CITY COUNCIL

A. Roll Call

B. Invocation – Councilmember Brady

C. Pledge of Allegiance

D. Presentations and Recognitions
   1. Holocaust Remembrance Proclamation
   2. Proclamation recognizing American Red Cross Month

E. Public Hearings

F. Act on Public Hearing Matters

G. Approval of City Council Minutes:
   1. February 23, 2021

H. Citizens Participation Period

Please use one of the following methods to request to speak at the meeting or provide comments for City Council. If requesting to speak, you must join by telephone using the conference call number listed at the top of the agenda. Requests to speak at the meeting and comments must be received by 12:00 p.m., Tuesday, March 9th:

1. Request to speak or leave a comment via voice mail at 843-579-6313. If requesting to speak, please provide your name and telephone number;

2. Sign-up to speak or leave comments for City Council by completing the form at http://innovate.charleston-sc.gov/comments/ by Tuesday, March 9th at 12:00 p.m.

3. Mail comments to: Clerk of Council, 80 Broad Street, Charleston, SC 29401

I. Petitions and Communications:
   1. Report from the Resiliency and Sustainability Advisory Committee – Katie McKain, Director of Sustainability
2. Update on the City’s response to COVID-19 - Mayor John J. Tecklenburg, Shannon Scaff, Emergency Management Director, and Tracy McKee, Chief Innovation Officer

3. Executive Order Continuing the Declaration of State of Emergency in response to COVID-19 Virus Outbreak

4. Emergency ordinance amending Emergency Ordinance 2020 -134 by deleting language in Section 6 related to restrictions on sale or consumption of alcohol and in Section 7 related to restrictions on playing amplified music in restaurants and bars (AS AMENDED)

5. Emergency Ordinance extending certain emergency ordinances related to COVID-19

J. Council Communications:

K. Council Committee Reports:

1. Committee on Community Development: (Meeting was held Thursday, February 25, 2021 at 4:00 p.m.)

   a. Presentation from NHE, Lowline Affordable Housing Development, Lowline, LP (Information Only)

   b. An ordinance to amend Part 15 (Workforce Housing Districts and Opportunity Zones) of Article 2 (Land Use Regulations) of Chapter 54 of the Code of the City of Charleston, South Carolina (Zoning Ordinance), to provide for an increased fee in lieu of developing required Workforce Housing units onsite.

   c. An ordinance to amend Article 2 (Land Use Regulations) of Chapter 54 of the Code of the City of Charleston (Zoning Ordinance) by adding thereto a new Part 19 (Conservation Development) and by adding relevant definitions to sec. 54-120 of the Zoning Ordinance.

Give first reading to the following bills from Community Development:

An ordinance to amend Part 15 (Workforce Housing Districts and Opportunity Zones) of Article 2 (Land Use Regulations) of Chapter 54 of the Code of the City of Charleston, South Carolina (Zoning Ordinance), to provide for an increased fee in lieu of developing required Workforce Housing units onsite.

An ordinance to amend Article 2 (Land Use Regulations) of Chapter 54 of the Code of the City of Charleston (Zoning Ordinance) by adding thereto a new Part 19 (Conservation Development) and by adding relevant definitions to Sec. 54-120 of the Zoning Ordinance.

2. Committee on Traffic and Transportation: (Meeting was held Monday, March 8, 2021 at 2:30 p.m.)

   a. An ordinance authorizing the Mayor to execute, on behalf of the City of Charleston, a Memorandum of Agreement with Palmetto Railways; the South Carolina Department of Commerce; and the South Carolina State Ports Authority regarding
the Navy Base Intermodal Facility (NBIF) project in Charleston County, South Carolina, under which the City will accept $11.5 million for (1) the City’s conveyance of certain real property, being a portion of Charleston County TMS No. 464-02-00-051, commonly known as the W.R. Grace Site, through separate Purchase Agreement; and (2) mitigation of existing and future impacts related to the construction and operation of the NBIF, including but not limited to freight rail movement in the vicinity of the southern access component of the NBIF.

3. Committee on Public Works and Utilities: (Meeting was held Monday, March 8, 2021 at 4:00 p.m.)

   a. Stormwater Management Department Updates:

      (i) Spring/Fishburne US17 Drainage Improvement Project Phase 4 – Approval of Change Order #6 to the Construction Contract with Conti Enterprises, Inc., for $427,168.75 with the funds coming from the contract’s Owner’s Contingency Cash Allowance (OCCA) resulting in a $0.00 change order and no impact on the project budget as a whole. Change Order #6 is for a claim resolution for soils disposal costs and a $100,000.00 credit for a reduction in outfall H-pile length. Approval of Change order #6 will obligate $0.00 of the project budget. Costs for the Change Order ($427,168.75) will come out of the contract OCCA of $2,000,000.00 (balance of OCCA for the project is $1,395,590.21).

      (ii) Small Projects Allocation - Discussion of Project Options

      (iii) Project Updates

   b. Approval of the USACE Letter of Interest regarding Feasibility Study for Flooding in the City of Charleston

4. Committee on Public Safety: (Meeting was held Tuesday, March 9, 2021 at 2:00 p.m.)

   a. Approval to submit the Letter of Intent to participate in the 30x30 pledge to increase the recruitment, retention and promotion of women in policing

   b. Approve the Law Enforcement Assistance Support Agreement with York County Sheriff’s Office *(Information Only)*

   c. Approve the MOU with ATF for CPD’s participation in National Ballistics Information Network

   d. Update on Fire Station #11

5. Committee on Ways and Means:

   (Bids and Purchases)
(Budget Finance Revenue Collections: Approval of the 2021 Master Lease Purchase Financing Agreement with TD Equipment Finance, in the amount of $6,040,470, 40 Calhoun Street, Charleston, SC. Solicitation Number 21-B001C (Ordinance).

(Budget Finance Revenue Collections: Approval with Safety National for Worker's Compensation Excess Insurance in the amount of $409,142. This renews the City's workers compensation excess insurance policy. The term of the policy is April 1, 2021 to April 1, 2022.

(Mayor's Office for Children, Youth, and Families: Approval to accept the renewal grant for VISTA, which will allow us to provide up to 25 VISTA member slots to Charleston non-profits, and to receive 2 VISTA Leaders to serve in MOCYF. There is no match required for the City-per the terms of the grant, we provide the cost share funding amount through Site Fees received from participating organizations. This is an after-the-fact approval.

(Parks-Capital Projects: Approval to increase CPD Forensic Services Building P161654 with PMC Commercial Interiors in the amount of $4,269 to furnish certain materials and necessary labor to complete the user requested reconfiguration of the Crime Scene workstations. Approval to increase P161654 will increase the PO amount by $4,269 (from $182,630.60 to $186,899.60) of the $12,392,186 project budget. Funding sources for this project are: 2015 IPRB ($7,392,186) and 2017 IPRB ($5,000,000).

(Stormwater Management: Approval of Spring/Fishburne Drainage Improvement Project Phase 4 Wetwell and Outfall- Change Order #6 to the Construction Contract with Conti Enterprises, Inc., for a resolution to a claim that Conti submitted for soil disposals resulting in a net cost of $427,168.75, which will result in a $0.00 change order using the Owner's Cash Contingency Allowance. This change order also includes a $100,000 credit for a reduction in outfall H-pile length. Approval of Change Order #6 will obligate $0.00 of the project budget. Costs for the Change Order ($427,168.75) will come from the approved OCCA of $2,000,000 (balance of OCCA for the project is $1,395,590.21).

(Police Department: Approval of Law Enforcement Assistance and Support Agreement with the York County Sheriff's Office.

(Fire Department: Approval to submit the 2020 Fire Prevention and Safety Grant after the fact in the amount of $76,303 for smoke alarms, a fire extinguisher, training property, and creating a fire prevention vehicle. There is a 5% match ($3,633.48) in the FY2021-22 budget that fire will absorb in the budget. This is an after-the-fact approval.

(Public Service: Approval to submit an EPA 2021 Diesel Emission Reduction grant application in the amount of $617,195.41 for two electric rear load garbage trucks with 12-year extended warranty and one 120KW charging station. City Match in the amount of $754,350.27 will be budgeted in 2022.

(Resiliency and Sustainability: Approval of USACE Letter of Interest regarding Feasibility Study for Flooding in the City of Charleston. (Also to be considered by the Committee on Public Works and Utilities.)

(Approval of a three-year lease with MUSC with two one-year options to renew. The property will be used as a parking lot. The property is owned by the City of Charleston. [Southeast corner of Fishburne Street and Hagood Avenue and known as the 1,143 parking spaces Fishburne Ballpark Parking Lot; TMS: 4600000008 and 4600000022]. This proposed lease is being re-submitted after its February 9, 2021 initial approval by the City Council. After ongoing review at several levels, the SC Department of Administration subsequently amended the proposed Lease by deleting original Paragraph 8.1.(g), submitting that the omitted language is inconsistent with other articles. The SCDOA also amended the proposed lease by adding Paragraphs 11.2 through 11.5 to provide an actual process for handling, continuing, or termination of the lease in the cases of damage/destruction or condemnation of the property. (Ordinance)
(Approval of an ordinance authorizing the Mayor to execute, on behalf of the City of Charleston, a Memorandum of Agreement with Palmetto Railways; the South Carolina Department of Commerce; and the South Carolina State Ports Authority regarding the Navy Base Intermodal Facility (NBIF) project in Charleston County, South Carolina, under which the City will accept $11.5 million for (1) the City’s conveyance of certain real property, being a portion of Charleston County TMS No. 464-02-00-051, commonly known as the W.R. Grace Site, through separate Purchase Agreement; and (2) mitigation of existing and future impacts related to the construction and operation of the NBIF, including but not limited to freight rail movement in the vicinity of the southern access component of the NBIF.

(An ordinance authorizing the Mayor to execute a Third Amendment to the Memorandum of Understanding between the City of Charleston and the Episcopal Diocese of South Carolina Community Housing Development Organization (“EDCHDO”), a copy of which is attached hereto as Exhibit 1, under which (a) EDCHDO will convey back to the City certain real property located at 83 Hanover Street (TMS No. 459-05-04-124); (b) the City will execute a Quitclaim Deed and release of possibility of reverter as to all properties previously conveyed to EDCHDO and sold as affordable housing; and (c) the City will authorize EDCHDO to utilize any remaining funds provided by the City to EDCHDO to develop and sell affordable housing units on EDCHDO’s properties designated as Charleston County TMS No. 4600801215 (24 Humphrey Court) and 4600801216 (28 Humphrey Court).

( - Update on Crown Castle applications and recent Order
  - Request authorization for Mayor to execute Limited Pole Agreement, in a form approved by legal staff, between City of Charleston and Crown Castle (216 Ashley Avenue, 80 Ashley Avenue, and 147 Broad Street).

(Request for Mayor to approve a Memorandum of Understanding between Fetter Health Care Network, Inc., and the City of Charleston to establish a temporary COVID-19 Vaccination Site for the community vaccination administration (265 Fishburne Street).

(To be sent under separate cover by the Legal Department)

(Consider the following annexations:
  - 2138 Golfview Drive (0.22 acre) (TMS No. 343-06-00-013), James Island, Charleston County (District 11). The property is owned by Greg White.
  - 114 Magnolia Road (0.20 acre) (TMS No. 418-13-00-166), West Ashley, Charleston County (District 3). The property is owned by Matt Prendergast.

Give first reading to the following bills from Ways and Means:

An ordinance to authorize the execution and delivery of Lease Purchase Agreements with TD Equipment Finance, Inc. in order to provide for the acquisition of various vehicles and associated collateral, various maintenance equipment and associated collateral, information technology equipment to include computer, laptop and tablet replacement, and mobile data terminals for police; to provide the terms and conditions of such Lease Purchase Agreements; to provide for the granting of a security interest to secure all obligations of Lessee under the Lease Purchase Agreements; to authorize the execution and delivery of all documents, including one or more Escrow Agreements, necessary or appropriate to the consummation of such lease purchase agreements; and to provide for other matters related thereto.

An ordinance amending Ordinance No. 2021-020, adopted by City Council on February 23, 2021, and authorizing the Mayor to execute, on behalf of the City of Charleston (“City”) that certain Governmental Real Estate Lease to Medical University of South Carolina (“Tenant”),
for 1,143 parking spaces and a covered bus shelter located at the southwest corner of Fishburne Street and Hagood Avenue, known as the Fishburne Ballpark Parking Lot.

An ordinance authorizing the Mayor to execute, on behalf of the City of Charleston, a Memorandum of Agreement with Palmetto Railways; the South Carolina Department of Commerce; and the South Carolina State Ports Authority regarding the Navy Base Intermodal Facility (NBIF) project in Charleston County, South Carolina, under which the City will accept $11.5 million for (1) the City’s conveyance of certain real property, being a portion of Charleston County TMS No. 464-02-00-051, commonly known as the W.R. Grace Site, through separate Purchase Agreement; and (2) mitigation of existing and future impacts related to the construction and operation of the NBIF, including but not limited to freight rail movement in the vicinity of the southern access component of the NBIF.

An ordinance authorizing the Mayor to execute a Third Amendment to the Memorandum of Understanding between the City of Charleston and the Episcopal Diocese of South Carolina Community Housing Development Organization (“EDCHDO”), a copy of which is attached hereto as Exhibit 1, under which (a) EDCHDO will convey back to the City certain real property located at 83 Hanover Street (TMS No. 459-05-04-124); (b) the City will execute a Quitclaim Deed and release of possibility of reverter as to all properties previously conveyed to EDCHDO and sold as affordable housing; and (c) the City will authorize EDCHDO to utilize any remaining funds provided by the City to EDCHDO to develop and sell affordable housing units on EDCHDO’s properties designated as Charleston County TMS No. 4600801215 (24 Humphrey Court) and 4600801216 (28 Humphrey Court).

An ordinance to provide for the annexation of property known as 2138 Golfview Drive (0.22 acre) (TMS# 343-06-00-013), James Island, Charleston County, to the City of Charleston, shown within the area annexed upon a map attached hereto and make it part of District 11. The property is owned by Greg White.

An ordinance to provide for the annexation of property known as 114 Magnolia Road (0.20 acre) (TMS# 418-13-00-166), West Ashley, Charleston County, to the City of Charleston, shown within the area annexed upon a map attached hereto and make it part of District 3. The property is owned by Matt Prendergast.

L. Bills up for Second Reading:

(City Council may give second reading, order to third reading, give third reading, and order engrossed for ratification any bill listed on the agenda as a second reading.)

1. An ordinance to amend the Zoning Ordinance of the City of Charleston by changing the Zone Map, which is a part thereof, so that a portion of Lot 1A Theresa Dr (James Island) (approximately 0.40 acre) (TMS# 424-10-00-081) (Council District 6), be rezoned from Single- and Two-Family Residential (STR) classification to Diverse Residential (DR-1) classification. The property is owned by Theresa Drive Development, LLC.

2. An ordinance to amend the Zoning Ordinance of the City of Charleston by changing the Zone Map, which is a part thereof, so that 1508 Evergreen St (West Ashley) (approximately 0.21 acre) (TMS# 350-07-00-054) (Council District 7), be rezoned from Single-Family Residential (SR-2) classification to Diverse Residential (DR-1F) classification. The property is owned by Justin Westbrook.
3. An ordinance to amend the Zoning Ordinance of the City of Charleston by changing the Zone Map, which is a part thereof, so that a portion of 214 & 216 Spring St (Peninsula) (approximately 0.33 acre) (TMS #460-11-01-017) (Council District 3), be rezoned from 5 Story Old City Height District classification to 6 Story Old City Height District classification. The property is owned by 214-216 Spring St Development, LLC.

4. An ordinance to amend the Zoning Ordinance of the City of Charleston by changing the Zone Map, which is a part thereof, so that a portion of 214 & 216 Spring St (Peninsula) (approximately 0.025 acre) (TMS #460-11-01-017) (Council District 3), be rezoned from 2.5 Story Old City Height District Classification to 3 Story Old City Height District classification. The property is owned by 214-216 Spring St Development, LLC.

5. An ordinance to amend the Zoning Ordinance of the City of Charleston by changing the Zone Map, which is a part thereof, so that 1946 Boeing Avenue (West Ashley) (approximately 0.25 acre) (TMS #350-13-00-028) (Council District 3), annexed into the City of Charleston January 26, 2021 (#2021-009), be zoned Single-Family Residential (SR-1) classification. The property is owned by James Fitzgerald and Amanda L Rhoden.

6. An ordinance authorizing the Mayor to execute on behalf of the City an Electrical Easement, approved as to form by the Office of Corporation Counsel, to Dominion Energy South Carolina, Inc., encumbering a portion of the City’s real property designated as Charleston County TMS No. 460-00-00-007, within the right of way shown on drawing C-83916, to permit installation of transformer, related undergrounding and maintenance upon such property.

7. An ordinance to amend Division 1 of Article II (City Council) of Chapter 2 (Administration) of the Code of the City of Charleston by adding a new Sec. 2-29 (Code of Conduct), applicable to members of City Council. (AS AMENDED) (To be sent under separate cover by the Legal Department)

8. An ordinance authorizing the Mayor to execute on behalf of the City a Quit Claim Deed and any other necessary documents, approved as to form by the Office of Corporation Counsel, to Quit Claim a portion of Floyd Drive, as shown on the attached survey to the record owner(s) of Charleston County TMS # 301-00-00-795, subject to any and all easements and utilities and further subject to the conditions set forth herein. (DEFERRED FOR PUBLIC HEARING)

9. An ordinance to provide for the annexation of property known as 3486 Maybank Highway (9.62 acre) (TMS# 279-00-00-055), Johns Island, Charleston County, to the City of Charleston, shown within the area annexed upon a map attached hereto and make it part of District 5. The property is owned by St. Johns Center, LLC. (DEFERRED AT THE REQUEST OF THE APPLICANT)

10. An ordinance to amend Sec. 2-23(b) of the Code of the City of Charleston to provide for keeping summary minutes and video recordings of its proceedings. (DEFERRED)

11. An ordinance to provide for the annexation of property known as 3338 Maybank Highway (approx. 1.1 acre) (TMS# 279-00-00-035), Johns Island, Charleston County, to the City of Charleston, shown within the area annexed upon a map attached hereto and make it part of District 5. The property is owned by Consultants, LLC. (DEFERRED AT THE REQUEST OF THE APPLICANT)
12. An ordinance to provide for the annexation of property known as 3328 Maybank Highway (approx. 4.588 acre) (TMS# 279-00-00-031), Johns Island, Charleston County, to the City of Charleston, shown within the area annexed upon a map attached hereto and make it part of District 5. The property is owned by Kulick Properties, LLC. (DEFERRED AT THE REQUEST OF THE APPLICANT)

13. An ordinance to provide for the annexation of property known as 3320 Maybank Highway (approx. 2.278 acre) (TMS# 279-00-00-029), Johns Island, Charleston County, to the City of Charleston, shown within the area annexed upon a map attached hereto and make it part of District 5. The property is owned by 1108 St Gregory St, LLC. (DEFERRED AT THE REQUEST OF THE APPLICANT)

14. An ordinance to amend the Zoning Ordinance of the City of Charleston by changing the Zone Map, which is a part thereof, so that Ashley River Road (West Ashley) (1.53 acres) (TMS #354-12-00-004) (Council District 2), be rezoned from Single-Family Residential (SR-1) classification to Limited Business (LB) classification. The property is owned by Laura M. Smith. (DEFERRED) (Expires March 24, 2021)

15. An ordinance to amend Chapter 29, Article V1, Sec. 29-240 of the Code of the City of Charleston pertaining to the procedure of accident reporting. (DEFERRED)

16. An ordinance to amend Article III (Stormwater Management Utility) of Chapter 27 (Stormwater Management and Flood Control) of the Code of the City of Charleston, South Carolina, by eliminating the “Homestead Exemption” in Sec. 27-140(a), applicable to the payment of Stormwater Utility Fees; by deleting Sec. 27-132(j), (k), and (l), which contain certain findings associated with the adoption of the “Homestead Exemption” with respect to Stormwater Utility Fees; and to provide that the elimination of the “Homestead Exemption” in Sec. 27-140(a) shall not apply until January 1, 2020. (DEFERRED FOR PUBLIC HEARING)

M. Bills up for First Reading:

N. Miscellaneous Business:

1. The next regular meeting of City Council will be Tuesday, March 23, 2021 at 5:00 p.m.

In accordance with the Americans with Disabilities Act, people who need alternative formats, ASL (American Sign Language) Interpretation or other accommodation please contact Janet Schumacher at (843) 577-1389 or email to schumacherj@charleston-sc.gov three business days prior to the meeting.
City of Charleston

JOHN J. TECKLENBURG
MAYOR

PROCLAMATION

WHEREAS; the Holocaust was the state sponsored systematic, persecution and annihilation of European Jewry by Nazi Germany and its collaborators between 1933 and 1945; and

WHEREAS; we remember with sadness the 11 million people, including six million Jews, who were victims of Hitler's 'final solution' along with those who were persecuted for their religious and political beliefs, sexual orientation, and physical disabilities; and

WHEREAS; we remember with admiration the resisters and rescuers known and unknown who risked and lost their lives to save others; and

WHEREAS; we remember with respect the Survivors who escaped, were sheltered, or who were freed and who lived to contribute so much to our communities and our world; and

WHEREAS; the history of the Holocaust offers an opportunity to reflect on the moral responsibilities of individuals, societies, and governments; and

WHEREAS; we have an obligation to ensure that the memory and legacy of lives lost or forever changed in this horrific event are never forgotten; and

WHEREAS; we remember and honor those who liberated the World War II concentration camps 76 years ago; and

WHEREAS; I encourage all citizens to remember the victims of the Holocaust and to firmly commit themselves to promote human dignity by confronting intolerance and hate whenever and wherever it occurs. I invite all citizens of our community to join in the Yom HaShoah Holocaust Remembrance Program virtual event commemorating the Holocaust.

NOW, THEREFORE, I, John J. Tecklenburg, Mayor of the City of Charleston, on behalf of City Council, do hereby proclaim the week of April 4th – April 11th 2021 to be:

WEEK OF REMEMBRANCE IN MEMORY OF THE VICTIMS, SURVIVORS, RESCUERS, AND LIBERATORS OF THE HOLOCAUST

IN WITNESS WHEREOF, I do hereby set my hand and cause the seal of Charleston to be affixed, this 9th day of March in the year of 2021.

John J. Tecklenburg, Mayor

P.O. Box 652, Charleston, South Carolina 29402
843-577-4727 TecklenburgJ@Charleston-SC.gov
City of Charleston

JOHN J. TECKLENBURG
MAYOR

PROCLAMATION

WHEREAS; March is American Red Cross Month, a well-deserved time to honor the kindness of those working every day to provide critical aid to families in need throughout the Lowcountry, across the United States and around the world. The dedication of Red Cross staff and volunteers touches millions of lives each year as they continue working to carry out the organization’s 140-year mission of preventing and alleviating suffering; and

WHEREAS; during the trying times of the coronavirus pandemic, the Red Cross stepped up to help those in need, responding to 2020’s record-breaking disasters and rolling up their sleeves when our country faced a severe blood shortage, all while providing comfort and hope; and

WHEREAS; last year, more than 220 volunteers deployed to local disasters, and responded both in-person and virtually to national disasters like hurricanes and wildfires. Volunteers also helped more than 1,200 people affected by more than 300 home fires throughout the Lowcountry by addressing urgent needs like food, lodging and recovery support; and

WHEREAS; throughout the Lowcountry last year, the Red Cross provided nearly 1,500 case services to U.S. service members, veterans and their families, collected more than 29,000 units of lifesaving blood, and trained more than 7,000 people in lifesaving skills like First Aid and CPR; and

WHEREAS; now, nearly 200 years since the birth of American Red Cross founder Clara Barton, we are humbled to dedicate the month of March to all those who continue to advance her noble legacy, and work to strengthen the resilience of communities like ours around the world.

NOW, THEREFORE, I, John J. Tecklenburg, Mayor of the City of Charleston, do hereby proclaim March 2021 as:

AMERICAN RED CROSS MONTH

IN WITNESS WHEREOF, I do hereby set my hand and cause the seal of Charleston to be affixed, this 9th day of March in the year of 2021.

John J. Tecklenburg, Mayor
EXECUTIVE ORDER
CONTINUING THE DECLARATION OF STATE OF EMERGENCY
IN RESPONSE TO THE COVID-19 VIRUS OUTBREAK

WHEREAS, in December 2019, an outbreak respiratory illness due to a novel coronavirus (COVID-19), was first identified in Wuhan City, Hubei Province, China, and has spread outside of China, across the world, including the United States; and,

WHEREAS, it is well recognized that COVID-19 presents a public health concern that requires extraordinary protective measures and vigilance; and,

WHEREAS, on January 23, 2020, the Center for Disease Control ("CDC") activated its Emergency Response System to provide ongoing support for the response to COVID-19; and,

WHEREAS, on March 13, 2020, President Donald Trump declared a national emergency to assist with combating the coronavirus; and,

WHEREAS, on March 13, 2020, Governor Henry McMaster (the "Governor") declared a state of emergency in South Carolina, Executive Order 2020-10, based on a determination that "COVID-19 poses an actual or imminent public health emergency"; and,

WHEREAS, on March 16, 2020, Mayor John J. Tecklenburg declared a local state of emergency in the City of Charleston; and,

WHEREAS, on March 16, 2020, City Council passed a temporary emergency ordinance (Ordinance No. 2020-038) to prohibit consumer price gouging on all commodities in the City of Charleston with limited exceptions; and,

WHEREAS, on March 16, 2020, City Council passed a temporary emergency ordinance (Ordinance No. 2020-040) suspending the requirements of Section 2-23(f) of the Code of the City of Charleston requiring the physical presence of Councilmembers at City Council meetings and committee meetings to permit participation by video conferencing or other virtual means to slow the spread of COVID-19; and,
WHEREAS, on March 17, 2020, the Governor issued Executive Order 2020-10, ordering and directing that any and all restaurants or other food-service establishments to suspend on-premises or dine-in consumption; and,

WHEREAS, on March 20, 2020, City Council passed a temporary emergency ordinance (Ordinance No. 2020-041) to temporarily suspend the accrual of the City’s business license penalties, to suspend enforcement of the City’s plastic bag ban, and to suspend the City’s chauffer’s license requirements; and,

WHEREAS, on March 21, 2020, the Governor issued Executive Order 2020-13, authorizing and directing law enforcement officers to prohibit or disburse any congregation or gathering of people, unless authorized or in their homes, in groups of three (3) or more people, if any such law enforcement official determines, in his or her discretion, that any such congregation or gathering of people poses, or could pose, a threat to public health; and,

WHEREAS, on March 24, 2020, City Council passed a temporary emergency ordinance, “Stay at Home Ordinance” (Ordinance No. 2020-042) which required individuals to stay in their homes and not travel or congregate in the streets of Charleston except for purposes of working or conducting business with an essential business or engaging in individual outdoor recreational activities; and,

WHEREAS, on March 27, 2020, the Governor issued Executive Order 2020-14, directing that individuals who enter the State of South Carolina from an area with a substantial community spread of COVID-19 be required isolate or self-quarantine; and,

WHEREAS, on March 28, 2020, the Governor issued Executive Order 2020-15, declaring a separate and distinct state of emergency "due to the evolving nature and scope of the public health threat or other risks posed by COVID-19 and the actual, ongoing, and anticipated impacts associated with the same" and extending certain previous Executive Orders for the duration of the state of emergency; and,

WHEREAS, on March 30, 2020, the Governor issued Executive Order 2020-16, closing any and all public beach access points and public piers, docks, wharfs, boat ramps, and boat landings; and,

WHEREAS, on March 31, 2020, the Governor issued Executive Order 2020-17, closing or restricting access to certain non-essential businesses, venues, facilities, services, and activities; and,

WHEREAS, on April 1, 2020, City Council passed a second Stay at Home Ordinance (Ordinance No. 2020-048) which includes provisions contained in Governor McMaster’s Executive Orders regarding dispersing of crowds (2020-13); quarantining of individuals from New York, New Jersey, and Connecticut (2020-14); closing of beaches and boat landings (2020-16); and closing of non-essential businesses (2020-17); and,

WHEREAS, on April 3, 2020, Governor Henry McMaster issued an Executive Order (2020-18) closing additional non-essential businesses; and,
WHEREAS, on April 6, 2020, Governor Henry McMaster, recognizing that public health officials had reported over 2,000 cases of COVID-19 in South Carolina, issued a Work or Home Executive Order (2020-21) which limited individuals from moving outside their homes except to engage in Essential Businesses; Essential Activities, and Critical Infrastructure Operations as defined in the Order; and,

WHEREAS, on April 6, 2020, City Council passed a temporary emergency ordinance (Ordinance No. 2020-042) to provide for temporary procedures for public hearings; and,

WHEREAS, on April 12, 2020, the Governor issued Executive Order 2020-23, recognizing that public health officials had reported over 3,319 confirmed cases of COVID-19 throughout South Carolina, and stating that “the extraordinary circumstances and conditions that necessitated” the Governor’s “prior emergency declarations have not subsided and have, in fact, evolved and expanded to present different and additional risks and dangers,” and explaining that the State “has transitioned from the investigation, reporting, and initiation phases of the COVID-19 pandemic to the acceleration phase”; and,

WHEREAS, in Executive Order 2020-23, the Governor declared a separate and distinct state of emergency based on a determination “that the accelerated spread of COVID-19 throughout the State poses an actual, ongoing, and evolving public health threat to the State of South Carolina, which now represents a new and distinct emergency and requires additional proactive action by the [State] and the implementation and enforcement of further extraordinary measures to slow the spread of COVID-19, minimize the strain on healthcare providers, and otherwise respond to and mitigate the expanding public health threat imposed by [the] emergency”; and,

WHEREAS, on April 16, 2020, the Governor issued Executive Order 2020-25, determining that “the ongoing, evolving, and accelerating public health threat imposed by COVID-19 requires additional proactive action by the [State] and the implementation, extension, or modification of additional extraordinary measures to cope with the existing or anticipated situation, to include mitigating the significant economic and other impacts and burdens on individuals, families and businesses,” while generally reopening public boat ramps or boat landings, as well as adjacent or associated public parking lots, for the purpose of launching and retrieving boats; and,

WHEREAS, on April 16, 2020, President Donald Trump issued guidelines entitled “Opening Up America Again,” describing criteria that state and local officials should satisfy before proceeding to a phased opening of the economy; and,

WHEREAS, on April 20, 2020, Governor McMaster issued an Executive Order (2020-28), reopening retail businesses previously determined to be non-essential including department stores, furniture stores, luggage stores, flower shops, book, craft and music shops subject to certain emergency rules and restrictions, including but not limited to an emergency maximum occupancy rate, social distancing practices, and compliance with certain sanitation guidelines and further ordered any local ordinance that conflicts with the Order is superseded; and,

WHEREAS, on April 22, 2020, City Council passed a temporary emergency ordinance (Ordinance No. 2020-052) to decrease the potential likelihood of exposure to COVID-19 in retail establishments opened by Governor McMaster’s Executive Order 2020-28; and,
WHEREAS, on April 27, 2020, Governor McMaster issued an Executive Order (2020-29) declaring a fourth (4th) State of Emergency in order to prepare for and respond to the ongoing and evolving public health threat posed by the COVID-19 pandemic, to mitigate the significant impacts associated with the same, and to extend certain Executive Orders related to the pandemic; and,

WHEREAS, on April 30, 2020, City Council passed a temporary emergency ordinance (Ordinance No. 2020-56) to amend Chapter 54 of the Code of the City of Charleston (Zoning Ordinance) by amending the Design Review District Section 54-268.C to allow affordable housing developments to be approved by the Administrative Officer; and,

WHEREAS, on May 1, 2020, by Executive Order No. 2020-30, the Governor rescinded Executive Order Nos. 2020-14 and 2020-19 which had imposed mandatory self-quarantine and lodging and travel restrictions for individuals entering South Carolina from high-risk areas; and,

WHEREAS, on May 3, 2020, Governor McMaster issued an Executive Order (2020-31) modifying his home or work order to urge any and all residents and visitors of the State of South Carolina to limit social interaction, practice “social distancing” in accordance with CDC guidance, and take every possible precaution to avoid potential exposure to, and to slow the spread of, COVID-19, and further encourage residents and visitors of the State of South Carolina to limit their movements outside of their home, place of residence, or current place of abode; and to authorize restaurants to provide outdoor customer dining services in addition to previously authorized services for off-premises consumption; and,

WHEREAS, as of May 8, 2020, the total number of persons infected with COVID-19 in South Carolina was 7,367, with 320 deaths; including 481 cases in Charleston County with 9 deaths and 191 cases in Berkeley County with 14 deaths; and,

WHEREAS, on May 8, 2020, Governor McMaster issued an Executive Order (2020-34) which modified prior orders to authorize restaurants to provide services for limited indoor, on-premises customer dining, effective May 11, 2020, in addition to previously authorized services for off-premises consumption and outdoor customer dining; and,

WHEREAS, on May 12, 2020, Governor McMaster issued an Executive Order (2020-35) declaring an additional fifth (5th) State of Emergency in order to prepare for and respond to the ongoing and evolving public health threat posed by the COVID-19 pandemic, to mitigate the significant impacts associated with the same, and to extend certain Executive Orders related to the pandemic; and,

WHEREAS, on May 12, 2020, Mayor John J. Tecklenburg issued a declaration continuing the local state of emergency in the City of Charleston until May 31, 2020; and,

WHEREAS, on May 12, 2020, City Council passed three temporary emergency ordinances that extended certain temporary emergency ordinances and repealed certain temporary emergency ordinances (Ordinance No. 2020-059); authorized outdoor dining on new and additional areas (Ordinance No. 2020-060); and urged citizens and tourists to stay at home (Ordinance No. 2020-061); and,
WHEREAS, on May 15, 2020, Governor McMaster issued an Executive Order (2020-36) authorizing certain businesses, venues, facilities, services, and activities, including fitness centers, barber shops, and hair salons, previously deemed “non-essential” and previously directed to close, to re-open for access and use by the public, effective May 18, 2020; and,

WHEREAS, on May 21, 2020, Governor McMaster issued an Executive Order (2020-37) allowing additional businesses, venues, facilities, services, and activities, including tourist attractions, indoor children’s play areas, and recreational and athletic facilities and activities, previously deemed “non-essential” and previously directed to close, to re-open for access and use by the public, effective May 22, 2020; and,

WHEREAS, on May 27, Governor McMaster issued an Executive Order (2020-38) declaring an additional sixth (6th) State of Emergency, extending the State of Emergency to control the spread of COVID-19 and lessen its impacts on portions of the State’s population; and,

WHEREAS, on May 28, 2020, Mayor Tecklenburg issued a declaration continuing the local state of emergency in the City of Charleston until June 30, 2020; and,

WHEREAS, on May 28, 2020, City Council passed an emergency ordinance extending certain emergency ordinances until June 30, 2020 (Ordinance No. 2020-068); and also amending the emergency ordinance on decreasing the risk of exposure to COVID-19 in retail businesses (Ordinance No. 2020-069) and replacing the stay at home ordinance with a new stay at home ordinance (Ordinance No. 2020-070); and,

WHEREAS, on June 11, 2020, Governor McMaster issued an Executive Order (2020-40) declaring an additional seventh (7th) state of emergency, extending the State of Emergency to authorize the continued use of extraordinary measure to meet the threat of COVID-19 and “the evolving nature and scope of this public health emergency….”; and further modifying prior orders relating to organized events or public gatherings on state or local government property and to retail stores required to follow certain emergency rules and restrictions; and further permitting previously deemed “non-essential” businesses operating as bowling alleys to re-open for access and use by the public; and,

WHEREAS, since the first state of emergency declared in our City on March 16, 2020, our citizens have made many sacrifices in their daily lives and it appears those efforts may have helped to flatten the curve in our city; and further, the emergency ordinances adopted by City Council in response to COVID-19 are aggressive steps that have significantly enhanced our efforts to mitigate the threat of exposure to COVID-19; and,

WHEREAS, despite these actions, new cases and deaths due to COVID-19 are continuing to occur in South Carolina, and medical and scientific information predicts that this public health crisis is expected to continue for some time; and,

WHEREAS, as of June 17, 2020, the total number of cases infected with COVID-19 in South Carolina is 19,990 with 607 deaths, including 1,230 cases in Charleston County with 16 deaths and 427 cases in Berkeley County with 19 deaths; and,
WHEREAS, on June 17, 2020, Governor McMaster issued an Executive Order (2020-40) declaring an additional seventh (7th) state of emergency; and,

WHEREAS, on June 25, 2020, Mayor Tecklenburg issued a declaration continuing the local state of emergency in the City of Charleston until July 15, 2020; and,

WHEREAS, on June 25, 2020, City Council passed an emergency ordinance (Ordinance No. 2020-083), temporarily suspending the accrual of the City’s business license late fees; an emergency ordinance (Ordinance No. 2020-084), requiring persons to wear face coverings in certain circumstances in the city of Charleston to reduce the risk of exposure to COVID-19 during the public health emergency and recovery; and an emergency ordinance (Ordinance No. 2020-082) extending certain emergency ordinances related to COVID-19, all of which will expire July 15, 2020; and,

WHEREAS, on June 26, 2020, Governor McMaster issued an Executive Order (2020-42) declaring a new state of emergency, which was the eighth (8th) state of emergency in our state; and,

WHEREAS, the number of cases of persons infected with COVID-19 in South Carolina continues to climb at a dramatic rate; the number of cases in South Carolina as of July 7, 2020 is 47,352 with 846 deaths, including 6,073 cases in Charleston County with 41 deaths and 1,703 cases in Berkeley County with 24 deaths; and,

WHEREAS, on July 11, 2020, the Governor issued Executive Order (2020-44) declaring the ninth (9th) state of emergency in South Carolina; and,

WHEREAS, on July 14, 2020, Mayor Tecklenburg issued a declaration continuing the local state of emergency in the City of Charleston until July 31, 2020 based on the continuing threat to our community from the risk of exposure to COVID-19; and,

WHEREAS, acting in response to the continuing threat to public health and safety from COVID-19, City Council passed an emergency ordinance (Ordinance No. 2020-085) extending certain ordinances related to COVID-19 to July 31, 2020, and further amending the previously passed emergency ordinance on face coverings by clarifying the scope of the face covering requirements, limiting indoor occupancy for bars and restaurants, and prohibiting amplified music in bars and restaurants after 9:00 p.m. (Ordinance No. 2020-086); and,

WHEREAS, as of July 21, 2020, the number of cases of persons infected with COVID-19 in South Carolina continues to climb at a staggering rate; with 73,337 cases reported in the state with 1,221 deaths, including 9,785 cases in Charleston County with 103 deaths and 3,092 cases in Berkeley County with 37 deaths; and,

WHEREAS, on July 28, 2020, Mayor Tecklenburg issued a declaration continuing the local state of emergency in the City of Charleston until August 20, 2020 based on the continuing threat to our community from the risk of exposure to COVID-19; and,
WHEREAS, on August 10, 2020, the Governor issued Executive Order (2020-53) declaring the eleventh (11th) state of emergency in South Carolina; and,

WHEREAS, as of August 11, 2020, DHEC identified at least 101,000 confirmed cases of COVID-19 in South Carolina, including 2,049 deaths due to COVID-19; this includes 12,377 confirmed cases in Charleston County with 196 deaths and 4,186 confirmed cases in Berkeley County with 67 deaths; and,

WHEREAS, as of August 18, 2020, Mayor Tecklenburg issued a declaration continuing the local state of emergency in the City of Charleston until September 25, 2020 based on the continuing threat of COVID-19 to the community and City Council took steps to continue various emergency ordinances in response to COVID-19 (Ordinance No. 2020-099 and 2020-100); and,

WHEREAS, on August 25, 2020 and September 9, 2020, the Governor issued Executive Orders 2020-56 and 2020-59, respectively, declaring the 12th and 13th state of emergency in South Carolina; and,

WHEREAS, as of September 14, 2020, DHEC identified at least 132,680 confirmed cases of COVID-19 in South Carolina, including 3,077 deaths; this includes 15,167 confirmed cases in Charleston County with 253 deaths and 5,203 confirmed cases in Berkeley County with 87 deaths; and,

WHEREAS, as of November 15, 2020, DHEC reported that there were at least 184,360 confirmed cases of COVID-19 in South Carolina, including 3,846 deaths and the positivity rate is 15.4% of individual test results; this includes 18,571 confirmed cases in Charleston County with 288 deaths and 6,693 confirmed cases in Berkeley County with 98 deaths; and,

WHEREAS, as of January 2, 2021, DHEC reported that there were at least 325,472 confirmed and probable cases of COVID-19 in South Carolina, including 5,484 deaths and the positivity rate is 15.9% of individual test results; this includes 25,041 confirmed and probable cases in Charleston County with 323 deaths and 9,533 confirmed and probable cases in Berkeley County with 113 deaths; and,

WHEREAS, as of March 1, 2021, DHEC reported there are at least 517,976 confirmed and probable cases of COVID-19 in South Carolina, including 8,562 deaths and the positivity rate is decreasing, with 4.1% of individual test results; this includes 38,212 confirmed and probable cases in Charleston County with 452 deaths and 14,986 confirmed and probable cases in Berkeley County with 168 deaths; and,

WHEREAS, the spread of the virus is decreasing across the country and vulnerable persons are being vaccinated, until the threats posed by COVID-19 to persons, to businesses, and to the public health, safety and welfare of this city are neutralized, emergency conditions exist which
require our taking steps to continue to minimize the risk of exposure in public, limit the spread of infection in the community, and limit the burdens on the health care delivery system; and,

WHEREAS, the City is authorized to undertake and coordinate all necessary and reasonable activities for this emergency response, to take all appropriate actions required to alleviate the effects of the coronavirus disaster emergency, including action following the guidelines of the CDC and the DHEC, to and in the aid of essential public services, and to take any other lawful emergency response or action deemed necessary to protect the public health, safety, and welfare of the City of Charleston; and,

WHEREAS, City Council continues to take steps to address the continuing threat to our community from the risk of exposure to COVID-19 by ratifying various emergency ordinances.

NOW, THEREFORE, I John J. Tecklenburg, Mayor and Chief Executive Officer of the City of Charleston, South Carolina in consultation with and the agreement of the City Council of Charleston, in furtherance of the public health, safety and welfare and based on evolving medical and scientific information do hereby declare effective immediately that the local state of emergency shall continue until May 7, 2021. I further state that I will evaluate the continuing need for this declaration prior to its expiration.

Ratified in City Council this ___ day of ____________,
in the Year ___ of Our Lord,
2021, and in the ___th Year of the Independence
of the United States of America.

By: ____________________________
    John J. Tecklenburg
    Mayor, City of Charleston

ATTEST: ____________________________
        Jennifer Cook
        Clerk of Council
EMERGENCY ORDINANCE
AMENDING EMERGENCY ORDINANCE 2020-134
BY DELETING LANGUAGE IN SECTION 6 RELATED TO
RESTRICTIONS ON SALE OR CONSUMPTION OF ALCOHOL
AND IN SECTION 7 RELATED TO
RESTRICTIONS ON PLAYING AMPLIFIED MUSIC
IN RESTAURANTS AND BARS (AS AMENDED)

Section 1. Chapter 21, Section 111 of the Code of the City of Charleston is hereby amended by deleting the struck through text, which shall read as follows:

"Sec. 21-111. - Disguised persons; Halloween exceptions.

(a) No person over sixteen (16) years of age shall appear on any street, highway, alley, public park or other public place in the city in any disguise which conceals the identity of such person, without the permission of the chief of police."

Section 2. Findings. City Council does hereby make the following findings:

WHEREAS, in December 2019, an outbreak respiratory illness due to a novel coronavirus (COVID-19), was first identified in Wuhan City, Hubei Province, China, and has spread outside of China, across the world, including the United States; and,

WHEREAS, it is well recognized that COVID-19 presents a public health concern that requires extraordinary protective measures and vigilance; and,

WHEREAS, on January 23, 2020, the Center for Disease Control ("CDC") activated its Emergency Response System to provide ongoing support for the response to COVID-19; and,

WHEREAS, on March 13, 2020, President Donald Trump declared a national emergency to assist with combating the coronavirus, and,

WHEREAS, on March 13, 2020, Governor Henry McMaster (the "Governor") declared a state of emergency in South Carolina, Executive Order 2020-10, based on a determination that "COVID-19 poses an actual or imminent public health emergency"; and,
WHEREAS, on March 16, 2020, Mayor John J. Tecklenburg declared a local state of
emergency in the City of Charleston; and,

WHEREAS, the local state of emergency has been extended several times and is was set
to expire on July 15, 2020; and,

WHEREAS, City Council has enacted a number of emergency ordinances in an effort to
decrease the risk of exposure to COVID-19 in our city; and,

WHEREAS, both the State of South Carolina and the City of Charleston remain in a state
of emergency due to the COVID-19 pandemic; and,

WHEREAS, the State and City’s efforts to slow the spread of the virus, by way of limiting
public gatherings and certain retail operations, contributed to the flattening of the curve; however,
maintaining such efforts became unviable; and,

WHEREAS, since returning to more public interaction, the number of COVID-19 cases
in the State and the city have dramatically increased; and,

WHEREAS, as of June 24, 2020, there were 26,572 confirmed cases throughout the
State of South Carolina and 673 deaths, with 2,251 cases in Charleston County, with 20 deaths
and 695 cases in Berkeley County, with 20 deaths; and,

WHEREAS, on June 25, 2020, in response to the dramatic spike in the number of
COVID-19 cases in Charleston and Berkeley Counties, Council approved Emergency Ordinance
2020-84 requiring face coverings in certain circumstances, effective July 1, 2020; and,

WHEREAS, as of July 9, 2020, it was reported that there is no country in the world
where confirmed coronavirus cases are growing as rapidly as they are in South Carolina; and,

WHEREAS, as of July 11, 2020, the number of cases continued to rise at an alarming
pace, to the extent that there were at least 54,538 confirmed cases throughout the State of South
Carolina and 905 deaths, with 7,553 cases in Charleston County, with 58 deaths and 2,205 cases
in Berkeley County, with 25 deaths; and,

WHEREAS, as of January 2, 2021, DHEC reported that there were at least 325,472
confirmed and probable cases of COVID-19 in South Carolina, including 5,484 deaths and
the positivity rate is 15.9% of individual test results; this includes 25,041 confirmed and
probable cases in Charleston County with 323 deaths and 9,533 confirmed and probable
cases in Berkeley County with 113 deaths; and,

WHEREAS, as of March 1, 2021, DHEC reported there are at least 517,976
confirmed and probable cases of COVID-19 in South Carolina, including 8,562 deaths and
the positivity rate is decreasing, with 4.1% of individual test results; this includes 38,212
confirmed and probable cases in Charleston County with 452 deaths and 14,986 confirmed and probable cases in Berkeley County with 168 deaths; and,

WHEREAS, the Centers for Disease Control and Prevention ("CDC") and SC DHEC strongly advise, in addition to social distancing, the use of cloth face coverings to slow the spread of COVID-19; and,

WHEREAS, the medical and scientific evidence around COVID-19 is ever-evolving, and the CDC has stated that COVID-19 spreads mainly in large, in-person gatherings and crowds where it is difficult to be socially distancing, and from person to person through respiratory droplets produced when an infected person coughs, sneezes, talks, or raises their voice while shouting or singing; and,

WHEREAS, playing loud music in establishments requires customers in order to be heard are required to shout over the top of the music which sprays the virus much further than a normal toned conversation; and in addition, loud music draws crowds which makes it difficult for maintaining social distancing; and,

WHEREAS, taking measures to control outbreaks and to lessen the spread of the virus from person to person minimizes the risk to the public, maintains the health and safety of the City’s residents, and limits the spread of infection in our community and within the healthcare delivery system; and,

WHEREAS, in order to protect, preserve, and promote the general health, safety and welfare and the peace and order of the community, the City has and will continue to take steps to try to protect the citizens, employers, and employees of the City from an increased risk of exposure to COVID-19; and,

WHEREAS, Council finds that it is in the best interest of the public peace, health, welfare, and safety, and to help preserve the lives of citizens of the City of Charleston, to require that masks, consisting of at least simple cloth face coverings, be worn by persons when interacting in public in the City of Charleston, and to require restaurants and bars to adhere to certain conditions and restrictions. and to prohibit in bars and restaurants the playing of amplified music after 11 pm to decrease the spread of the virus.

Section 3.  Face Covering or Mask Required in All Public Places.

The use of a face covering or mask is required by every person within the boundaries of the City of Charleston in all public places, including sidewalks, streets, and public rights of ways and as detailed below:

1. All persons entering any building open to the public in the City must wear a face covering while inside the building,

2. All restaurants, retail stores that include but are not limited to salons, barber shops, grocery stores, pharmacies, or other buildings open to the public in the City must
require their employees to wear a face covering at all times while having face-to-face interaction with the public;

3. While interacting with people in outdoor spaces, including, but not limited to, curbside pickup, delivery, and service calls;

4. While providing or utilizing public or commercial transportation, including tours;

5. When walking in public; or

6. When participating in a permitted or allowable gathering.

Section 4. Exceptions to Face Covering or Mask in All Public Places.

While the City is requiring the use of face coverings or masks in public, the following shall be exempt from the provisions of this emergency ordinance:

1. Any person who is unable to safely wear a face covering due to age, an underlying health condition, or is unable to remove the face covering without the assistance of others;

2. Any person traveling in their personal vehicles;

3. When a person is alone or only with other household members in an enclosed space;

4. While participating in a sustained outdoor physical or sports activity, provided the active person maintains a minimum of six (6) feet from other people at all times;

5. While actively smoking, drinking, or eating;

6. Customers seated in a restaurant or at a bar so long as they maintain a minimum of six feet from other persons in the establishment;

7. In an outdoor or unenclosed area appurtenant to retail establishments or foodservice establishments in which social distancing of at least six feet is possible and observed;

8. For people whose religious beliefs prevent them from wearing a face covering;

9. For children under 10 years old, provided that adults accompanying children ages two through 10 shall use reasonable efforts to cause those children to wear face coverings while inside the enclosed area of any retail establishment or foodservice establishment;

10. In private, individual offices;

11. When complying with directions of law enforcement officers;
12. In settings where it is not feasible to wear a face covering, including when obtaining or rendering goods or services such as the receipt of dental services or while swimming; and,

13. Police officers, fire fighters and other first responders when not practical or engaged in a public safety matter of an emergency nature.

**Section 5. Violation and Penalties for Failing to Wear Face Covering or Mask.**

Any person found violating any provision of this Ordinance that requires the wearing of a face covering or mask in all public places, unless he or she is exempt as provided for in Section 4 above, shall be deemed guilty of an infraction and shall be subject to a fine of one hundred dollars ($100.00) for the first offense; two hundred dollars ($200.00) for the second offense; and five hundred dollars ($500.00) for the third offense.

**Section 6. Restrictions and Conditions on Operations of Restaurants and Bars.**

During the duration of this emergency ordinance, in accordance with Governor Henry McMaster’s Executive Order No. **2020-63 2021-11**, restaurants and bars operating in the city of Charleston are not required to limit their occupancy rate but shall adhere to the restrictions and conditions of operations included in Executive Order No. **2020-63 2021-11** and set forth below:

1. Restaurants that elect to provide indoor or outdoor customer dining services for on-premises or dine-in consumption, as authorized herein, shall take reasonable steps to incorporate, implement, comply with, and adhere to any applicable sanitation guidelines promulgated by the CDC, DHEC, or any other state or federal public health officials, as well as relevant industry guidelines, to limit exposure to, and prevent the spread of, COVID-19.

2. Restaurants shall require that all employees, customers, patrons, suppliers, vendors, and other visitors wear Face Coverings, as defined in Section 2(D) of this Order, except while actively engaged in eating or drinking, subject to any applicable exceptions set forth in Section 2(C) (1)-(10) of this Order.

3. Restaurants shall not permit the sale or consumption of beer, wine, or alcoholic liquor between the hours of 11:00 p.m. and 10:00 a.m. the following day in accordance with Section 5 of this Order.

4. Restaurants should space indoor and outdoor tables at least six (6) feet apart, to the extent possible, to ensure that customers and patrons are at least six (6) feet apart from any other party or group.

5. Restaurants should limit seating at each table to no more than eight (8) customers and patrons, exclusive of family units or members of the same household.

6. Restaurants should adopt and enforce a process to ensure that customers and patrons are able to maintain a minimum of six (6) feet of separation from other parties while waiting to be seated. If there is any indoor or outdoor waiting area, Restaurants should use tape or other markings to help
customers and patrons identify and maintain a minimum of six (6) feet of separation from other parties.

7. Restaurants should not allow patrons and customers to stand or congregate in any bar area. Restaurants should remove bar stools or arrange them in a manner that will ensure that customers and patrons are able to maintain a minimum of six (6) feet of separation from the other parties.

8. Restaurants shall post signage at each public entrance informing customers, patrons, suppliers, vendors, and other visitors that entry is prohibited for individuals who are experiencing symptoms of COVID-19 or who have tested positive for COVID-19 within the preceding fourteen (14) days.

9. Restaurants shall conduct, prior to or at the beginning of each shift, an employee survey and screening process, which should include taking each employee's temperature before they begin their shift and inquiring about common symptoms of COVID-19.

10. Restaurants should immediately excuse and exclude any employees indicating symptoms of COVID-19 or who have tested positive for COVID-19 or have been in contact with someone who has tested positive for COVID-19 within the preceding fourteen (14) days.

11. Restaurants should actively encourage and require employees who are sick, who have symptoms of COVID-19, who have tested positive for COVID-19, or who have recently had close contact with a person who has tested positive for COVID-19 to stay at home, and should develop policies to encourage any such employees to stay at home without fear of reprisal or adverse employment action on this basis.

12. Restaurants should remove common-use condiments, such as salt, pepper, and ketchup, from tables. These items should be provided upon request and cleaned and sanitized between uses if single-use options are not available.

13. Restaurants should not place utensils on a table until after a customer or patron is seated and, if possible, should offer disposable single-use utensils.

14. Restaurants should utilize disposable paper menus if possible or sanitize menus after each use.

15. Restaurants should use approved sanitizing solutions to clean tables, chairs, and check presenters after each table turn or seating.

16. Restaurants shall provide a cleaning station or alcohol-based hand sanitizer at all entry points.

17. Restaurants shall discontinue self-service buffets or food stations to prevent customers and patrons from reusing service utensils to avoid potential physical contamination; however, employees may be permitted to dispense food via cafeteria-style buffet service.

18. Restaurants should minimize, modify, or discontinue services that allow customers and patrons to fill or refill their own beverage cups.

19. Restaurants shall sanitize doorknobs and other shared or frequently touched surfaces as much as possible between newly arriving parties with approved sanitizing solutions.
20. Restaurants should only use kiosks or touch screens for customers and patrons if they can be sanitized between uses and should encourage touchless payment operations like credit cards where no signature required.

Section 7. No Amplified Music in Bars and Restaurants After 11 p.m. Compliance with Noise Ordinances.

During the duration of this emergency ordinance, bars and restaurants shall not allow amplified music, including but not limited to bands, DJs, and karaoke music, after 11 p.m. This is recognized as a temporary alteration of the City’s existing noise ordinance, Section 21-16, Code of the City of Charleston.

During the duration of this emergency ordinance, bars and restaurants shall continue to comply with the City’s existing noise ordinances, Sec. 21-16 and Sec. 17-126. Code of the City of Charleston.

Section 8. Violation and Penalties for Exceeding Occupancy Limits: Playing Amplified Music After 11 p.m. Violations of Section 6 and Penalties.

1. With the exception of their own employees, businesses owners and operators shall not have responsibility for enforcing the requirements set forth in Section 3 of this Ordinance but shall post conspicuous signage at all entrances informing its patrons of the requirements of this Ordinance and may refuse service to customers who after having been provided a warning and copy of this Ordinance by the business, fail to comply with this Ordinance.

2. Business owners and operators are responsible for ensuring that Sections 6 and 7 of this Ordinance are is followed or otherwise cease services. Pursuant to Section 45-3-30 of the South Carolina Code, the City may deem or revoke any license granted to conduct any such business when in the judgment of the City, the business is not complying with this Ordinance and is subject to the penalties set forth in Section 1-16 of the City Code.

3. It shall be deemed a public nuisance for a business to violate Sections 6 and/or 7 of this Ordinance on three (3) separate occasions within a three (3) day period of time and as such, the business shall be subject to a review by the City’s Business License Official for suspension of its business license as provided for in Section 16 of the City’s Business License Ordinance.

Section 9. Enforcement.

1. The City of Charleston Fire Department, Office of the Fire Marshal, Police Department, Building Inspections Division, and their designees, and Livability Code Enforcement Officers are hereby authorized to inspect and determine whether persons are in compliance with the Ordinance. The City will work with the business community to develop marketing strategies, signage, and mask availability, and will
work with businesses, local organizations and citizens to educate them on the requirements of the Ordinance as they come into compliance with it. For the duration of this Ordinance, it is unlawful for any person to willfully fail or refuse to comply with any lawful order or direction of the individuals or designees issued pursuant to this Ordinance.

2. Pursuant to Gov. Henry McMaster’s Executive Order No. 2020-45 2021-11, officers of the Charleston Police Department are authorized to prohibit or disperse any congregation or gathering of people, unless authorized or in their homes, in groups of three (3) or more people, if any such law enforcement official determines, in his or her discretion, that any such congregation or gathering of people poses, or could pose, a threat to public health. and pursuant to City of Charleston Ordinance No. 2020-70, social gatherings of 10 or more persons on public streets, sidewalks, parks and all other outdoor properties owned or operated by the City of Charleston is prohibited.

All residents and visitors of the city of Charleston are strongly urged to practice “social distancing” in accordance with CDC and DHEC guidance and take appropriate precautions to avoid potential exposure to, and prevent the spread of, COVID-19, including limiting social gatherings to ten (10) persons or less on public streets, sidewalks, parks, and all other properties owned or operated by the City of Charleston.

Section 10. Should any provision, section, paragraph, sentence or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences, or words of this Ordinance as hereby adopted shall remain in full force and effect.

Section 11. This Ordinance shall take effect on its adoption and shall be terminated by the issuance of another ordinance or shall automatically expire on the 61st day after its enactment, whichever date is earlier.

Ratified in City Council this _____ day of _____ in the Year of Our Lord, 2021, and in the _____ th Year of the Independence of the United States of America.

By: __________________________________________
John J. Tecklenburg
Mayor, City of Charleston

ATTEST: _________________________________________
Jennifer Cook
Clerk of Council
EMERGENCY ORDINANCE  
EXTENDING CERTAIN EMERGENCY ORDINANCES  
RELATED TO COVID-19

Section 1. Findings. City Council does hereby make the following findings:

WHEREAS, on March 16, 2020, Mayor John J. Tecklenburg declared a local state of emergency in the City of Charleston based on a determination that in furtherance of public health and safety that the City take all necessary steps to protect the citizens from increased risk of exposure to COVID-19; and,

WHEREAS, on March 16, 2020, City Council ratified a temporary emergency ordinance (Ordinance No. 2020-038) to prohibit consumer price gouging on all commodities in the City of Charleston with limited exceptions; and,

WHEREAS, on March 16, 2020, City Council ratified a temporary emergency ordinance (Ordinance No. 2020-039) to prohibit gatherings of 50 people or more; amend on March 19, 2020, by temporary emergency ordinance, Ordinance No. 2020-39(a), reducing the size of public gatherings to less than 10 people; and,

WHEREAS, on March 16, 2020, City Council ratified a temporary emergency ordinance (Ordinance No. 2020-040) suspending the requirements of Section 2-23(f) of the Code of the City of Charleston requiring the physical presence of Councilmembers at City Council meetings and committee meetings to permit participation by video conferencing or other virtual means to slow the spread of COVID-19; and,

WHEREAS, on March 20, 2020, City Council ratified a temporary emergency ordinance (Ordinance No. 2020-041) to temporarily suspend the accrual of the City’s business license penalties for sixty days, to suspend enforcement of the City’s plastic bag ban for sixty days, and to suspend the City’s chauffer’s license renewal requirements issued between March 18, 2019 and April 1, 2019 for an additional sixty days; and,

WHEREAS, on March 24, 2020, City Council ratified a temporary emergency ordinance, “Stay at Home Ordinance” (Ordinance No. 2020-042) requiring individuals to stay in their homes and not travel or congregate in the streets of Charleston except for purposes of working at or conducting business with an essential business or engaging in individual outdoor recreational activities; and,
WHEREAS, on March 26, 2020, City Council ratified a temporary emergency ordinance (Ordinance No. 2020-046), amending the Consolidated Plan for reallocation of CDBG funds to provide funding for public services and temporary living quarters to persons who are homeless or vulnerable due to COVID-19; and,

WHEREAS, on March 27, 2020, City Council ratified a temporary emergency ordinance (Ordinance No. 2020-047), extending the due date for filing and remittance of hospitality taxes for February and March to May 13, 2020; and,

WHEREAS, on April 1, 2020, City Council repealed Stay at Home Ordinance No. 2020-042 and ratified a second Stay at Home Ordinance (Ordinance No. 2020-048) which included provisions contained in Governor McMaster’s Executive Orders regarding dispersing of crowds (Ex. Order 2020-13); quarantining of individuals from New York, New Jersey, and Connecticut (Ex. Order 2020-14); closing of beaches and boat landings (Ex. Order 2020-16); and closing of non-essential businesses (Ex. Order 2020-17); and,

WHEREAS, on April 6, 2020, City Council ratified a temporary emergency ordinance (Ordinance No. 2020-049) to provide for temporary procedures for public hearings; and,

WHEREAS, on April 16, 2020, City Council ratified a temporary emergency ordinance (Ordinance No. 2020-051) to prohibit open burning; and,

WHEREAS, on April 22, 2020, City Council ratified a temporary emergency ordinance (Ordinance No. 2020-052) on decreasing the risk of exposure to COVID-19 in retail businesses; and,

WHEREAS, on April 30, 2020, City Council ratified a temporary emergency ordinance (Ordinance No. 2020-056) to amend Chapter 54 of the Code of the City of Charleston (zoning ordinance) by amending design review district section 54-268.c to allow affordable housing developments to be approved by the administrative officer; and,

WHEREAS, on May 12, 2020, City Council readopted five of the temporary emergency ordinances, such ordinances which are now set to expire on May 31, 2020 (Ordinance No. 2020-59); and,

WHEREAS, on May 12, 2020, City Council ratified a temporary emergency ordinance (Ordinance No. 2020-060) to authorize the use of new or additional space for outdoor dining, and a temporary emergency ordinance (Ordinance No. 2020-061) urging, among other matters, for residents and visitors to stay in their homes, such ordinance to expire on May 31, 2020; and,

WHEREAS, on May 27, Governor McMaster issued an Executive Order (2020-38) declaring an additional sixth (6th) State of Emergency, extending the State of Emergency to control the spread of COVID-19 and lessen its impacts on portions of the State’s population; and,
WHEREAS, on May 28, 2020, Mayor Tecklenburg issued a declaration continuing the local state of emergency in the City of Charleston until June 30, 2020; and,

WHEREAS, on May 28, 2020, City Council passed an emergency ordinance extending certain emergency ordinances until June 30, 2020 (Ordinance No. 2020-068); and also amending the emergency ordinance on decreasing the risk of exposure to COVID-19 in retail businesses (Ordinance No. 2020-069) and replacing the stay at home ordinance with a new stay at home ordinance (Ordinance No. 2020-070); and,

WHEREAS, on June 11, 2020, Governor McMaster issued an Executive Order (2020-40) declaring an additional seventh (7th) state of emergency, extending the State of Emergency to authorize the continued use of extraordinary measure to meet the threat of COVID-19 and “the evolving nature and scope of this public health emergency…”; and further modifying prior orders relating to organized events or public gatherings on state or local government property and to retail stores required to follow certain emergency rules and restrictions; and further permitting previously deemed “non-essential” businesses operating as bowling alleys to re-open for access and use by the public; and,

WHEREAS, as of June 17, 2020, the total number of cases infected with COVID-19 in South Carolina was 19,990 with 607 deaths, including 1,230 cases in Charleston County with 16 deaths and 427 cases in Berkeley County with 19 deaths; and,

WHEREAS, on June 25, 2020, Mayor Tecklenburg issued a declaration continuing the local state of emergency in the City of Charleston until July 15, 2020; and,

WHEREAS, on June 25, 2020, City Council passed an emergency ordinance (Ordinance No. 2020-083), temporarily suspending the accrual of the City’s business license late fees; an emergency ordinance (Ordinance No. 2020-084), requiring persons to wear face coverings in certain circumstances in the city of Charleston to reduce the risk of exposure to COVID-19 during the public health emergency and recovery; and, an emergency ordinance (Ordinance No. 2020-086) extending certain emergency ordinances related to COVID-19; and,

WHEREAS, on June 26, 2020, Governor McMaster issued an Executive Order (2020-42) declaring a new state of emergency, which was the eighth (8th) state of emergency in our state; and,

WHEREAS, the number of cases of persons infected with COVID-19 in South Carolina continues to climb at a dramatic rate; the number of cases in South Carolina as of July 7, 2020 is 47,214 with 838 deaths, including 6,072 cases in Charleston County with 41 deaths and 1,703 cases in Berkeley County with 24 deaths; and,

WHEREAS, on July 11, 2020, the Governor issued Executive Order (2020-44) declaring the ninth (9th) state of emergency in South Carolina; and,
WHEREAS, on July 14, 2020, Mayor Tecklenburg issued a declaration continuing the local state of emergency in the City of Charleston until July 31, 2020 based on the continuing threat to our community from the risk of exposure to COVID-19; and,

WHEREAS, acting in response to the continuing threat to public health and safety from COVID-19, City Council passed an emergency ordinance (Ordinance No. 2020-085) extending certain ordinances related to COVID-19 to July 31, 2020, and further amending the previously passed emergency ordinance on face coverings by clarifying the scope of the face covering requirements, limiting indoor occupancy for bars and restaurants, and prohibiting amplified music in bars and restaurants after 9:00 p.m. (Ordinance No. 2020-086); and,

WHEREAS, as of July 21, 2020, the number of cases of persons infected with COVID-19 in South Carolina continues to climb at a staggering rate; with 73,337 cases reported in the state with 1,221 deaths, including 9,785 cases in Charleston County with 103 deaths and 3,092 cases in Berkeley County with 37 deaths; and,

WHEREAS, acting in response to the continuing threat to public health and safety from COVID-19, City Council passed an emergency ordinance (Ordinance No. 2020-085) extending certain ordinances related to COVID-19 to July 31, 2020, and further amending the previously passed emergency ordinance on face coverings by clarifying the scope of the face covering requirements, limiting indoor occupancy for bars and restaurants, and prohibiting amplified music in bars and restaurants after 9:00 p.m. (Ordinance No. 2020-086); and,

WHEREAS, as of July 21, 2020, the number of cases of persons infected with COVID-19 in South Carolina continues to climb at a staggering rate; with 73,337 cases reported in the state with 1,221 deaths, including 9,785 cases in Charleston County with 103 deaths and 3,092 cases in Berkeley County with 37 deaths; and,

WHEREAS, on July 28, 2020, Mayor Tecklenburg issued a declaration continuing the local state of emergency in the City of Charleston until August 20, 2020 based on the continuing threat to our community from the risk of exposure to COVID-19 and City Council passed an emergency ordinance extending certain ordinances related to COVID-19 to August 20, 2020 (Ordinance No. 2020-090), and amending the face covering ordinance (Ordinance No. 2020-91); and,

WHEREAS, on August 10, 2020, the Governor issued Executive Order (2020-53) declaring the eleventh (11th) state of emergency in South Carolina; and,

WHEREAS, as of August 11, 2020, DHEC identified at least 101,000 confirmed cases of COVID-19 in South Carolina, including 2,049 deaths due to COVID-19; this includes 12,377 confirmed cases in Charleston County with 196 deaths and 4,186 confirmed cases in Berkeley County with 67 deaths; and,

WHEREAS, as of August 18, 2020, Mayor Tecklenburg issued a declaration continuing the local state of emergency in the City of Charleston until September 25, 2020 based on the
continuing threat of COVID-19 to the community and City Council took steps to continue various emergency ordinances in response to COVID-19 (Ordinance Nos. 2020-099 and 2020-100); and,

WHEREAS, on August 25, 2020 and September 9, 2020, the Governor issued Executive Orders 2020-56 and 2020-59, respectively, declaring the 12th and 13th state of emergency in South Carolina; and,

WHEREAS, as of September 14, 2020, DHEC identified at least 132,680 confirmed cases of COVID-19 in South Carolina, including 3,077 deaths; this includes 15,167 confirmed cases in Charleston County with 253 deaths and 5,203 confirmed cases in Berkeley County with 87 deaths; and,

WHEREAS, on September 22, 2020, in response to the continuing public health emergency, Mayor Tecklenburg issued a declaration continuing the local state of emergency in the city and City Council approved amendments to the City’s Emergency Ordinance No. 2020-100 to prohibit amplified music in bars and restaurants after 11 pm and also extended certain emergency ordinances related to addressing COVID-19 and its impacts on the community (Ordinance Nos. 2020-129 and 2020-130); and,

WHEREAS, on September 24, 2020 and October 9, 2020, the Governor issued Executive Orders 2020-62 and 2020-65, respectively, declaring the 14th and 15th state of emergency in the state; and,

WHEREAS, on October 13, 2020, City Council amended Emergency Ordinance No. 2020-100 to incorporate the restrictions and conditions on bars and restaurant operations set forth in Governor McMaster’s Executive Order No. 2020-63 (Ordinance No. 2020-134) and extended Emergency Ordinance No. 2020-60 related to continuing outdoor dining areas and sidewalk dining by temporarily superseding and replacing conflicting provisions of the City’s zoning ordinances or regulations; and,

WHEREAS, as of October 19, 2020, DHEC identified at least 134,135 confirmed cases of COVID-19 in South Carolina, including 3,650 deaths; this includes 16,628 confirmed cases in Charleston County with 271 deaths and 5,815 confirmed cases in Berkeley County with 93 deaths; and,

WHEREAS, as of November 15, 2020, DHEC reported that there were at least 184,360 confirmed cases of COVID-19 in South Carolina, including 3,846 deaths and the positivity rate is 15.4% of individual test results; this includes 18,571 confirmed cases in Charleston County with 288 deaths and 6,693 confirmed cases in Berkeley County with 98 deaths; and,

WHEREAS, as of January 2, 2021, DHEC reported that there were at least 325,472 confirmed and probable cases of COVID-19 in South Carolina, including 5,484 deaths and the positivity rate is 15.9% of individual test results; this includes 25,041 confirmed and probable cases in Charleston County with 323 deaths and 9,533 confirmed and probable cases in Berkeley County with 113 deaths; and,
WHEREAS, as of March 1, 2021, DHEC reported there are at least 517,976 confirmed and probable cases of COVID-19 in South Carolina, including 8,562 deaths and the positivity rate is decreasing, with 4.1% of individual test results; this includes 38,212 confirmed and probable cases in Charleston County with 452 deaths and 14,986 confirmed and probable cases in Berkeley County with 168 deaths; and,

WHEREAS, the spread of the virus is decreasing across the country and vulnerable persons are being vaccinated, until the threats posed by COVID-19 to persons, to businesses, and to the public health, safety and welfare of this city are neutralized, emergency conditions exist which require our taking steps to continue to minimize the risk of exposure in public, limit the spread of infection in the community, and limit the burdens on the health care delivery system; and,

WHEREAS, based on the continuing nature of the pandemic and the need for City Council to respond with flexibility to the public health emergency as it evolves, it is necessary to extend certain temporary emergency ordinances, now set to expire.

Section 2.  The following temporary emergency ordinances are ratified and shall expire on May 7, 2021 unless terminated or replaced by the issuance of another temporary emergency or permanent ordinance on the same matter prior to the expiration date:

2020-038 - Emergency Ordinance prohibiting consumer price gauging.
2020-040 - Emergency Ordinance suspending the requirement of physical presence of councilmembers at Council meetings/permitting telephone/virtual attendance.
2020-049 - Emergency Ordinance regarding temporary procedures for public hearings.
2020-056 - Emergency Ordinance on allowing affordable housing units to be approved by the Administrative Officer.
2020-069 - Emergency Order on Decreasing Risk of Exposure to COVID-19 in Retail Businesses.
2020-092 - Emergency Order requiring parade permit for 25 or more persons.
2020-134 - Emergency Ordinance regarding face coverings or masks in public places, restrictions and conditions on operations of restaurants and bars, and no amplified music in bars and restaurants after 11 pm.
Section 3. This Ordinance shall become effective upon ratification.

Ratified in City Council this _____ day of
________________ in the Year of Our Lord,
2021, and in the ____th Year of the Independence
of the United States of America.

By:____________________________
John J. Tecklenburg
Mayor, City of Charleston

ATTEST: _______________________
Jennifer Cook
Clerk of Council
AN ORDINANCE

TO AMEND PART 15 (WORKFORCE HOUSING DISTRICTS AND OPPORTUNITY ZONES) OF ARTICLE 2 (LAND USE REGULATIONS) OF CHAPTER 54 OF THE CODE OF THE CITY OF CHARLESTON, SOUTH CAROLINA (ZONING ORDINANCE), TO PROVIDE FOR AN INCREASED FEE IN LIEU OF DEVELOPING REQUIRED WORKFORCE HOUSING UNITS ONSITE.

BE IT ORDAINED BY THE MAYOR AND COUNCILMEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

Section 1. That Sec. 54-299.1 of Part 15 (Workforce Housing Districts and Opportunity Zones) of Article 2 (Land Use Regulations) of Chapter 54 of the Code of the City of Charleston, South Carolina (Zoning Ordinance) is hereby amended to add the following defined terms:

k. WH district(s). The term “WH district” means the MU-1/WH zoning district or the MU-2/WH zoning district. The term “WH districts” means the MU-1/WH district and the MU-2/WH district.

l. Workforce housing units. Workforce housing unit means owner occupied workforce housing units and rental workforce housing units.

m. Required workforce housing units. Required workforce housing units means workforce housing units required to be provided by the terms of this Part.

n. First generation properties: Any property which is zoned to a WH District as of January 10, 2017; or any property for which, as of January 10, 2017, an application has been filed for rezoning to a WH district and for which City Council later grants the rezoning application.

o. Second generation properties: Any property which City Council has rezoned to a WH district before February 25, 2021, except for first generation properties.

p. Gross square footage (“GSF”): Gross square footage or GSF means the number of gross square feet within the development, whether residential, retail, commercial, or otherwise, inclusive of heated and unheated square footage, but excluding parking garages. Any portion of the GSF initially used solely for a grocery store or pharmacy shall be excluded from GSF for purposes of calculating any fee-in-lieu of providing required workforce housing units; provided; however, if,
at any time within twenty-five (25) years after receipt of a certificate of occupancy or completion for the development, the use of such GSF as a grocery store or pharmacy lapses for a period of twelve (12) months or is used for any other purpose, then the owner of the development shall be required, as a condition of occupancy of such space, to pay a sum equal to the different between the fee per unit that would have been payable had such GSF not been excluded from the initial calculation of the fee per unit.

q. Consumer Price Index ("CPI"). The Consumer Price Index (CPI) is a measure of the average change over time in the prices paid by urban consumers for a market basket of consumer goods and services published by the United States Department of Labor and available for the pertinent geographical area, as determined annually by the City’s Department of Housing and Community Development.

r. First tier unit(s). First tier units are calculated by dividing the required workforce housing units by four and rounding down to the nearest whole number.

s. Second tier unit(s). Second tier units are calculated by dividing the required workforce housing units by two, then subtracting the first tier units. If this calculation results in a number other than a whole number, then the resulting number shall be rounded down to the nearest whole number.

t. Third tier unit(s). Third tier units are calculated by dividing the required workforce housing units by four, then multiplying the resulting number by three, then subtracting first tier units and second tier units. If this calculation results in a number other than a whole number, then the resulting number shall be rounded down to the nearest whole number.

u. Fourth tier unit(s). Fourth tier units are calculated by subtracting the first tier units, second tier units, and third tier units from the required workforce housing units; provided, however, if the required workforce housing units is one (1), then such workforce housing unit shall be a fourth tier unit.

Section 2. That Sec. 54-299.2 of Part 15 (Workforce Housing Districts and Opportunity Zones) of Article 2 (Land Use Regulations) of Chapter 54 of the Code of the City of Charleston, South Carolina (Zoning Ordinance) is hereby deleted and replaced with the following new Sec. 54-299.2:

Sec. 54-299.2 – Land uses for WH districts.

The permitted land uses in the WH districts are those listed under Article 2, Part 3, Table of Permitted Land Uses, in the column headings having the applicable district designation, to wit: MU-1/WH or MU-2/WH, respectively, modified as follows:

a. Every development in a WH district that has less than five (5) dwelling units must include at least one (1) workforce housing unit.
b. Every development within a WH district which includes five (5) or more dwelling units shall include workforce housing units comprising at least twenty percent (20%) of the total number of dwelling units in the development, rounded up to the next whole number. Notwithstanding the foregoing, with respect to first generation properties, every development within a WH district which includes five (5) or more dwelling units shall include workforce housing units comprising at least fifteen percent (15%) of the total number of dwelling units in the development, rounded up to the next whole number.

c. Required workforce housing units shall be sized, in terms of square footage and number of bedrooms, comparable and proportional to the square footage and number of bedrooms of market rate dwelling units in the development as a whole. The smallest required workforce housing unit shall not be smaller than the smallest market rate dwelling unit and shall contain the same number of bedrooms as the smallest market rate dwelling unit. Required workforce housing units shall be integrated and intermixed with the market rate dwelling units in the development. Required workforce housing units shall not be clustered together or segregated from the market rate dwelling units. Developments that contain multiple buildings shall incorporate required workforce housing units into each building, and the required workforce housing units shall be proportional, in terms of square footage and number of bedrooms, to the number of market rate dwelling units in each building. Exterior finishes of required workforce housing units shall be the same type and quality as the development’s market rate dwelling units.

d. In lieu of providing required workforce housing units under Sec. 54-299.a or Sec. 54-299.b, a development may dedicate the greater of (1) fifty percent (50%) of the ground level square footage; or (2) 1,500 square feet on the ground level to nonresidential uses which front on a public right-of-way. Nonresidential uses in the MU-1/WH district shall be those allowable in the Limited Business (LB) zoning district. Nonresidential uses in the MU-2/WH district shall be those allowable in the General Business (GB) zoning district.

e. (1) In lieu of providing the required workforce housing units onsite, a developer may contribute a fee, on a per unit basis, to the City’s Affordable/Workforce Housing Account for any or all of the number of required workforce housing units for the development. Fees shall be calculated at the time of building permit application and paid in full prior to the issuance of a certificate of occupancy or completion for any part of the development covered in such building permit application. The fee for a required workforce housing unit shall be calculated as follows:

(a) For first tier units, the fee per unit shall be calculated by dividing the GSF in the development by four (4), then multiplying the resulting number by $7.50, then dividing the latter number by the total number of first tier units.

(b) For second tier units, the fee per unit shall be calculated by dividing the GSF in the development by four (4), then multiplying the resulting number by $10.00, then dividing the latter number by the total number of second tier units.

(c) For third quarter tier units, the fee per unit shall be calculated by dividing the GSF in the development by four (4), then multiplying the resulting number by $12.50, then dividing the latter number by the total number of third tier units.
(d) For fourth tier units, the fee per unit shall be calculated by dividing the GSF in the development by four (4), then multiplying the resulting number by $15.00, then dividing the latter number by the total number of fourth tier units.

The City’s Department of Housing and Community Development (the “CDC”) shall adjust the $7.50 multiplier for first tier units, the $10.00 multiplier for second tier units, the $12.50 multiplier for third tier units, and the $15.00 multiplier for the tier quarter units annually based on any increase to the CPI. The adjustment shall apply to (i) any properties which have not received a vested right for a site specific development plan as of the date of publication of the multiplier by the CDC; or (ii) any required workforce housing units resulting from an amendment to a vested site specific development plan as of the date of the publication of the multiplier by CDC.

(2) Notwithstanding Sec. 54-299.2.c.(1), with respect to first generation properties, the fee per required workforce housing unit shall be calculated based on GSF multiplied by $3.40, with the resulting number then being divided by the total required workforce housing units.

(3) Notwithstanding Sec. 54-299.2.e.(1), with respect to second generation properties, the fee per required workforce housing unit shall be calculated based on GSF multiplied by $5.10, with the resulting number then being divided by the total required workforce housing units.

f. Land donation in lieu of required workforce housing units. Upon approval by City Council by resolution, and in City Council’s sole discretion, land may be donated to the City in lieu of required workforce housing units. The size, configuration, and location of any land proposed for donation shall be capable and appropriately zoned to support, at a minimum, the number of required workforce housing units such donation is intended to replace. City Council may accept or reject the donation for any reason. If City Council elects to accept land in lieu of required workforce housing units, the developer shall be solely responsible for all costs of acquiring the land and transferring the land to the City, including but not limited to the costs of surveys, plats, environmental investigation, title insurance, the City’s attorneys’ fees, and recording fees. Title to the land proposed for donation shall be conveyed to the City by general warranty deed prior to the issuance of a building permit for any part of the development.

g. Prior to receiving a building permit for any portion of a development within a WH district, the owner thereof shall provide, in writing, to the satisfaction of the CDC, information identifying the total number of one bedroom dwelling units, two bedroom dwelling units, etc., and the respective square footages of the same; the total number of one bedroom workforce housing units, two bedroom workforce housing units, etc., and the respective square footages of the same; and the location of the required workforce housing units in the development. Prior to the issuance of a certificate of occupancy or completion for any portion of a development within a WH district, the owner thereof shall identify, in writing, to the CDC, the dwelling units designated as owner occupied workforce housing units and/or rental workforce housing units.

h. (1) Prior to the issuance of a certificate of occupancy or completion for any portion of a development, the owner shall execute covenants satisfactory to the CDC that identify the required workforce housing units and which restrict such units to occupancy, or, if applicable, ownership,
by qualified households for at least twenty-five (25) years, and submit a copy of the recorded covenants to the CDC. Notwithstanding the foregoing, for first generation properties, the affordability period shall be ten (10) years.

(2) For the owner occupied workforce housing units, the covenants shall identify the initial maximum allowable sales price, and provide that the initial maximum allowable sales price may be adjusted annually for inflation based on the increase in the area median income (AMI) or Consumer Price Index, whichever is greater. Each owner of such units, prior to initial occupancy, shall be required to submit to the CDC a verified income report of household income of all members of the household. The covenants shall require notice to the CDC of any transfer of the owner occupied workforce housing units and verification that the purchaser is a qualified household. Owner occupied workforce housing units shall be subject to resale restrictions for no fewer than twenty-five (25) years from date of initial sale of the property. Notwithstanding the foregoing, for first generation properties, the affordability period shall be ten (10) years. Such restrictions will be recorded as deed restrictions against the subject property.

(3) As for rental workforce housing units, the covenants shall require the owner to provide proof to the CDC, at inception of every tenancy, and on an annual basis thereafter, that no more than affordable rent is being charged for the unit(s), and verified income reports of household income of all occupants of rental workforce housing units. Rental workforce housing units shall be subject to these restrictions for no fewer than twenty-five (25) years from the initial occupancy as workforce housing. Notwithstanding the foregoing, for first generation properties, the affordability period shall be ten (10) years.

(4) The covenants for rental workforce housing units shall provide:

If a workforce housing unit is converted from rental occupied to owner occupied occupancy during the term of the rental workforce housing covenants, the unit shall be subject to the owner occupied workforce housing unit requirements as set out in Sec. 54-299.h.(2), as amended, (to include an Initial Maximum Sales Price) for a term of months equal to the number resulting when subtracting from 300 months the number of months the unit has been subject to rental workforce housing covenants. Conversion of a workforce housing unit from owner occupied to a rental workforce housing unit shall not be permitted. Covenants shall require written notice to the City prior to any conversion taking place.

(5) The covenants shall accord the City of Charleston, or its assignee, rights to enforcement by any legal and/or equitable means, including the revocation of a certificate of occupancy or completion, and in all events be subject to approval by the City’s corporation counsel.

i. If the development is to be phased, each phase shall include workforce housing units concurrently with the market rate units in the particular phase. A phasing plan that brings the workforce housing units on line at the end of build out is not permitted.

j. The upkeep of rental workforce housing units shall be of the same quality as the upkeep of the other market rate rental units within the development.
Section 3. That Sec. 54-299.2 of Part 15 (Workforce Housing Districts and Opportunity Zones) of Article 2 (Land Use Regulations) of Chapter 54 of the Code of the City of Charleston, South Carolina (Zoning Ordinance) is hereby deleted and replaced with the following new Sec. 54-299.5:

Sec. 54-299.5. - Affordable/workforce housing account.

There is hereby created a City of Charleston Affordable/Workforce Housing Account. Fees contributed to the account per this Part, along with all interest earnings, shall be used solely for the purpose of creating and/or preserving workforce and/or affordable housing, including but not limited to preserving or redeveloping existing housing stock, the acquisition of land, costs and fees for design and construction of affordable housing, and loans or grants to affordable housing providers. The terms of any assistance shall be developed by the City of Charleston Department of Housing and Community Development, or its successor, and approved by City Council.

Section 4. That Sec. 54-299.6 of Part 15 (Workforce Housing Districts and Opportunity Zones) of Article 2 (Land Use Regulations) of Chapter 54 of the Code of the City of Charleston, South Carolina (Zoning Ordinance) is hereby deleted, with Sec. 54-299.7 and Sec. 54-299.8 to be renumbered accordingly.

Section 5. This Ordinance shall take effect upon ratification; provided, however, the pending ordinance doctrine shall apply to rezoning applications for MH districts received by the City on or after February 25, 2021.

Ratified in City Council this ____ day of _____ in the Year of Our Lord, 2021, and in the 245th Year of the Independence of the United States of America.

By: ______________________________
John J. Tecklenburg
Mayor, City of Charleston

ATTEST: ____________________________
Jennifer Cook
Clerk of Council
AN ORDINANCE

TO AMEND ARTICLE 2 (LAND USE REGULATIONS) OF CHAPTER 54 OF THE CODE OF THE CITY OF CHARLESTON (ZONING ORDINANCE) BY ADDING THERETO A NEW PART 19 (CONSERVATION DEVELOPMENT) AND BY ADDING RELEVANT DEFINITIONS TO SEC. 54-120 OF THE ZONING ORDINANCE.

BE IT ORDAINED BY THE MAYOR AND COUNCILMEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

Section 1. That Sec. 54-120 of Chapter 54 of the Code of the City of Charleston (Zoning Ordinance) is amended to delete the introductory sentence and replace it with the following new introductory clause:

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning or when the word, term, or phrase is specifically defined to apply to a particular Article, Part, or Section of this Chapter:

Section 2. That Sec. 54-120 of Chapter 54 of the Code of the City of Charleston (Zoning Ordinance) is amended to include the following new defined terms, to be inserted in alphabetical order with the remaining definitions in Sec. 54-120:

AM. See Area Median Income.

Area Median Income. “Area Median Income” or “AMI” shall mean and have reference to the median family income, based upon applicable family size of a qualified household for the Charleston-North Charleston metropolitan statistical area as published by the United States Department of Housing and Urban Development (together with its successors, “HUD”), as adjusted for household size by the City of Charleston Department of Housing and Community Development (together with its successors, “DHCD”). If HUD should no longer compile and publish such statistical information, the most similar information compiled and published by HUD, or any other branch or department of the federal government or the State of South Carolina, or the City of Charleston shall be used for the purpose of determining AMI. Area median income (AMI) shall be determined annually by the United States Department of Housing and Urban Development as adjusted by the City of Charleston Department of Housing and Community Development, or their successors.
Building Line. A line parallel to the street right-of-way touching that part of the principal building on a lot closest to the street right-of-way.

Common Open Space. Common open space means any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for the use and enjoyment of the public generally or for the use or enjoyment of the residents of the development and their guests. Without limiting the foregoing, common open space may include such complementary structures and improvements as are necessary and appropriate, in addition to wetlands, critical areas, water bodies, agricultural lands, wildlife habitat, historical or cultural features, archaeological sites, easements for underground public utilities, or other elements to be protected from development. Common open space shall not include streets, alleys, or cul-de-sacs; drives; off-street parking and loading areas; areas so located or of such size or shape to have no substantial aesthetic or recreational value; or any area within the property lines of residential lots.

Conservation Tree. Any native tree species with a DBH of sixteen inches (16") or greater. The following species are considered Conservation Trees when they reach a DBH specific to their species: American Holly, twelve inches (12"), Dogwood, eight inches (8"), Loblolly and Slash Pine, twenty inches (20").

Development Plan. Development plan means a preliminary plat and, to the extent public improvements are required, construction drawings, for subdivision of any property that includes all information described on the development plan submittal checklist for subdivision applications available from the Zoning Division.

Green Infrastructure or GI. Green Infrastructure (GI) is an adaptable term used to describe an array of materials, technologies, and practices that use natural systems or engineered systems that mimic natural processes to enhance overall environmental quality and provide utility services. As a general principal, green infrastructure techniques use soils and vegetation to infiltrate, evaporate, and/or recycle stormwater runoff. Examples of green infrastructure include green roofs, porous pavement, rain gardens, and vegetated swales.

Household Income. All sources of financial support, both cash and in kind, of adult occupants of the housing unit, to include wages, salaries, tips, commissions, all forms of self-employment income, interest, dividends, net rental income, income from estates or trusts, Social Security benefits, railroad retirement benefits, Supplemental Security income, Aid to Families with Dependent Children or other public assistance welfare programs, other sources of income regularly received, including Veterans’ (VA) payments, unemployment compensation and alimony, and awards, prizes, government or institutional or eleemosynary loans, grants or subsidies and contributions made by the household members’ families for medical, personal or educational needs.

Impervious Surface. Surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water, including conventionally surfaced streets, roofs,
sidewalks, parking lots, and other similar structures. For purposes hereof, all other surfaces shall be considered pervious surfaces.

**Low Impact Development or LID.** Low impact development (LID) is a set of principles and design components used to manage stormwater runoff by mimicking natural conditions and limiting pollutant transport through source control. Nothing in this definition amends, modifies, abrogates, or repeals the Stormwater Regulations, and applicants must comply with all applicable Stormwater Regulations and obtain approval under such Stormwater Regulations for the use of any LID.

**Owner Occupied Workforce Housing Unit.** See Workforce Housing Unit, Owner Occupied.

**Pervious Surface.** A surface that permits full or partial infiltration of water. Notwithstanding the foregoing, a pervious surface shall include any surface which is not an impervious surface.

**Qualified Households.** Households in which occupants have, in the aggregate, a household income (1) less than or equal to 120% of AMI for owner occupied workforce housing units; or (2) less than or equal to eighty percent (80%) of AMI for rental workforce housing units.

**Rental Workforce Housing Unit.** See Workforce Housing Unit, Rental.

**Stormwater Regulations.** Those federal, state, or local regulations governing stormwater management and drainage, including without limitation Chapter 27 (Stormwater Management and Flood Control) of the Code of Ordinances of the City of Charleston and the City’s Stormwater Design Standards Manual. Stormwater Regulations additionally include any amendments, supplements, or modifications to the existing Stormwater Regulations.

**Technical Review Committee or TRC.** The Technical Review Committee or TRC established by Sec. 54-602 and Sec. 54-816.2.

**Workforce Housing Unit.** An owner occupied workforce housing unit or a rental workforce housing unit.

**Workforce Housing Unit, Owner Occupied.** A dwelling unit in which at least one (1) occupant is an owner and in which all occupants have, in the aggregate, household income less than or equal to 120% of AMI.

**Workforce Housing Unit, Rental.** A dwelling unit in which occupants have, in the aggregate, household income less than or equal to eighty percent (80%) of AMI.

**Section 3.** That article 2 (Land Use Regulations) of Chapter 54 of the Code of the City of Charleston (Zoning Ordinance) is hereby amended by adding a new Part 19, to read as follows:

**PART 19 – CONSERVATION DEVELOPMENT**
Sec. 54-299.59. - Purpose.

(1) **Intent.** City Council intends for Conservation Developments to facilitate innovative residential developments that:

(a) Utilize creative and flexible site design compatible with surrounding development patterns;
(b) Accommodate and preserve features of historical, cultural, archeological, and/or environmental significance;
(c) Conserve existing, intact, undisturbed forests, understory, grasslands, soils, and other upland ecosystems.
(d) Provide common open space of high quality with multiple access points;
(e) Decrease stormwater runoff and nonpoint source pollution by reducing the amount of impervious surface in the development and incorporating GI;
(f) Reduce infrastructure costs by mimicking predevelopment site hydrology into the stormwater management design for the development; and
(g) Maintain unobstructed scenic views or vistas, especially from street rights-of-way.

(2) **Definition.** A Conservation Development is a development utilizing innovative site planning techniques to concentrate buildings, structures, and impervious surfaces in specific areas within the development and to allow the remaining land to be used for common open space. Such techniques may include, but shall not be limited to, any or all of the following:

(a) reduction or, when appropriate, elimination of (i) minimum lot areas per family; (ii) minimum setbacks; and/or (iii) minimum lot frontage; and/or
(b) increase or, when appropriate, elimination of maximum lot occupancy;

but only to the extent such techniques facilitate the preservation and use of the remainder of the development as common open space.

(3) **Conservation Site.** “Conservation Site” or “Site” means all properties, lots, parcels, waterbodies, watercourses, wetlands, and other areas included within a Conservation Development, whether or not such properties, lots, parcels, waterbodies, watercourses, wetlands, or other areas will be developed.

Sec. 54-299.60. - Applicability and general provisions.

(1) **Base Zoning:** Conservation Developments may be permitted only on properties entirely located within one or more of the following base zoning districts: SR-1, SR-7, RR-1 or C.
(2) **Minimum acreage:** Conservation Developments may be permitted only on developments with a minimum of ten (10) contiguous gross acres.

(3) **Net Density:** Net Density shall comply with the standards set forth in the base zoning district for each property or portion thereof included in the Conservation Site, as set forth in Table 3.1 in Sec. 54-301, except as follows:

(a) When an accessory dwelling unit is permitted, such accessory dwelling unit shall not count toward Net Density; and

(b) Workforce housing units meeting the conditions in Sec. 54-299.60(4)(b) shall not count toward Net Density.

(4) **Allowed Uses:** All principal and accessory uses permitted in the base zoning district for each property or portion thereof included within a Conservation Development also shall be permitted on such property or portion thereof, subject to the same conditions, special exceptions, limitations, and terms applicable to such principal or accessory uses within the base zoning district; provided, however, the following terms, conditions, and exceptions shall apply:

(a) **Accessory dwelling units.** Accessory dwelling units shall be permitted as part of a Conservation Development, whether or not permitted in the applicable base zoning district, if the conditions in Sec. 54-214 are met. If the accessory dwelling unit is located within an accessory building, the building height shall be limited to one and one-half (1½) stories and a parking level shall count as one (1) story.

(b) **Workforce housing units.** Workforce housing units included as part of a Conservation Development shall comply with each of the following conditions in order to qualify as such for purposes of Sec. 54-299.60(3)(b) and Sec. 54-299.60(4)(c):

(i) The workforce housing unit is a one-family detached dwelling unit; a one-family attached dwelling unit; or an accessory dwelling unit.

(ii) The workforce housing unit has been approved by the City’s Department of Housing and Community Development in conformity with the criteria applicable to such workforce housing unit; and

(iii) Once approved, a workforce housing unit shall be maintained as such in perpetuity as part of the zoning regulations applicable to the property.

(c) **One-family attached dwelling units.** One-family attached dwelling units may be permitted as part of a Conservation Development, whether or not permitted in the applicable base zoning district, only when each of the following conditions is met:

(i) There are no more than six (6) one-family attached dwelling units located within a single row;
(ii) At least twenty percent (20%) of the one-family attached dwelling units on the Conservation Site have been set aside as workforce housing units complying with the conditions in Sec. 54-299.60(4)(b);

(iii) The required workforce housing units shall be integrated throughout the Conservation Site, such that they are not concentrated together within a single row.

(5) **Stormwater Regulations**: Notwithstanding any other provision of this Part which may be interpreted to the contrary, all Conservation Developments shall comply with the Stormwater Regulations in effect at the time a complete application for a development plan is submitted, and nothing in this Part amends, modifies, abrogates, or repeals the Stormwater Regulations.

**Sec. 54-299.61. - Conservation Development Approval and Design Criteria.**

Properties satisfying the criteria of Sec. 54-299.60 may be developed as a Conservation Development as set forth in an approved development plan, upon compliance with the procedures and regulations governing subdivisions in Article 8 of the Zoning Ordinance, subject to the following supplemental terms and conditions:

(1) **Pre-Application Site Review.**

(a) **Purpose.** The purpose of the pre-application site review is to identify the features and resources on the proposed Conservation Site that should be preserved, and to determine potential site layouts that will best meet the criteria of a Conservation Development.

(b) **Request.** The applicant for approval of a Conservation Development shall submit a Request for Pre-Application Site Review on a checklist available from the Zoning Division, together with the following exhibits (collectively, the "Request"):

(i) Graphic exhibits at the same scale as the existing conditions survey with all existing features on the parcel(s) clearly identified and labeled to include: all Conservation Trees; wetlands; OCRM critical areas; man-made and natural water bodies or watercourses, including without limitation ditches; phosphate mines; logging, farm and forest roads; structures; archeological sites; scenic views or vistas (into and out from the parcel); topographical features; elevation; floodplain; significant groves/plots of vegetation; and unique environmental characteristics; and

(ii) A preliminary stormwater management summary detailing the pre- and post-development runoff volumes for the site. The summary must include a breakdown by area of planned stormwater management BMPs separated into detention pond versus GI practices.

(c) **Pre-Application Site Review Meeting.** Upon submission of a Request, the Zoning Administrator shall determine if the Request is complete. If the Zoning Administrator determines that the Request is complete, the Zoning Administrator will schedule a pre-application site review meeting with a representative of the applicant; designated staff of the City’s Department of
Planning, Preservation and Sustainability (the “Planning Department”); and designated staff of the City’s Department of Stormwater Management (the “Stormwater Department”).

(d) **Diagram.** Following the pre-application review meeting, the applicant shall submit a bubble diagram showcasing the proposed land use plan, including where and how stormwater will be managed.

(e) **Determination.** Designated staff from the Planning Department and the Stormwater Department shall determine whether the Request complies, in concept only, with the standards for Conservation Development before the applicant may submit a concept plan to TRC.

(f) **Amendment.** To the extent the area or location of the proposed Conservation Site changes at any time prior to approval of a development plan, the applicant shall be required to submit a new Request.

(2) **Site Analysis.** With respect to a Conservation Development, each application for concept plan approval shall include a site analysis presented in graphic form at the same scale as the existing conditions survey and shall provide the same information as required for the pre-application site review conducted prior to concept plan submission (the “Site Analysis”). The Site Analysis shall also include the following:

(a) **Narrative.** A narrative as to how the concept plan aligns with the intent, purpose, and definition of a Conservation Development as delineated in Sec. 54-299.59.

(b) **Vegetation.** An exhibit demonstrating that existing vegetation will be preserved as much as reasonably feasible.

(c) **Conservation Trees.** A survey of all Conservation Trees within the Conservation Site, together with a tree risk assessment by a Certified Arborist for the Conservation Trees identified on the survey.

(d) **Soils.** A preliminary soils investigation for the site that includes the soil types, hydrologic soil groups, infiltration characteristics, and seasonal high water table.

(e) **Other Information.** All information required to show that the Conservation Site will comply with the requirements of this Part.

(3) **Streets.** The following standards shall apply to streets within a Conservation Development:

(a) All streets shall be public.

(b) All streets shall be designed in a manner to allow for visitor parking inside or outside the public right-of-way at the rate of one (1) parking space per three (3) dwelling units.

(c) GI shall be incorporated into the street design and approved by TRC.
(d) A twenty foot (20') clear zone must be provided in a street design to accommodate emergency response vehicles.

(e) If lots front on an access easement, other than a public right-of-way, the access surface material may be constructed with pervious paving material.

(f) Street trees are required for all street types, except alleys or within developments using open ditch/swale drainage systems.

(g) The location, species and spacing of street trees shall comply with the City’s Street Tree Manual.

(h) In all other respects, street design must meet the standards set forth in Sec. 54-821 and other provisions in this Chapter; provided, however street design and cross-sections may be modified upon the review and approval of TRC.

(4) Lots. The following standards shall apply to lots within a Conservation Development:

(a) There shall be no minimum lot area requirement, maximum lot occupancy requirement, or minimum building setback requirement.

(b) There shall be no minimum lot frontage requirement provided that each lot shall have a platted access easement a minimum of ten (10) feet wide to a public or private right-of-way. Such access easement may be shared with other lots.

(c) In all other respects, the standards for lots set forth in this Chapter shall apply.

(5) Height. Except as set forth in Sec. 54-299.60(4)(a)(v), the height requirements, exceptions, terms, and conditions applicable to the base zoning district for each property within the Conservation Development shall continue to apply to such property.

(6) Parking. The following parking standards shall apply to a Conservation Development:

(a) The number of required off-street parking spaces shall meet the standards in Sec. 54-317, unless specifically provided otherwise.

(b) The required off-street parking for each lot shall be provided (1) on the lot; or (2) in a community parking lot; provided, however, the community parking lot shall have a pervious surface. Upon approval of TRC, required off-street parking spaces may also be provided on-street.

(7) Garage Doors. Garage doors must be flush with or set back further than the building line.

(8) Wetland Buffer. Existing wetlands shall be protected by an undisturbed buffer, at least thirty feet (30') wide, adjacent to the delineated boundary of the wetlands. Without limiting the foregoing, existing vegetation and Conservation Trees within such buffer shall be preserved within the buffer area.
(9) **Open space.** The following open space requirements shall apply within a Conservation Development:

(a) At least fifty percent (50%) of the gross acreage within the Conservation Site shall qualify as common open space (the "Required Open Space").

(b) Notwithstanding subsections (c) through (e), at least twenty-five percent (25%) of the Required Open Space shall be designed for active recreational uses, such as play fields, playgrounds, greenways, and/or agricultural uses. To qualify as an active recreational use under this subsection and to be considered as part of the Required Open Space, a greenway shall have (i) a pervious surface; (ii) a minimum total width of at least twenty-five feet (25’); and (iii) a minimum pathway for pedestrian and/or bike trails of eight feet (8’).

(c) Subject to subsection (b), when a Conservation Site includes existing or proposed water bodies or watercourses, only fifty percent (50%) of the area of such water bodies and/or watercourses shall qualify as part of the Required Open Space.

(d) Subject to subsection (b), when a Conservation Site includes existing wetlands, only seventy-five percent (75%) of the area of such wetlands shall qualify as part of the Required Open Space.

(e) Subject to subsection (b), if the Conservation Site is forested at the time of the Site Analysis, then the lesser of (i) at least seventy percent (75%) of the Required Open Space; or (ii) the gross acreage of the Conservation Site which is forested at the time of the Site Analysis, shall be maintained in an undisturbed canopy.

(f) All common open space shall comply with Sec. 54-299.62.

(g) The improvement or development of common open space shall incorporate GI.

(h) To the extent reasonably feasible, common open space shall be contiguous and not divided into unconnected small parcels located in various parts of the Conservation Site.

(10) **Stormwater Management.** Without limiting, amending, abrogating, or repealing the Stormwater Regulations, the following stormwater management standards shall apply to a Conservation Development:

(a) Conservation Developments shall demonstrate limited impacts on the natural features and pre-development hydrology.

(b) At least fifty percent (50%) of stormwater volume shall be managed with GI practices instead of stormwater detention ponds or other, similar stormwater management techniques.
(c) Roof drainage and gutter downspouts shall be hydraulically disconnected from impervious surfaces and properly drained so as to prevent erosion within the Conservation Site or on offsite properties.

(d) Pervious surfaces shall be used when reasonably feasible.

(e) Impervious surfaces shall not exceed forty percent (40%) of the net acreage within the Conservation Site; provided, however, the calculation of impervious surface for residential lots shall be fifty percent (50%) of the lot area, regardless of the actual impervious surface area of the lots.

(f) Each residential lot shall have a minimum of two (2) native canopy trees, which shall be trees existing on the pre-developed Site, when reasonably feasible. To the extent the use of an existing tree or trees are not reasonably feasible, only native species commonly found in the associated Inland Atlantic Maritime Forest shall be utilized, per list provided in Appendix B.

(11) Other Requirements. Unless specifically provided otherwise herein, all other requirements of this Chapter shall apply to the Conservation Development.

(12) Standard Codes. The City’s standard codes, including, without limitation, the City’s building code and fire code, apply to a Conservation Development, notwithstanding any other provision herein to the contrary. Without limiting the foregoing, the minimum clearance requirements for fire apparatus access routes shall apply to Conservation Developments.

Sec. 54-299.62 – Management of Common Open Space.

The following regulations shall apply to all common open space within the Conservation Site:

(1) POA. Prior to obtaining final plat approval for all or any portion of the Conservation Site, the applicant shall establish a property owners’ or similar association (a “POA”) to provide for the maintenance of all common open space, BMPs (as defined in the City’s Stormwater Design Standards Manual), and other improvements, unless any such common open space and/or improvements are dedicated to and accepted by the City or other appropriate governmental entity or accredited land trust for ownership and/or maintenance.

(2) POA Requirements. The POA required under subsection (1) shall meet the following requirements:

(a) The POA shall include as members all owners of lots or parcels within the Conservation Site, except the City or other governmental entity as to any public improvements dedicated to and accepted by the public.

(b) The POA shall take title to and manage all common open space and improvements, other than public improvements dedicated to and accepted by the public.
(3) **Declaration.** All lands, common open space, BMPs, and improvements shall be described as to the general location, size, use and control in a Declaration of Covenants, Conditions and Restrictions ("Declaration") governing the Conservation Site and properly recorded with the Office of the Register of Deeds for Charleston or Berkeley County, as applicable. The Declaration shall set forth the method of assessment against all lots or parcels within the Conservation Site (other than areas dedicated to and accepted by the public and common areas) for maintenance of common areas, common open space, BMPs, and other improvements to be owned or maintained by the POA. The Declaration shall run with title to the Conservation Site and all privately-owned lots or parcels located therein. The Declaration shall indicate the properties included therein are part of a Conservation Development approved by the City of Charleston.

(4) **No Dissolution.** Unless prohibited by applicable law, the requirements applicable to the Declaration shall perpetually run with title to the Conservation Site or any portion thereof as part of the zoning regulations applicable to the Site. The POA shall not be dissolved nor shall the POA dispose of any common open space except to (a) a conservation or similar organization established to own and maintain common open space; (b) to the City; or (c) to another appropriate governmental entity. Notwithstanding the foregoing, any such conveyance, to be complete, shall require acceptance by the grantee.

(5) **Restricted Use.** Unless prohibited by applicable law, all common open space shall be restricted in perpetuity as part of the zoning regulations applicable to the Conservation Site. All such common open space shall be deed restricted and may not be developed for uses other than common open space. The applicant shall include the following notice on all deeds, mortgages, plats, or any other legal instruments used to convey any right, title or interest in the Conservation Site or any portion thereof:

**NOTICE:** THIS PROPERTY IS SUBJECT TO THE CITY OF CHARLESTON’S REQUIREMENTS FOR CONSERVATION DEVELOPMENTS AND MAY BE SUBJECT TO CERTAIN USE RESTRICTIONS AS SET FORTH IN THE REQUIREMENTS APPLICABLE TO CONSERVATION DEVELOPMENTS ON FILE WITH THE CITY’S ZONING DIVISION.

**Sec. 54-299.63 – Appeal.**

Any determination by staff and/or TRC under this Part 19 may be appealed to the Planning Commission by any party in interest if an appeal is filed with the Zoning Division within ten (10) business days after actual notice of the decision. The Planning Commission must act on the appeal within sixty (60) days, and the action of the Planning Commission is final.
Section 4. This Ordinance shall become effective upon ratification.

Ratified in City Council this ___ day of ___________ in the year of Our Lord, 2021, in the 245th Year of the Independence of the United States of America.

By: ____________________________

John J. Tecklenburg, Mayor

ATTEST: ____________________________

Jennifer Cook
Clerk of Council
AN ORDINANCE

AUTHORIZING THE MAYOR TO EXECUTE, ON BEHALF OF THE CITY OF CHARLESTON, A MEMORANDUM OF AGREEMENT WITH PALMETTO RAILWAYS; THE SOUTH CAROLINA DEPARTMENT OF COMMERCE; AND THE SOUTH CAROLINA STATE PORTS AUTHORITY REGARDING THE NAVY BASE INTERMODAL FACILITY (NBIF) PROJECT IN CHARLESTON COUNTY, SOUTH CAROLINA, UNDER WHICH THE CITY WILL ACCEPT $11.5 MILLION FOR (1) THE CITY'S CONVEYANCE OF CERTAIN REAL PROPERTY, BEING A PORTION OF CHARLESTON COUNTY TMS NO. 464-02-00-051, COMMONLY KNOWN AS THE W.R. GRACE SITE, THROUGH SEPARATE PURCHASE AGREEMENT; AND (2) MITIGATION OF EXISTING AND FUTURE IMPACTS RELATED TO THE CONSTRUCTION AND OPERATION OF THE NBIF, INCLUDING BUT NOT LIMITED TO FREIGHT RAIL MOVEMENT IN THE VICINITY OF THE SOUTHERN ACCESS COMPONENT OF THE NBIF.

BE IT ORDAINED BY THE MAYOR AND COUNCILMEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

Section 1. That the Mayor is hereby authorized to execute, on behalf of the City of Charleston, a Memorandum of Agreement with Palmetto Railways, the South Carolina Department of Commerce, and the South Carolina State Ports Authority, a copy of which is attached hereto and incorporated herein by reference as Exhibit 1, pursuant to which the City will accept $11.5 million for (1) the City's conveyance of certain real property, being a portion of Charleston County TMS No. 464-02-00-051, commonly known as the W.R. Grace site, through separate purchase agreement; and (2) mitigation of existing and future impacts related to the construction and operation of the Navy Base Intermodal Facility ("NBIF"), including but not limited to freight rail movement in the vicinity of the southern access component of the NBIF.
Section 2. That this Ordinance shall become effective upon ratification.

Ratified in City Council this _____ day of 
________________ in the Year of Our Lord, 
2021, and in the 245th Year of the Independence of the United States of America.

By: ________________________________
John J. Tecklenburg
Mayor, City of Charleston

ATTEST: ________________________________
Jennifer Cook
Clerk of Council
EXHIBIT 1
MEMORANDUM OF AGREEMENT AMONG
PALMETTO RAILWAYS; THE CITY OF CHARLESTON;
THE SOUTH CAROLINA DEPARTMENT OF COMMERCE; AND THE SOUTH
CAROLINA STATE PORTS AUTHORITY
REGARDING THE NAVY BASE INTERMODAL FACILITY PROJECT IN
CHARLESTON COUNTY, SOUTH CAROLINA

This Memorandum of Agreement (MOA) is made and entered into this _____ day of
_______________________, 2021, by and between Palmetto Railways (Palmetto Railways), the
City of Charleston (City), the South Carolina Department of Commerce (Commerce), and the
South Carolina State Ports Authority (Ports Authority) (each a party and collectively Parties).

WHEREAS, Palmetto Railways and the Ports Authority have proposed to construct and
operate the Navy Base Intermodal Facility (NBIF) at the former Charleston Naval Complex
(CNC);

WHEREAS, the Parties acknowledge the importance of the proposed equal, dual-access
NBIF to ensure the efficient, cost-effective movement of goods to and from the Port of Charleston,
which is vital to the local, regional, and statewide economy;

WHEREAS, Palmetto Railways has applied for and received from the United States Army
Corps of Engineers, Charleston District (USACE), a permit for the construction and operation of
the proposed NBIF, Department of the Army Permit SAC-2012-00960;

WHEREAS, the City has an interest in ensuring an adequate and functioning
transportation system within its jurisdiction specifically, and the region generally;

WHEREAS, Commerce is authorized pursuant to S.C. Code Ann. § 13-1-20 to implement
a statewide program for the stimulation of economic activity to develop the potentialities of the
State, and enhance the economic growth and development of the State through strategic planning
and coordinating activities, among other activities;

WHEREAS, the Ports Authority has as its purpose, among others, to contribute to
economic development by fostering and stimulating waterborne commerce; to develop and
improve the harbors or seaports of the State; to construct, equip, maintain, develop and improve
such harbors or seaports and their port facilities; and to increase waterborne commerce, foreign
and domestic, through such harbors and seaports;

WHEREAS, the construction and operation of a near-dock intermodal container transfer
facility furthers the above-referenced purpose of the Ports Authority;

WHEREAS, in order to allow connection between existing rail infrastructure in the area,
the NBIF includes proposed trackage constructed as a southern access (the “Southern Access”)
passing through property within the City;

WHEREAS, numerous locations for the NBIF and the Southern Access have been
evaluated, and after such evaluations, the only feasible site for the NBIF and the Southern Access
is the site approved and determined by the USACE to be the least environmentally damaging practicable alternative in the Record of Decision issued concurrently with DA Permit No. SAC-2012-00960;

WHEREAS, the Parties seek to facilitate and enhance economic growth and development and foster a vibrant marketplace for the City and its surrounding communities; and

WHEREAS, the Parties are committed to engaging in a dialogue to discuss the minimization of impacts, and the overall functionality and safety, of all NBIF-specific grade crossings within the corporate limits of the City.

NOW THEREFORE, in consideration of the mutual promises and covenants herein contained, and other good and valuable consideration, the sufficiency of which is herein acknowledged, and intending to be legally bound thereby, the Parties agree hereto as follows:

1. SCSPA will contribute Eleven Million Five Hundred Thousand and 00/100 Dollars ($11,500,000.00) towards:
   a. the purchase of land from the City, through separate purchase agreement, such land being a portion of the property designated as Charleston County TMS No. 464-02-00-051 (the “Grace Site”); and
   b. mitigation of existing and future impacts related to the construction and operation of the NBIF, including but not limited to freight rail movement in the vicinity of the “Southern Access” component of the NBIF.

2. The City shall be responsible for designing, permitting, and constructing mitigation improvements or projects. The City shall retain sole discretion as to the type and location of all mitigation improvements or projects. The City shall utilize at least Four Million Nine Hundred Fifteen Thousand and 00/100 Dollars ($4,915,000.00) of the SCSPA’s contribution toward such improvements or projects. The remaining funds shall be utilized for (1) designing, permitting, constructing, and/or maintaining mitigation improvements or projects; and/or (2) purchasing of land, designing, permitting, constructing, and/or maintaining facilities to replace the City’s public services facilities currently located at Milford Street (the “Replacement Facilities”). The Replacement Facilities may include land and improvements for public works, fire training, the police fleet, and/or other municipal services. Except as specifically provided otherwise, the City shall retain sole discretion as to the allocation of funds for mitigation improvements/projects and
Replacement Facilities, as well as the specific use of the funds for the referenced purposes as to location, type, and scope.

3. The City hereby consents to the construction and operation of the NBIF, and specifically the location and grade level crossings for the permitted NBIF, including the Southern Access.

4. City staff will support all reasonable rezoning, permitting, road closures, and other administrative approvals necessary for the implementation of the NBIF, including the Southern Access, associated railway lines, and roadways.

5. This MOU is conditioned on the adoption of Joint Resolution, S.4911 of the 124th Session, 2021-22. If such general obligation state economic development bond is not issued, then this MOU shall be null and void.

6. **General Provisions.**

   A. This MOA constitutes the entire agreement between the Parties pertaining to the subject matter hereof and embodies, merges, and integrates all prior and current agreements and understandings of the Parties. No interpretation, clarification, modification, change, amendment, termination or waiver of any provision pursuant to this MOA shall be binding upon a Party except in writing signed by each of the signatories hereto or their authorized representatives.

   B. All notices or other communications required or permitted under this MOA shall be in writing to the Parties at the addresses below:

   To Palmetto Railways:  President & CEO  
   540 East Bay Street  
   Charleston, SC 29403

   To Commerce:  Chief Legal Counsel  
   S.C. Department of Commerce  
   1201 Main Street, Ste. 1600  
   Columbia, SC 29201

   To Ports Authority:  President and CEO  
   200 Ports Authority Drive  
   Mount Pleasant, SC 29464

   To City of Charleston:  Mayor  
   City of Charleston  
   80 Broad Street  
   Charleston, SC 29401

   C. This MOA shall be binding on the Parties, their successors, and assigns.
D. This MOA is made solely for the benefit of the Parties and does not and is not intended to confer any interests, benefits, rights, or remedies, whether direct or indirect, or incidental, upon any other person(s), corporation(s), or governmental entity and does not create any rights in any third parties.

E. This MOA may be executed in two or more counterparts, each of which together shall be deemed an original, but all of which together shall constitute one and the same instrument.

F. All modifications or amendments to this MOA must be approved by the Parties hereto in a signed writing.

G. This MOA contains all the promises, covenants, agreements, and understandings between the Parties concerning the subject matter herein, and the execution of this MOA has not been induced by either Party by any representations, promises, or understandings not expressed herein. There are no collateral agreements, stipulations, promises, or undertakings that are not expressly referenced herein.

H. This MOA and the legal relationship between the Parties shall be governed by and construed in accordance with the laws of the State of South Carolina.

[REMAINDER OF PAGE INTENTIONALLY BLANK]
IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed when signed and dated below.

WITNESSES: The City of Charleston

Print Name: ____________________________

By: ____________________________
Print Name: John J. Tecklenburg
Its: Mayor
Date: ____________________________

Print Name: ____________________________

WITNESSES: SOUTH CAROLINA DEPARTMENT OF COMMERCE

Print Name: ____________________________

By: ____________________________
Print Name: Robert M. Hitt, III
Its: Secretary
Date: ____________________________

Print Name: ____________________________

WITNESSES: PALMETTO RAILWAYS

Print Name: ____________________________

By: ____________________________
Print Name: Jeffrey McWhorter
Its: President and CEO
Date: ____________________________

Print Name: ____________________________

WITNESSES: SOUTH CAROLINA STATE PORTS AUTHORITY

Print Name: ____________________________

By: ____________________________
Print Name: James I. Newsome, III
Its: President and CEO
Date: ____________________________
Date

Lieutenant Colonel Rachel A Honderd
Commander and District Engineer
U.S. Army Corps of Engineers
Charleston District
69A Hagood Avenue
Charleston, SC 29403-5107

Letter of Interest – Flooding in City of Charleston

Dear Lt. Col. Honderd;

The City of Charleston is willing and able to participate as the non-federal local Sponsor for a Feasibility Study in partnership with the U.S. Army Corps of Engineers (USACE), to cooperatively investigate strategies to reduce the risk from flooding throughout the City of Charleston. The city is comprised of distinct geographic areas and identified areas of special concern that could be treated individually and could be severed from each other as the project develops. The intent would be to ensure the study identifies the strongest possible projects for the city individually or in combination.

We are currently the non-federal sponsor on the USACE’s City of Charleston’s Peninsula 3x3x3 Coastal Flood Risk Management Feasibility Study (CSRM) currently scheduled to be finalized mid-2022. This new study would complement the existing work by examining non-storm surge flooding on the Peninsula and how these new solutions could integrate holistically with those proposed in the CSRM. Likewise, this new study should evaluate and recommend similar integrated solutions in other areas of the city with different challenges and opportunities.

The risk of flooding throughout the city varies greatly including areas that are on low ground with homes that are generally older and built before new FEMA standards. All areas of the city are under intense development pressure and the threat of sea level rise and changing weather patterns threatens the majority of the city. The City of Charleston understands that a study cannot be initiated unless it is selected as a new start study with associated allocation of Federal funds provided through the annual Congressional appropriations process. If selected, the City intends to sign a Feasibility Cost Sharing Agreement (FCSA) to initiate the study with
USACE. It is our understanding the FCSA targets completion of the feasibility study within three years at a total cost of no more than $3 million. After signing the FCSA, a Project Management Plan will be developed and agreed upon by the City and USACE. The study will be conducted and managed by the USACE. The cost-sharing for the study is based on a 50% contribution by the Federal government, with the City’s 50% contribution provided in cash, or by a portion or all of the contribution provided through in-kind non-monetary services.

The City of Charleston is aware that this letter constitutes an expression of intent to initiate a study to address the issues specified above and is not a contractual obligation. We understand that work on the study cannot commence until it is included in the Administration’s budget request, funds are appropriated by Congress, FCSA is signed, and funds or in-kind contributions are available in City of Charleston. It is understood that the City of Charleston or the USACE may discontinue the study at any time after FCSA is signed but we commit to work together as partners during the scoping phase and subsequent decision points throughout the feasibility study that will provide the necessary support to risk-informed decision making. If it is determined that additional time or funding is necessary to support decisions to complete the study, City of Charleston will work with USACE to determine the appropriate course of action.

Please contact Mark Wilbert at (843) 720-2482 or wilbertm@charleston-sc.gov if you have any questions regarding this letter. We look forward to collaborating with you on this project.

Sincerely

J. T. Tecklenburg
March 9, 2021

Maureen Q. McGough
Policing Project at NYU School of Law
40 Washington Square South, Suite 302
New York, NY 10012
maureen.mcgough@nyu.edu

Re: Letter of Intent to participate in the 30x30 Pledge to increase the recruitment, retention, and promotion of women in policing.

Dear Ms. McGough:

The Charleston Police Department is writing to confirm our intent to participate in the 30x30 Pledge for law enforcement agencies to improve the representation and experiences of women in policing.

Our participation in the pledge will comprise the following activities:

- Submitting baseline data and policies outlined in the pledge;
- Pursuing all "essential" data collection and actions outlined in the pledge;
- Exploring additional pledge elements and pursuing those that are relevant to our department’s needs and can reasonably be achieved; and
- Reporting on data and progress bi-annually.

We acknowledge that this pledge is not intended to be an accountability mechanism, but rather is a framework for how our agency can improve the representation and experiences of women officers. We understand that the goal of the pledge is to not only inform agency progress, but also to identify and understand barriers to progress such as resources, capacity, or authority.
In addition to confirming our participation in the pledge, this letter serves as consent to include our agency as a signatory on the 30x30 website. We acknowledge that the Policing Project will seek additional consent before making any agency reports, policies, or data public, and reserve the right to refuse at that time.

I have assigned Sgt. Anthony Gibson to be your point of contact for pledge activities. He can be reached at gibsona@charleston-sc.gov and 843-720-2404.

We look forward to this partnership, and our participation in the 30x30 pledge.

Sincerely,

John Tecklenburg
Mayor
City of Charleston

[Signature]
Luther Reynolds
Chief of Police
Charleston Police Department
STATE OF SOUTH CAROLINA  
COUNTY OF YORK  

This agreement is made and entered into this _____ day of ________________, 2019, by and between the CITY OF CHARLESTON POLICE DEPARTMENT, 180 Lockwood Drive, Charleston, S.C. 29403 and the YORK COUNTY SHERIFF’S OFFICE, 1675-2A York Highway, York, S.C. 29745.

WHEREAS, as amended on June 3, 2016, South Carolina Code Ann. Section 23-20-10, et seq., provides for contractual agreements between and among state, county, municipal and local law enforcement agencies for the purpose of providing the proper and prudent exercise of public safety functions across jurisdictional lines;

WHEREAS, the CITY OF CHARLESTON POLICE DEPARTMENT desires to enter into such an agreement with the YORK COUNTY SHERIFF’S OFFICE for the purposes of securing to each other the benefits of mutual aid in the event of natural disaster, disorder, special events, emergency situations, and any other law enforcement activities;

WHEREAS, the purpose of this Agreement is to define the scope of such mutual aid and the responsibilities of the parties; and

WHEREAS, during these activities, it is possible that law enforcement officers will respond to, become involved with, and/or deal with emergency situations, civil disorders, arrests, natural or manmade disasters, pursuits of criminal suspects, location of missing persons, criminal investigations, and/or any other matter handled by law enforcement, and the requesting agency desires replying agency’s officers to have lawful authority and jurisdiction to respond to, become involved with, and/or deal with these or any other situations which may arise during the presence of responding agency’s officers in the requesting agency’s jurisdiction.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, it is the intent of the parties to share jurisdiction under this written Agreement to the fullest extent permitted under South Carolina law and it is further agreed as follows:

1. VESTING OF AUTHORITY AND JURISDICTION

To the fullest extent permitted by the Constitution and the statutes of this State, officers assigned under the Agreement shall be vested with authority, jurisdiction, rights, immunities, and privileges outside his resident jurisdiction for the purpose of investigation, arrest, or any other activity related to the criminal activity for which the agreement is drawn. This Agreement is in no way intended to effect any other multi-jurisdictional agreement(s) which may exist between the agencies. The assistance to be rendered pursuant to this Agreement shall solely involve responding law enforcement officers from one party’s jurisdiction to the other. When so responding, such law enforcement officers shall have all powers and authorities of law
enforcement officers employed by the requesting jurisdiction. However, local ordinances adopted by a responding party’s jurisdiction shall not be deemed extended into areas of operation that are located outside the geopolitical territorial limits of that party.

2. REQUEST FOR ASSISTANCE

The responding law enforcement officers may be requested in response to any public safety function across jurisdictional lines, such as multijurisdictional task forces, criminal investigations, patrol services, crowd control, traffic control and safety, and other emergency service situations. Assistance provided in this Agreement includes, but is not limited to:

A. Emergency Situations;
B. Civil Disorders;
C. Natural or Manmade Disasters;
D. Mass Processing of Arrests;
E. Transporting of Prisoners;
F. Operating Temporary Detention Facilities & Housing Inmates;
G. Arrests;
H. Pursuits of Criminal Suspects;
I. Location of Missing Persons;
J. Traffic Control and Safety;
K. Criminal Investigations; or
L. Any Other Matter Handled by Law Enforcement for that Particular Jurisdiction.

3. PRIMARY RESPONSIBILITY

It is agreed and understood that the primary responsibility of the parties to this Agreement is to provide law enforcement services within the geographical boundaries of their respective jurisdictions. Therefore, it is agreed that the law enforcement agency whose assistance is requested shall be the sole judge as to whether or not it can respond and to what extent it can comply with the request for assistance from the other agency.

4. PROCEDURE FOR REQUESTING LAW ENFORCEMENT ASSISTANCE

A. Request. A request for assistance shall only be made by the Chief of the City of Charleston Police Department, or his/her designee, or the Sheriff of York County, or his/her designee. This request shall include a description of the situation creating the need for assistance, the specific aid needed, the approximate number of law enforcement officers requested, the location to which law enforcement personnel are to be dispatched, and the officer in charge of such location.

B. Reply. A reply to any request for assistance shall only be made by Chief of the City of Charleston Police Department, or his/her designee, or the Sheriff of York County, or his/her designee. If the request is
granted, the requesting law enforcement agency shall be immediately informed of the number of law enforcement officers to respond.

C. **Officer in Charge.** The responding law enforcement officers shall report to the officer in charge of the requesting law enforcement agency at the designated location and shall be subject to the lawful orders and commands of that officer. The responding law enforcement officer shall exert their best efforts to cooperate with, and aid, the requesting law enforcement agency. The responding law enforcement officers shall be responsible at all times for acting within the policies and procedures set forth in the policy and procedure manual of the law enforcement agency by which they are regularly employed.

D. **Release.** The responding law enforcement officers shall be released by the officer in charge when their services are no longer required or when they are needed to respond to a situation within the geographic boundaries of their own jurisdiction; provided however, the responding law enforcement officers shall use their best efforts to complete the requested service prior to being released.

5. **PERSONNEL, COSTS AND RECORDS**

Except as otherwise agreed among the parties, each party shall maintain control over its personnel. Except as otherwise provided herein, each party shall bear its own costs incurred in the performance of its obligations hereunder, and shall keep its own personnel and other usual records as to its assigned officers.

Any and all records of law enforcement activities conducted pursuant to this Agreement shall be the property of and maintained by the agency conducting the activity, including any incident reports, citations, photographs, or other images captured on any photographic or digital media. Nothing contained herein prohibits or precludes any participating agency from making or maintaining a copy of any such records referenced above.

6. **REQUESTS FOR INFORMATION PERSUANT TO THE SOUTH CAROLINA FREEDOM OF INFORMATION ACT**

Upon receipt, each agency participating in this Agreement must respond to requests for information pursuant to the South Carolina Freedom of Information Act.

7. **COMPENSATION**
This Agreement shall in no manner affect or reduce the compensation, pension, or retirement rights of any responding officer. Except as otherwise agreed, each party shall bear its own costs and expenses incurred in complying with this Agreement.

8. **INSURANCE**

Each party shall maintain such insurance coverage for general liability, workers’ compensation, and other such coverage as may be required by law or deemed advisable by individual parties.

9. **EMPLOYMENT STATUS**

Nothing herein shall be construed or interpreted to imply that the law enforcement officers responding in accordance with this Agreement shall be the employees of the law enforcement agency requesting such assistance.

10. **MODIFICATION OR AMENDMENT**

This Agreement shall not be modified, amended, or changed in any manner except upon express written consent of the parties to this Agreement.

11. **RESPONSIBILITY TO RESPECTIVE GOVERNING BODIES**

Each party is responsible for any approval requirements to their respective governing body as may be required under South Carolina law.

12. **SEVERABILITY**

Should any part of this Agreement be found to be unenforceable by any court or other competent authority, then the rest shall remain in full force and effect.

13. **BINDING SUCCESSORS IN OFFICE**

All parties agree that any and all successors in interest to their offices will be similarly bound by the terms of this agreement without necessitating execution of any amendment.

14. **NO INDEMNIFICATION OR THIRD PARTY RIGHTS**

To the extent provided by law, the parties shall be solely responsible for the acts and omissions of their respective employees, officers, and officials, and for any claims, lawsuits and payment of damages that arise from activities of its officers. No right of indemnification is created by this agreement and the parties expressly disclaim such. The provisions of this agreement shall not be deemed to give rise to or vest any rights or obligations in favor of any rights or obligations in favor of any party or entity not a party to this agreement.

15. **TERMINATION**
This Agreement shall be terminated at any time upon written notice to the other party to this Agreement.

16. TERM AND RENEWAL

This Agreement is effective as to each party at the date and time of signing and will automatically renew each anniversary date, year to year, and term to term unless a party exercises its right to terminate as further described herein.

17. USE OF EQUIPMENT AND FACILITIES

Each party shall be responsible for the maintenance of its own equipment and shall be responsible for the procurement of facilities unless otherwise agreed upon by the parties.

IN WITNESS WHEREOF, these parties have set their hands and seals at the date set forth above.

YORK COUNTY SHERIFF’S OFFICE

______________________________
Kevin R. Tolson, Sheriff
York County Sheriff’s Office

WITNESSES

______________________________
Witness

CITY OF CHARLESTON

______________________________
Luther T. Reynolds, Chief
CITY OF CHARLESTON POLICE DEPARTMENT

WITNESSES

______________________________
Witness

John J. Tecklenburg, Mayor
CITY OF CHARLESTON

Page 5 of 5
MEMORANDUM OF UNDERSTANDING
Between the Bureau of Alcohol, Tobacco, Firearms and Explosives and the
Charleston SC, Police Department
Regarding the National Integrated Ballistic Information Network

This Memorandum of Understanding (MOU) is entered into by the U.S. Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), and the Charleston SC Police Department hereinafter collectively referred to as "the parties," and the Charleston SC Police Department referred to as the "NIBIN Partner." This MOU establishes and defines a partnership between the parties that will result in an ATF National Integrated Ballistic Information Network (NIBIN) system installation, operation, and administration for the collection, timely analysis, and dissemination of crime gun data to enhance the efforts of law enforcement to integrate resources to reduce firearms violence, identify shooters, and refer them for prosecution.

AUTHORITY

This MOU is established pursuant to the authority of the participants to engage in activities related to the investigation and suppression of violent crimes involving firearms. ATF’s authorities are set forth in Title 28, Code of Federal Regulations, sections 0.130-0.131, and include the power to investigate violations of the Gun Control Act of 1968 (as amended), Title 18, United States Code, Chapter 44.

BACKGROUND

The ATF NIBIN Program uses sophisticated technology to compare images of ballistic evidence. It is part of an integrated investigative approach to reduce firearms violence and improve crime gun intelligence. Through aggressive targeting, investigation, and prosecution of shooters and their sources of crime guns, Federal, State, tribal, and local law enforcement agencies work in concert to combat firearms-related violence.

SCOPE

Participation in this program is expressly restricted to the sharing of ballistic imaging of firearms data associated with crimes recovered by any law enforcement agency in the United States and international law enforcement partners who have entered into agreements with ATF to share ballistic data. ATF may work with our international law enforcement partners to search their networks in an effort to identify a crime gun in their database against a crime gun in ATF’s NIBIN network.

NIBIN systems are to be used to image ballistic evidence and test fires of firearms illegally possessed, used in a crime, or suspected by law enforcement officials of having been used in a crime. Ballistics information and/or evidence from firearms taken into law enforcement custody through a gun buy-back program, property damage crimes involving firearms, found or abandoned firearms, and domestic disturbances are also permitted to be entered in the NIBIN system.
An ATF-owned NIBIN unit will not be used to capture, share, or store ballistic images acquired at the point of manufacture, importation, or sale of a firearm, or images of law enforcement-issued firearms not associated with crimes. The NIBIN system does not store information related to firearms owners or registration.

APPLICABLE LAWS

The applicable statutes, regulations, directives, and procedures of the United States, DOJ, and ATF shall govern this MOU and all documents and actions pursuant to it. Nothing in this MOU will prevail over any Federal law, regulation, or other Federal rule recognized by ATF. Notwithstanding the foregoing, nothing in this agreement will be construed as a waiver of sovereign immunity in excess of or beyond that which is authorized by the law of the NIBIN Partner's jurisdiction. This MOU is not a funding document. All specific actions agreed to herein shall be subject to funding and administrative or legislative approvals.

MODIFICATIONS AND TERMINATIONS

This MOU shall not affect any pre-existing or independent relationships or obligations between the parties. If any provision of this MOU is determined to be invalid or unenforceable, the remaining provisions shall remain in force and unaffected to the fullest extent permitted by law and regulation.

Except as provided herein, this MOU may be modified or amended only by written mutual agreement of the parties. Either party may terminate this MOU by providing written notice to the other party. The termination shall be effective upon the thirtieth calendar day following provision of notice, unless an alternative date is agreed upon.

If either party terminates this MOU, ATF will retain its interest in the electronically stored information contained in the database and any ATF-deployed NIBIN system. ATF agrees to provide to the NIBIN Partner an electronic copy of the data collected by the NIBIN Partner, subject to Federal law and regulation.

LIABILITY

The NIBIN Partner hereby agrees to assume full and sole liability for any damage, injury, or harm of any sort caused by the operation and use of any NIBIN system or related to the use and interpretation of any information contained in, processed by, or extracted from any database subject to this agreement and the protocols and procedures of the NIBIN Program, to the extent allowed by law.

The rights and obligations set out in this MOU run between the signatories. Nothing in this MOU is intended to create any substantive or procedural rights, privileges, or benefits enforceable in any administrative, civil, or criminal matter by any prospective or actual third-parties.
ATF-DEPLOYED SYSTEM INSTALLATION

The NIBIN Partner hereby agrees and acknowledges that all ATF-deployed NIBIN systems shall remain the property of ATF and the U.S. Government. ATF agrees to provide, install, and maintain all ATF-deployed NIBIN systems for use by the NIBIN Partner and any other law enforcement agencies served by or in partnership with the NIBIN Partner. Should the installation of the NIBIN system require physical construction at the site, the NIBIN Partner will be responsible for such construction and any associated costs. If a system is to be moved to allow additional access outside of a laboratory, ATF will work with the NIBIN Partner to ensure the appropriate protocols are put into place to ensure the integrity of crime gun evidence along with maximum use of the equipment.

ATF-DEPLOYED SYSTEM MAINTENANCE

ATF will maintain all ATF-deployed NIBIN systems furnished to the NIBIN Partner and repair or replace inoperable or outdated systems in an expeditious manner, subject to availability and funding. However, maintenance and repairs required as the result of unauthorized movement, alteration, damage, or destruction will not be assumed by ATF. At all times, the NIBIN Partner agrees not to make or cause to be made any repairs, alterations, movements, additions, improvements, or replacements to the NIBIN systems not expressly authorized in writing by ATF in advance, and further agrees to exercise due care in every respect to prevent system movement, damage, destruction, or misuse.

ATF-DEPLOYED SYSTEM USAGE

Because the NIBIN Program focuses on the reduction of firearms-related violent crimes, the NIBIN Partner shall enter all eligible ballistic evidence recovered from crime scenes as soon as possible. In addition, the NIBIN Partner shall enter into NIBIN test-fire cartridge casings from eligible firearms taken into law enforcement custody in a timely manner. All NIBIN Partner-owned NIBIN equipment will be held to same standards as ATF-deployed systems. NIBIN Partners may not charge other law enforcement agencies for the entry of evidence into ATF-owned or ATF-maintained automated ballistics technology used in the NIBIN Program.

ATF-DEPLOYED SYSTEM REMOVAL

ATF retains the right to remove a NIBIN system upon: (1) a determination that the equipment is neglected or misused; (2) a determination that the equipment is not used effectively to combat violent crime; (3) failure to comply with any obligations or requirements set forth in this MOU; (4) receipt of written notification of the termination of the participation of the NIBIN Partner in the NIBIN Program; (5) the cancellation of this MOU by ATF; or (6) termination of the NIBIN Program by ATF.

If ATF intends to remove a NIBIN system from the NIBIN Partner, ATF will provide written notice.
SYSTEM MOVEMENT

If the NIBIN Partner seeks to move its NIBIN system, it must submit a written request to ATF. ATF’s decision regarding the proposed move will be provided to the NIBIN Partner in writing. Any movement of the NIBIN system after the initial installation will occur at the expense of the NIBIN Partner and only after receipt of authorization by, and coordination with, FTI. In order to realize maximum use of the equipment, it should be placed where trained personnel can expeditiously enter evidence. ATF will work with each partner to realize optimal placement of equipment to obtain actionable investigative leads.

In the event of a natural disaster, ATF will work with the NIBIN Partner to safeguard the NIBIN equipment.

Due to communication line installation/move requirements, NIBIN Partners must provide a minimum of 120 calendar days’ advance notice to ATF and the NIBIN system manufacturer before the intended move of a NIBIN system.

In the event of unauthorized movement, alteration, damage, or destruction of any NIBIN system caused by its employees, contractors, or any other person under its control, the NIBIN Partner agrees to assume the cost of replacement or repairs of the equipment.

The NIBIN Partner agrees to report to ATF, within 5 calendar days, any incident involving the following: an unauthorized movement, alteration, damage, or destruction of ATF-deployed NIBIN systems, any unauthorized use of NIBIN systems or the unauthorized release of data related to the NIBIN Program.

COMMUNICATION LINES

ATF will provide and support primary communication lines necessary for connecting NIBIN systems to the NIBIN network.

SECURITY

The NIBIN Partner will comply with all ATF, DOJ and/or other Federal security requirements related to the NIBIN program, network, and systems to ensure the integrity of the program. These requirements are set forth under NIBIN security policies. ATF will promptly notify the NIBIN Partner should these requirements change. All NIBIN sites will not knowingly allow a person to access the NIBIN network using another person’s user ID and password.

The NIBIN Partner agrees to conduct criminal background checks, including fingerprint checks, of all NIBIN users. Upon successful completion of these background checks, the NIBIN Partner will notify ATF’s NIBIN Branch in writing.
SYSTEM USAGE AND MINIMUM REQUIRED OPERATING STANDARDS

To ensure the consistency, integrity, and success of NIBIN, ATF has enacted Minimum Required Operating Standards (MROS). The MROS, listed below, are rooted in ATF's "Four Critical Steps for a Successful NIBIN Program"—comprehensive collection, timeliness, investigative follow-up, and feedback. They identify the practices that best allow NIBIN to provide comprehensive and timely crime gun intelligence.

1. Enter all fired or test fired cartridge cases from serviced law enforcement agencies and/or departments through a NIBIN acquisition machine within 2 business days of receipt.

2. Enter accurately all required information during the acquisition process on the NIBIN acquisition machine.

3. Correlate and conduct a secondary review of any potential NIBIN leads through an approved NIBIN correlation machine within 2 business days.

4. Disseminate NIBIN leads within 24 hours.

5. Designate and maintain a NIBIN program administrator.

6. No policy shall inhibit or restrict NIBIN submissions by serviced law enforcement agencies and/or departments.

7. Operate with only qualified NIBIN users.

Please note that Standards 3 and 4 are not applicable to NIBIN sites using the NIBIN National Correlation and Training Center for correlation reviews of ballistic images.

As a NIBIN partner, the Charleston SC Police Department is striving to meet the MROS by developing and implementing changes in their operations and working toward compliance on or about December 31, 2020. Each NIBIN site must be in compliance with MROS or working towards compliance to the satisfaction of the Crime Gun Intelligence Governing Board.

AUDITS

ATF and the NIBIN Partner acknowledge their understanding that the operations described in this MOU are subject to audit by ATF, DOJ, the DOJ Office of the Inspector General, the General Accountability Office, and other auditors designated by the U.S. Government regardless of the funding source for the system (NIBIN Partner or ATF). Such audits may include reviews of all records, performance measurements, documents, reports, accounts, invoices, receipts, or other evidence of expenditures related to this MOU and the NIBIN Program.

Notwithstanding, ATF will conduct initial audits of all NIBIN Partners and their sites by December 31, 2020. After this date, the audits will occur once every two years for the
remainder of the MOU. The purpose of the audits is to review and verify compliance with the required MROS. Each site must be in full compliance with the MROS in order to maintain access to NIBIN.

Further, the NIBIN Partner agrees to allow auditors to conduct one or more in-person interview(s) of any and all personnel the auditors determine may have knowledge relevant to transactions performed or other matters involving this MOU and the NIBIN Program.

The NIBIN Partner hereby acknowledges its understanding that, for accounting purposes, that the principles and standards for determining costs shall be governed by the policies set forth in the Office of Management and Budget Circular A-87, revised (available via the OMB, the Superintendent of Documents at the U.S. Government Printing Office, or via the Internet at http://www.whitehouse.gov/omb/circulars/a087/a087-all.html.)

PERSONNEL AND TRAINING

Prior to the execution of this MOU and a NIBIN system installation, the NIBIN Partner must employ, or have access to, a technical person capable of performing forensic microscopic comparison of bullet and cartridge evidence.

The NIBIN Partner agrees to provide and maintain sufficient personnel to operate the NIBIN system and agrees to allow use of the equipment by ATF personnel or our representatives to support the program at the host location. All personnel accessing NIBIN must be a Qualified NIBIN User as required by the MROS. This MOU should not be construed to require the hiring of any new personnel, except at the discretion of the NIBIN Partner. If the NIBIN Partner determines that additional personnel resources are required, all costs associated with this hiring will be borne by the NIBIN Partner. All users of the equipment must satisfy the same requirements as other NIBIN users and be properly trained, qualified and approved in advance by ATF.

Following basic entry training, ATF will verify trainee competency before authorizing network access. Individuals trained internally by a NIBIN Partner will not be certified as appropriately trained until they successfully pass a competency test administered by ATF.

The NIBIN Partner may provide access to the NIBIN system under its operational control to another law enforcement agency. Any such other law enforcement agency agrees to the same restrictions placed upon the NIBIN Partner by this MOU. However, the NIBIN Partner agrees to assume full liability and responsibility for the administration of such access.

Access to the NIBIN system will be under the management and control of the NIBIN Partner. The NIBIN Partner will ensure that only trained, cleared and qualified personnel have access to the NIBIN system.

Participating agencies will develop the appropriate standard operating procedures to ensure all eligible ballistic evidence will be submitted for NIBIN.
COORDINATION

ATF and the NIBIN Partner agree to adhere to standardized procedures and policies for collecting, handling, documenting, transporting and preserving firearms, bullets, casings and any similar evidence submitted for analysis and input into NIBIN.

ATF and the NIBIN Partner similarly agree to adhere to standardized procedures and policies for the source data collection, input, exchange and protection of information, to include information as to the location where ballistic evidence was collected, the circumstances under which it was collected and all crimes to which the firearm(s) or other ballistic evidence is linked.

ATF and the NIBIN Partner agree to cooperate in the development and implementation of data entry protocols and quality assurance procedures for the NIBIN Program. ATF further agrees to cooperate with all participants in the NIBIN Program to establish model standards, protocols, and procedures for the users of the network. Such protocols will be applicable as they are implemented.

The NIBIN Partner will require all participating law enforcement agencies to adhere to the protocols, procedures, policies and quality assurance standards as established above.

Except as expressly prohibited by law, the NIBIN Partner agrees to provide ATF with access to all information, reports and any other relevant information regarding crimes related to evidence entered into the system as well as monthly reports outlining historical, statistical and case adjudication information on the use and results of the use of the NIBIN Program and/or system and the related services provided by ATF and the system manufacturer in order to ensure the capturing of required performance management information. Such information will be gathered for the purpose of informing the law enforcement community, other Government agencies, Congress and the public on NIBIN results. Additionally, ATF will collect information for results-oriented performance measures.

PUBLICITY

Any NIBIN Partner who becomes aware of, or participates in, publicity related to the NIBIN system and investigations within their jurisdiction should advise ATF of same within 48 hours.

DISCLOSURE OF INFORMATION RELATED TO NIBIN

NIBIN system information may be shared with other law enforcement and prosecutors' offices in furtherance of criminal investigations and prosecutions. The NIBIN Partner shall not share any NIBIN system information for other purposes, including requests under the Freedom of Information Act, without express, written authorization from ATF.
INCORPORATION OF APPENDIX

The Appendix to this MOU includes definitions of terms used and is fully incorporated herein. Because requirements may change over time, due to technological advances, security enhancements, or budgetary matters, the Appendix may be updated.

AGREEMENT

ATF and the NIBIN Partner hereby agree to abide by the terms and conditions of this MOU, including any appendices, and all policies of the NIBIN Program. The terms and conditions of this MOU will be considered accepted in their entirety upon the signature by the ATF Special Agent in Charge and the NIBIN Partner signature.

__________________________  __________________________
Luther Reynolds, Chief  Date
Charleston Police Department
180 Lockwood Drive
Charleston SC, 29403

__________________________  __________________________
John Tecklenburg, Mayor  Date
City of Charleston

__________________________  __________________________
Chief, Firearms Operations Division  Date
Bureau of Alcohol, Tobacco, Firearms and Explosives

__________________________  __________________________
Vincent C. Pallozzi  Date
Special Agent in Charge, Charlotte Field Division
Bureau of Alcohol, Tobacco, Firearms and Explosives
APPENDIX

TERMS

Acquisition - An entry of a ballistic image.

ATF – Bureau of Alcohol, Tobacco, Firearms and Explosives, a principal law enforcement agency within the U.S. Department of Justice.

Bullets – Designated calibers of projectiles fired from rifles, revolvers, and pistols.

Cartridge Casings - Designated metal casings from cartridges fired from rifles, shotguns, revolvers, and ejected from pistols.

Correlation – Automated data comparison of signature images to a database.

Crime Gun – Any firearm that is illegally possessed, used in a crime, or suspected by law enforcement officials of having been used in a crime or act of terrorism.

Found or Abandoned Firearms – Firearms that come into the custody of law enforcement outside of investigative or judicial process. A found firearm is located by law enforcement or a non-owner and the owner-possessor is not readily identifiable (e.g., a firearm found in an open field). An abandoned firearm may be a found firearm or a firearm where the possessor chooses to permanently relinquish control of the firearm and abandon any rights of ownership. ATF suggests that NIBIN Partners provide written notice to those persons permanently abandoning or temporarily relinquishing custody of a firearm that the firearm will be test fired and the results entered into the NIBIN System.

NIBIN Network – An ATF-designed and maintained system of interconnected computer systems and terminals used in support of the NIBIN Program.

NIBIN Program – The integration of aggressive targeting, investigation, and prosecution of shooters and their sources of crime guns using automated ballistics technology.

NIBIN Program Administrator – An individual the NIBIN site has designated to communicate with all parties (e.g., submitting law enforcement agencies, ATF Crime Gun Intelligence Centers) involved in the NIBIN process. The NIBIN Program Administrator must be a qualified NIBIN user and full-time employee of the NIBIN site. The NIBIN Program Administrator should be responsible for implementing and directing policies and procedures of the NIBIN site.

NIBIN System – Refers to the integrated ballistic imaging, analysis, and information processing system for use with automated ballistics technology.

Performance Measurements – Various management instruments used to evaluate program effectiveness in successfully removing shooters and their crime gun sources. Performance measurements also include the NIBIN Minimum Required Operating Standards and related audits.
Potential Candidate for Confirmation — Two bullets or cartridges cases displaying sufficient similarity during a correlation review such that the items should be compared using traditional comparative microscopy by a trained firearm examiner to determine if they can be associated to the same firearm.

Qualified NIBIN User — technician and/or firearms examiner trained by ATF, Forensic Technology, and/or a NIBIN Authorized Trainer program to perform acquisition and/or correlation reviews of ballistic images on the NIBIN network.

Security Requirements — Types and levels of physical and cyber protection necessary for equipment, data, information, applications, and facilities to meet security policies and standards.

Security Policies — The set of laws, rules, directives, and practices that regulate how an organization manages, protects and distributes controlled information.

Timely — Occurring at a suitable time and without unnecessary delay. Some NIBIN submissions require a response within 48 hours to be considered timely.

Volunteer — An individual who has chosen to perform services without charge or payment and has entered into a written agreement with a NIBIN Partner addressing issues of confidentiality, costs, and waiver of all claims against the Federal government.