if the Principal shall pay the Owner the difference between the amount specified in said bid and the amount for which the Owner may procure the required work or supplies or both, if the latter amount be in excess of the former, then the above obligation shall be void and of no effect, otherwise to remain in full force and virtue.

The Surety, for value received, hereby agrees that the obligations of said Surety and its bond shall be in no way impaired or affected by any extensions of the time within which the Owner may accept such BID; and said Surety does hereby waive notice of any such extensions.

IN WITNESS WHEREOF, the above-bounded parties have executed this instrument under their several seals this 24th day of November, 2020, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

(SIGNATURE)
Mashburn Construction Company Inc. (Name of Principal)

By: (Signature)
Paul [Redacted], CEO

(SEAL)

Liberty Mutual Insurance Company (Name of Surety)

By: [Redacted]
Lori J. Kelly, Attorney-In-Fact

(SEAL)

Sealed and delivered in the presence of:

[Redacted]

Mashburn Construction Company Inc.

[Redacted]

Liberty Mutual Insurance Company

[Redacted]

9-Bid Bond (generic)
Revised 4/25/2011
POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, Ltd. Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority hereinafter set forth, does hereby name, constitute and appoint:

Adrian C. Burchett, Duanette H. Cullum, Wesley V. Desher, Jr., Frank W. Hadner, Jr., Alfred T. Johnson, Lori J. Kally, Robert J. Lavisky, Marian C. Newman

all of the city of Columbia, state of SC, each individually if there be more than one named, to true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall as being authorized by the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer of each of the Companies and the corporate seals of the Companies have been affixed thereto this 3rd day of May, 2019.

The Ohio Casualty Insurance Company
Liberty Mutual Insurance Company
West American Insurance Company

By: ____________________________
David M. Carey, Assistant Secretary

STATE OF PENNSYLVANIA
COUNTY OF MONTGOMERY

On this 3rd day of May, 2018, before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Insurance Company, and West American Insurance Company, and that he, as such being authorized so to do, executed the foregoing instrument for the purpose thereon contained by signing on behalf of the corporations by himself as a duly authorized officer.

In WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.

COMMONWEALTH OF PENNSYLVANIA
Notary Public

By: ____________________________
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows

ARTICLE IV — OFFICERS — Section 12. Power of Attorney. Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitations as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act on behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in the respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to act thereon in the place of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII — Execution of Contracts — SECTION 5. Surety Bonds and Undertakings. Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instrument and to act thereon in the place of the Company. When so executed such instruments shall be as binding as if signed by the President and attested to by the Secretary.

Certificate of Designation — The President of the Company, acting pursuant to the By-laws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization — By unanimous consent of the Company’s Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Uberhagen, undersigned Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF I have hereunto set my hand and affixed the seal of said Companies this 24th day of November, 2020.

By: ____________________________
Renee C. Uberhagen, Assistant Secretary
MEMORANDUM

TO: Andrew Jones
   BFRC

FROM: Beth Browpee
        Capital Projects

RE: Carr-Richardson Park Contract with Mashburn for 12/28/2020 CPR and 01/12/2021 CC

DATE: January 5, 2021

Andrew,

Construction bids for CP1610 project were opened publicly on Tuesday, November 24th. The lowest and most responsive bidder, Mashburn Construction, notified me on November 25th that they transposed the pricing for two of the deductive alternates (alternates #2 and #3). At the time of notification, Mashburn nor any of the other bidders were notified of which alternates we would be accepting. I requested email documentation along with information from their supplier indicating the costs. Those emails and estimates are attached with highlighted dates. It wasn't until Wednesday, December 2nd during a conference call with the Mayor that it was determined that we would be accepting alternate #2 only. Mashburn was notified on December 3rd of our decision to accept deductive alternate 2.

In comparing the other bidders' alternate numbers, the price originally listed for Mashburn's alternate 2 was an extreme outlier at -$42,000. The average price for alternate 2, excluding Mashburn's pricing, was -$13,436. The lowest was -$22,700 and the highest was $7,250. Alternate 3 average cost, excluding Mashburn again, was -$15,793. The lowest was -$33,000 and the highest was -$7,150.00.

Please let me know if you or anyone else needs additional information regarding this switch.
Brownlee, Beth

From: Paul Mashburn <jpmashburn@mashburnconstruction.com>
Sent: Wednesday, November 25, 2020 12:13 PM
To: Brownlee, Beth
Cc: Reid Coyle
Subject: Bender Street

CAUTION: This email originated outside of the City of Charleston. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Beth,

I was following up on our conversation yesterday concerning the Bender Street project. After reviewing our numbers, we did find a clerical error in the Alternate section that I would like to amend if possible. Alternates #2 and #3 got crossed up while being transposed to the form. Alternate #2 is written in Alternate #3’s line and vice versa. I believe the other numbers you got on bid day will support this fact. Based on our conversation yesterday, this may not be an issue as a final decision has not been made concerning acceptance of alternates but I wanted to get this to you in the meantime. As I mentioned in our conversation, Mashburn intends to fully stand behind our bid but would appreciate some consideration concerning this issue.

Please feel free to contact me if you have any questions.

Happy Thanksgiving!

Paul Mashburn
CEO

Mashburn Construction Company | Building with Integrity
T 803.400.1000 (Corporate Office)
T 843.853.4303 (Charleston Office)
T 864.660.8528 (Greenville Office)
M 803.513.6248
E jpmashburn@mashburnconstruction.com

Find us on Facebook
From: Premier Building Construction <premierbuil@live.com>
Sent: Monday, November 30, 2020 2:24 PM
To: Reid Coyle <rcoyle@mashburnconstruction.com>
Subject: RE: Bender Street Alternates

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Reid:

Following up on earlier conversation, my assistant crossed up the amounts of alternates two and three. The values of the two got switched on bid day. Please see below for the accurate alternate totals.

Alternate 2 is =$22,450.00
Alternate 3 is =$42,404.00

Let me know if this clarifies all of this
Thank you

Pablo Checa
Operation Manager
Premier Building Construction LLC.
Cell: 703-930-3481
Email: premierbuil@live.com
Brownlee, Beth

From: Paul Mashburn <jpmashburn@mashburnconstruction.com>
Sent: Monday, November 30, 2020 4:55 PM
To: Brownlee, Beth
Cc: Reid Coyle
Subject: RE: Bender Street
Attachments: Premier Building - Alternate Quote.pdf

**CAUTION:** This email originated outside of the City of Charleston. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Beth,

Please see attached quote from our sub on bid day confirming that the numbers were incorrectly typed into their quoter and subsequently imported by us into the alternate lines on the bid tab. We rounded the numbers on bid day for simplicity. Please let me know if you need anything else.

Paul Mashburn
CEO
Mashburn Construction Company | Building with Integrity
T 803 400.1000 (Corporate Office)
T 843.853.4303 (Charleston Office)
T 864.660.8528 (Greenville Office)
M 803 513.6248
E jpmashburn@mashburnconstruction.com

Find us on Facebook

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From: Brownlee, Beth <BROWNLEE@charleston-sc.gov>
Sent: Monday, November 30, 2020 3:46 PM
To: Paul Mashburn <jpmashburn@mashburnconstruction.com>
Cc: Reid Coyle <rcoyle@mashburnconstruction.com>
Subject: RE: Bender Street

**CAUTION:** This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Good afternoon Paul,

I have been asked if there is any information available that would have a date prior to bid opening that could substantiate the switch up. Perhaps an estimate for the work from your sub or some other information, such as an email, prior to today's date?

Please let me know when you can. Thanks!

Beth Blackwell Brownlee, RLA | Senior Construction Project Manager
From: Paul Mashburn <jpmashburn@mashburnconstruction.com>
Sent: Monday, November 30, 2020 2:36 PM
To: Brownlee, Beth <BROWNLEE@charleston-sc.gov>
Cc: Reid Coyle <rcoyle@mashburnconstruction.com>
Subject: RE: Bender Street

This email originated outside of the City of Charleston. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Beth,

Please find attached an email from the subcontractor that priced the alternates explaining what happened on bid day. Please let me know if I can be of further assistance.

Thanks

Paul Mashburn
CEO
Mashburn Construction Company | Building with Integrity
T 803.400.1600 (Corporate Office)
T 843.853.4303 (Charleston Office)
T 864.660.8528 (Greenville Office)
M 803.513.6248
E jpmashburn@mashburnconstruction.com

Find us on Facebook

From: Brownlee, Beth <BROWNLEE@charleston-sc.gov>
Sent: Monday, November 30, 2020 12:36 PM
To: Paul Mashburn <jpmashburn@mashburnconstruction.com>
Cc: Reid Coyle <rcoyle@mashburnconstruction.com>
Subject: RE: Bender Street
Importance: High

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.
Good afternoon Paul,

I was asked to provide backup information substantiating the change in the alternates. The pricing from a sub or some other similar information should suffice. If you can, please try to get me that information within the next few hours (before 4:00) so I can share with my directors and Procurement.

Thanks in advance,

Beth Blackwell Brownlee, RLA | Senior Construction Project Manager  
City of Charleston | Department of Parks  
Capital Projects Division  
823 Meeting Street | Charleston, SC 29403  
T: 843.577.2173 | F: 843.724.7300 | BrownleeE@charleston-sc.gov

From: Beth Blackwell Brownlee, RLA | Senior Construction Project Manager  
City of Charleston | Department of Parks  
Capital Projects Division  
823 Meeting Street | Charleston, SC 29403  
T: 843.577.2173 | F: 843.724.7300 | BrownleeE@charleston-sc.gov

From: Brownlee, Beth  
Sent: Monday, November 30, 2020 10:51 AM  
To: Paul Mashburn <jpmashburn@mashburnconstruction.com>  
Cc: Reid Coyle <rcoyle@mashburnconstruction.com>  
Subject: RE: Bender Street

Paul,

Thank you for following up regarding your bid. I will need to discuss this with my directors as well as procurement regarding how to proceed.

I’ll be in touch as soon as I can.

Thank you,

Beth Blackwell Brownlee, RLA | Senior Construction Project Manager  
City of Charleston | Department of Parks  
Capital Projects Division  
823 Meeting Street | Charleston, SC 29403  
T: 843.577.2173 | F: 843.724.7300 | BrownleeE@charleston-sc.gov

From: Paul Mashburn <jpmashburn@mashburnconstruction.com>  
Sent: Wednesday, November 25, 2020 12:13 PM
To: Brownlee, Beth <BROWNLEE@charleston-sc.gov>
Cc: Reid Coyle <rcoyle@mashburnconstruction.com>
Subject: Bender Street

CAUTION This email originated outside of the City of Charleston. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Beth,

I was following up on our conversation yesterday concerning the Bender Street project. After reviewing our numbers, we did find a clerical error in the Alternate section that I would like to amend if possible. Alternates #2 and #3 got crossed up while being transposed to the form. Alternate #2 is written in Alternate #3’s line and vice versa. I believe the other numbers you got on bid day will support this fact. Based on our conversation yesterday, this may not be an issue as a final decision has not been made concerning acceptance of alternates but I wanted to get this to you in the meantime. As I mentioned in our conversation, Mashburn intends to fully stand behind our bid but would appreciate some consideration concerning this issue.

Please feel free to contact me if you have any questions.

Happy Thanksgiving!

Paul Mashburn
CEO

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T 803.400.1000 (Corporate Office)
T 843.853.4303 (Charleston Office)
T 864.660.8528 (Greenville Office)
M 803 513.6248
E ipmashburn@mashburnconstruction.com

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### Project

**Binder Street Park**

<table>
<thead>
<tr>
<th>Description</th>
<th>Rate</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Exterior 2x6 wood framing; 2x8 sheathing and 5/8&quot; plywood, and R-19 insulation</td>
<td>66,920.00</td>
<td>66,920.00</td>
</tr>
<tr>
<td>Interior 2x4 wood framing; 2x8; blocking &amp; R-11 insulation included</td>
<td>6,712.00</td>
<td>6,712.00</td>
</tr>
<tr>
<td>5/8&quot; Drywall: finishing and sanding. Drywall ceilings and soffits included</td>
<td>28,142.00</td>
<td>28,142.00</td>
</tr>
<tr>
<td>Roof Framing: labor only to install wood trusses at the Assembly and Pavilion</td>
<td>34,000.00</td>
<td>34,000.00</td>
</tr>
<tr>
<td>Building (trusses provided by others)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Acoustical Ceiling: 2x2&quot; USG ceiling panels and grid</td>
<td>4,620.00</td>
<td>4,620.00</td>
</tr>
<tr>
<td>Build a new wood decking following plans.</td>
<td>42,404.00</td>
<td>42,404.00</td>
</tr>
<tr>
<td>Build walkway canopy following plans.</td>
<td>22,450.00</td>
<td>22,450.00</td>
</tr>
</tbody>
</table>

(Note: wood panels, tongue and groove decking, fabric panels for walls and ceiling not included)

The subcontractor confirmed that these numbers were incorrectly typed into this quote sent on bid day.

NOTE: GC to provide dumpster, equipment and any general conditions. This quote is valid for 45 days

**Total** $205,248.00