AMENDED
SPECIAL MEETING
June 30, 2021
4:00 p.m.
Conference Call: 1-929-205-6099
Access Code: 300611887

COMMITTEE ON WAYS AND MEANS

1. Invocation – Councilmember Gregorie

2. Executive Department: Approval to submit a grant application to the U.S. Department of Transportation in the amount of $25,000,000 to support construction of the 1.7 mile bicycle/pedestrian trail on reclaimed/abandoned railway track. A $5,000,000 match is required. The City of Charleston, as the grant applicant, will be responsible for the match. Friends of the Lowline have included a letter explaining their intent to raise funds for the match. The City does not have funding identified at this time.

3. Parks-Capital Projects: Approval of a Small Construction Contract with Howell & Howell Contractors, Inc. in an amount not to exceed $50,000 for completion of work at Savannah Highway Fire Station #11 to meet substantial completion. The Construction Contract will obligate $50,000 of the $9,530,761.66 project budget. The funding sources for this project are the Installment Purchase Revenue Bond ($7,989,524), Proceeds from the Sale of Real Estate ($1,135,607.64), Surplus Sales ($1,130.02) and Hospitality Funds ($380,000).

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.
COMMITTEE / COUNCIL AGENDA

TO: John J. Tecklenburg, Mayor
FROM: Rick Jerue DEPT. Executive
SUBJECT: REBUILDING AMERICA INFRASTRUCTURE WITH SUSTAINABILITY AND EQUITY
REQUEST: To approve the submission of a grant application to U.S. Department of Transportation in the amount of $25,000,000 to support construction of the 1.7 mile bicycle/pedestrian trail on reclaimed/abandoned railway track

COMMITTEE OF COUNCIL: W&M DATE: June 30, 2021

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

Corporate Counsel Yes N/A Signature of Individual Contacted Attachment
Cap. Proj. Cmte. Chair
Executive Department

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

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

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

NEED: Identify any critical time constraint(s).

CFO's Signature: ___________________________________________________________

FISCAL IMPACT:

A $5,000,000 match is required. The City of Charleston, as the grant applicant, will be responsible for the match. Friends of the Lowline have included a letter explaining their intent to raise funds for the match. The City does not have funding identified at this time.

Mayor's Signature: _________________________________________________________

John J. Tecklenburg, Mayor

ORIGINATING OFFICE PLEASE NOTE: A FULLY STAFFED/APPROVED (except Mayor's Signature) PACKAGE IS DUE IN THE CLERK OF COUNCIL'S OFFICE NO LATER THAN 10:00AM THE DAY OF THE CLERK'S AGENDA MEETING.
Mayor John Tecklenburg  
City of Charleston  
80 Broad Street  
Charleston, SC 29401  

June 22, 2021  

Dear Mayor:  

With this letter we present a draft application for a 2021 U.S. Department of Transportation Rebuilding American Infrastructure with Sustainability and Equity (RAISE) grant. We ask the City of Charleston, as our partner, to submit this application to U.S.D.O.T.  

We are optimistic about the application’s chances for success. The Lowline vision developed jointly with the City of Charleston addresses all the objectives of the RAISE grants and the priorities of the Biden administration. Not only will the Lowline provide recreation and mobility but its very cornerstones are equity and inclusion. As a sustainability bonus it will also deliver serious stormwater handling improvements.  

Our preparation of this application and its submission by the city represent another hand-in-hand step toward making this transformative vision a reality.  

For now, no city appropriation is required until the grant application is successful — and we’ll find out this coming November. The RAISE grant could deliver as much as $25 million. And every million dollars in local funding can produce up to five million in federal dollars.  

While we await a decision on the RAISE grant we also expect that the city’s near-term investment to start phase one Lowline construction will catalyze flow of private Lowline funding. We pledge to do our utmost to pursue this promising prospect; confident about sharing equally with the city the task of assembling funds for the mandated local “match.” We will work with the city to approach outside funding sources and we look forward the discussions with private benefactors, business and development interests as well as other government entities.  

Moving ahead now is crucial. Charlestonians are invested in the future of the Lowline and this major step can enable the community to bring the vision to life.  

Sincerely  
  
Tom Bradford  
Board Chair
City of Charleston, SC
Lowcountry Lowline Trail Project
FY 2021 RAISE Grant Application

Urban Area Application

Total Project Cost: $30,000,000
Local Match: $5,000,000
Requested FY 2021 RAISE Funding: $25,000,000

Submitted by the City of Charleston, SC, in partnership with the Friends of the Lowline

July 12, 2021
Executive Summary

The City of Charleston, SC, in partnership with the Friends of the Lowline are requesting $25,000,000 in Rebuilding American Infrastructure with Sustainability and Equity (RAISE) funding from the United States Department of Transportation (USDOT) in addition to a local match from the City of Charleston, SC and the Friends of the Lowline of $5,000,000. The Lowcountry Lowline Trail Project (the Lowline) is an innovative transportation project to enhance the connectivity and accessibility within the City of Charleston, SC as depicted below in Figure X. A regionally significant project, the Lowline Project will construct a 1.7-mile bicycle/pedestrian trail on reclaimed/abandoned railway track and neglected highway corridor along the backbone of the Charleston Peninsula.

There is an estimated benefit of $XX.XX for every $1 spent on the project. The total cost of the project $30,000,000 which, the City of Charleston is requesting $25,000,000 in Rebuilding American Infrastructure with Sustainability and Equity (RAISE) funding from the United States Department of Transportation (USDOT) in addition to a local match from the City of Charleston and the Friends of the Lowline of $5,000,000. The project meets all RAISE primary selection criteria and is ready for implementation due to an unprecedented level of local support.

Figure X: Lowcountry Lowline Trail Project
CPR COMMITTEE and/or COUNCIL AGENDA

TO: John J. Tecklenburg, Mayor
FROM: Beth Brownlee / Matt Frohlich DEPT. Parks – Capital Projects
SUBJECT: CFD SAVANNAH HIGHWAY FIRE STATION (FS#11) CONSTRUCTION CONTRACT
REQUEST: Approval of a Small Construction Contract with Howell & Howell Contractors, Inc. in an amount not to exceed $50,000.00 for completion of work at Savannah Highway Fire Station #11 to meet substantial completion.

COMMITTEE OF COUNCIL: Ways & Means DATE: June 30, 2021

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

<table>
<thead>
<tr>
<th>Capital Projects Director</th>
<th>Yes</th>
<th>N/A</th>
<th>Signature of Individual Contacted</th>
<th>Attachment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Corporate Counsel</td>
<td></td>
<td></td>
<td>[Signature]</td>
<td></td>
</tr>
</tbody>
</table>

FUNDING: Was funding previously approved? Yes ☒ No ☐ N/A ☐
If yes, provide the following: Dept/Div Parks-Capital Projects Acct # 051426-58240
Balance in Account $50,000.00 Amount needed for this item $50,000.00 Project Number CP1521

NEED: Identify any critical time constraint(s).

CFO’s Signature: [Signature]

FISCAL IMPACT: The Construction Contract will obligate $50,000.00 of the $9,630,761.66 project budget. The funding sources for this project are the Installment Purchase Revenue Bond ($7,989,524.00), Proceeds from the Sale of Real Estate ($1,135,607.64), Surplus Sales ($1,130.02) and Hospitality Funds ($380,000.00).

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

ORIGINATING OFFICE PLEASE NOTE: A FULLY STAFFED/APPROVED (except Mayor’s Signature) PACKAGE IS DUE IN THE CLERK OF COUNCIL’S OFFICE NO LATER THAN 10:00 A.M THE DAY OF THE CLERK'S AGENDA MEETING.
City of Charleston  
Short Form Small Construction Contract  
PROJECTS $000.00 TO $100,000.00

THIS CONTRACT, made this ______ day of ______, 20____ by and between:

The Owner: City of Charleston and the Contractor: Howell & Howell Contractors, Inc.
Department of Parks 2603 Grassland Dr
823 Meeting Street Louisville, KY 40299
Charleston, SC 29403

ARCHITECT ENGINEER – The A/E of Record for this Project is:  Liollio Architecture, Inc.

WHEREAS, the Owner requires the construction of the project ("the Work") identified as follows:

CP 1521 Fire Station 11 – Savannah Hwy
(Project Number) (Project Name)

Short Description of the Project:
Contract scope includes completion of punch list items and other tasks necessary for substantial completion of the new Fire Station 11. Contractor should either self-perform and/or hire/coordinate licensed subcontractors to perform the work. Contractor will utilize the punch list as a starting point for the work and will address not only the punch list items but any other items that are noted as deficient. This contract is formatted as a NTE $50,000 with payments to be based on time and materials. Detailed invoices with hours and materials will be provided for processing payments.

WHEREAS, the Contractor, whose South Carolina professional license is G96454 is prepared and qualified to provide the City requested services as outlined in Exhibit A and in accordance with the General Terms and Conditions of this Contract.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE ENTERED INTO THIS CONTRACT ON THE DAY AND YEAR FIRST WRITTEN ABOVE.

OWNER:  City of Charleston

BY:  ____________________________  
     John J. Tecklenburg
     Mayor

CONTRACTOR:  Howell & Howell Contractors, Inc.

BY:  ____________________________  (Signature of Contractor Representative)

     JT Skaags
     (Name of Contractor Representative)

ITS:  ____________________________  (Project Manager/Estimator)
TERMS AND CONDITIONS

NOW THEREFORE, the Owner and Contractor agree to all of the following terms and conditions set forth in this Contract.

1. TIME OF PERFORMANCE:
   a. THE EFFECTIVE DATE of this Contract shall be the date written above.
   b. THE DATE OF COMMENCEMENT shall be the date indicated in the Notice to Proceed.
   c. THE DATE OF SUBSTANTIAL COMPLETION shall be
   d. calendar days after the DATE OF COMMENCEMENT, subject to adjustment in accordance with the terms of this Contract.
   e. THE DATE OF FINAL COMPLETION shall be the date that the Work has been completed and accepted by the Owner.

2. PAYMENTS TO THE CONTRACTOR for acceptable Work performed shall be as follows:
   a. THE CONTRACT SUM OF $NTE $50,000 to be paid in response to the Contractor’s Applications for Payment as certified by the A/E and subject to the terms of this Contract.
   b. THE CONTRACT SUM is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner: _______
      Not Applicable □

3. LIQUIDATED DAMAGES ARE AS FOLLOWS:

   It is acknowledged that the Contractor’s failure to achieve substantial completion of the Work within the Contract Time provided by the Contract Documents will cause the Owner to incur substantial economic damages and losses of types and in amounts which are impossible to compute and ascertain with certainty as a basis for recovery by the Owner of actual damages, and that liquidated damages represent a fair, reasonable and appropriate estimate thereof. Accordingly, in lieu of actual damages for such delay, the Contractor agrees that liquidated damages may be assessed and recovered by the Owner as against Contractor and its Surety, in the event of delayed completion and without the Owner being required to present any evidence of the amount or character of actual damages sustained by reason thereof; therefore Contractor shall be liable to the Owner for payment of liquidated damages in the amount of zero dollars ($ 0.00 ) for each day that Substantial Completion is delayed beyond the Contract Time as adjusted for time extensions provided by the Contract Documents. Such liquidated damages are intended to represent estimated actual damages and are not intended as a penalty, and Contractor shall pay them to Owner without limiting Owner’s right to terminate this Contract for default as provided elsewhere herein.

ARTICLE 1 – CONTRACT DOCUMENTS
A. The Contract Documents forming this Contract shall consist of the following:
   1. a fully executed Short Form Construction Contract (this document) and any listed attachments hereto;
   2. the Project Manual dated: March 12, 2018
   3. the Project Drawings dated March 12, 2018 along with the Project Drawings listed in the Project Manual;
   4. Bid Addenda issued by the City: Numbers: Addendum 01 dated 03/23/18; Addendum 02 dated April 3, 2018
   5. the Contractor’s completed Bid Form;
   6. all Change Orders and Change Directives;
   7. NBM Construction punch list “Liollio Final Punch” dated May 12, 2021 and revisions dated 06/23/2021

Small Construction Contract
Modified 04/13/2021
ARTICLE 2 – CONTRACTOR, OWNER, A/E PROVISIONS

A. The Contractor warrants to the Owner that:
   1. it and its subcontractors (if any) are financially able to complete the Work;
   2. it will perform all obligations, furnish all plant, material, equipment, tools, transportation, supplies and labor to complete the Work for the Contract Sum entered above;
   3. it is authorized and licensed to do business in the State of South Carolina and the City of Charleston;
   4. it will perform the Work with care and diligence and in a professional and workmanlike manner as required by this Contract; and,
   5. it has visited the Work site and is reasonably apprised of the conditions in and around the Work area.

B. Contractor’s Rights and Responsibilities
   In addition to any other rights and responsibilities contained in this Contract, the Contractor shall:
   1. not incur any expense chargeable to the Owner until this Contract has been authorized and fully executed by both the Owner and the Contractor;
   2. pay for required construction permits or business license fees, labor, materials, equipment, tools, transportation, supervision, testing, etc., required to perform this Contract;
   3. visit the Work site and obtain information to assist in familiarization with the Work site, its conditions and any limitations that would affect the performance of this Contract, including subsurface conditions;
   4. have the right to rely on information contained in the Contract Documents, but shall give prompt and timely notice to the Owner of any apparent deficiencies or inconsistencies in the information furnished by the Owner or its A/E;
   5. be responsible for all construction means, methods, techniques, procedures and safety measures in the performance this Contract;
   6. employ only persons skilled in the Work for which it is to do, employ an experienced superintendent to supervise the Work of its employees and subcontractors who shall be responsible for the acts or omissions of the Contractor’s agents and employees or those of sub-contractors and their agents and employees acting on behalf of the Contractor;
   7. not be responsible for the failure of any contractor, sub-contractor, vendor, or other project participant, not under a contract with the Contractor, to fulfill its contractual responsibilities to the Owner or to comply with Federal, State, or local laws, regulations, and codes;
   8. have, at the time of execution and for the duration of this Contract, all professional and business insurance, licenses and permits required to provide the required Work in the State of South Carolina, the City of Charleston and as required by this Contract; and,
   9. If during the course of executing the Work, the Contractor encounters material believed to be of archeological significance, then the Contractor shall immediately stop Work in the affected area and report the finding to the Owner and the A/E in writing. Except by written agreement of the Owner and Contractor, the Contractor shall not resume Work until the item of archeological significance has been removed by the Owner or the area has been rendered protected by the Owner.

C. Owner’s Rights and Responsibilities
   In addition to any other rights and responsibilities contained in this Contract, the Owner shall:
   1. provide the Contractor with available information regarding the Project and the immediate area where the Project is located;
   2. pay the Contractor for acceptable Work performed, in accordance with the provisions of this Contract;
   3. if the Contractor fails to begin Work within fourteen (14) calendar days of the DATE OF COMMENCEMENT as indicated in the Notice to Proceed, the Owner shall have the right to declare the Contractor in material breach of this Contract and terminate the Contract immediately without notice; and,
   4. act as the A/E in the absence of a licensed design professional.
D. **A/E's Rights and Responsibilities**

In addition to any other rights and responsibilities contained in the Contract, the A/E shall:

1. represent the Owner during the construction process through final completion of the Project, and as requested during the warranty period. The A/E will act on behalf of the Owner only to the extent provided in these Contract Documents or otherwise agreed by the Owner;
2. make periodic visits to the site during construction to become familiar with the progress and quality of the Work and to determine if the Work is being performed accordance with the Contract Documents;
3. make recommendations to the Owner as to the acceptance or rejection of any portion of the Project and communicate the Owner's decision to the Contractor;
4. review and approve or reject shop drawings and samples submitted by the Contractor;
5. respond promptly to all requests for information or clarification from the Owner or the Contractor;
6. make the interpretation and decision on matters concerning performance under, and the requirements of, the Contract Documents, upon written request of either the Owner or Contractor, said interpretation or decision of the A/E shall be final, subject to the dispute resolution provisions of this Contract;
7. review periodic requests for payment, and approve or reject the request, in whole or in part; and,
8. prepare Change Orders or Change Directives as directed by the Owner.

**ARTICLE 3 – CONSTRUCTION ADMINISTRATION**

A. **Shop Drawings and Samples**

1. The Contractor shall review and approve Shop Drawings and Samples prior to their submission to the A/E. The Contractor's review shall be for compliance with the requirements of the Contract Documents and to ensure complete coordination of the Work.
2. The Contractor shall submit one (1) set of Shop Drawings as specified in the Contract Documents, or in the absence of a specification, submit enough copies for the Owner to retain two copies plus the number desired to be returned to the Contractor.
3. The A/E will review the shop drawings and samples with reasonable promptness but only for conformity with the design.
4. The Contractor shall submit samples as required by the Contract Documents. The final installed product shall match the approved sample.

B. **Materials and Workmanship**

1. The Contractor shall not use or allow the use of any asbestos-containing product.
2. The Contractor shall not use or allow the use of lead material in public water application. Lead-free solder, flux and pipe must be used in all public drinking water and wastewater applications. Lead-free solder and flux is defined as containing less than 0.2% lead while valves, pipes and appurtenances must contain less than 8.0% lead.
3. The Contractor warrants that unless otherwise specified or permitted by the Contract Documents, all materials shall be new, in first class condition, and installed using workmanship of the highest quality in accordance with the Contract Documents.

C. **Inspection and Testing of Materials**

1. The Contractor shall have performed and documented all inspections and tests required by the Contract Documents, including those required by the City's building officials.
2. The Contractor shall leave uncovered all areas of Work that are called out in the Contract Documents to be left uncovered, or the A/E requests to be left uncovered prior to being inspected. The Contractor shall give adequate notice to the A/E of the time requested for an inspection of these areas.

D. **Substitutions**

1. Wherever the Contract Documents specify a particular product, article, appliance, equipment, or material and it is designated by manufacturer and model number, it is the intent to designate a level of quality, finish, appearance, function, or other factor that was desirable to have incorporated into the design. Equivalent products of alternate manufacturers may be used, but must meet or exceed the specification for the original product and must be approved in advance by the A/E.
2. The Contractor shall not substitute any product, article, appliance, equipment, or material that is specified without the prior written approval from the A/E, which shall be granted only with the concurrence of the Owner.

E. Changes in the Work
1. Only the Owner may authorize changes in the Work. Such changes shall be made by issuing either a Change Order or a Construction Change Directive, and the Contractor shall execute the changed Work promptly.
2. The Contractor shall provide supporting information as requested by the A/E or the Owner to document the cost of any changed Work.
3. The Contractor shall prepare its cost proposal including labor and material cost breakdown with overhead and profit added as follows:
   a. For the Contractor or subcontractor on Work performed by its own forces:
      
      | Overhead (%) | Profit (%) | Commission (%) |
      |-------------|-----------|----------------|
      | 10          | 7         | 0              |
   b. For the Contractor or subcontractor on Work performed by its subcontractors:
      
      | Overhead (%) | Profit (%) | Commission (%) |
      |-------------|-----------|----------------|
      | 10          | 0         | 3              |
   c. To a first tier subcontractor on Work performed by its subcontractors:
      
      | Overhead (%) | Profit (%) | Commission (%) |
      |-------------|-----------|----------------|
      | 10          | 0         | 3              |
   d. No more than three levels of overhead, profit, and commission shall be allowed regardless of the number of subcontractor tiers ("commission" is defined as profit on Work performed by others). The Contractor or subcontractor shall not be allowed overhead or commission on the overhead, profit, and/or commission received by its subcontractors. Changes to the Work that decrease the Contract Sum, i.e., deleted Work, shall include Overhead, Profit, and Commission.
4. In the absence of a total agreement concerning the item(s) for a Change Order, a Construction Change Directive shall be issued and the Contractor shall proceed diligently with performance of the Work required.

F. Receiving and Storing Materials and Equipment
1. The Contractor shall have an authorized person or persons to receive all items and shall properly unload, check for completeness of shipments, and in-transit damage.
2. The Contractor shall properly handle and store materials, supplies, equipment etc. in accordance with the Delivery Order or manufacturer’s printed instructions of each product.

G. Reports
1. The Contractor shall prepare Daily Progress Reports on a form provided by the Owner. Reports shall be submitted to the Owner on a weekly basis.

H. Time for Completion
1. Requests for time extensions shall be made promptly. Delays of the Work due to circumstances beyond the control of the Contractor shall be adequately documented and submitted to the Owner with any request for an extension of the time for the completion.
2. The time allowed for Substantial Completion includes five (5) calendar days per calendar month for delays due to inclement weather. Delays due to weather beyond the five days may be requested as a time extension to the time for completion. The Contractor shall submit job site weather data supporting the claim for an extension of time.
3. Should completion of the Work extend past the original or amended Contract Date of Substantial Completion, the Owner will retain as liquidated damages, and not as a penalty, the amount listed on Page 1 and reduce the Contractor's final payment by that amount.
I. Guarantees and Warranties
   1. The Contractor shall remedy and make good all defects in material and workmanship at no additional cost to the Owner and pay for any damage to other Work or property resulting from such defects for a period of one year from the Date of Substantial Completion, excepting damage that is caused by misuse or abuse by the Owner. All warranties shall be assigned to the Owner at no cost to the Owner and without the approval of the Contractor.
   2. Where guarantees and/or warranties are required in the technical sections of the specifications, or as noted on the drawings, exceeding the one-year guarantee period, the extended warranty period will govern.

J. Use of the Site
   1. The Contractor shall confine its operations to areas permitted by laws and ordinances, and as defined in the Contract Documents. The site must be maintained in a reasonably clean condition, free of trash and debris. The Contractor shall, on a regular basis or as specifically requested by the Owner, remove from the site all trash, debris, tools and equipment no longer needed for the Project.
   2. The Contractor shall provide access to the site where the Project is being completed for representatives of the Owner, the Owner, the A/E and for all authorities having jurisdiction over the Project.

K. Taxes
   1. The Contractor shall include in its Bid, and pay for, all taxes in effect or scheduled to go into effect at the time of bidding.
   2. The Contractor's attention is directed to Title 12, Chapter 8, of the SC Code of Laws, as amended, concerning withholding of tax for non-residents, employees, contractors and subcontractors.

ARTICLE 4 - PAYMENTS
A. The Owner shall make payments no more often than monthly to the Contractor for acceptable Work, as scheduled on page 1 and in accordance with Title 29, Chapter 6 of the SC Code of Laws, as amended.

B. The Contractor shall make payments to subcontractors and suppliers for acceptable Work performed and materials furnished in accordance with Title 29, Chapter 6 of the SC Code of Laws, as amended.

C. Accompanying each Application for Payment, the Contractor shall submit to the A/E a Schedule of Values allocating all the various portions of the Project, and a Construction Schedule, to be used by the A/E as a basis for reviewing the Application for Payment. The Owner shall make progress payments to the Contractor for acceptable Work completed based on the approved Schedule of Values and the A/E's evaluation of the Contractor's Application for Payment. The Owner shall retain ten (10) percent of the value of the Contractor's last payment until the Final Application for Payment is paid.

D. The Contractor's Final Application for Payment may be submitted when the following have occurred:
   1. The Contractor has fully completed the Project which is the subject of this Contract, including the acceptable completion of all punch list items; and,
   2. The Contractor furnishes a Consent of Surety to Final Payment (for bonded projects) and Releases of Lien from subcontractors and suppliers; and,
   3. The Contractor has furnished to the satisfaction of the A/E and the Owner all operating and maintenance manuals, product information, supplier warranties and guarantees and all other project completion documents; and,
   4. The Contractor has completed all training and other startup/turnover support activities with the Owner's staff.

E. If the Project is completed to the satisfaction of the A/E, the A/E shall certify the Final Application for Payment and the Owner shall make final payment to the Contractor.
ARTICLE 5 – CLAIMS
A. Each party may assert a Claim requesting an adjustment of the Contract Sum, a change in the Contract Time for completion, or other relief with respect to the terms of the Contract.

B. Claims under this Contract shall be submitted by written notice that a Claim is being asserted. The responsibility to substantiate a Claim rests with the party making the Claim.

C. Claims arising prior to the date the final payment is due must be initiated within twenty-one (21) days after occurrence of the event giving rise to such Claim or within twenty-one (21) days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. By failing to give written notice of a Claim within the time required by this paragraph, a party expressly waives its Claim.

D. Pending a resolution of the Claim, including any dispute resolution under this Contract, the Contractor shall proceed to perform as required by the Contract and the Owner shall continue to make payments in accordance with this Contract.

ARTICLE 6 – DISPUTE RESOLUTION
A. The parties agree to attempt in good faith to resolve their disputes arising from a Claim or controversy arising out of or relating to the Contract. To the extent that the parties are unable to reach a resolution, the parties agree that any suit, action or proceeding arising out of or relating to the Contract shall be instituted and maintained only in a state or federal court located in Charleston County. The Contractor agrees that any act by the Owner regarding the Contract is not a waiver of either the State's sovereign immunity or the State's immunity under the Eleventh Amendment of the United States Constitution. As used in this paragraph, the phrase "the State" includes any governmental entity transacting business with the Contractor pursuant to the Contract (including the Owner).

ARTICLE 7 – SUSPENSION OR TERMINATION OF THE CONTRACT
A. Owner’s Right of Termination
1. The Owner may, at any time, terminate the Contract, in whole or in part, with or without cause for the Owner’s convenience, upon thirty (30) days written notice to the Contractor. If Owner terminates the Contract for convenience, the Contractor shall be paid for acceptable Work completed through the date of termination.
2. The Owner may, upon written consent of the Contractor, reinstate the terminated portion of this Contract in whole or in part if it is determined by the Owner, in its sole discretion, that it is necessary or advantageous to the Owner. Compensation shall be equitably negotiated by agreement between the Owner and Contractor.

B. Contractor’s Right of Termination
1. The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor or a Subcontractor, or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, for any of the following reasons:
   a. Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped; or
   b. An act of government, such as a declaration of national emergency that requires all Work to be stopped.
2. The Contractor may terminate its performance under this Contract if the Owner fails to make payments of undisputed amounts to the Contractor as required by the terms of this Contract. Prior to the termination for nonpayment, the Contractor shall give written notice to the Owner, and shall allow the Owner no fewer than sixty (60) calendar days to make payment, otherwise the termination may take effect without further notice by the Contractor.
3. If the Contractor terminates the Contract for one of the reasons stated above, the Contractor will be compensated for Work completed and accepted and materials purchased and stored in accordance with the Contract Documents through the date of termination.

C. Owner’s Right of Suspension
   1. The Owner may, at any time, suspend this Contract, in whole or in part, with or without cause, for such period of time as determined by the Owner.
   2. The Contract Sum and Contract Time will be adjusted for increases in cost to the Contractor due to the delay or interruption of the Work, except that no increase will be granted for delays or interruptions that are, or would have been, the responsibility of the Contractor or subject to an equitable adjustment covered under other provisions of the Contract.

ARTICLE 8 – PROTECTION OF PERSONS AND PROPERTY
A. The Contractor is responsible for job-site safety and the protection of persons and property within the Work site. The Contractor shall comply with all applicable laws, rules and regulations regarding safety.

B. If during the course of executing the Work, the Contractor encounters material believed to be hazardous or of archeological significance, the Contractor shall immediately stop Work in the affected area and report the conditions to the Owner and the A/E in writing. Except by written agreement of the Owner and Contractor, the Contractor shall not resume Work until the material has been rendered harmless, removed or protected.

C. As to hazardous materials, this Article shall apply only to hazardous, toxic or radioactive materials or substances subject to the regulations of agencies having jurisdiction such as, but not limited to, the S.C. Department of Health and Environmental Control (SCDHEC), the U.S. Environmental Protection Agency (USEPA) and the U.S. Nuclear Regulatory Commission (USNRC).

D. For the purposes of this Contract, the term “rendered harmless” shall be interpreted to mean that measured levels of verified hazardous, toxic or radioactive materials or substances are less than the applicable standards established by authorities having jurisdiction. In no event, shall the Owner have any responsibility for any substance or material that is brought to the Project site by the Contractor, any Subcontractor, any material supplier, or any entity for whom any of them is responsible, unless such materials or substances were expressly required by the Contract Documents. The Contractor agrees not to use any fill or other materials to be incorporated into the Work that are hazardous, toxic, or radioactive, or made up of any items that are hazardous, toxic, or radioactive.

ARTICLE 9 – INDEMNITY
A. The Contractor shall indemnify and save harmless the Owner and the Owner’s officers, agents, and employees, from and against all losses and claims, demands, payments, suits, actions, recoveries, and judgments of every nature and description brought or recovered against them by reason of any act, omission, or default of the Contractor, its agents, or employees in the execution of this Contract. When the Owner submits notice, Contractor shall promptly defend any aforementioned action at no cost to the Owner. This obligation shall survive the suspension or termination of this Contract. The limits of insurance coverage required herein shall not serve to limit this indemnity obligation. The recovery of costs and fees shall extend to those incurred in the enforcement of this indemnity.

ARTICLE 10 – INSURANCE AND BONDS
A. The Contractor shall purchase and maintain insurance to protect against claims that may arise out of the Contractor’s operations under the Work of this Contract. The limits shall be for not less than the limits set forth in this Article, shall be written on an occurrence basis and shall be in force for the duration of the Contract.
B. The Contractor’s Liability Insurance shall include all major divisions of coverage and is to be based on a Commercial basis including the following:
2. Independent Contractor’s Protective.
4. Personal and Advertising Injury.
5. Contractual, including specified provisions for Contractor’s obligations.
6. Broad Form Property Damage, including Completed Operations.
7. Owned, Non-Owned and Hired Vehicles.
8. Errors and Omissions.

C. The Insurance required by this Article shall be written for not less than the following limits or greater if required by law or other provisions in the Contract:

1. Commercial General Liability:
   a. General Aggregate (per project) $2,000,000
   b. Products/Completed Operations $1,000,000
   c. Personal and Advertising Injury $1,000,000
   d. Each Occurrence $1,000,000
   e. Fire Damage $50,000
   f. Medical Expense (any one person) $5,000

2. Business Auto Liability (including all owned, non-owned, and hired vehicles):
   a. Combined Single Limit $1,000,000
      -OR-
   b. Bodily Injury & Property Damage (each) $1,000,000

3. Workers Compensation
   a. State Statutory
   b. Employer’s Liability $100,000 Per Accident
   $500,000 Disease, Policy Limit
   $100,000 Disease, Each Employee

D. The aggregate Limits of the Contractor’s Insurance shall apply, in total for this Contract. This shall be indicated on the Certificate of Insurance as “Per Project”, or in an attached policy amendment.

E. The Owner shall be listed as the certificate holder of the Contractor’s Liability Insurance.

F. Certificates of Insurance shall be in the form of the latest edition of the ACORD 25 and shall be filed with the Owner prior to commencement of the Work. In addition to Certificates of Insurance, the Contractor shall supply a written endorsement to the Contractor’s general liability insurance policy that names the Owner as an additional insured. The endorsement shall provide that the Contractor’s liability insurance policy shall be primary, and that any liability insurance of the Owner shall be secondary and noncontributory. These Certificates shall contain a provision that coverages afforded under the policies will not be cancelled unless at least thirty (30) days prior written notice has been given to the Owner.

G. In no event shall any failure of the Owner to receive certified copies or certificates of policies required under this Article or to demand receipt of such certified copies or certificates prior to the Contractor’s commencing the Work be construed as a waiver by the Owner of the Contractor’s obligations to obtain insurance pursuant to this Article. The obligation to procure and maintain any insurance required by this Article is a separate responsibility of the Contractor and independent of the duty to furnish a certified copy or certificate of such insurance policies. Cancellation of insurance shall be grounds for the immediate termination of the Contract.
H. Bonds
The Contractor shall deliver to the Owner properly executed Performance and Payment Bonds. If the Contractor fails to provide the Owner with a properly executed Bond as required herein, Contractor shall be in material breach of its responsibilities under the Contract.
1. Bonds shall each be in the amount of 100% of the amount of the Contract.
2. The Surety providing the Bonds shall have, at a minimum, a “Best Rating” of “A” as stated in the most current publication of “Best’s Key Rating Guide, Property-Casualty”. In addition, the Surety shall have a minimum “Best Financial Strength Category” of “Class V” and in no case less than five (5) times the Contract amount. The Bonds shall:
   a. be issued by a surety company licensed to do business in South Carolina; and,
   b. be accompanied by a current power of attorney and certified by the attorney-in-fact who executes the bond on the behalf of the surety company; and,
   c. remain in effect for a period not less than one (1) year following the date of Substantial Completion or the time required to resolve any items of incomplete Work and the payment of any disputed amounts, whichever time period is longer; and,
   d. display the Surety’s Bond Number.

I. Property Insurance
The Contractor shall purchase and maintain Builder’s Risk insurance on the Project in the amount of the Contract Sum and all subsequent modifications on a replacement cost basis. The Contractor shall be responsible for any deductibles. Such insurance shall be maintained until final payment has been made.

ARTICLE 11 – CORRECTION OF WORK
A. The Contractor shall promptly, and with due diligence, correct Work rejected by the A/E or the Owner for failure to conform to the requirements of the Contract, whether such defective Work is observed before or after Final Completion. The Contractor shall pay for correcting the deficient Work including additional testing and inspections and any compensation for A/E services and expenses involved.

B. If the Contractor fails to carry out the Work in accordance with the Contract Documents, and fails within a seven (7) day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies it may have, proceed to correct such deficiencies. In such case, an appropriate Construction Change Directive shall be issued deducting from payments to the Contractor the reasonable cost of correcting such deficiencies, including the Owner’s expenses and compensation to the A/E, if necessary.

C. The Contractor and the Surety (if the Contract is bonded) remain liable for any excess cost or damages resulting from actions set forth in this Article.

ARTICLE 12 – CONSTRUCTION BY OWNER
A. The Owner reserves the right to do Work with its own forces or award separate contracts for Work on the same project.

B. The Contractor agrees to allow access to the site by the Owner’s workforce or separate contractor(s), and agrees to assist in coordinating the progress of the Work with the Owner.

C. The Owner shall have the responsibility to coordinate the activities of the various contractors working at the project location.

ARTICLE 13 – SUBCONTRACTORS
If the Contractor engages subcontractors to provide Work on the Contract, then the Contractor shall include, or cause to be included, in the agreement with those entities, all provisions contained in this Contract. Subcontractors and sub-subcontractors shall be bound by the same provisions as the Contractor and shall preserve and protect the rights of the Owner.

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ARTICLE 14 – COMPLETION AND CLOSEOUT
A. The Contractor shall have completed the unfinished and defective Work listed in the “punch list” and notify the A/E of its completion. The A/E will schedule a Final Inspection and require the Contractor to demonstrate that all equipment and systems operate as designed. The Owner may elect to have other persons, firms or agencies participate in the inspections.

B. Failure of the Contractor to achieve completion within the allowed time shall entitle the Owner to consider the Contractor in breach of the Contract.

C. If more than one Final Inspection is required, the Contractor shall reimburse the Owner for all costs associated with the re-inspection, if any.

D. Final Payment shall not be due, nor shall retained funds be released, until the Contractor complies with the requirements of Article 4.

ARTICLE 15 – GOVERNING LAW
This Contract is entered into and shall be construed and governed in accordance with the laws of the State of South Carolina. Contractor and City shall: (1) submit to the jurisdiction of the state and federal courts located in Charleston County, South Carolina; (2) waive any and all objections to jurisdiction and venue; (3) and not raise forum non conveniens as an objection to the location of any litigation.

ARTICLE 16 - MISCELLANEOUS
A. The Contractor and Owner each bind themselves, their directors, officers, successors, executors, administrators, assigns and legal representatives to all provisions of the Contract. Neither party shall assign, sublet or transfer their interest in this Contract.

B. This Contract represents the entire and integrated agreement between the Owner and the Contractor. It supersedes any and all prior and contemporaneous communications, representations and agreements, whether written or oral relating to the subject matter of this Contract.

C. Nothing in this Contract shall be construed to give any rights, contractual relationship or benefit to a third party against either the Owner or the Contractor.

D. Nothing in this Contract shall prevent the Contractor from employing any independent consultant, associate, or sub-contractor to assist in the performance of the Work.

E. Unless otherwise included in the Contract, nothing shall require the Contractor to discover, handle, remove, or dispose of any hazardous or toxic materials in any form at the project site.