SPECIAL MEETING
July 29, 2021
3:30 p.m.
Conference Call: 1-929-205-6099
Access Code: 912096416

SPECIAL CITY COUNCIL MEETING

A. Roll Call

B. Invocation – Councilmember Sakran

C. Pledge of Allegiance

D. Council Committee Reports:

1. Committee on Ways and Means:

(Parks-Capital Projects: Approval of the St. Julian Devine Community Center Improvements Twin Smoke Stacks Construction Contract with ICC Commonwealth in the amount of $519,000 for the disassembly of the interior liners of the St. Julian Devine smokestacks. With the approval of the project budget, staff is authorized to award and/or amend contracts less than $40,000, to the extent contingency funds exist in the Council approved budget. Approval of this Construction Contract will obligate $519,000 of the project budget $3,098,069.36. Funding sources for this project are: 2015 General Fund Reserves ($250,000), 2018 General Fund Reserves ($400,000), Cooper River Bridge TIF ($2,340,000), and Charleston Parks Conservancy Contribution ($108,069.36).

(Executive Department: A Resolution providing for an election for the determination of the question of whether the City of Charleston shall be empowered to issue and sell General Obligation Bonds of the City of Charleston in the amount of not exceeding $39,000,000 or such lesser amount as provided herein to defray the cost of Parks and Recreation Capital Improvement Projects in the City of Charleston in order to implement the Charleston Parks and Recreation Master Plan.

E. 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 add a new Article III to Chapter 25 of the Code of the City of Charleston related to First Amendment Demonstrations to provide general provisions and definitions, to provide open carry restrictions and other safety prohibitions, to provide a permitting process, to provide regulations, and to provide for penalties.

2. An Ordinance to repeal Article IX of Chapter 19 of the Code of the City of Charleston related to Parades and to amend Article IV, Division 8 of Chapter 2 of the Code of the City of Charleston related to the Special Events Committee to provide new definitions, to increase the membership of the committee, to provide additional requirements and procedures for
the special events permitting process, to provide open carry restrictions and other safety prohibitions, and to provide additional regulations related to parades.

3. An Ordinance to amend Article I of Chapter 22 of the Code of the City of Charleston related to Park and Recreation Facilities to provide additional requirements and procedures for the reservation permitting process for reserved use of parks, to provide open carry restrictions and other safety prohibitions, and to provide additional prohibited activities to be included in the park rules.

4. An Ordinance to amend Article X of Chapter 21 of the Code of the City of Charleston related to Weapons by amending the provisions related to carrying of handguns, concealable weapons and firearms, confiscation of weapons, and brandishing of weapons to be compliant with state law.

F. Miscellaneous Business:

1. The next regular meeting of City Council will be Tuesday, August 17, 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.
CPR COMMITTEE and/or COUNCIL AGENDA

TO: John J. Tecklenburg, Mayor
FROM: Ed Bolnest  DEPT. Parks – Capital Projects
SUBJECT: ST. JULIAN DEVINE COMMUNITY CENTER IMPROVEMENTS TWIN SMOKE
STACKS CONSTRUCTION CONTRACT
REQUEST: Approval of a Construction Contract with ICC Commonwealth in the amount of
$519,000.00 for the disassembly of the interior liners of the St. Julian Devine
smokestacks.

With the approval of the project budget, Staff is authorized to award and/or amend
contracts less than $40,000.00, to the extent contingency funds exist in the Council
Approved Budget.

COMMITTEE OF COUNCIL: Ways & Means  DATE: July 29, 2021

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

CPR Committee Chair  Yes N/A Signature of individual Contacted  Attachment
Corporate Counsel  
Capital Projects Director  
MBE Manager  

FUNDING: Was funding previously approved? Yes  X  No  N/A  
If yes, provide the following: Dept/Div Parks-Capital Projects  Acct # 051658-68240
Balance in Account $519,000.00  Amount needed for this item $519,000.00
Project Number CP1620

NEED: Identify any critical time constraint(s).

CFO’s Signature: ____________________________

FISCAL IMPACT: Approval of this Construction Contract will obligate $519,000.00 of the
project budget $3,098,069.36. Funding sources for this project are: 2015 General Fund
Reserves ($250,000.00), 2018 General Fund Reserves ($400,000.00), Cooper River Bridge TIF
($2,340,000.00), and Charleston Parks Conservancy Contribution ($108,069.36).

Mayor’s Signature: ____________________________

ORIGINATING OFFICE PLEASE NOTE: A FULLY STAFFED/APPROVED (except Mayor’s
Signature) PACKAGE IS DUE IN THE CLERK OF COUNCIL’S OFFICE NO LATER THAN 10:00
A.M THE DAY OF THE CLERK’S AGENDA MEETING.
CERTIFICATE OF LIABILITY INSURANCE

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFER NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

PRODUCER
Willis Towers Watson Northeast, Inc.
c/o 26 Century Blvd
P.O. Box 305191
Nashville, TN 37230-1911 USA

INSURED
ICC Commonwealth Corporation
25 South Long Street
Williamsburg, NY 14221

CONTACT
William Towers Watson Certificate Center
PHONE (local): 01-877-945-7378
FAX: 1-888-467-2378
EMAIL: certificates@williams.com

INSURER(S) AFFORDING COVERAGE
NAIC #
INSURER A: National Union Fire Insurance Company of Pittsburgh, PA 10445
INSURER B: Allied World Assurance Company US Inc. 10489
INSURER C: Granite State Insurance Company 23809

COVERAGES
CERTIFICATE NUMBER: W21598633
REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

<table>
<thead>
<tr>
<th>TYPE OF INSURANCE</th>
<th>LIMITS</th>
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</thead>
<tbody>
<tr>
<td>EACH OCCURRENCE</td>
<td>$2,000,000</td>
</tr>
<tr>
<td>DAMAGE PROPERTY</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>MED EXP. (Any one person)</td>
<td>$10,000</td>
</tr>
<tr>
<td>PERSONAL &amp; ADJ INJURY</td>
<td>$2,000,000</td>
</tr>
<tr>
<td>GENERAL AGGREGATE</td>
<td>$4,000,000</td>
</tr>
<tr>
<td>PRODUCTS - COMPL. AGG</td>
<td>$4,000,000</td>
</tr>
<tr>
<td>OTHER</td>
<td>$3,000,000</td>
</tr>
</tbody>
</table>

|
| A
| X COMMERCIAL GENERAL LIABILITY |
| CLAIMS-MADE X OCCUR |
| GL 478-67-83 | 07/01/2021 | 07/01/2022 |

| B
| X AUTOMOBILE LIABILITY |
| OWNED AUTOS ONLY |
| SCHEDULED AUTOS |
| ADDITIONAL HIRENED AUTOS |
| NON-OWNED AUTOS |
| CA 774-22-93 | 07/01/2021 | 07/01/2022 |

| C
| X WORKERS COMPENSATION AND EMPLOYER'S LIABILITY |
| ANY PROPORER/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? |
| (Mandatory In NY) |
| Y/N | N/A |
| 0311-9143 | 07/01/2021 | 07/01/2022 |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Re: Material Purposes

CERTIFICATE HOLDER
CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

For Material Purposes
AGREEMENT made as of the 29th day of July in the year 2021
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)
City of Charleston-Department of Parks -Attn: Ed Boinest
823 Meeting Street
Charleston, SC 29403

and the Contractor:
(Name, legal status, address and other information)
ICC Commonwealth
55 South Long Street
Williamsburg, NY 14221

for the following Project:
(Name, location and detailed description)
St Julian Devine Chimney Ph I Disassembly of Interior Liners
CP1620

The Architect:
(Name, legal status, address and other information)
Bennett Preservation -Attn: Taylor Frost
17 Lockwood Drive, Suite 500
Charleston, SC 29401

The Owner and Contractor agree as follows.
TABLE OF ARTICLES

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

EXHIBIT A INSURANCE AND BONDS

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

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

ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
§ 3.1 The date of commencement of the Work shall be:

(Insert one of the following boxes)

☐ The date of this Agreement.
☐ A date set forth in a notice to proceed issued by the Owner.
☐ Established as follows:

(Insert a date or a means to determine the date of commencement of the Work.)

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

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.
§ 3.3 Substantial Completion
§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

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

☑ Not later than the date of commencement of the Work. (120) calendar days from
□ By the following date: 

T.O.

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

<table>
<thead>
<tr>
<th>Portion of Work</th>
<th>Substantial Completion Date</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>T.O.</td>
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</table>

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

ARTICLE 4 CONTRACT SUM
§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor’s performance of the Contract. The Contract Sum shall be (§ 519,311), subject to additions and deductions as provided in the Contract Documents.

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

<table>
<thead>
<tr>
<th>Item</th>
<th>Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>n/a</td>
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</tbody>
</table>

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.

(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

<table>
<thead>
<tr>
<th>Item</th>
<th>Price</th>
<th>Conditions for Acceptance</th>
</tr>
</thead>
<tbody>
<tr>
<td>n/a</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
§ 4.3 Allowances, if any, included in the Contract Sum:
(Identify each allowance.)

<table>
<thead>
<tr>
<th>Item</th>
<th>Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>n/a</td>
<td>+xy</td>
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</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Item</th>
<th>Units and Limitations</th>
<th>Price per Unit ($0.00)</th>
</tr>
</thead>
<tbody>
<tr>
<td>n/a</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

§ 4.5 Liquidated damages, if any:
(Insert terms and conditions for liquidated damages, if any.)

$1,000 per day

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

n/a

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

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than (30) days after the Architect receives the Application for Payment.

(Federal, state or local laws may require payment within a certain period of time.)

Init.
§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor’s Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 In accordance with AIA Document A201® 2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:
.1 That portion of the Contract Sum properly allocable to completed Work;
.2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
.3 That portion of Construction Change Directives that the Architect determines, in the Architect’s professional judgment, to be reasonably justified.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:
.1 The aggregate of any amounts previously paid by the Owner;
.2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201® 2017;
.3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
.4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201® 2017; and
.5 Retainage withheld pursuant to Section 5.1.7.

§ 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)


§ 5.1.7.1.1 The following items are not subject to retainage:

(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)
§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:

(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)

Retainage reduction to 50% will be considered upon 50% of project completion, provided that project is on schedule.

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

(Insert any other conditions for release of retainage upon Substantial Completion.)

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201-2017.

§ 5.1.9 Except with the Owner’s prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when:

.1 the Contractor has fully performed the Contract except for the Contractor’s responsibility to correct Work as provided in Article 12 of AIA Document A201-2017, and to satisfy other requirements, if any, which extend beyond final payment; and

.2 a final Certificate for Payment has been issued by the Architect.

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

§ 5.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Insert rate of interest agreed upon, if any.)

%  

ARTICLE 6 DISPUTE RESOLUTION

§ 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201-2017, unless the parties appoint another individual, not a party to this Agreement, to serve as the Initial Decision Maker.

(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect)
§ 6.2 Binding Dispute Resolution
For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201-2017, the method of binding dispute resolution shall be as follows:

(\checkmark) Arbitration pursuant to Section 15.4 of AIA Document A201-2017

☐ Litigation in a court of competent jurisdiction

☐ Other (Specify)

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

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

§ 7.1.1 If the Contract is terminated for the Owner’s convenience in accordance with Article 14 of AIA Document A201-2017, then the Owner shall pay the Contractor a termination fee as follows:

(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner’s convenience.)

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201-2017.

ARTICLE 8 MISCELLANEOUS PROVISIONS
§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201-2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner’s representative:
(Name, address, email address, and other information)

Ed Boinest
23 Meeting St.
Charleston, SC 29403
boinest@charleston-sc.gov
843-364-5913 or
11-670-5055

Init.

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§ 8.3 The Contractor's representative:
(Name, address, email address, and other information)

VASON SHITOK, PM
jason.shitok@dominion-global.com
55 S. Long St.
Williamsville, NY 14221
716-531-2416

§ 8.4 Neither the Owner nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

§ 8.5 Insurance and Bonds
§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™-2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™-2017 Exhibit A, and elsewhere in the Contract Documents.

§ 8.6 Notice in electronic format, pursuant to Article I of AIA Document A201 2017, may be given in accordance with AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:
(If other than in accordance with AIA Document E203 2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission)

§ 8.7 Other provisions:

ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS
§ 9.1 This Agreement is comprised of the following documents:
1 AIA Document A101™-2017, Standard Form of Agreement Between Owner and Contractor
2 AIA Document A101™-2017, Exhibit A, Insurance and Bonds
3 AIA Document A201™-2017, General Conditions of the Contract for Construction
4 AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this Agreement)
.5 Drawings

<table>
<thead>
<tr>
<th>Number</th>
<th>Title</th>
<th>Date</th>
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<tbody>
<tr>
<td>S001</td>
<td>ph1 dang</td>
<td>4-23-21</td>
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<td>S188</td>
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<td>EX 501</td>
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<td>EX 201</td>
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<td>S301</td>
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.6 Specifications

<table>
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<tr>
<th>Section</th>
<th>Title</th>
<th>Date</th>
<th>Pages</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>project manual dated</td>
<td>4-29-21</td>
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.7 Addenda, if any:

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<thead>
<tr>
<th>Number</th>
<th>Date</th>
<th>Pages</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>n/a</td>
<td></td>
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</tbody>
</table>

 Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

.8 Other Exhibits:

(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

- [ ] AIA Document E204™-2017, Sustainable Projects Exhibit, dated as indicated below:
  (Insert the date of the E204-2017 incorporated into this Agreement)

- [ ] The Sustainability Plan:
Supplementary and other Conditions of the Contract:

Document Title Date Pages

ATACHED

.9 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™-2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor’s bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

This Agreement entered into as of the day and year first written above.

OWNER (Signature) CONSTRUCTOR (Signature)

JOHN T. TECKLENBERG FRED J. FINVILLE, Division Manager
(Printed name and title) (Printed name and title)

Init.
This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the day of ________ in the year ________.
(In words, indicate day, month and year.)

for the following PROJECT:
(Name and location or address)
St Julian Devine Chimney Ph I Disassembly of Interior Liners
CP1620

THE OWNER:
(Name, legal status and address)
City of Charleston-Department of Parks-Attn: Ed Boinest
823 Meeting Street
Charleston, SC 29403

THE CONTRACTOR:
(Name, legal status and address)
ICC Commonwealth
55 South Long Street
Williamsville, NY 14221

TABLE OF ARTICLES

A.1 GENERAL
A.2 OWNER’S INSURANCE
A.3 CONTRACTOR’S INSURANCE AND BONDS
A.4 SPECIAL TERMS AND CONDITIONS

ARTICLE A.1 GENERAL
The Owner and Contractor shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A201®-2017, General Conditions of the Contract for Construction.

ARTICLE A.2 OWNER’S INSURANCE
§ A.2.1 General
Prior to commencement of the Work, the Owner shall secure the insurance, and provide evidence of the coverage, required under this Article A.2 and, upon the Contractor’s request, provide a copy of the property insurance policy or policies required by Section A.2.3. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.

§ A.2.2 Liability Insurance
The Owner shall be responsible for purchasing and maintaining the Owner’s usual general liability insurance.
§ A.2.3 Required Property Insurance

§ A.2.3.1 Unless this obligation is placed on the Contractor pursuant to Section A.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance written on a builder’s risk “all-risk” completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner’s property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

§ A.2.3.1.1 Causes of Loss. The insurance required by this Section A.2.3.1 shall provide coverage for direct physical loss or damage, and shall not exclude the risks of fire, explosion, theft, vandalism, malicious mischief, collapse, earthquake, flood, or windstorm. The insurance shall also provide coverage for ensuing loss or resulting damage from error, omission, or deficiency in construction methods, design, specifications, workmanship, or materials. Sub-limits, if any, are as follows:

(Indicate below the cause of loss and any applicable sub-limit.)

<table>
<thead>
<tr>
<th>Cause of Loss</th>
<th>Sub-Limit</th>
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</tbody>
</table>

§ A.2.3.1.2 Specific Required Coverages. The insurance required by this Section A.2.3.1 shall provide coverage for loss or damage to falsework and other temporary structures, and to building systems from testing and startup. The insurance shall also cover debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and reasonable compensation for the Architect’s and Contractor’s services and expenses required as a result of such insured loss, including claim preparation expenses. Sub-limits, if any, are as follows:

(Indicate below type of coverage and any applicable sub-limit for specific required coverages.)

<table>
<thead>
<tr>
<th>Coverage</th>
<th>Sub-Limit</th>
</tr>
</thead>
<tbody>
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</table>

§ A.2.3.1.3 Unless the parties agree otherwise, upon Substantial Completion, the Owner shall continue the insurance required by Section A.2.3.1 or, if necessary, replace the insurance policy required under Section A.2.3.1 with property insurance written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 12.2.2 of the General Conditions.

§ A.2.3.1.4 Deductibles and Self-Insured Retentions. If the insurance required by this Section A.2.3 is subject to deductibles or self-insured retentions, the Owner shall be responsible for all loss not covered because of such deductibles or retentions.

§ A.2.3.2 Occupancy or Use Prior to Substantial Completion. The Owner’s occupancy or use of any completed or partially completed portion of the Work prior to Substantial Completion shall not commence until the insurance company or companies providing the insurance under Section A.2.3.1 have consented in writing to the continuance of coverage.

Init.
Owner and the Contractor shall take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance, unless they agree otherwise in writing.

§ A.2.3.3 Insurance for Existing Structures
If the work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of work as set forth in Section 12.2.2 of the General Conditions, "all-risk" property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damage from the causing of loss identified in Section A.2.3.1, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties.

§ A.2.4 Optional Extended Property Insurance.
The Owner shall purchase and maintain the insurance selected and described below.

(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. For each type of insurance selected, indicate applicable limits of coverage or other conditions in the fill point below the selected item.)

☐ § A.2.4.1 Loss of Use, Business Interruption, and Delay in Completion Insurance, to reimburse the Owner for loss of use of the Owner’s property, or the inability to conduct normal operations due to a covered cause of loss.

☐ § A.2.4.2 Ordinance or Law Insurance, for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.

☐ § A.2.4.3 Expedited Cost Insurance, for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.

☐ § A.2.4.4 Extra Expense Insurance, to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.

☐ § A.2.4.5 Civil Authority Insurance, for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.
§ A.2.4.8 Ingress/Egress insurance, for loss due to the necessary interruption of the insured's business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.

§ A.2.4.7 Soft Costs Insurance, to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

§ A.2.5 Other Optional Insurance.
The Owner shall purchase and maintain the insurance selected below.
(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance.)

§ A.2.5.1 Cyber Security Insurance for loss to the Owner due to data security and privacy breach, including costs of investigating a potential or actual breach of confidential or private information.
(Indicate applicable limits of coverage or other conditions in the fill point below)

§ A.2.5.2 Other Insurance
(List below any other insurance coverage to be provided by the Owner and any applicable limits)

Coverage
Limits

ARTICLE A.3 CONTRACTOR'S INSURANCE AND BONDS
§ A.3.1 General
§ A.3.1.1 Certificates of Insurance. The Contractor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article A.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section A.3.2.1 and Section A.3.3.1. The certificates will show the Owner as an additional insured on the Contractor's Commercial General Liability and excess or umbrella liability policy or policies.

§ A.3.1.2 Deductibles and Self-Insured Retentions. The Contractor shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Contractor.
§ A.3.1.3 Additional Insured Obligations. To the fullest extent permitted by law, the Contractor shall cause the commercial general liability coverage to include (1) the Owner, the Architect, and the Architect’s consultants as additional insureds for claims caused in whole or in part by the Contractor’s negligent acts or omissions during the Contractor’s operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor’s negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner’s general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect’s consultants, CG 20 32 07 04.

§ A.3.2 Contractor’s Required Insurance Coverage

§ A.3.2.1 The Contractor shall purchase and maintain the following types and limits of insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for completion of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

(If the Contractor is required to maintain insurance for a duration other than the expiration of the period for completion of Work, state the duration.)

§ A.3.2.2 Commercial General Liability

§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than ($ ) general aggregate, and ($ ) aggregate for products-completed operations hazard, providing coverage for claims including:

.1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
.2 personal injury and advertising injury;
.3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
.4 bodily injury or property damage arising out of completed operations; and
.5 the Contractor’s indemnity obligations under Section 3.18 of the General Conditions.

§ A.3.2.2.2 The Contractor’s Commercial General Liability policy under this Section A.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

.1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.
.2 Claims for property damage to the Contractor’s Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.
.3 Claims for bodily injury other than to employees of the insured.
.4 Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.
.5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.
.6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.
.7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.
.8 Claims related to roofing, if the Work involves roofing.
.9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.
.10 Claims related to earth subsidence or movement, where the Work involves such hazards.
.11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than ($ ) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.
§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ A.3.2.5 Workers’ Compensation at statutory limits.

§ A.3.2.6 Employers’ Liability with policy limits not less than $( ) per occurrence, ($ ) each employee, and $( ) policy limit.

§ A.3.2.7 Jones Act, and the Longshore & Harbor Workers’ Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and docks.

§ A.3.2.8 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than $( ) per claim and $( ) in the aggregate.

§ A.3.2.9 If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than $( ) per claim and $( ) in the aggregate.

§ A.3.2.10 Coverage under Sections A.3.2.8 and A.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than $( ) per claim and $( ) in the aggregate.

§ A.3.2.11 Insurance for maritime liability risks associated with the operation of a vessel, if the Work requires such activities, with policy limits of not less than $( ) per claim and $( ) in the aggregate.

§ A.3.2.12 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits of not less than $( ) per claim and $( ) in the aggregate.

§ A.3.3 Contractor’s Other Insurance Coverage

§ A.3.3.1 Insurance selected and described in this Section A.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below.

(If the Contractor is required to maintain any of the types of insurance selected below for a duration other than the expiration of the period for correction of Work, state the duration.)

§ A.3.3.2 The Contractor shall purchase and maintain the following types and limits of insurance in accordance with Section A.3.3.1.

(Select the types of insurance the Contractor is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. Where policy limits are provided, include the policy limit in the appropriate fill point.)

- [ ] § A.3.3.2.1 Property insurance of the same type and scope satisfying the requirements identified in Section A.2.3, which, if selected in this section A.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section A.2.3.1.3 and Section A.2.3.3. The Contractor shall comply with all obligations of the Owner under Section A.2.3 except to the extent provided below. The Contractor shall disclose to the Owner the amount of any deductible.
and the Owner shall be responsible for losses within the deductible. Upon request, the Contractor shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:
(Where the Contractor's obligation to provide property insurance differs from the Owner's obligations as described under Section A 2.3, indicate such differences in the space below. Additionally, if a party other than the Owner will be responsible for adjusting and settling a loss with the insurer and acting as the trustee of the proceeds of property insurance in accordance with Article 11 of the General Conditions, indicate the responsible party below.)

§ A.3.3.2.2 Railroad Protective Liability Insurance, with policy limits of not less than

\[\text{($\_\_\_\_\_\_\_) per claim and}\
\text{(\_\_\_\_\_\_\_) in the aggregate, for Work within fifty (50) feet of railroad property.}\

§ A.3.3.2.3 Asbestos Abatement Liability Insurance, with policy limits of not less than

\[\text{($\_\_\_\_\_\_\_) per claim and}\
\text{(\_\_\_\_\_\_\_) in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.}\

§ A.3.3.2.4 Insurance for physical damage to property while it is in storage and in transit to the construction site on an “all-risks” completed value form.

§ A.3.3.2.5 Property insurance on an “all-risks” completed value form, covering property owned by the Contractor and used on the Project, including scaffolding and other equipment.

§ A.3.3.2.6 Other Insurance

(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)

Coverage Limits

§ A.3.4 Performance Bond and Payment Bond
The Contractor shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:

(Specify type and penal sum of bonds)

Type
Payment Bond
Performance Bond

Penal Sum ($0.00)

Payment and Performance Bonds shall be AIA Document A312™, Payment Bond and Performance Bond, or contain provisions identical to AIA Document A312™, current as of the date of this Agreement.
ARTICLE A.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:
City of Charleston
Bid Form

BID SUBMITTED BY:  Name: ICC Commonwealth
                     Address: 55 South Long Street, Williamsville, New York 14221
FOR PROJECT: CP 1620 - PH 1 DISASSEMBLY OF THE INTERIOR LINERS OF THE ST. JULIAN
DEVINE CENTER SMOKESTACKS - REBID

OFFER

1. In response to the Invitation for Construction Bids, and in compliance with the Instructions to Bidders for the above-named Project, the undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into a Contract with the City of Charleston/Owner in the form included in the Bidding Documents, and to perform all Work as specified or indicated in the Bidding Documents, for the prices and within the time frames indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

2. Bidder has submitted Bid Security as follows in the amount and form requested by the Bidding Documents:
   - D Bid Bond with Power of Attorney
   - D Cashier's Check
   (Bidder check one)

3. Bidder, by submitting this Bid, affirms that it has carefully examined the Bidding Documents and the other related information and data identified in the Bidding Documents, has visited the actual location of the Work, has satisfied itself as to all conditions and understands that, in signing this Bid Form it waives all rights to plead any misunderstanding regarding same and agrees to be bound by the provisions of said Bidding Documents and all statements made therein.

4. Bidder acknowledges the receipt of the following Addenda to the Bidding Documents and has incorporated the effects of said Addenda into its Bid:
   ADDENDUM No.(s) CP-1620 Addendum 1 (07 May 2021) & Addendum 2 (11 May 2021)

5. Bidder acknowledges that neither the Owner nor any of its employees or agents shall be responsible for any bid preparation costs, or any costs or charges of any type, should all bids be rejected or the Project cancelled for any reason prior to the issuance of the Notice to Proceed.

6. By submitting this Bid, Bidder hereby agrees to all of the terms and conditions of the Invitation for Construction Bids and to all of the terms and conditions of the Instructions to Bidders. Bidder agrees that this Bid, including all Bid Alternates, if any, may not be revoked or withdrawn after the opening of bids, and shall remain open for acceptance for a period of 60 days following the Bid Date, or for such longer period of time that Bidder may agree to in writing upon request of the Owner. Bidder understands that Bid Alternates that are not accepted in an initial award shall remain open for acceptance for the entire period set above and for such longer period as requested by Owner and agreed to by Bidder.

7. Bidder herewith submits its offer to provide all labor, materials, equipment, tools of trades and labor, accessories, appliances, warranties and guarantees, and to pay all royalties, fees, permits, licenses and applicable taxes necessary to complete the construction work in accordance with the Bidding Documents.
7.1 **BASE BID:** $519,000.00

**Written:** FIVE HUNDRED AND NINETEEN THOUSAND DOLLARS

7.2 **ALTERNATE BID WORK** (as indicated in the Bidding Documents and generally described as follows):

(Bidder shall STRIKE THROUGH "ADD" or "DEDUCT" so as to clearly indicate the price adjustment offered for each alternate)

**ALTERNATE NO. 1:**

ADD/DEDUCT $ 0.00
(to or from BASE BID)

**ALTERNATE NO. 2:**

ADD/DEDUCT $ 0.00
(to or from BASE BID)

**ALTERNATE NO. 3:**

ADD/DEDUCT $ 0.00
(to or from BASE BID)

7.3 **UNIT PRICE WORK**

Bidder offers for the Owner's consideration and use the following UNIT PRICES. The UNIT PRICES offered by Bidder indicate the amount to be added to or deducted from the Base Bid for each item-unit combination. UNIT PRICES include all costs to the Owner, including those for materials, labor, equipment, tools of trades and labor, fees, taxes, insurance, bonding, overhead, profit, etc. The Owner reserves the right to include or not to include any of the following UNIT PRICES in the Contract and to negotiate the UNIT PRICES with Bidder.

<table>
<thead>
<tr>
<th>NO.</th>
<th>UNIT PRICE</th>
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<tbody>
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</table>

BID FORM
Revised: 4/22/2011
8. BIDDER’S TAXPAYER IDENTIFICATION

FEDERAL EMPLOYER’S IDENTIFICATION NUMBER: 16-0850893
OR
SOCIAL SECURITY NUMBER:

9. CONTRACTOR’S CLASSIFICATIONS AND SUBCLASSIFICATIONS WITH LIMITATIONS

<table>
<thead>
<tr>
<th>BD4</th>
<th>N/A</th>
<th>N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Classification)</td>
<td>(Subclassification)</td>
<td>(Limitations)</td>
</tr>
</tbody>
</table>

G11764
(SC Contractor’s License Number)

SIGNATURE

Thomas P. Sullivan - ICC Commonwealth

(Legal Name of Person, Firm or Corporation Submitting Bid)

By: [Signature] 20 July 2021

(Signature) (Date)

Secretary / Treasurer

(Title)

(716) 650-3406

(Phone)
MWBE Compliance Provisions and Instructions Minority/Women Business Enterprise Program Forms

This Project is covered under the City of Charleston’s Minority/Women Business Enterprise (MWBE) Program, administered by Ruth Jordan, MBE Manager, 145 King Street, Suite 104, Charleston SC, 29401, (843) 973-7247.

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

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

Bidder’s MBE/WBE Participation: All bidders must document the extent of their MWBE participation by completing the MWBE Compliance Provision Forms. Bidders must complete Affidavits A and B or Affidavit C and attach the entire package to the Bid Form. Bidders who fail to submit these documents as required by the Procurement Office shall be deemed non-responsive and will be ineligible for award of the Contract.

All MBE/WBE subcontractors must have a Certificate of Eligibility on file with the City’s Minority Business Enterprise Office. A list of certified minority and women-owned firms can be found on the City of Charleston’s web site www.charleston-sc.gov under “BIDLINE” link or by contacting Ruth Jordan, MBE Manager, 145 King Street, Suite 104, Charleston, SC 29403, (843) 973-7247, jordanr@charleston-sc.gov.

**COMPLIANCE REQUIREMENTS:**

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

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

   **AND**

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

   **OR**

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

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

Name of Company: JCL Commonwealth

Signature

Thomas P. Sullivan

Print Name

Witness

20 July 2021

Date

Secretary / Treasurer

Title

Revision 07-20-2011
AFFIDAVIT A
Page 1 of 2

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

Affidavit of ICC Commonwealth (Name of Bidder)

I have made a good faith effort to comply with the City of Charleston’s MWBE compliance provisions under the following checked areas:
(A minimum of 6 areas must be checked in order to have achieved a "good faith effort")

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

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

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

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

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

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

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

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

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

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

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

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

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

Date: 20 July 2021 Name of Authorized Officer (Print/Type): Thomas P. Sullivan

Signature: [Signature]
Title: Secretary / Treasurer

4/28/2011
AFFIDAVIT

Page 2 of 2

City of Charleston, South Carolina Minority/Women-Owned Business Participation Efforts
(Use as many sheets as necessary)

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

<table>
<thead>
<tr>
<th>Minority Firm Name and Contact</th>
<th>Minority Group Type</th>
<th>DBE Certification Number</th>
<th>Minority Firm Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trash Gurl, LLC, Melissa V. Polutta</td>
<td>(Women)</td>
<td>03-027270-254</td>
<td>327 Cypress Gardens Road, Moncks Corner, South Carolina 29461</td>
</tr>
<tr>
<td></td>
<td>(Asian American)</td>
<td>(Hispanic)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(American Indian)</td>
<td>(Other)</td>
<td></td>
</tr>
<tr>
<td>Bullseye Equipment &amp; Supply, LLC, Kristi Collins</td>
<td></td>
<td></td>
<td>1383 Old Highway 52, Moncks Corner, South Carolina 29461</td>
</tr>
<tr>
<td></td>
<td>(Women)</td>
<td>(Hispanic)</td>
<td>(Other)</td>
</tr>
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<tr>
<td>Master Steel, LLC, Priscilla Stephen</td>
<td></td>
<td></td>
<td>9769 Speedway Boulevard, Hardeeville, South Carolina 29927</td>
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<td></td>
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<td>(American Indian)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Charleston Rigging &amp; Marine Hardware, Inc., Jessica Sage</td>
<td></td>
<td></td>
<td>1210 Truxton Avenue, Charleston, South Carolina 29405</td>
</tr>
<tr>
<td></td>
<td>(Women)</td>
<td>(Hispanic)</td>
<td>(Other)</td>
</tr>
<tr>
<td></td>
<td>(Asian American)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(American Indian)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

I certify, under penalties of perjury, that I have examined the information in this affidavit, and to the best of my knowledge and belief, this information is true, correct and complete.

Date: 20 July 2021
Name of Authorized Officer: Thomas P. Sullivan
Signature: [Signature]
Title: Secretary / Treasurer
Notary Seal:

Notary Public for the State of NEW YORK
My Commission Expires: 10 August 2022
Print Name: Pamela K. McLaverty
Phone Number: 716-634-8979
Address: 59 South Lane St
4-28-2011
City of Charleston, South Carolina Minority/Women-Owned Business Participation Efforts
(Use as many sheets as necessary)

1. ICC Commonwealth, hereby certify that on this project we contacted the following minority/women-owned business enterprises as subcontractors, vendors, suppliers, or providers of professional services.

<table>
<thead>
<tr>
<th>Minority Firm Name and Contact</th>
<th>Minority Firm Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>W. Frazier Construction, Inc.</td>
<td>7050 Moberly Road, Ravenel, South Carolina 29470</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>W. Frazier JR</th>
<th>(843) 556-8786</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>DBE Certification Number</th>
<th>------</th>
</tr>
</thead>
<tbody>
<tr>
<td>0110221086</td>
<td>----</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Minority Group Type</th>
<th>(African American)</th>
<th>(Women)</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Asian American)</td>
<td>(Hispanic)</td>
<td>(Other)</td>
</tr>
<tr>
<td>(American Indian)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

---

I certify, under penalties of perjury, that I have examined the information in this affidavit, and to the best of my knowledge and belief, this information is true, correct and complete.

Date: **20 July 2021**
Name of Authorized Officer (Print/Type): **Thomas P. Sullivan**
Sworn to before me this **20** day of **July** 2021
Notary Public for the State of **NEW YORK**
My Commission Expires: **10 August 2022**
Print Name: **PAMELA K. MCLAVERY**
Phone Number: **716-346-5676**
Address: **66 South Long St**
4-28-2011 **PAMELA K. MCLAVERY**

Signature: **Thomas P. Sullivan**
Title: **Secretary/Treasurer**
Notary Seal: **PAMELA K. MCLAVERY**
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01MC5266005
Qualified in Niagara County
Commission Expires August 10, 2022
AFFIDAVIT B

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

Affidavit of ICC Commonwealth. I hereby certify that on the St. Julian Devine Chimneys Phase I - Demolition Total Project Amount $575,884.00 (Project Name)

I will make a good faith effort to expend a minimum of 07% of the total dollar amount of the Contract with minority/women-owned business enterprises. Minority/women-owned businesses will be employed as subcontractors, vendors, suppliers, or providers of professional services. Such work will be subcontracted to the following businesses listed below:

<table>
<thead>
<tr>
<th>Name and Phone Number</th>
<th>Minority Code</th>
<th>Work Description</th>
<th>Dollar Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Trash Gard, LLC</td>
<td>W</td>
<td>Dumpster &amp; Portable Toilet Rental</td>
<td>$12,500.00</td>
</tr>
<tr>
<td>Bellzeve Equipment &amp; Supply, LLC</td>
<td>W</td>
<td>Temporary Fence Rental &amp; PPE Supply</td>
<td>$11,200.00</td>
</tr>
<tr>
<td>Martin Steel, LLC</td>
<td>W</td>
<td>Fabrication Services</td>
<td>$8,500.00</td>
</tr>
<tr>
<td>Charleston Rigging &amp; Marine Hardware</td>
<td>W</td>
<td>Chimney Bracing/Corset Equipment</td>
<td>$10,000.00</td>
</tr>
<tr>
<td>W. Frazier Construction, Inc.</td>
<td>B</td>
<td>Brick Debris Recycling</td>
<td>Value Based Upon Resale of Brick</td>
</tr>
</tbody>
</table>

Total MBE Participation: 07% $42,200.00

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

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

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

Date: 20 July 2021  Name of Authorized Officer (Print/Type): Thomas P. Sullivan

Signature:  Title: Secretary / Treasurer

Notary Public for the State of: Notary Seal:

Sworn to before me this 20 day of July 2021

Print Name: PAMELA K. MCCLAVERTY
Phone Number: 716 847 3967
Address: 58 South Lee Street

4 28 2011

PAMELA K. MCCLAVERTY
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01MC528093
Qualified in Niagara County
Commission Expires August 16, 2022
FORM OF BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we the undersigned,

   ICC COMMONWEALTH CORPORATION  (Name of Principal)

AS PRINCIPAL, AND FEDERAL INSURANCE COMPANY  (Name of Surety)

SURETY

are held and firmly bound unto The City of Charleston hereinafter called the "Owner", in the penal sum of Five Percent of Total Bid Amount ___________________ Dollars lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal has submitted the accompanying bid, dated July 22nd, 2021, for Project

Name: St. Julian Devine Chimneys Phase I - Demolition, Charleston
and Project Number: CP 1620

Now, THEREFORE, if the Principal shall not withdraw said bid within the period specified therein after the opening of the same, or, if no period be specified, within sixty (60) days after the said opening, and shall within the period specified therefore, or, if no period be specified within ten (10) days after the prescribed forms are presented to him for signature, enter into a written contract with the Owner in accordance with the bid as accepted, and give bond with good and sufficient surety or sureties, as may be required, for the faithful performance and proper fulfillment of such contract; or in the event of the withdrawal of said bid within the period specified, or the failure to enter into such contract and give such bond within the time specified, if the Principal shall pay the Owner the difference between the amount specified in said bid and the amount for which the Owner may procure the required work or supplies or both, if the latter amount be in excess of the former, then the above obligation shall be void and of no effect, otherwise to remain in full force and virtue.

The Surety, for value received, hereby agrees that the obligations of said Surety and its bond shall be in no way impaired or affected by any extensions of the time within which the Owner may accept such BID; and said Surety does hereby waive notice of any such extensions.

IN WITNESS WHEREOF, the above-bounded parties have executed this instrument under their several seals this 18th day of July, 2021, the name and corporate seal of each corporate party being hereon affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

(SEAL)

ICC COMMONWEALTH CORPORATION

(Name of Principal)

By: ________________________

(SEAL)

FEDERAL INSURANCE COMPANY

(Name of Surety)

By: ________________________

Valeria Spates, Attorney in Fact

9-Bid Bond (generic)
Revised 4/25/2011
1620 - St. Julian Devine Chimneys Phase I
Demolition City of Charleston, SC
Department of Parks

Sealed and delivered in the presence of:

Anne Potter, Witness for the Surety
Federal Insurance Company
CHUBB

Power of Attorney

Federal Insurance Company | Vigilant Insurance Company | Pacific Indemnity Company
Westchester Fire Insurance Company | ACE American Insurance Company

Know all by these presents that FEDERAL INSURANCE COMPANY, an Illinois corporation; VIGILANT INSURANCE COMPANY, a New York corporation; PACIFIC INDEMNITY COMPANY, a Wisconsin corporation; WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY, corporations of the Commonwealth of Pennsylvania, do hereby constitute and appoint Valerie Spataro and Beverly A. Woodard of Garden City, New York; Kemal Brianovic, Debra A. Deming, Sandra Diaz, Cynthia Farrell, Peter Healy, Pablo Garcia Horcado, Francesca Kameneczaki, Kristine Mendez, Alaina Moodhassan, Anne Potter, Frances Rodriguez and Nancy Shnee of New York, New York

each as their true and lawful Attorney-In-Fact to execute under such designation in their names and to affect their corporate acts and to deliver to and on their behalf as such the mean or otherwise bound and understandings and other writings and writings obligate in the name thereof (other than bill bonds) given or executed in the course of business, or any instruments amending or altering the same, and contains to the satisfaction or discharge of any instrument referred to in said bonds or obligations.

In Witness Whereof, said FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, PACIFIC INDEMNITY COMPANY, WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY have each executed and attested these presents and affixed their corporate seals on this 29th day of April, 2021.

Dawn M. Chibros, Assistant Secretary

Stephen M. Haney, Vice President

STATE OF NEW JERSEY
County of Hudson

On this 29th day of April, 2021 before me, a Notary Public of the State of New Jersey personally came Dawn M. Chibros and Stephen M. Haney, to me known to be Assistant Secretary and Vice President respectively of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, PACIFIC INDEMNITY COMPANY, WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY, the companies which executed the foregoing Power of Attorney, and the said Dawn M. Chibros and Stephen M. Haney, being by me duly sworn, severally and each for himself and himself did depose and say that they are Assistant Secretary and Vice President respectively, of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, PACIFIC INDEMNITY COMPANY, WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY and know the corporate acts thereof, that the seals affixed to the foregoing Power of Attorney are such corporate seals and were thereto affixed by authority of said Companies, and that their signatures as such officers were duly affixed and subscribed by the authority.

Notarial Seal

KATHERINE A. ADOLAFI
NOTARY PUBLIC OF THE STATE OF NEW JERSEY
No. 0511668
Commission Expires July 10, 2024

CERTIFICATION

Resolutions adopted by the Boards of Directors of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY on August 10, 2016, WESTCHESTER FIRE INSURANCE COMPANY on December 12, 2006 and ACE AMERICAN INSURANCE COMPANY on March 19, 2009:

RESOLVED that the following authorities relate to the execution for and on behalf of the Company, of bonds, undertakings, guarantees, escrows and other writings constituting the Company's corporate acts in the ordinary course of business (each a "Written Commitment"):

(1) Each of the Chairman, the President and the Vice President of the Company is hereby authorized to execute any Written Commitment for and on behalf of the Company, the seal of the Company or otherwise, to the extent that such action is authorized by the Board of Directors of the Company.

(2) Each of the Chairman, the President and the Vice President of the Company is hereby authorized to execute any Written Commitment for and on behalf of the Company, or otherwise, to the extent that such action is authorized by the Board of Directors of the Company.

(3) Each of the Chairman, the President and the Vice President of the Company is hereby authorized, for and on behalf of the Company, to cooperate in writing any written agreement to which the Company is a party, as may be specified in such written agreement, which specification shall be by general type or class of Written Commitments or by specification of one or more particular Written Commitments.

(4) Each of the Chairman, the President and the Vice President of the Company is hereby authorized, for and on behalf of the Company, to cooperate in writing any written agreement to which the Company is a party, as may be specified in such written agreement, which specification shall be by general type or class of Written Commitments or by specification of one or more particular Written Commitments.

(5) The signature of any officer or other person executing any Written Commitment or appointment or delegation pursuant to this Resolution, and the seal of the Company may be affixed by facsimile or such Written Commitment or written commitment or delegation.

FURTHER RESOLVED, that the foregoing Resolution shall not be deemed to be an authority of the powers and authority of officers, employees and other persons to act for and on behalf of the Company and each Resolution shall be limited to the officers of the Company and such Resolution shall not be deemed to be an authority of any such power or authority otherwise validly granted or vested.

I, Dawn M. Chibros, Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, PACIFIC INDEMNITY COMPANY WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY, do hereby certify that

(1) the foregoing Resolution adopted by the Board of Directors of the Company are true, current and in full force and effect.

(2) the foregoing Power of Attorney is true, current and in full force and effect.

Given under my hand and seal of said Company at Whitehouse Station, N.J. this

July 19, 2021

Dawn M. Chibros, Assistant Secretary

IN THE EVENT YOU NEED TO VERIFY THE AUTHORITY OF THIS RESOLUTION OR ANY OTHER MATTER, PLEASE CONTACT US AT:
Telephone: 203-893-3469
Fax: 203-893-5158
email: access@wblunter.com

Combined Fed-Vio-P-wp-acc-sr (rev. 11-19)
## FEDERAL INSURANCE COMPANY

**STATEMENT OF ASSETS, LIABILITIES AND SURPLUS TO POLICYHOLDERS**

Statutory Basis

December 31, 2020

(In thousands)

### ASSETS

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash and Short Term Investments</td>
<td>$34,647</td>
</tr>
<tr>
<td>United States Government, State and Municipal Bonds</td>
<td>$4,277,332</td>
</tr>
<tr>
<td>Other Bonds</td>
<td>$6,650,572</td>
</tr>
<tr>
<td>Stocks</td>
<td>$127,833</td>
</tr>
<tr>
<td>Other Inv. Assets</td>
<td>$1,297,663</td>
</tr>
<tr>
<td><strong>TOTAL INVESTMENTS</strong></td>
<td><strong>$11,458,442</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Investments in Affiliates</td>
<td></td>
</tr>
<tr>
<td>Great Northern Ins. Co.</td>
<td>$404,969</td>
</tr>
<tr>
<td>Vigilant Ins. Co.</td>
<td>$549,419</td>
</tr>
<tr>
<td>Chubb Indemnity Ins. Co.</td>
<td>$2,185,181</td>
</tr>
<tr>
<td>Chubb National Fire Co.</td>
<td>$180,169</td>
</tr>
<tr>
<td>Other Affiliates</td>
<td>$95,639</td>
</tr>
<tr>
<td>Premiums Receivable</td>
<td>$1,266,000</td>
</tr>
<tr>
<td>Other Assets</td>
<td>$2,410,891</td>
</tr>
<tr>
<td><strong>TOTAL ADMITTED ASSETS</strong></td>
<td><strong>$10,597,682</strong></td>
</tr>
</tbody>
</table>

### LIABILITIES AND SURPLUS TO POLICYHOLDERS

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Outstanding Losses and Loss Expense</td>
<td>$7,823,013</td>
</tr>
<tr>
<td>Reinsurance Payable or Losses and Expenses</td>
<td>$1,421,730</td>
</tr>
<tr>
<td>Unearned Premiums</td>
<td>$2,146,776</td>
</tr>
<tr>
<td>Ceded Reinsurance Premiums Payable</td>
<td>$291,370</td>
</tr>
<tr>
<td>Other Liabilities</td>
<td>$543,861</td>
</tr>
<tr>
<td><strong>TOTAL LIABILITIES</strong></td>
<td><strong>$10,269,840</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Capital Stock</td>
<td>$20,600</td>
</tr>
<tr>
<td>Paid-In Surplus</td>
<td>$2,711,474</td>
</tr>
<tr>
<td>Unassigned Funds</td>
<td>$3,997,196</td>
</tr>
<tr>
<td><strong>SURPLUS TO POLICYHOLDERS</strong></td>
<td><strong>$4,384,172</strong></td>
</tr>
<tr>
<td><strong>TOTAL LIABILITIES AND SURPLUS</strong></td>
<td><strong>$18,653,800</strong></td>
</tr>
</tbody>
</table>

Investments are valued in accordance with requirements of the National Association of Insurance Commissioners. As of December 31, 2020, investments with a carrying value of $601,764,700 were deposited with government authorities as required by law.

### STATE OF PENNSYLVANIA

### COUNTY OF PHILADELPHIA

John Taylor, being duly sworn, says that he is Senior Vice President of Federal Insurance Company and that to the best of his knowledge and belief the foregoing is a true and correct statement of the said Company's financial condition as of the 31st day of December, 2020.

**Notary Public**

[Signature]

[Seal]

Commonwealth of Pennsylvania - Notary Seal

Diane Wright, Notary Public

Philadelphia County

My commission expires August 8, 2023

Commission number 1235743

Notary, Pennsylvania Association of Notaries
CITY OF CHARLESTON
SUPPLEMENTARY CONDITIONS
A201-2017

The following supplementary conditions modify and supersede the “General Conditions of the Contract for Construction,” AIA Document A201-2017. Where a portion of a section of the General Conditions is modified or deleted by these Supplementary Conditions, the unaltered portions of the General Conditions shall remain in effect. In the event of any conflict between these Supplementary Conditions and any other contract documents, the provisions of these Supplementary Conditions shall govern.

ARTICLE 1-GENERAL PROVISIONS

1.1.1 THE CONTRACT DOCUMENTS

1. Add the following sentence at the end of Paragraph 1.1.1:

“The executed Contract Documents signed by the Owner and Contractor shall prevail in case of an inconsistency with subsequent versions made through manipulatable electronic operations involving computers. In the event of any conflict among the Contract Documents, the Documents shall be construed according to the following priorities:

- Highest Priority: Change Order, and Construction Change Directive, with later date having priority Agreement.
- Second Priority: Agreement, including supplementary conditions
- Third Priority: Addenda with later date having greater priority
- Fourth Priority: Modifications to General Conditions
- Fifth Priority: General Conditions
- Sixth Priority: Drawings and Specifications
- Seventh Priority: Bid Documents”

ARTICLE 2-OWNER

2.1.1 GENERAL

1. Add the following Clause 2.1.1.1 to Paragraph 2.1.1:

“§ 2.1.1.1 The legal name of the Owner of the Work is:

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

2. Delete Paragraph 2.1.2 and replace it with the following:
.8 Other Exhibits:
(Check all boxes that apply and include appropriate information identifying the exhibit where required.)

[ ] Supplementary and other Conditions of the Contract:

<table>
<thead>
<tr>
<th>Document</th>
<th>Title</th>
<th>Date</th>
<th>Pages</th>
</tr>
</thead>
</table>

.9 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201(TM)-2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

This Agreement entered into as of the day and year first written above.

OWNER (Signature)  
John I. Tecklenburg  
Mayor

CONTRACTOR (Signature)  
[Signature]  
(Printed name and title)
§ 2.1.2 The Owner shall furnish to the Contractor within 15 days after receipt of the written request, a correct statement of the record legal title to the property on which the project is located, usually referred to as the site, and the Owner’s interest therein."

2.2 EVIDENCE OF OWNER’S FINANCIAL ARRANGEMENTS

1. Remove the following sentence from Paragraph 2.2.1:

“The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

2. Remove the following sentence from Paragraph 2.2.2:

“If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor’s request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor’s reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.”

3. The first sentence of Paragraph 2.2.4 shall be modified to read as follows:

“§ 2.2.4 All information furnished under this Section 2.2 shall be deemed “confidential.” the Contractor shall keep the information confidential and shall not disclose it to any other person.”

4. The first sentence of Paragraph 2.3.4 shall be modified by replace “shall” to “may” and will not read as follows:

“The Owner may furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.”

2.3 INFORMATION AND SERVICES REQUIRED OF THE OWNER

1. Delete Paragraph 2.3.4 in its entirety.

2. Delete Paragraph 2.3.6 and substitute the following:
"§ 2.3.6 The Contractor will be furnished free of charge one copy of the Contract Documents. Additional sets will be furnished at the cost of reproduction, postage and handling."

2.4 OWNER’S RIGHT TO CARRY OUT THE WORK

1. Add the following Clause Paragraph 2.5.1 to Paragraph 2.5:

"§ 2.5.1 If, after achieving Substantial Completion, the Contractor then defaults, or neglects to complete or fails to provide resources adequate to complete the Project within the adjusted Contract Time for Final Completion as defined in Subparagraph 8.2.5, the Owner may carry out the work after giving the Contractor a single seven-day written notice of the Contractor’s default or neglect. In such case, an appropriate Change order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including Owner’s expenses, including attorney fees, and compensation for the Architect’s additional services made necessary by such default, neglect, or failure. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor or its Surety shall pay the difference to the Owner."

ARTICLE 3-CONTRACTOR

3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

1. Add the following sentence to Paragraph 3.2.1:

"§ 3.2.1 Extra payment will not be authorized for work that could have been determined by careful examination of the site and conditions."

2. Add the following Paragraph 3.2.5 to Section 3.2:

"The Owner is entitled to reimbursement from the Contractor for amounts paid to the Architect for evaluating and responding to the Contractor’s requests for information that are not prepared in accordance with the Contract Documents or where the requested information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided informant, Contractor-prepared coordination drawings, or prior Project correspondence or documentation."

3.4 LABOR AND MATERIALS

1. Add the following Paragraphs 3.4.4 and 3.4.5 to Section 3.4:

"§ 3.4.4 The Contractor shall disclose the existence and extent of financial interest, whether direct or in direct, that Contractor has in subcontractors or material suppliers which Contractor may propose for the project."
§ 3.4.5 Products are generally specified by ASTM or other referenced standards, or by manufacturer's name and model number or trade name. When specified only by reference standard, the Contractor may select any product meeting the standard, by any manufacturer. When several products by manufacturer are specified as being equally acceptable, the Contractor has the option of using any product and manufacturer combination listed. When only one product and manufacturer is specified, there shall be no substitution or exception.

2. Add the following Clauses 3.4.1.1 and 3.4.1.2 to Paragraph 3.4.1:

"§ 3.4.1.1 The Contractor shall not allow the use of asbestos containing products, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work, even if the products are nonfriable and/or contain minimal amounts of asbestos, and even though such products may still be legally installed.

§ 3.4.1.2 The Contractor shall not allow the use of lead materials in public water applications. Lead free solder, flux and pipe must be used in all public drinking water and wastewater applications. Lead free solder and flux are defined as containing less than 0.2% lead, while valves, pipes and appurtenances must contain less than 8.0% lead."

3.5 WARRANTY

1. Add the following sentence at the end of Paragraph 3.5.1:

"Should the abuse, modification, insufficient or improper maintenance, improper operation or other cause of damage be done by the Contractor, it shall be the Contractor's responsibility to correct the Work."

2. Insert the following sentence to the end of Paragraph 3.5.1 to read as follows:

"§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse of others (excluding Contractor's subcontractors or sub-subcontractors), alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. All warranties from subcontractors, suppliers and manufacturers shall be assigned to the Owner or have the Owner named as an additional obligee on the warranty."
3. Add the following Clauses 3.5.3 through 3.5.10 to Paragraph 3.5:

"§ 3.5.3 The Contractor shall be responsible for determining that all materials furnished for the Work meet all requirements of the Contract Documents. The Architect may require the Contractor to produce reasonable evidence that a material meets such requirements, such as certified reports of past tests by qualified testing laboratories, reports of studies by qualified experts, or other evidence which, in the opinion of the Architect, would lead to a reasonable certainty that any material used, or proposed to be used in the Work meets the requirements of the Contract Documents. All such data shall be furnished at the Contractor’s expense. This provision shall not require the Contract to pay for periodic testing of different batches of the same material, unless such testing is specifically required by the Contract Documents to be performed at the Contractor’s expense.

§ 3.5.4 In all cases in which a manufacturer’s name, trade name, or its proprietary designation is used in connection with materials or articles to be furnished under this Contract, whether or not the phrase “or equal” is used after such name, the Contractor shall furnish the product of the named manufacturer(s) without substitution, unless a written request for a substitute has been submitted by the Contractor and approved in writing by the Architect as provided in Subparagraph 3.5.4.

§ 3.5.5 If the Contractor proposes to use a material which, while suitable for the intended use, deviates in any way from the detailed requirements of the Contract Documents, the Contractor shall inform the Architect in writing of the nature of such deviations at the time the material is submitted for approval, and shall request written approval of the deviation from the requirements of the Contract Documents.

§ 3.5.6 In requesting approval of deviations or substitutions, the Contract shall provide, upon request, evidence leading to a reasonable certainty that the proposed substitution or deviation will provide a quality of result at least equal to that otherwise attainable. If, in the opinion of the Architect, the evidence presented by the Contractor does not provide a sufficient basis for such reasonable certainty, the Architect may reject such substitution or deviation without further investigation.

§ 3.5.7 The Contract Documents are intended to produce a Project of consistent character and quality of design. All components of the Project including visible items of mechanical and electrical equipment have been selected to have a coordinated design in relation to the overall appearance of the Project. The Architect will judge the design and appearance of proposed substitutes on the basis of their suitability in relation to the overall design of the Project, as well as for their intrinsic merits. The Architect will not approve as equal to materials specified, proposed substitutes which, in the Architect’s opinion, would be out of character, obtrusive, or otherwise inconsistent with the character or quality of design of the Project. In order to permit coordinated design of color and finishes the Contractor shall, if required by the Architect, furnish the substituted material in any color, finish, texture, or pattern which would have been available from the manufacturer originally specified, at no additional cost to the Owner."
§ 3.5.8 Any additional cost, or any loss or damage arising from the substitution of any material or any method for those originally specified shall be borne by the Contractor, notwithstanding approval or acceptance of such substitution by the Owner or the Architect, unless such substitution was made at the written request or direction of the Owner or the Architect.

§ 3.5.9 The warranty provided in this Paragraph 3.5 shall be in addition to and not in limitation of any other warranty required by the Contract Documents or otherwise prescribed by law.

§ 3.5.10 The Contractor shall procure and deliver to the Architect, no later than the date claimed by the Contractor as the date of Substantial Completion, all special warranties required by the Contract Documents. Delivery by the Contractor shall constitute the Contractor’s guarantee to the Owner that the warranty will be performed in accordance with its terms and conditions."

3.6 TAXES

1. Add the following Paragraph 3.6.2 to Paragraph 3.6:

"§ 3.6.2 The Contractor shall comply with all State and Federal law with respect to withholding taxes for nonresidents, employees, contractors and subcontractors."

3.7 PERMITS, FEES, NOTICES AND COMPLIANCE WITH LAWS

1. Delete Paragraph 3.7.1 and substitute the following:

"§ 3.7.1 The Contractor shall apply for, secure and pay for the Building Permit and the permits, governmental fees, licenses and inspections necessary for proper execution and completion of the Work, including, but not limited to, a City of Charleston Business License."

2. Add the following Clause 3.7.1.1 to Paragraph 3.7.1:

"§ 3.7.1.1 Building Permits are issued through the City of Charleston Building Department."

3. Insert the following sentence to Paragraph 3.7.3 so that it reads as follows:

"§ 3.7.3 It is the Contractor’s responsibility to review the Contract Documents prior to implementation and ensure that the plans comply with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the
Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction."

3.10 CONTRACTOR’S CONSTRUCTION AND SUBMITTAL SCHEDULES

1. Sections 3.10.1 and 3.10.2 are deleted and replaced with the following:

"§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner’s and Architect’s information a Contractor’s construction schedule for the Work. The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

This Schedule shall:

§ 3.10.1.1 indicate the dates for the start and completion of the various elements of the Work, and shall be affirmed or revised monthly as required by conditions of the Work and upon execution of a Change Order that affects time.

§ 3.10.1.2 provide a graphic representation of activities and events that will occur during performance of the Work in sufficient detail, and as acceptable to the Owner, to show the sequencing of the various trades for each floor level, wing, or work area;

§ 3.10.1.3 identify each phase of construction and occupancy; and

§ 3.10.1.4 set forth dates that are critical in ensuring the timely and orderly completion of the Work in accordance with the requirements of the Contract Documents (hereinafter referred to as “Milestone Dates”).

§ 3.10.2 The Contractor shall prepare and keep current, for the Architect’s approval, a schedule of submittals which is coordinated with the Contractor’s construction schedule and allows the Architect reasonable time to review submittals.

§ 3.10.3 The Contractor shall perform the Work in accordance with the most recent schedules submitted to and approved by the Owner.

§ 3.10.3.1 If the Contractor submits a schedule or schedule progress report indicating an intention to achieve Substantial or Final Completion of the Work or any portion thereof, prior to any completion date required by the Contract Documents or to the expiration of the Contract Time, no liability to the Owner for any failure of the Contractor to do so complete the Work shall be created or implied. The Contractor shall not be entitled to an adjustment in the Contract Sum or the Contract Time for failure to achieve such early completion dates.”
3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES


2. Add Paragraph 3.12.11 to Section 3.12:

"§ 3.12.11 The Architect’s review of Contractor’s submittals will be limited to examination of an initial submittal and one resubmittal. The Architect’s review of additional submittals will be made only with the consent of the Owner after notification by the Architect. The Owner shall be entitled to deduct from the Contractor Sum amounts paid to the Architect for evaluation of such additional resubmittals."

3. Insert the following clauses to Paragraph 3.12.5:

"§ 3.12.5.1 Sprinkler shop drawings shall be prepared by a licensed sprinkler Contractor. The sprinkler shop drawings shall be reviewed and approved by the Architect’s engineer of record before submittal to the City of Charleston Fire Marshal or other authorities having jurisdiction.

§ 3.12.5.2 The Contractor shall submit a copy of the City of Charleston Fire Marshal’s approval letter to the Architect."

3.18 INDEMNIFICATION

1. Sections 3.18.1 and 3.18.2 are deleted in their entirety and replaced with the following:

"§ 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the Owner, its agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys’ fees, arising out of or resulting, in whole or in part, from performance of the Work, or by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by the Architect, its subconsultants or a party indemnified hereunder. The Contractor is not required to indemnify the Owner if such claims or damages are caused solely by the Owner. This indemnity obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 3.18. The Owner shall be entitled to recover attorney fees and costs incurred in pursuing or enforcing these indemnity obligations.

§ 3.18.2 In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages,
compensation, or benefits payable by or for the Contractor or a Subcontractor under workers’ compensation acts, disability benefit acts, or other employee benefit acts.

§ 3.18.3 The obligations of the Contractor under this Paragraph 3.18 shall not extend to the liability of the Architect, the Architect’s consultants, and agents and employees of any of them arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs, or specifications, or (2) the giving of or the failure to give directions or instructions by the Architect, the Architect’s consultants, and agents and employees of any of them provided such giving or failure to give is the primary cause of the injury or damage.”

ARTICLE 4-ARCHITECT

4.1 GENERAL

1. Delete section 4.1.1 and replace with the following:

“The term “Architect,” “Architect/Engineer,” or “A/E” is the entity named as such in the “Invitation For Construction Bids”.”

2. Add Clause 4.1.3 to Paragraph 4.1 that reads as follows:

“§ 4.1.3 If the employment of the architect is terminated, the owner shall employ a successor architect as to whom the contractor has no reasonable objection and whose status under the contract documents shall be that of the architect.”

4.2 ADMINISTRATION OF THE CONTRACT

1. Clauses 4.2.1, 4.2.2, 4.2.3 and 4.2.4 are deleted in their entirety and replaced with the following:

“§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents, and will be an Owner’s representative (1) during construction, (2) until final payment is due and (3) with the Owner’s concurrence, from time to time during the one-year period for correction of Work described in Section 12.2. Notwithstanding these responsibilities, no act or omission by the Architect shall be considered a waiver of any of the Owner’s rights or interests. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

§ 4.2.2 The Architect, as a representative of the Owner, will visit the site as necessary to fulfill its obligations to the Owner for inspection services, and, at a minimum, to assure conformance with the Architect’s design as shown in the Contract Documents and to observe the progress and quality of the various components of the Contractor’s Work. The Architect will (1) keep the Owner informed about the progress and quality of Work completed, (2) endeavor to guard the Owner against defects and deficiencies in the Work,
and (3) determine if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, except as provided in Section 3.3.1.

4.2.2.1 The Contractor shall reimburse the Owner for compensation paid to the Architect for additional site visits made necessary by the fault, neglect or request of the Contractor.”

§ 4.2.3 The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications Facilitating Contract Administration. Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Contractor shall endeavor to communicate with each other through the Architect about matters arising out of or relating to the Contract. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with separate contractors shall be through the Owner.”

2. Clause 4.2.11 is deleted in its entirety and replaced with the following:

“§ 4.2.11 The Architect will, in the first instance, interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. Upon receipt of such request, the Architect will promptly notify the non-requesting party in writing of the details of such request. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If no agreement is made concerning the time within which interpretations required of the Architect shall be furnished in compliance with this Paragraph 4.2, then delay shall not be recognized on account of failure by the Architect to furnish such interpretations until fourteen (14) days after written request is made for them.

4.2.11.1 Subject to review pursuant to Paragraphs 4.3, 4.4 and 4.5, as appropriate, the Contractor shall proceed diligently with performance of the Contract in accordance with the Architect's written interpretations or decisions and the Owner shall continue to make payments in accordance with the Contract Documents.”
3. Add the following Clause 4.2.15 to Paragraph 4.2:

"§ 4.2.15 In the Specifications or on the Drawings, where the words "as directed," "as required," "as approved," "as permitted" or words of like effect are used, it is to be understood that direction, requirement, approval or permission of the Architect is intended. Similar words, such as "approved," "acceptable," "satisfactory," or words of like import mean approved by, acceptable to, or satisfactory to the Architect."

ARTICLE 5-SUBCONTRACTORS

5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK

1. The Contractor shall be required to submit a list of identifying proposed subcontractors to the Owner for review and approval with the Bid Form.

2. Add the following sentence to Clause 5.2.4:

"The Contractor's Request for Substitution must be made to the Architect in writing, accompanied by supporting information."

3. Add the following clause 5.2.5 to Paragraph 5.2:

"§ 5.2.5 To the extent it applies, the substitution of a subcontractor is governed by the laws of the State of South Carolina. Paragraph 5.2 is to be construed as complementary thereto."

5.3 SUBCONTRACTUAL RELATIONS

1. Add the following sentence at the end of Paragraph 5.3:

"All subcontracts shall specifically provide that the Owner is an intended third-party beneficiary of the subcontract. All subcontracts shall be in writing and in form and substance substantially similar to the Contractor's standard form subcontract."

2. Add Clauses 5.3.1 Paragraph 5.3:

"In addition, every subcontract shall:

1. Require that such Work be performed in accordance with the requirements of Contract Documents;
2. Require the Subcontractor to carry and maintain liability insurance adequate with respect to the type of Work the Subcontractor will be performing;
3. Require the Subcontractor to furnish such certificates and waivers of liens as any lender or title insurer may reasonably request prior to receiving any payments for
Work performed, including releases of claims and waivers of mechanics lien rights to
the extent permitted by law;
4. Indemnify the Owner to the same extent as required by the Contractor under the
Contract Documents;
5. Make the same warranties for the applicable portion of the Work to the Owner as
required by the Contractor under the Contract Documents; and
6. Agree to the dispute resolution procedures as set forth in the Contract Documents.”

3. Add Clauses 5.3.2, with subsections to Paragraph 5.3:

“§ 5.3.2 Without limitation on the generality of the foregoing, each Subcontract
agreement and each Sub-subcontract agreement shall include, and shall be deemed to
include, the following:

§ 5.3.2.1 An agreement that the Owner is a third-party beneficiary of the Subcontract (or
Sub-subcontract), entitled to enforce any rights thereunder for its benefit, and that the
Owner shall have the same rights and remedies against the Subcontractor (or Sub-
subcontractor) as the Contractor (or Subcontractor) has, including but not limited to the
right to be compensated for any loss, expense, or damage of any nature whatsoever
incurred by the Owner resulting from any breach of representations and warranties,
expressed or implied, if any, arising out of the agreement and any error, omission, or
negligence of the Subcontractor (or Sub-subcontractor) in the performance of any of its
obligations under the agreement; and,

§ 5.3.2.2 A requirement that the Subcontractor (or Sub-subcontractor) promptly disclose
to the Contractor (or Subcontractor) any defect, omission, error, or deficiency in the
Contract Documents or in the Work of which it has, or should have had, knowledge; and,

§ 5.3.2.3 The following Paragraphs or Subparagraphs as appropriate, of the Conditions of
the Contract: 3.2, 3.5.1, 3.18, 4.3.10, 5.4, 13.1, 13.13, 14.3 and 14.4.

§ 5.3.3 The Contractor shall assure the Owner, by affidavit or in such other manner as the
Owner may approve, that all agreements between the Contractor and its Subcontractor(s)
incorporate the provisions of Subparagraph 5.3.1 and 5.3.2 as necessary to preserve and
protect the rights of the Owner and the Architect under the Contract Documents with
respect to the work to be performed by Subcontractors so that the subcontracting thereof
will not prejudice such rights.

§ 5.3.4 Upon request, the Contractor shall provide to the Owner copies of all executed or
issued subcontracts, purchase orders and other documents related to the Work.”

ARTICLE 7-CHANGES IN THE WORK

7.2 CHANGE ORDERS

1. Add the following sections (4) (5) to paragraph 7.2.1:
The Contractor shall not proceed with the Work of the Change Order until the Change Order is approved by the Owner. Any adjustment in the Contract Sum made pursuant to this Paragraph 7.2 shall be determined in accordance with Paragraph 7.5 of this Contract.

All Change Orders shall be submitted on City of Charleston form, “Construction Change Order,” with appropriate documentation attached.”

2. Add the following Clause 7.2.2 to Paragraph 7.2:

“§ 7.2.2 Contractor’s signatures on a change order is a full, final and complete waiver of any and all claims, demands, impact costs, damages or causes of action arising out of or related to the change orders.”

7.3 CONSTRUCTION CHANGE DIRECTIVES

1. In the first sentence of Paragraph 7.3.4, delete the words “an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount” and substitute “an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, in accordance with Paragraph 7.3.11.”

2. Add the following sentence to Paragraph 7.3.7:

“The Contractor agrees that when it executes a Change Order, it waives any and all further claims for damages or time extensions for the matters contained in the Change Order and that certifies that it has been fully compensated for all aspects of the Change Order.”

3. Delete 7.3.9 in its entirety.

7.4 MINOR CHANGES IN WORK

1. Modify Paragraph 7.4 as follows:

“The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect’s order for minor changes shall be in writing and shall be binding on the Owner and Contractor, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.”

7.5 PRICE ADJUSTMENTS

1. Reinsert Paragraph 7.5 and its associated subparts thereto as follows:

“§ 7.5.1 Methods of Adjustment. Any adjustment in the Contract Sum made pursuant to this Paragraph 7.5 shall be consistent with this Contract and shall be arrived at through whichever
one of the following ways in the most valid approximation of the actual cost to the Contractor:

7.5.1.1.1 by agreement on a fixed price adjustment;
7.5.1.1.2 by unit prices specified in the Contract or subsequently agreed upon;
7.5.1.1.3 by the costs attributable to the event or situation covered by the relevant clause, including profit if otherwise allowed, all as specified in the Contract; or subsequently agreed upon;
7.5.1.1.4 in such other manner as the parties may mutually agree; or,
7.5.1.1.5 in the absence of agreement by the parties, through a unilateral initial determination by the Architect of the costs attributable to the event or situation covered by the clause, including profit if otherwise allowed, all as computed by the Architect in accordance with Clause 7.5.3.2, but subject to final resolution in accordance with the provisions of Paragraph 4.5, it being acknowledged that the unilateral initial interpretation by the Architect is respected, but advisory.

§ 7.5.2 Final Agreement
When any adjustment in the Contract Sum made pursuant to clauses in this Contract becomes final (e.g., by agreement or dispute resolution), the adjustment shall be computed and documented on City of Charleston "Construction Change Order."

§ 7.5.3 Documentation of cost reasonableness
§ 7.5.3.1 Contractor's Change Order Proposal. The Contractor shall submit a written proposal for review by the Architect and the Owner. The proposal shall be submitted to the Owner's representative within the time limits specified in the Subparagraph 4.3.2. All costs claimed by the Contractor shall be justifiable compared with prevailing industry standards, as adjusted for local cost conditions. Costs shall be properly itemized and supported by substantiating data sufficient to permit evaluation before commencement of the pertinent performance or as soon thereafter as practicable.

§ 7.5.3.2 Construction Change Directives. For a Construction Change Directive wherein the proposed method of compensation is actual costs, and pending the collection and evaluation of actual costs as required Clause 7.5.1.3, the Contractor shall estimate the value of the changed Work. The Contractor shall itemize the estimated cost into building components and shall use the labor, material and equipment unit direct costs as listed in the most current issue of the Construction Cost Data Book most applicable to the nature of the changed Work, as published by R.S. Means, with a cost index adjusted for the project locale. The Contractor shall also be permitted to add overhead and profit as shown in Subparagraph 7.5.4. Where the Contractor does not properly itemize the proposed costs as requested, the Architect shall provide the Owner with the itemization and this amount shall be the initial basis for compensation under Subparagraph 7.3.8. Upon conversion of the Construction Change Directive to a Change Order, the Architect's cost for providing this itemization shall be deducted from the final adjustment in the Contract Sum as described in Clause 7.3.7.

§ 7.5.4 Agreed Overhead And Profit Rates
§ 7.5.4.1 For any adjustment to the Contract Sum for which overhead and profit may be recovered, other than those made pursuant to Subparagraph 4.3.9, the Contractor agrees to charge and accept, as full payment for overhead and profit, the following percentages of costs attributable to the change in the Work. The percentages cited below shall be considered to include all indirect costs including, but not limited to: field and office managers, supervisors and assistants, incidental job burdens, small tools, and general overhead allocations. “Commission” is defined as profit on work performed by others. The allowable percentages for overhead, profit, and commission area as follows:

1. To the Contractor or subcontractors on work performed by their own forces:
   
<table>
<thead>
<tr>
<th>Overhead (%)</th>
<th>Profit (%)</th>
<th>Commission (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>7</td>
<td>0</td>
</tr>
</tbody>
</table>

2. To the Contractor on worked performed by its subcontractors:
   
<table>
<thead>
<tr>
<th>Overhead (%)</th>
<th>Profit (%)</th>
<th>Commission (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>0</td>
<td>3</td>
</tr>
</tbody>
</table>

3. To a first tier subcontractor on work performed by its subcontractors:
   
<table>
<thead>
<tr>
<th>Overhead (%)</th>
<th>Profit (%)</th>
<th>Commission (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>0</td>
<td>3</td>
</tr>
</tbody>
</table>

§ 7.5.4.2 Not more than three levels of overhead, profit, and commission shall be allowed regardless of the number of subcontractor tiers.

§ 7.5.4.3 The Contractor or subcontractor shall not be allowed overhead or commission on the overhead, profit, and/or commission received by its subcontractors.

§ 7.5.4.4 Using the percentages stated in Clause 7.5.4.1, any adjustment to the Contract Sum for deleted work shall include any overhead, profit and/or commission attributable to the cost for the deleted Work.

§ 7.5.4.5 If the Contractor initiates a Change Order proposal and the Owner is not obligated to pay for all or any part of the proposal, then the Contractor shall be responsible for any Architect’s fees to evaluate and process that Change Order proposal. Compensation shall be based on the Owner’s contract with the Architect and the rates for Additional Services contained therein, and shall be withheld from the final payment.

§ 7.5.5 Cost Or Pricing Data

§ 7.5.5.1 The Contractor shall submit cost or pricing data for any element of changed Work (other than Unit Price Work), and shall certify that, to the best of its knowledge and belief, the cost or pricing data submitted is accurate, complete, and current as of a mutually determined specified date prior to the date of the pricing. This data shall be itemized and supported by substantiating data sufficient to permit evaluation before commencement of the pertinent Work, or as soon thereafter as practicable, and shall be justifiably compared with prevailing industry standards, as adjusted for local conditions. As requested by the Architect or the Owner, the Contractor’s submittal shall provide an itemized breakdown of all increases and decreases in the Contract for the Contractor and each subcontractor (at any tier) in at
least the following detail: material, equipment and supply quantities and costs; direct labor
hours and rates for each trade; the associated FICA, FUTA, SUTA, and Worker's
Compensation Insurance; equipment hours and rates, and costs of premiums for bonds and
insurance, permit fees and sales, use or similar taxes related to the Work.

§ 7.5.5.2 Any Change Order or Change Directive for which certification is required shall
contain a provision that the price to the Owner, including profit or fee, shall be adjusted to
exclude any significant sums by which the Owner finds that such price was increased
because the cost or pricing data furnished by the Contractor was inaccurate, incomplete or
not current as of the date agreed upon between the parties. Notwithstanding Subparagraph
9.10.4, such adjustments may be made after final payment and shall not be deemed to be
waived."

ARTICLE 8-TIME

1. Insert the following Clauses 8.2.4 to 8.2.12 to Paragraph 8.2:

§ 8.2.4 Failure by the Contractor to commence actual physical work on the project within
twenty-one (21) days from the Date of Commencement, as established in the Notice to
Proceed, will entitle the Owner to consider the Contractor in substantial breach of its
obligations under this Contract. In this event, the Owner may withdraw the Notice to
Proceed and terminate the Contract in accordance with the Contract Documents.

§ 8.2.5 Within two (2) weeks after award of the Contract, the Contractor shall submit to
the Architect a Progress Schedule showing for each class of Work included in the
Schedule of Values, the percentage completion to be obtained and the total dollar value
of Work to be completed as of the first of each month until Substantial Completion. All
calculations shall be on the basis of Work in place, but not including the value of
materials delivered but not in place.

§ 8.2.6 The Progress Schedule shall be based on an orderly progression of the Work,
allowing adequate time for each operation (including adequate time for submission and
review of submittals), and leading to a reasonable certainty of Substantial Completion by
the date established in the Agreement. The Progress Schedule will be reviewed by the
Architect for compliance with the requirements of this Article and will be accepted by the
Architect or returned to the Contractor for revision and resubmittal. Unless specifically
required by law, no payment under this Contract shall be due until the Progress Schedule
has been approved by the Architect.

§ 8.2.7 If in any Application for Payment the total value of the completed Work in place,
as certified by the Architect, is less than ninety percent (90%) of the total value of the
Work in place estimated in the Progress Schedule, the Owner may, at the Owner's option,
require the Contractor to accelerate the progress of the Work without cost to the Owner
by increasing the work force or hours of work, or by other reasonable means approved by
the Architect.
§ 8.2.8 If each of three successive applications, as certified by the Architect, indicate that the actual work completed is less than ninety percent (90%) of the values estimated in the Progress Schedule to be completed by the respective dates, the Owner may at the Owner's option, treat the Contractor's delinquency as a default justifying the action permitted under Paragraph 14.2.

§ 8.2.9 If the Architect has determined that the Contractor should be permitted to extend the time for completion as provided in Paragraph 8.3, the calendar dates in the Progress Schedule shall be adjusted accordingly to retain their same relationship to the adjusted date of Substantial Completion, and the dollar value of Work to be completed as of the first of each month shall be adjusted pro rata.

§ 8.2.10 If the Contractor fails to submit any Application for Payment in any month, the Architect will, for the purpose of this evaluation of progress, certify separately to the actual value of the Work in place completed as of the first of the month to the best of the Architect's knowledge.

§ 8.2.11 Nothing herein shall limit the Owner's right to liquidated damages for delays by the Contractor or to any other remedy which the Owner may possess under other provisions of the Contract Documents or by law.

§ 8.2.12 The Contractor shall prepare Daily Reports of job site activities in a form provided by the Owner. Reports shall be submitted to the Owner and the Architect on a weekly basis."

8.3 DELAYS AND EXTENSIONS OF TIME

1. Add Clauses 8.3.4 to 8.3.7 to Paragraph 8.3 to read as follows:

"§ 8.3.4 The Contractor shall, within twenty-one (21) days after the beginning of such delay notify the Owner and Architect, in writing, of the causes of the delay. The Architect will then ascertain the facts and extent of delay, and notify the Contractor within twenty-one (21) days of the Owner's decision in this matter. Notice of delay and requests for extension of time shall set forth the cause, and number of additional working days Contractor desires Contract extended.

§ 8.3.5 No claims for extension of time will be considered when based on delays caused by conditions existing at the time bids were received, and of which the Contractor might be reasonably expected to have full knowledge at the time of bidding, or upon delays caused by failure on the part of the Contractor to anticipate properly the requirements of the work contracted for as to materials, labor and equipment. All claims for extension of time shall be made in writing to the Architect with the next application for payment.

§ 8.3.6 No claim for delay shall be allowed on account of failure of the Architect to furnish Drawings, Specifications, or instructions or to return Shop Drawings or samples until fifteen (15) days after receipt by the Architect by registered or certified mail of
written demand for such instructions, Drawings, or Samples, and not then unless such claim be reasonable.

§ 8.3.7 The Contractor hereby agrees that the Contractor shall have no Claim for damages of any kind against the Owner or the Architect on account of any delay or suspension of any portion of the Work, whether such delay is caused by the Owner, the Architect, or otherwise. The Contractor acknowledges that the Contractor’s sole remedy for any such delay and/or suspension will be an extension of time provided in this Article.”

ARTICLE 9-PAYMENTS AND COMPLETION

9.1 CONTRACT SUM

1. Remove Paragraph 9.1.2 in its entirety.

9.2 SCHEDULE OF VALUES

1. Add Clause 9.2.1 to Paragraph 9.2 stating as follows:

“Any schedule of values or trade breakdown that fails to include sufficient detail, is unbalanced, or exhibits “front-loading” of the value of the Work, shall be rejected. If either the schedule of values or trade breakdown had been initially approved and subsequently used, but later was found improper for any reason, then sufficient funds shall be withheld from future Applications for Payment to ensure an adequate reserve (exclusive of normal retainage) to complete the Work.”

9.3 APPLICATIONS FOR PAYMENT

1. Delete Paragraph 9.3.1 and Clauses 9.3.1.1 and 9.3.1.2 in their entireties and substitute the following:

“9.3.1 Applications for payment shall be made at approximately 30 day intervals in accordance with the dates established in the Standard Form of Agreement Between Owner and Contractor. At least 28 days before each progress payment falls due, the Contractor shall submit to the Architect, an itemized Application for Payment, supported by such data substantiating the Contractor’s right to payment as the Owner or the Architect may require, and shall reflect retainage if provided for in the Contract Documents. The form of Application for Payment shall be AIA Document G702 (1992)-Application and Certificate for Payment, supported by AIA Document G703 (1992)-Continuation Sheet. The Architect will authorize, as provided in Paragraph 9.4 and until the final pay request, monly payments equal to ninety percent (90%) of the portion of the Contract Sum properly allocable to labor, material and equipment incorporated in the Work, and allocable to material and equipment suitably stored until the total value of the completed Work in place is less than fifty percent (50%), as certified by the Architect, at which time the above-stated ninety percent (90%) shall be modified, at the option of the Owner, to ninety-five percent (95%) of the portion of the Contract Sum properly allocable to labor, material and equipment incorporated in the
Work, and allocable to material and equipment suitably stored. After fee reduction has taken place, if the quality or progress of the work decreases or slows down, in the opinion of the architect, full retainage may be reinstated until the completion of the work.

9.3.1.1 Such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives but not yet included in Change Orders.

9.3.1.2 Contractor shall submit with each monthly Application for Payment 1) an Affidavit with payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the previous Application was submitted and the Owner or his property might in any way be responsible, have been paid or otherwise satisfied, and 2) release or waivers of liens arising out of the Contract from each Subcontractor, material supplier, and laborer of the Contractor.”

2. Add the following sentence and Clauses 9.3.2.1 through 9.3.2.7 to Paragraph 9.3.2:

“Payment to Contractor for materials stored off site is discouraged. Where circumstances indicate that the Owner’s best interest is served by off-site storage, the Contractor shall make written request to the Architect for approval to include such material costs in his next progress payment. The Contractor’s request shall include the following information:

(1) A list of the fabricated materials consigned to the project (which shall be clearly identified), giving the place of storage, together with copies of invoices and reasons why materials cannot be delivered to the site.
(2) Certification that items have been tagged for delivery to the project that they will not be used for another purpose.
(3) A letter from the Bonding Company indicating agreement to the arrangements and that payment to the Contractor shall not relieve either party of their responsibility to complete the project.
(4) Evidence of adequate insurance coverage the material in storage, which shall name the Owner as an Additional Insured.
(5) Costs incurred by the Architect to inspect material in off-site storage shall be paid by the Contractor.
(6) Subsequent pay requests shall itemize the materials and their cost that were approved on previous pay requests and remain in off-site storage.
(7) When a partial payment is allowed on account of material delivered on the site of the Work or in the vicinity thereof or under possession and control of the Contractor but not yet incorporated therein, such material shall become the property of the Owner, but if such material is stolen, destroyed or damaged by casualty before being used, the Contractor will be required to replace it at his own expense.”

3. Add Clause 9.3.4 to paragraph 9.3 stating as follows:

“§ 9.3.4 Each Application for Payment or periodic estimate requesting payment shall be accompanied at the Owner’s option by (i) a waiver of liens from each subcontractor or
(ii) a certificate from each subcontractor stating that the subcontractor has been paid all
amounts due the subcontractor on the basis of the previous periodic payment to the
Contractor, or else stating the amount not so paid and the reason for the discrepancy. In
the event of any such discrepancy, the Contractor shall furnish the Contractor's own
written explanation to the Owner through the Architect. Such waiver or certificate shall
be in a form acceptable to the Owner.”

9.5 DECISIONS TO WITHHOLD CERTIFICATION

1. Add the following subsections 9.5.1(8) to (10) to Paragraph 9.5:

".8 a lien or attachment is filed; or
.9 failure of mechanical trade or electrical trade subcontractors to comply with
mandatory requirements for maintaining record drawings. The contractor shall
check record drawings each month. Written confirmation that the record drawings
are current will be required by the Architect before approval of the Contractor's
monthly payment requisition.

2. Delete Clause 9.5.4 in its entirety.

9.7 FAILURE OF PAYMENT

1. Delete Paragraph 9.7 and replace with the following:

"§9.7 If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within
seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the
Contractor within seven days after the date established in the Contract Documents, the amount certified by
the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional
days' written notice to the Owner and Architect, stop the Work until payment of the amount owing has
been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased
by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as
provided for in the Contract Documents."

9.8 SUBSTANTIAL COMPLETION

1. Delete Paragraph 9.8 in its entirety and replace with the following:

"§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or
designated portion thereof is sufficiently complete in accordance with the Contract
Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof designated in
the Contract Documents for separate completion, is substantially complete and the
premises comply with Subparagraph 3.15.1, the Contractor shall submit to the Architect
(i) a list of items to be completed or corrected, (ii) all special warranties required by the
Contract Documents, endorsed by the Contractor and in a form reasonably acceptable to the Architect, and (iii) the permits and certificates referred to in Subparagraph 13.5.4. The failure to include any items on the list mentioned in the preceding sentence shall not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents. When the Architect, on the basis of an inspection, determines that the Work or designated portion thereof is substantially complete, and the other conditions have been met, the Architect will then prepare a Certificate of Substantial Completion which shall establish the Date of Substantial Completion, shall state the responsibilities of the Owner and the Contractor for security, maintenance, heat, utilities, damage to the Work, and insurance, and shall fix the time within which the Contractor shall complete the items listed therein. Warranties required by the Contract Documents shall commence on the Date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion. The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of the responsibilities assigned to them in such Certificates.

§ 9.8.2.1 The Contractor's list shall be in writing and attached to the "Contractors Request for Certificate of Substantial Completion", which shall be submitted at least ten (10) days in advance of the proposed date of inspection and shall be forwarded through the Architect, who will attach its written endorsement as to whether or not it concurs with the Contractor's statement that the Work will be ready for inspection and testing on the date given. The Architect's endorsement is a convenience to the Owner only and shall not relieve the Contractor of its responsibility in the matter, nor shall the Architect's endorsement be deemed to be evidence that the Work was substantially complete and ready for inspection and testing. In the event that the Architect does not concur with the Contractor's statement, the Architect shall inform the Contractor of the basis for the Architect's non-concurrence. The Contractor may then, at its sole option, (i) defer the inspection; or, (ii) request the inspection be performed in accordance with Subparagraph 9.8.3.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, correct or substitute such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.3.1 Inspection and testing shall take place at a time (s) mutually agreeable to the Contractor, Owner and Architect.

§ 9.8.3.2 The inspection shall include a demonstration by the Contractor that all equipment, systems and operable components of the Work function properly and in accordance with the Contract Documents. The Contractor shall furnish access for the
inspection and testing as provided in this Contract. The inspection and testing shall
determine whether Substantial Completion has been accomplished and shall result in the
Architect's issuance of a written list of Unfinished Work and Defective Work, commonly
referred to as a "punch list", each item of which must be finished and correct prior to
Final Completion.

§ 9.8.3.3 The Architect and its Consultants shall conduct all Substantial Completion
inspections. The Owner may elect to have other persons of its choosing also participate
in the inspections. Representatives of authorities having jurisdiction may be present, at
their sole discretion, at the Substantial Completion Inspection or otherwise inspect the
completed Work and advise the Owner whether the Work meets their respective
requirements.

§ 9.8.3.4 If the inspection discloses any item which is not in accordance with the
requirements of the Contract Documents and will prevent the Owner from occupying or
utilizing the Work for its intended use, the Contractor shall complete or correct such item
upon notification by the Architect. The Contractor shall then submit a request for a
follow-up inspection by the Architect to determine Substantial Completion.

§ 9.8.3.5 The Contractor shall proceed promptly and diligently to complete and correct
items on the list of Unfinished or Defective Work. Failure to include an item on such list
does not alter the responsibility of the Contractor to complete all Work in accordance
with the Contract Documents.

§ 9.8.3.6 If more than one Substantial Completion inspection is required, the Contractor
shall reimburse the Owner for all costs of re-inspections or, at the Owner's option, the
costs may be deducted from payments due to the Contractor.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the
Architect will prepare a Certificate of Substantial Completion by the Architect which
shall establish the date of Substantial Completion, shall establish responsibilities of the
Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and
insurance, and fix the time within which the Contractor shall finish all items on the list
accompanying the Certificate. Warranties required by the Contract Documents shall
commence on the date of Substantial Completion of the Work or designated portion
thereof unless otherwise provided in the Certificate of Substantial Completion by the
Architect.

§ 9.8.5 The Certificate of Substantial Completion by the Architect shall be submitted to
the Owner and Contractor for their written acceptance of responsibilities assigned to them
in the Certificate.

§ 9.8.5.1 Upon such acceptance of Substantial Completion of the Work, or designated
portion thereof and upon application by the Contractor and certification by the Architect,
the Owner shall make a payment for such Work or portion thereof as provided in the
Contract Documents. The balance payable shall include the retainage of five percent
(5%) of the Contract Sum, less any retainage released under conditions of Subparagraph 9.6.2, plus an amount equal to the cost to complete or to correct, as determined by the Architect, of the Uncompleted or Defective Work, plus the full amount of Liquidated Damages. The Contractor acknowledges that the Owner will suffer financial loss if the Project is not substantially completed on the date set forth in the Contract Documents. The Contractor (and its Surety) shall be liable for any the Owner may retain from payment the sums herein stipulated as fixed, agreed and liquidated damages for each calendar day of delay that the Work remains incomplete. The Contractor further acknowledges that the Owner has the right to elect to enforce Liquidated Damages or any other damages or legal or equitable relief as this Contract provides or as permitted by law. Retainage shall continue until Final Completion and Final Payment.

§ 9.8.5.2 Notwithstanding the foregoing, the payment of retainage shall be consistent with §11-35-3030 (4), Code of Laws of South Carolina, as amended."

9.10 FINAL COMPLETION AND FINAL PAYMENT

1. Add the following Clauses 9.10.1.1 to 3 to Paragraph 9.10.1:

"§ 9.10.1.1 Final Completion shall be achieved no later than thirty (30) days after Substantial Completion unless modified by a Change Order. Failure of the Contractor to achieve Final Completion within the time allowed under this Subparagraph shall entitle to Owner to consider the Contractor in substantial breach of its obligations under this Contract.

§ 9.10.1.2 The Contractor shall notify the Owner, in writing on the "Certificate of Completion by the Contractor", of the date when the Work has reached or will reach Final Completion and will be ready for final inspection and testing. The notice shall be given at least ten (10) days in advance of said date and shall be forwarded through the Architect, who will attach its endorsement as to whether or not it concurs in the Contractor’s statement that the Work will be ready for inspection and testing on the date stated. The Architect’s endorsement is a convenience to the Owner only and shall not relieve the Contractor of its responsibility in the matter, nor shall the Architect’s endorsement be deemed to be evidence that the Work was finally complete and ready for inspection and testing. In the event that the Architect does not concur with the Contractor’s statement, the Architect shall inform the Contractor of the basis for the Architect’s non-concurrence. The Contractor may, at its sole option, (i) defer the inspection; or, (ii) request the inspection be performed in accordance with this Subparagraph. The final inspection and testing shall be conducted in the same manner as the inspection for Substantial Completion, including, but not limited to, the requirements of Clauses 9.8.3.3, 9.8.3.4, 9.8.3.5 and 9.8.3.6 of this Contract.

§ 9.10.1.3 The Contractor shall then submit a request for a follow-up inspection to determine Final Completion. If more than one Final Completion inspection is required, the Contractor shall reimburse the Owner for all costs of reinspections or, at the Owner's option, the costs may be deducted from payments otherwise due to the Contractor."
§ 9.10.1.4 Approval of Work as a result of any inspection required herein shall not release the Contractor or its surety from responsibility for complying with the Contract."

2. Delete Paragraph 9.10.4 in its entirety

3. Delete Paragraph 9.10.5 in its entirety

9.11 LIQUIDATED DAMAGES

1. Add the following Section 9.11 and Paragraph 9.11.1 to Article 9:

"9.11 LIQUIDATED DAMAGES

§ 9.11.1 The Contractor and the Contractor's surety, if any, shall be liable for and shall pay the Owner as liquidated damages, and not as a penalty, the amount of a total of $1,000.00 for each calendar day of delay after the date established for Substantial Completion in the Contract Documents until the Work is substantially complete. This amount is subject to modification at the sole discretion of the Owner."

ARTICLE 10-PROTECTION OF PERSONS AND PROPERTY

1. Modify Paragraph 10.2.8 by changing "21 days" to "45 days" in line 3 of this paragraph.

2. Delete Paragraph 10.3.1 in its entirety and replace with the following:

"§ 10.3.1 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons or serious losses to real or personal property resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner and Architect in writing.

§ 10.3.1.1 The Owner and Contractor hereby agree that this Paragraph shall apply only to hazardous, toxic or radioactive materials or substances subject to the regulations of agencies having jurisdiction, such as, but not limited to, the S.C. Department of Health and Environmental Control (SDHEC), the U.S. Environmental Protection Agency (USEPA) and the U.S. Nuclear Regulatory Commission (USNRC)."

3. Delete Paragraph 10.3.3 in its entirety.

ARTICLE 11-INSURANCE AND BONDS

11.1 CONTRACTOR'S INSURANCE AND BONDS

1. Add the following sentence to Clause 11.1.1:
“Contractor’s insurance requirements are more fully explained in A101-2017 Exhibit A, including Supplementary Conditions, which is incorporated into the Contract Documents.”

11.2 OWNER’S INSURANCE

1. Delete Section 11.2 in its entirety, including Paragraphs 11.2.1, 11.2.2 and 11.2.3.

11.3 WAIVERS OF SUBROGATION

1. Delete Paragraph 11.3.1 in its entirety.

2. Delete Paragraph 11.3.2 in its entirety.

11.4 LOSS OF USE, BUSINESS INTERRUPTION, AND DELAY IN COMPEITION INSURANCE.

1. Delete Paragraph 11.4 in its entirety.

ARTICLE 12-UNCOVERING AND CORRECTION OF WORK

12.1 UNCOVERING OF WORK

1. Add to the last sentence of Clause 12.1.2 as follows:

“If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor’s expense, unless the condition was caused by the Owner or a separate contractor in which event the owner shall be responsible for payment of such costs.”

12.2 CORRECTION OF WORK

1. Add the following sentence at the end of Paragraph 12.2.1:

“If, prior to the date of Substantial Completion, the Contractor, or Subcontractor, or anyone for whom either is responsible, uses or damages any portion of the Work, including without limitation, mechanical, electrical, plumbing, and other building systems, machinery, equipment, or other mechanical device, the Contractor shall cause such item to be restored to “like new” condition at no expense to the Owner.”

2. Modify Paragraph 12.2.2.3 to read as follows:

“The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2, unless otherwise provided in the Contract Documents.”
3. Add the following Clause 12.2.2.4 to Paragraph 12.2.2:

"Upon request by the Owner and prior to the expiration of one year from the date of Substantial Completion, the Architect will conduct and the Contractor shall attend a meeting with the Owner to review the facility operations and performance."

ARTICLE 13-MISCELLANEOUS BUSINESS

13.1 GOVERNING LAW

1. Delete Paragraph 13.1 in its entirety and substitute the following:

"The Contract shall be governed by the laws of the State of South Carolina. If the parties have selected arbitration as the method of binding resolution, the South Carolina Uniform Arbitration Act in Section 15-48-10, et.seq., of the South Carolina Code (1976), as amended, shall govern Section 15.4."

13.6 POLICIES OF EMPLOYMENT

1. Add Section 13.6 and Paragraphs 13.6.1 and 13.6.2 to Article 13:

"13.6 POLICIES OF EMPLOYMENT

13.6.1 The Contractor and Subcontractors shall not discriminate against employee or applicant for employment because of race, religion, color, sex or national origin. The Contractor shall take affirmative action to insure that applicants are employed, and that employees are treated during employment without regard to their race, religion, color, sex or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the policies of nondiscrimination.

13.6.2 The Contractor and Subcontractors shall, in solicitations or advertisements for employees placed by them on their behalf, state that qualified applicants will receive consideration for employment without regard to race, religion, color, sex or national origin.

13.7 WRITTEN NOTICE

1. Add Section 13.7 and Paragraphs 13.3.1 and 13.3.2 to Article 13:
§ 13.3 Written Notice
§ 13.3.1 Unless otherwise permitted herein, all notices contemplated by the Contract Documents shall be in writing and shall be deemed duly given:

.1 upon actual delivery to the person identified in the A101, if delivery by hand; or,
.2 upon receipt by the transmitting party of confirmation or reply, if delivery is by facsimile, telex or telegram; or,
.3 upon receipt by the person identified in the A101, if delivery is by deposit into the United States mail, certified mail, return receipt requested.

§ 13.3.2 Each such notice shall be sent to the respective party at the address provided in the A101, or to any other address as the respective party may designate by notice delivered pursuant hereto.

13.4 TESTS AND INSPECTIONS

1. Delete Paragraph 13.4.1 in its entirety and replace with the following:

"Tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations or orders of public authorities having jurisdiction shall be made at an appropriate time. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections or approvals which do not become requirements until after bids are received or negotiations concluded."

2. Add the following sentence to Paragraph 13.4.5:

"The Contractor shall give the A/E timely notice in advance of tests, inspections or approvals."

3. Delete Paragraph 13.5 in its entirety.

4. Add Paragraphs 13.7, 13.8, 13.9, 13.10, 13.11, and 13.12 as follows:

"§ 13.7 Time limits on Claims
The Owner and Contractor shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise, against the other arising out of or relating to the Contract within the times established by the laws of the State of South Carolina.

§ 13.8 Drug-free Workplace"
The Contractor certifies to the Owner that the Contractor will provide a Drug-Free Workplace, as required by Title 44, Chapter 107 of the South Carolina Code of Laws, as amended.

§ 13.9 Cancellation after Award
Pursuant to § 11-35-1520 of the SC Code of Laws, as amended, and South Carolina Regulation 19-445.2085, this Contract may be cancelled after award, but prior to issuance of the Notice to Proceed. In such event, the Contractor shall recover, as its sole remedy, its reasonable bid preparation costs.

§ 13.10 Bankruptcy
In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish written notification of the bankruptcy to the Owner. This notification shall be furnished within five (5) days of the initiation of the proceedings relating to the bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of State or governmental contracts against which final payment has not been made. This obligation remains in effect until final payment under this Contract.

§ 13.11 Retention and Audit of Contractor's Records
The Contractor and all subcontractors shall comply with all applicable obligations of §11-35-2220 of the SC Code of Laws, as amended. Accordingly, the Owner shall be entitled, at reasonable times and places, to audit the books and records of both the Contractor and any subcontractor who has submitted cost or pricing data pursuant to either this Contract or to §11-35-1830 to the extent that such books and records relate to such cost or pricing data. If any cost or pricing data is required for this Contract or any Modification, the Contractor and any subcontractor shall maintain such books and records that relate to such cost or pricing data for three (3) years from the date of final payment under the Contract; provided, however, that such records shall be retained for additional periods of time beyond this three-year period upon request of the Owner. If this Contract or any Modification (other than a firm fixed price contract) is negotiated, the Owner shall be entitled to audit the books and records of the Contractor and any subcontractor to the extent that such books and records relate to the performance of the Contract or any Modification. Such books and records shall be maintained by the Contractor for a period of three years from the date of final payment under the prime contract and by any subcontractor for a period of three years from the date of final payment under the subcontract.

§ 13.12 Unit Price Work
§ 13.12.1 Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, the initial Contract Sum will be deemed to include an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as identified in the Contract. The estimated quantity for each item of Work represent the Owner's best estimate of the amount of each item to be required of the Contractor, but the amounts are not guaranteed, and are solely for the
purpose of comparison of Bids and determining an initial Contract Sum. Determinations of the actual quantities, and classifications of Unit Price Work performed by the Contractor will be made by the Architect as described below.

§ 13.12.2 Subject to an adjustment pursuant to Subparagraph 4.3.9, each unit price will be deemed to include an amount considered by the Contractor to be adequate to cover the Contractor’s total costs, including overhead and profit, for each separately identified item.

§ 13.12.3 The Architect will determine the actual quantities and classifications of Unit Price Work performed by the Contractor. The Architect will review with the Contractor its preliminary determinations on such matters before rendering a written decision or issuing a recommendation on the Contractor’s Applications for Payment. The Architect’s written decisions or recommendations will be final and binding on the Owner and the Contractor, except as modified by the Architect to reflect changed factual conditions or more accurate data, and subject to Paragraph 4.4. For purposes of Paragraph 4.4, the Architect’s written decisions or recommendations shall serve as the Architect’s initial decision.

§ 13.13 Procurement of materials by Owner
§ 13.13.1 The Contractor accepts assignment of, and liability for, all purchase orders and other agreements for procurement of materials and equipment that are identified as part of the Contract Documents. The Contractor shall be responsible for such pre-purchased items, if any, as if the Contractor were the original purchaser. The Contract Sum includes, without limitation, all costs and expenses in connection with delivery, storage, insurance, installation, and testing of items covered in any assigned purchase orders or agreements. All warranty and correction of the Work obligations under the Contract Documents shall also apply to any pre-purchased items, unless the Contract Documents specifically provide otherwise."

ARTICLE 14-TERMINATION OR SUSPENSION OF THE CONTRACT

14.1 TERMINATION BY THE CONTRACTOR

1. Modify Paragraph 14.1.3 as follows:

“If one of the reasons described in Section 14.1.1. or 14.1.2 exists, the Contractor may, upon seven days’ notice to the Owner and Architect, terminate the Contractor and recover from the Owner payment for Work executed.”

14.4 TERMINATION BY THE OWNER FOR CONVENIENCE

1. Modify Paragraph 14.4.3 as follows:
"In case of such termination for the Owner's convenience, the Owner shall pay the Contractor solely for Work properly executed and costs directly incurred by reason of the termination."

2. Delete Clause 14.4.2 in its entirety and replace with the following:

"§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall complete the performance of the Work not terminated, if any:

.1 cease operations as directed by the Owner in the notice;
.2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work;
.3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders; and,
.4 complete the performance of the Work not terminated, if any."

ARTICLE 15-CLAIMS AND DISPUTES

15.1 CLAIMS

1. Delete Paragraph 15.1.2 in its entirety.

2. Modify Paragraph 15.1.3.1 by changing "21 days" to "45 days" in lines 4 and 5 of this paragraph.

3. Add the following Clauses to 15.1.6.3 and 15.1.6.4 to Paragraph 15.1.6:

"15.1.6.3 Claims for increase in the Contract Time shall set forth in details the circumstances that form the basis for the Claim, the Date upon which each cause of delay began to effect the progress of the Work and the number of days' increase in the Contract Time claimed as a consequence of each such cause of delay. The Contractor shall provide such supporting documentation as the Owner may require including, where appropriate, a revised construction schedule indicating all the activities affected by the circumstances forming the basis of the claim.

15.1.6.4 The Contractor shall not be entitled to a separate increase in Contract Time for each one of the number of causes of delay which may have concurrent or interrelated effects on the progress of the Work, or for concurrent delays due to the fault of the Contractor."

15.2 INITIAL DECISION

1. Modify the second to last sentence of Paragraph 15.2.1 as follows:
"If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may request mediation without a decision having been rendered."

2. Delete the last sentence of Paragraph 15.2.3.

3. Modify Paragraph 15.2.5 by adding the phrase “selected in the Agreement” at the end of the last sentence.

4. Modify Paragraph 15.2.6 by deleting the phrase “subject to the terms of Section 15.2.6.1” at the end of the sentence.

15.3 MEDIATION

4. Delete Paragraphs 15.3.1 through 15.3.4 in their entirety and replace them with the following:

"Any claim, dispute, or controversy arising under or in connection with this Agreement shall be subject to mediation as a condition precedent to pursuing the method of binding resolution selected in the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the proposed mediator. Mediation shall be conducted in Charleston County, South Carolina. The mediator shall be a member of the South Carolina Bar and shall be selected by mutual consent and agreement of the parties. If a party fails to object to the mediator proposed by the party requesting mediation within 30 days of the initial request for mediation, the mediator shall be deemed selected as proposed. If the parties fail to agree upon a mutually acceptable mediator within 60 days of the initial request for mediation the mediator shall be selected from the official roster of active certified mediators in Charleston County, as provided by the South Carolina Supreme Court’s Commission on Alternative Dispute Resolution and Board of Arbitrator and Mediator Certification, by choosing in alphabetical order the first available circuit court mediator from the roster. The parties shall equally divide the mediator’s fee and any filing fees. Agreements reached in mediation shall be enforceable as settlement agreements in any court of competent jurisdiction. Nothing contained in Article 15 or the Contract Documents shall preclude either party from seeking enforcement of the terms of mediation pursuant to the Section 15.3 through a court of competent jurisdiction, and the prevailing party shall also be entitled to reimbursement by the losing party for all reasonable fees and costs, including attorney’s fees, incurred in the proceedings seeking enforcement of this Section 15.3."

15.4 ARBITRATION

1. Delete Paragraphs 15.4, and all subparts in its entirety

2. .
A RESOLUTION

PROVIDING FOR AN ELECTION FOR THE DETERMINATION OF THE QUESTION OF WHETHER THE CITY OF CHARLESTON SHALL BE EMPOWERED TO ISSUE AND SELL GENERAL OBLIGATION BONDS OF THE CITY OF CHARLESTON IN THE AMOUNT OF NOT EXCEEDING $39,000,000 OR SUCH LESSER AMOUNT AS PROVIDED HEREIN TO DEFRAY THE COST OF PARKS AND RECREATION CAPITAL IMPROVEMENT PROJECTS IN THE CITY OF CHARLESTON IN ORDER TO IMPLEMENT THE CHARLESTON PARKS AND RECREATION MASTER PLAN.

As an incident to the adoption of this Resolution, the City Council (the City Council) of the City of Charleston (the City) makes the following findings of fact:

1. It is the desire of the City Council to proceed with parks and recreation capital improvement projects as part of the implementation of the Charleston Parks and Recreation Master Plan (the Parks and Recreation Master Plan) that was approved by the City Council on July 20, 2021 in order to enhance recreational opportunities throughout the City.

2. The City Council finds that the issuance of general obligation bonds of the City to defray the costs of the parks and recreation capital improvements projects set forth in the Parks and Recreation Master Plan is a proper corporate purpose of the City.

3. The parks and recreation capital improvements projects identified in the Parks and Recreation Master Plan would require that City Council issue general obligation bonds in excess of the City’s 8% debt limit.

4. The Municipal Bond Act adopted by the General Assembly and codified as Sections 5-21-210 to 5-21-500, Code of Laws of South Carolina, 1976, authorizes Council to “issue general obligation bonds of such municipality for any corporate purpose....”
5. The provisions of Section 14 of Article X of the Constitution of the State of South Carolina, and Section 11-27-40, Code of Laws of South Carolina, 1976, as amended and the decision of the Supreme Court of South Carolina in the case of Hanna v. City of Florence, 273 S.C. 670, 258 SE2d 500 (1979), permit the question of the issuance of general obligations bonds of the municipality to be submitted to the qualified electors of the municipality.

6. Council has determined that the question of the issuance of general obligation bonds to defray the cost of parks and recreation capital improvement projects as part of the implementation of the Parks and Recreation Master Plan should be presented to the electorate.

7. Council has further determined that the principal amount of such bonds should be in an amount not to exceed $39,000,000 or such lesser amount of general obligation bonds the annual debt service requirements of which can be met at the time of the issuance of such general obligation bonds by the levying of an additional two mills of property taxes as valued on the date of issuance of such bonds. Such general obligation bonds should be issued pursuant to the provisions of Section 14(6) of Article X of the Constitution of South Carolina, which Section requires a favorable vote of a majority of the qualified electors of the City voting in referendum authorized by law.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHARLESTON, SOUTH CAROLINA, IN COUNCIL ASSEMBLED:

SECTION 1.

That the Municipal Election Commission of the City shall conduct in conjunction with the general election to be held in the City on Tuesday, November 2, 2021, on the question of issuing not exceeding $39,000,000 of General Obligation Bonds for the purposes of defraying the cost of parks and recreation capital improvement projects as part of the implementation of the Parks and Recreation Master Plan that was approved by City Council on July 20, 2021 in order to enhance recreational opportunities throughout the City of Charleston.

SECTION 2.
Pursuant to the requirements of Section 7-13-35, Code of Laws of South Carolina, 1976, as amended, and pursuant to the requirements of Section 5-21-290, Code of Laws of South Carolina, 1976, the Municipal Election Commission of the City of Charleston shall cause to be published, at the times required by State law, notices of this election in The Post and Courier, a daily newspaper of general circulation in the City of Charleston published in Charleston, South Carolina. The publications of said Notice shall appear on or about August 27, 2021 and September 3, 2021; and that the third publication of said notice shall appear in said newspaper on or about October 27, 2021. Notice of this election shall also be published in The Chronicle, if available, and The City Paper.

SECTION 3.

That the polling places for said Election shall be the same as those utilized in the general election. The polls shall be opened from 7:00 a.m. to 7:00 p.m. on the day of said Election.

SECTION 4.

That the Municipal Election Commission of the City shall cause to be prepared the form of ballot to be used in said Election and the instruction to voters appearing thereon, both of which shall be substantially as follows:

Shall the City of Charleston be empowered to issue, either at one time as a single issue or from time to time as separate issues, general obligation bonds in the aggregate principal amount of not exceeding $39,000,000, the debt service of which will be funded by additional millage, and to use such bond proceeds to defray the cost of the acquisition, construction, installation, improvement, furnishing and equipping of parks and recreation capital improvement projects located in the City of Charleston as set forth in the Charleston Parks and Recreation Master Plan approved by the City Council on July 20, 2021?

YES □

NO □

INSTRUCTIONS -- If you are in favor of the question, touch the screen next to the word “YES.” If you are opposed to the question, touch the screen next to the word “NO.”
SECTION 5.

That the Municipal Election Commission of the City be given notice of the passage of this Resolution and do all things necessary to conduct the holding of the election in accordance with the laws of the State of South Carolina and be requested and directed:

(a) to join in the action of City Council in providing for the giving of Notice of Election;

(b) to name the Managers of Election;

(c) to provide polling places for the Election;

(d) to approve the form of ballot set forth in this Resolution; and

(e) to conduct said Election, receive the returns thereof, and report the same to City Council.

DONE IN MEETING ASSEMBLED THIS 29th day of July, 2021.

CITY OF CHARLESTON, SOUTH CAROLINA

By: ________________________________
    Mayor

Attest:

______________________________
Clerk
STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

I, the undersigned, City Clerk of the City of Charleston, South Carolina, DO HEREBY CERTIFY:

That the foregoing is a true, correct and verbatim copy of a Resolution adopted by the City Council of the City of Charleston on July 29, 2021, at which at least a majority of members were present. At said meeting, a quorum of City Council was present at all times during the proceedings pursuant to which the aforesaid Resolution was adopted, the original of which is duly entered in the record of minutes of the aforesaid meetings of said City Council in my custody as said City Clerk.

IN WITNESS WHEREOF, I have hereunto set my Hand this 29th day of July, 2021.

City Clerk, City of Charleston, South Carolina
AN ORDINANCE

AN ORDINANCE TO ADD A NEW ARTICLE III TO CHAPTER 25 OF THE CODE OF THE CITY OF CHARLESTON RELATED TO FIRST AMENDMENT DEMONSTRATIONS TO PROVIDE GENERAL PROVISIONS AND DEFINITIONS, TO PROVIDE OPEN CARRY RESTRICTIONS AND OTHER SAFETY PROHIBITIONS, TO PROVIDE A PERMITTING PROCESS, TO PROVIDE REGULATIONS, AND TO PROVIDE FOR PENALTIES.

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

Section 1. Chapter 25 of the Code of the City of Charleston is hereby amended by adding a new Article III to state as follows:

"ARTICLE III. FIRST AMENDMENT DEMONSTRATIONS

DIVISION 1. GENERALLY

Sec. 25-36. Definitions.

The following words and phrases, when used in this article, shall have the following meanings:

Chief of police shall mean the chief of police or the chief's designee.

First Amendment demonstration means any demonstration, assembly, picketing, speechmaking, marching, protesting, vigil or religious service, and all other like forms of conduct, in or upon any street, including the sidewalk area thereof, park or other public place in the city, that involve the communication or expression of views or grievances, engaged in by one or more persons, the conduct of which is reasonably likely to draw a crowd or onlookers.

First Amendment demonstration permit is a permit as required by this article.

Spontaneous gathering is a First Amendment demonstration that is occasioned by breaking news or affairs coming into public knowledge less than forty-eight (48) hours prior to the event and is conducted at a public forum."
Sec. 25-37. Hours for conducting First Amendment demonstration restricted.

No permit shall be granted for a demonstration to convene before 8:00 a.m. or terminate after 8:00 p.m.

Sec. 25-38. Safety restrictions and prohibitions.

(a) Threats to safety.

(1) It shall be unlawful for any person to point or present a firearm (as defined in S.C. Code § 16.25.10(7)), or to brandish a weapon (as defined in City Code § 21-219), while participating in or attending a First Amendment demonstration as defined in this article.

(2) For purposes of this section, brandish shall mean to wave or flourish menacingly, to display ostentatiously, threateningly, angrily or aggressively.

(3) For purposes of this section, to present a firearm shall mean to offer to view in a threatening manner, or to show in a threatening manner.

(b) Open carry prohibited.

It shall be unlawful for any person(s) participating in a First Amendment demonstration for which a permit has been issued to openly carry a firearm. The person or entity organizing the First Amendment demonstration must post signs as approved and directed by the police department to indicate the specific area where the open carry of firearms are prohibited.

DIVISION 2. FIRST AMENDMENT DEMONSTRATION PERMIT

Sec. 25-39. Permit required; exceptions.

(a) No person shall engage in, participate in, aid, form or start any First Amendment demonstration, consisting of twenty-five (25) or more persons, unless a First Amendment demonstration permit shall have been obtained from the chief of police. Any person engaging in any First Amendment demonstration for which a First Amendment demonstration permit has been issued shall not violate any of the conditions or provisions of such permit.

(b) This section shall not apply to:

A First Amendment demonstration consisting of less than twenty-five (25) persons or a spontaneous gathering. Organizers of a First Amendment demonstration consisting of less than twenty-five (25) persons or a spontaneous gathering are encouraged to give as much advanced notice as reasonably possible to permit the city to provide services necessary to promote, protect, and assure the safety and convenience of citizens in their use of city streets, sidewalks, parks, and of city property. Nothing in this subsection shall preclude the city from enforcing other laws, ordinances, rules, regulations, conditions or provisions, adopted to provide for the health, safety, and welfare of the city and its citizens.

Sec. 25-40. Special events permits.
The city reserves the right to require a person seeking a First Amendment demonstration permit to obtain a special events permit issued pursuant to section 2-189 when the duration of the demonstration is proposed to be more than three (3) hours, when a request is made to reserve a particular public area for use, when frequent requests are made for a particular public area, when the demonstration will require any use of city resources, staffing or departments beyond the scope of the police department, and when the city finds that requiring such special events permit is in the best interest of the public health, safety, and welfare of the city and its citizens. First Amendment demonstrations for which a special events permit has been issued pursuant to section 2-189 shall comply with all regulations, conditions and requirements provided in this article.

Sec. 25-41 Application; filing.
(a) A person seeking issuance of a First Amendment demonstration permit shall file an application with the chief of police on forms provided by such officer.
(b) An application for a First Amendment demonstration permit shall be filed with the chief of police not less than three (3) days nor more than thirty (30) days before the date on which it is proposed to conduct the demonstration.
(c) Submission of a First Amendment demonstration permit application does not guarantee or reserve a particular time or location for the applicant’s group and permit approval shall be subject to any special or alternate conditions provided in the permit.

Sec. 25-42. Form and contents of application; late applications.
(a) The application for a First Amendment demonstration permit shall set forth the following information:

(1) The name, address and telephone number of the person seeking to conduct such demonstration.
(2) If the demonstration is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization and of the authorizing and responsible head of such organization.
(3) The name, address and telephone number of the person who will be the demonstration chairman and who will be responsible for its conduct.
(4) The date when the demonstration is to be conducted.
(5) The location of the demonstration or route to be traveled, including starting point and termination point.
(6) The approximate number of persons who will constitute such demonstration.
(7) The hours when such demonstration will start and terminate.
(8) A statement as to whether the demonstration will occupy all or only a portion of the width of the sidewalk proposed to be traversed.
(9) The time at which persons will begin to assemble at any such area or areas.
(10) If the demonstration is designed to be held by and on behalf of, or for any person other than the applicant, the applicant for such permit shall file with the chief of police a communication in writing from the person proposing to hold the demonstration, authorizing the applicant to apply for the permit on his behalf.

(11) Any additional information which the chief of police shall find reasonably necessary to a fair determination as to whether a permit should issue.

(b) The chief of police, where good cause is shown therefor, shall have the authority to consider any application hereunder which is filed less than three (3) days before the date such demonstration is proposed to be conducted.

Sec. 25-43. Time for processing applications; notice of rejection.

The chief of police shall act upon the application for a First Amendment demonstration permit within one (1) week after the filing thereof, or, if the application was filed less than seven (7) days before the proposed demonstration, then within two (2) days after the filing thereof. If the chief of police disapproves the application, he shall provide written notice to the applicant within two (2) days after the date of his determination, or within a reasonably practical time period, a notice of denial, stating the reasons for his denial of the permit.

Sec. 25-44. Standards for issuance.

The chief of police shall issue a permit as provided for hereunder when, from a consideration of the application and from such other information as may otherwise be obtained, he finds that:

(1) The conduct of the demonstration will not substantially interrupt the safe and orderly movement of other traffic, pedestrian and vehicular, contiguous to its route.

(2) The conduct of the demonstration will not require the diversion of so great a number of police officers of the city properly to police the line of movement and the areas contiguous thereto as to prevent normal police protection to the city.

(3) The concentration of persons at assembly points of the demonstration will not unduly interfere with proper fire and police protection of areas contiguous to such assembly areas.

(4) The conduct of such demonstration will not interfere with the movement of firefighting equipment enroute to a fire.

(5) The conduct of the demonstration is not reasonably likely to cause injury to persons or property, or to provoke disorderly conduct.

(6) The demonstration is scheduled to move from its point of origin to its point of termination expeditiously, without unreasonable delays enroute and without passing by any location more than once.

(7) If the demonstration is to be solely on the sidewalk areas of the city, the demonstration shall be in single file only of persons participating, with no animals, vehicles or other nonhuman objects except reasonably sized signs individually carried in the line of procession.
Sec. 25-45. Appeal.

Any person aggrieved shall have the right to appeal the denial of a First Amendment demonstration permit to the Public Safety Committee of Council. This includes the right to appeal the denial of a special events permit issued for demonstrations pursuant to the special events ordinance in the city code. The appeal shall be taken within forty-eight (48) hours after notice of the denial of the permit by filing an appeal with the clerk of council. The Public Safety Committee of Council shall act upon the appeal at its next regularly scheduled meeting, but not later than twenty (20) days from the time of receipt of the appeal.

Sec. 25-46. Contents.

Each First Amendment demonstration permit approval shall state the following information:

1. Approval with conditions or alternate conditions, if applicable.
2. If alternate conditions apply, include alternate date, starting time, location, and/or route.
3. General Conditions.
4. Special Conditions, if applicable.
5. Penalties.
6. Signature of Special Events Committee representative, if applicable.
7. Signatures of special events commander and chief of police.
8. Signature of applicant accepting alternate conditions and all other permit directions and conditions.
9. Such other information as the chief of police shall find necessary for the enforcement of this division.

Sec. 25-47. Alternates.

The chief of police, in denying an application for a First Amendment demonstration permit, shall be empowered to authorize the conduct of the demonstration on an alternate day, at an alternate time, or over a route different from that named by the applicant. An applicant desiring to accept an alternate permit shall within two (2) days after notice from the chief of police or at least twenty-four (24) hours prior to the time of the event, whichever is earlier, file a written notice of acceptance with the chief of police. An alternate demonstration permit shall conform to the requirements of and shall have the effect of a First Amendment demonstration permit under this article.

Sec. 25-48. Notification of city officials upon issuance.

Immediately upon the issuance of a First Amendment demonstration permit the chief of police shall send a copy thereof to the following:

1. The mayor.
(2) The fire chief.

(3) The chairman of the special events committee.

(4) The director of the parks department.

Sec. 25-49. Revocation.

The chief of police shall have the authority to revoke a First Amendment demonstration permit issued hereunder upon the violation of the standards for issuance as set forth in this article.

Sec. 25-50. Possession by permittee.

The permittee shall remain on site and carry the First Amendment demonstration permit upon his person during the conduct of the demonstration.

Sec. 25-51. Compliance with conditions.

A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances.

DIVISION 3. REGULATIONS AND PENALTIES

Sec. 25-52. First Amendment demonstration regulations.

(a) Notwithstanding the twenty-five (25) person threshold for First Amendment demonstration permits required in Division 2 of this article, the following regulations shall apply to First Amendment demonstrations and spontaneous gatherings of any size:

(1) It shall be unlawful for demonstrations to disrupt, block, obstruct or interfere with pedestrian or vehicular traffic or the free passage of pedestrian or vehicular traffic on or into any driveway, sidewalk, public right-of-way, building, pedestrian entrance, stairway, ramp, or other access to buildings, which abut the public sidewalks.

(2) It shall be unlawful for a demonstration to occur within fifteen (15) feet from the outermost edge of any monument or memorial, to include fountains, sculptures, plaques, statues, markers, gazebos, objects and other architectural elements or structures with commemorative, historical, symbolic, aesthetic, or artistic significance in order to preserve the intended use of a monument or memorial and to ensure all persons’ use and enjoyment and safe and unimpeded ingress and egress to and from such property.

(3) It shall be unlawful for a demonstration to remain stationary in front of or to pass repeatedly by an individual’s residence or dwelling.

(4) It shall be unlawful during a demonstration to place any structure, enclosure, tent, tables, chairs, bicycles, motor vehicles, golf carts, mopeds or other equipment on any city property, or park any bicycles, motor vehicles, golf carts, mopeds or other equipment, except in designated parking spots and except as specifically authorized by the permit.
(5) It shall be unlawful during a demonstration to remove, deface, damage, or otherwise injure any structure, sign, fence, equipment, improvement, monument or memorial, to include fountains, sculptures, plaques, statues, markers, gazebos, objects and other architectural elements or structures, including hanging, attaching or placing signs, flags, placards or any other object of any kind on such city property.

(6) It shall be unlawful during a demonstration to walk, stand, sit, lie, or climb upon any wall, fence, shelter, tree, shrub, or other vegetation, or any structure, monument or memorial, to include fountains, sculptures, plaques, statues, markers, gazebos, objects and other architectural elements not designed or intended for such purposes.

(7) It shall be unlawful during a demonstration to damage landscaping, plantings, flowers, trees, shrubs, grass, ground cover or other vegetation located on city property.

(8) It shall be unlawful during a demonstration to enter onto private property without prior written permission from the property owner.

(9) It shall be unlawful during a demonstration to enter onto federal, state, or county property without prior written permission from the applicable governmental agency.

(10) It shall be unlawful for any participant of a demonstration to harass or intimidate any bystanders; it shall also be unlawful for any participant to interfere with the movement of non-participants, including ingress or egress to or from any city building, driveway, stairway, ramp, sidewalk, public right-of-way, monument or memorial, to include fountains, sculptures, plaques, statues, markers, gazebos, objects and other architectural elements or structures.

(11) Participants of a demonstration shall comply with lawful directions or instructions set forth on any sign posted pursuant to law or by the city for or in connection with the event.

(12) Participants of a demonstration shall abide by city park rules if the demonstration is held in a city park and shall not interfere with the intended use of the park or interrupt the reasonable use and enjoyment of the park by non-participants.

(13) Participants of a demonstration shall abide by and be subject to all local, state and federal laws, ordinances, and regulations and any directions given by a law enforcement officer.

(b) Nothing in this section prohibits a law enforcement officer from issuing a command to disperse in the event of a riot, breach of the peace, disorderly conduct or other unlawful assembly.

(c) Nothing in this subsection shall preclude the city from enforcing other laws, ordinances, or regulations.

(d) Nothing in this section is intended to restrict free speech or any other constitutional right.

Sec. 25-53. Authority of chief of police.

(a) The chief of police shall have the authority to restrict First Amendment demonstrations from certain areas if conditions present a potential harm or threat to the public's safety, the free passage of pedestrian or vehicular traffic, or the unimpeded ingress and egress to and from city buildings,
monuments or memorials, to include fountains, sculptures, plaques, statues, markers, gazebos, objects and other architectural elements or structures, and any such restricted areas shall be subject to modification by the chief of police at any time.

(b) The chief of police shall have the authority to make reasonable adjustments in the date, time, frequency, duration, route, location, or manner of a First Amendment demonstration at any time in order to accommodate other concurrent demonstrations, special events or city events, the rights of adjacent property owners, the needs of the public to use city streets or parks, and pedestrian and/or vehicular traffic using public right-of-ways and sidewalks, to prevent interference with the intended use of city parks or facilities by other groups or individuals, or with the tranquility of the neighborhood surrounding the area, or when the chief of police finds it is in the best interest of the public health, safety and welfare of the city and its citizens. The chief of police in his discretion may deny, reschedule, or provide alternate conditions for a permit to achieve this end.

Sec. 25-54. Counter-protesting; competing groups at same location.

(a) Counter-protestors are subject to the same permit requirements in Division 2 and all other regulations and requirements provided in this article.

(b) If more than one group desire to hold a First Amendment demonstration at the same time at or near the same location, the chief of police shall have the authority to assign each group a designated area in order to preserve the public peace, and said assignment may involve the use of physical barriers for separation. Members of a group shall not enter an area assigned to another group. Priority of location shall be based upon which group submitted a permit application first, or, if no permit was required, priority shall be based upon which group arrived first at the location; provided, however, if one group’s demonstration is a repeat event occurring more than one time per month, the chief of police shall have the authority to alternate the group’s assigned area with any other group requesting the same location.

Sec. 25-55. Penalties.

Any person who violates any provision of this article, to include any conditions or provisions of a First Amendment demonstration permit, shall be subject to the penalties set forth in section 1-16 of the Code of the City of Charleston.”
Section 2. This ordinance shall become effective upon ratification.

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

_________________________
John J. Tecklenburg, Mayor

ATTEST: _______________________
Jennifer Cook,
Clerk of Council
AN ORDINANCE

AN ORDINANCE TO REPEAL ARTICLE IX OF CHAPTER 19 OF THE CODE OF THE CITY OF CHARLESTON RELATED TO PARADES AND TO AMEND ARTICLE IV, DIVISION 8 OF CHAPTER 2 OF THE CODE OF THE CITY OF CHARLESTON RELATED TO THE SPECIAL EVENTS COMMITTEE TO PROVIDE NEW DEFINITIONS, TO INCREASE THE MEMBERSHIP OF THE COMMITTEE, TO PROVIDE ADDITIONAL REQUIREMENTS AND PROCEDURES FOR THE SPECIAL EVENTS PERMITTING PROCESS, TO PROVIDE OPEN CARRY RESTRICTIONS AND OTHER SAFETY PROHIBITIONS, AND TO PROVIDE ADDITIONAL REGULATIONS RELATED TO PARADES.

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

Section 1. Article IX of Chapter 19 of the Code of the City of Charleston related to Parades is hereby repealed and deleted in its entirety.

Section 2. Article IV, Division 8 of Chapter 2 of the Code of the City of Charleston, is hereby amended to state as follows (new text shown in bold and underlined and deleted text shown with strikethrough):

"DIVISION 8. SPECIAL EVENTS COMMITTEE

Sec. 2-185. Title. This division shall be known as and cited as the "special events ordinance."

Sec. 2-186. Purpose. The city council finds and declares that it is in the public interest to regulate events on the public streets, public property and events held on private property under certain circumstances pursuant to the police powers of the city in order to maintain, protect and promote the public health, safety and welfare of the citizens, residents and visitors of the City of Charleston.
Sec. 2-187. Definitions.

The following words and phrases when used in the special events ordinance shall have the following meanings:

*Annual event* means an event recurring each year at approximately the same date which has previously complied with the permit requirements of the special events ordinance.

*Applicant* means the sponsor or authorized agent of the sponsor who completes the special event or temporary use event application, as applicable, and acts as primary contact for the special event or temporary use event, as applicable.

*Application* means a written request on a form or forms that sets forth the information required to be provided by the special events ordinance.

*Chief of police shall mean the chief of police or the chief’s designee.*

*Commercial film/photographic event* means movies, commercials, or fashion industry photography on public property, including public streets, sidewalks, trails and/or other public place.

*First Amendment demonstration* means any demonstration, assembly, picketing, speechmaking, marching, protesting, vigil or religious service, and all other like forms of conduct, in or upon any street, including the sidewalk area thereof, park or other public place in the city, that involve the communication or expression of views or grievances, engaged in by one or more persons, the conduct of which is reasonably likely to draw a crowd or onlookers. (See Chapter 25, Article III). First Amendment demonstration shall not include a parade as defined below in this section.

*Festival* means a stationary event on public property, including public streets, sidewalks, trails and/or other public place, held one day or more and includes fairs, carnivals, rallies, concerts, and sporting events.

*General liability insurance* means a form of business liability insurance to protect a business or entity from injury or death claims, property damages and advertising claims.

*Liquor liability insurance* means a form of business liability insurance to protect a business or entity from injury or death claims or property damages from distribution or sale of alcoholic beverages.

*Major event* means an event which impacts multiple city departments, has one thousand (1,000) or more people in attendance, and has an impact on a public street, right-of-way, and/or a city-owned or managed park or facility.

*Medium event* means an event which impacts multiple city departments, has more than five hundred (500) and less than one thousand (1,000) people in attendance, and has an impact on a public street, right-of-way, and/or a city-owned or managed park or facility.

*Parade* means any organized group marching or in procession, whether on foot, animal, or vehicle, held on public property, including public streets, sidewalks, trails and/or other public place.

*Parade means any organized group, formation or procession consisting of persons on foot, animals, vehicles and conveyances of any sort, or any combination thereof, moving in unison
upon any public street or sidewalk of the city which does not comply with normal traffic regulations or controls. A parade is a special event as defined below in this section.

This definition does not include:

(1) Funeral processions.

(2) Students going to and from school classes or participating in educational activities, providing such conduct is under the immediate direction and supervision of the proper school authorities.

(3) A governmental agency acting within the scope of its functions, and

(4) First Amendment demonstrations as defined above in this section.

Small event means an event which impacts multiple city departments, has less than five hundred (500) and people in attendance, and has an impact on a public street, right-of-way, and/or a city-owned or managed park or facility.

Special event means a pre-planned activity sponsored by an individual, group, organization or entity proposed to be held on public property, including public streets, sidewalks, trails, facilities, parks, or other property owned or managed by the city which would significantly impact either public property and/or normal vehicular and pedestrian traffic requiring the use of city services, and which shall include but not be limited to a parade, foot race, bike or wheeled race, celebration, amusement event, cultural recognition, sporting event, First Amendment demonstration referred by the police department, competition, commercial movie or television production, photography shoot, commercial for-profit event, charitable cause, or other similar activity.

A special event shall also include events at the VRTC bus shed and events on private property at which members of the public pay to attend and alcohol is to be served or at which members of the public can purchase alcoholic beverages for onsite consumption.

A special event shall not include the following:

(a) An event confined exclusively within the interior areas of the Old Exchange Building, the Charleston Maritime Center and that portion of the open area adjacent to the Charleston Maritime Center, the historic VRTC building and the Gaillard Auditorium and its terrace front-porch and adjacent parking lot as identified in such facilities’ annual approved operations plan as set forth in section 2-189(pq), provided these facilities operate in compliance with their approved annual operations plan during any special event.

(b) A news broadcast.

(c) An event that is held on private property in a residential neighborhood that is not required to obtain a temporary use event permit as defined herein.

(d) A First Amendment demonstration for which a valid First Amendment demonstration permit has been issued by the police department pursuant to Chapter 25, Article III. The chief of police may require a person seeking a First Amendment demonstration permit to obtain a special events permit issued pursuant to section 2-189 when the duration of the demonstration is proposed to be more than three (3) hours, when a request is made to reserve a particular public area for use, when frequent requests are made for a particular public area, when the demonstration will require any use of city resources, staffing or departments beyond the scope of the police department, and when the city finds...
that requiring such special events permit is in the best interest of the public health, safety, and welfare of the city and its citizens.

A special event may not include a private event at a city park, playground or recreation facility where no alcohol is served; however, such an event may require a park permit, the requirements of which are set forth in section 22-4(4) of this Code.

Special event permit is a permit issued by the Special Events Committee of the City of Charleston pursuant to section 2-189 of this division.

Temporary use event means an event that requires a temporary use event permit.

Temporary use event permit means a permit required when an event is held on private property in a residential neighborhood in which members of the public are not permitted but at which two hundred fifty (250) or more persons are anticipated to be in attendance, sound is to be amplified which carries beyond the boundaries of such private property, and the event is anticipated to impact available on-street parking and city service responses.

Sec. 2-188. Created; membership; powers; duties and responsibilities.

(a) Created. There is hereby created the special events committee (the "committee").

(b) Membership. The committee shall be appointed by the mayor and shall consist of seven
eleven (711) members, one of whom shall be the Special Events Manager of the department of livability and tourism who shall serve as the committee chair; one of whom shall be an employee of the department of parks or his designee; one of whom shall be an employee of the department of recreation—recreation facilities division or his designee; one of whom shall be an employee of the department of traffic and transportation—parking meters division or his designee; one of whom shall be an employee of the police department—traffic and special operations division or his designee; one of whom shall be an employee of the department of planning, preservation and sustainability—business and neighborhood services division or his designee; one of whom shall be an employee of the executive department—one from cultural affairs division or his designee, one shall be the ADA coordinator or his designee, and one from mayor’s office or his designee; and one of whom shall be an employee of the office of the clerk of council—livability and tourism—tourism division or his designee; and one of whom shall be an employee of the fire department—fire marshal division or his designee. All members shall be voting members with the exception of the employee of the mayor’s office who will vote if needed as a tie breaker and the chair who is a non-voting member. The members of the committee shall serve until their successors have been appointed and qualified. For purpose of committee action, a quorum of the committee shall consist of four-five (45) voting members of the committee in attendance.

(c) Powers. The committee shall act as an administrative board and have authority to approve and issue special events and temporary use event permits upon the terms and conditions as set forth in the special events ordinance; coordinate with city departments and other governmental agencies for the provision of governmental services as needed to support special events and temporary use event permit events; collect special event permit fees and discharge such other duties as may be assigned by the mayor.
Sec. 2-189. Application; processing of special event and temporary use event permits and conducting special event and temporary use event permit evaluations.

Special event and temporary use event permits shall be obtained from the committee prior to hosting, conducting, holding or staging a special event or a temporary use event. Prior to a special event or temporary use event permit being issued, the following procedure shall be followed:

(a) An application shall be submitted to the city by the special events or temporary use event permit applicant accompanied by the applicable city special events or temporary use event permit processing fee as set forth on the city special events fee schedule, as approved by city council and amended from time to time, a copy of which may be obtained from the committee marked as Exhibit A, incorporated by reference herein. The application shall list the location and/or route, date, and time of the proposed special event or event requiring a temporary use event permit. For a major event, the application shall be filed at least one hundred twenty (120) days prior to the date of the proposed special event; for a medium event, the application shall be filed at least ninety (90) days prior to the date of the proposed special event; for a small event, the application shall be filed at least sixty (60) days prior to the date of the proposed special event; for a temporary use permit, the application shall be filed at least sixty (60) days prior to the date of the proposed event requiring a temporary use event permit, and for a commercial film and photography event, the application shall be filed at least three (3) days or seventy-two (72) hours prior to the proposed special event to allow adequate review of the application by the committee. First time events are encouraged to list several options for location, route, date, and time. Notwithstanding the foregoing, the city reserves the right to: (i) process and approve a special event application for a major or medium event at a city-owned facility in less than sixty (60) days prior to the date of the proposed special event if exigent circumstances exist in the sole opinion of the city; and (ii) issue an annual temporary use event permit to private property owners who routinely host events that require a temporary use event permit provided the private property owner has submitted and received an approved operations plan from the special events committee on an annual basis, said operations plan to include but are not be limited to acceptable alcohol management and security measures governing its events.

(b) The special events committee shall review the application to determine if the proposed special event or temporary use event can be approved. The committee shall meet with the applicant to review and evaluate the application for compliance with the requirements herein and prioritize locations and/or routes, if necessary (the "meeting"). Prior to the meeting, the applicant shall be required to provide the committee with a complete package of information on the proposed special event or temporary use event at least ten (10) business days prior to the meeting including, but not limited to the following information:

1. Description of the proposed special event or temporary use event, as applicable.
2. A tentative site plan which may include designating the location of entrances and exits, retail, food, and alcoholic beverage vendors, tents, stages, bleachers, signs or banners, portable restrooms and sinks, electric and water hookups, first aid stations, fire extinguishers, garbage and recycling receptacles, barricades, hazardous materials, and security.
3. A security plan.
4. A sanitation plan which includes provisions for trash removal and recycling removal.
5. A traffic control plan.
(6) An alcohol plan.

(7) An Amplified sound plan.

(8) The time of all activities associated with the proposed special event or temporary use event.

(9) **For a parade, include the approximate number of persons who, and animals and vehicles which, will constitute such parade; and the type of animals and description of vehicles, if applicable; the location of any assembly areas needed; whether the parade will occupy all or only a portion of the width of the streets or sidewalks proposed to be traversed; the interval of space to be maintained between units of the parade; the length of the parade in miles or fractions thereof; and proposed speed of parade.**

(c) The meeting shall also include a discussion of the committee's comments and possible conditions and fees.

(d) Once a special event or temporary use event permit application is approved, the committee shall send a notification letter to the applicant listing fees and special conditions. Special event fees shall be paid by the applicant thirty (30) days prior to the date of the special event or temporary use event, as applicable, and a stamped permit is given to applicant within five (5) days of the committee's receipt of payment of the required fees and any other documentation required by the committee, or as soon thereafter as is reasonably possible.

(e) The applicant shall provide written notification to: (i) the city councilmember in whose district the special event or temporary use event, as applicable, shall occur; and (ii) the impacted neighborhood president(s) and business(es) advising of the approval of the special event or temporary use event, as applicable, and listing date(s), time(s), and location/route thereof no later than thirty (30) days prior to the date of the special event or temporary use event, as applicable. A reminder notice to: (i) the city councilmember in whose district the special event or temporary use event, as applicable, shall occur; and (ii) the impacted neighborhood president(s) and business(es) shall also be sent by the applicant fifteen (15) days prior to the date of the special event or temporary use event, as applicable, and which shall contain all of the information required in the initial notice as specified above.

(f) A post special event or temporary use event, as applicable, evaluation shall be conducted by the committee or its chair. The evaluation may include a survey of impacted residents and/or businesses, a meeting with the applicant and feedback from the committee.

(g) Events subject to alcohol policy requirements.

(1) A temporary use event on private property in a residential neighborhood in which the members of the public are not permitted but at which two hundred fifty (250) or more persons are anticipated to be in attendance, sound is to be amplified, the event is anticipated to require on-street parking and alcohol is to be served. A temporary use event shall be exempt from the requirements of subsections (h)(2)a. and (h)(2)c. below.

(2) A special event on private property at which members of the public pay to attend and alcohol is to be served or at which members of the public can purchase alcoholic beverages for onsite consumption.

(3) A special event in/on city-owned and/or operated facilities, including city parks, where alcohol is to be served.
(h) Requirements of alcohol policy.

(1) Certification/training. The special event permittee or temporary use event permittee, as applicable, shall be required to utilize at least one bartender and/or floor/door monitor with certification from a smart serve or servers intervention program or an equivalent alcohol server training program as approved by the city. The city reserves the right to increase the number of bartenders and floor/door monitors as required to satisfy public safety.

(2) Controls.

a. The special event permittee shall be required to establish a controlled entrance and exit location by the posting of signage stating that alcoholic beverages are prohibited beyond the permitted area. As required by the chief of police or his designee, a controlled area for the serving and consumption of alcoholic beverages during the event may be required.

b. No alcoholic beverages shall be served within thirty (30) minutes of the conclusion of the special event or temporary use event, as applicable. No more than two (2) alcoholic beverages shall be served to any person at any one time during a special event or temporary use event, as applicable.

c. No alcoholic beverages shall be served to any person at a special event unless such person has been issued a wristband by the special event permittee which indicates that the person has shown valid proof of being at least twenty-one (21) years of age.

d. The special event permittee or temporary use event permittee, as applicable, and its invitees shall be in compliance with all applicable federal, state, local statutes, ordinances, rules, regulations, licenses and permits, including permits required by the South Carolina Alcohol Beverage Commission, governing the special event or temporary use event, as applicable.

e. No alcoholic beverages other than those alcoholic beverages served by the special event permittee or the temporary use event permittee, as applicable, shall be permitted within the controlled area as described in section 2-189(h)(2)a. for special events or within the temporary use event, as applicable.

(i) Security. The special event permittee or temporary use event permittee, as applicable, shall be required to provide adequate security for its special event or temporary use event, as applicable, as directed by the chief of police, including the hiring of off-duty police officers and/or security enforcement officers as approved by the chief of police or his designee.

(j) Considerations in granting a special event permit or temporary use event permit, as applicable. In deciding whether to approve, approve with conditions, or deny a special event permit or temporary use event permit, as applicable, the committee shall determine whether:

(1) The proposed special event or a temporary use event, as applicable, can function safely.

(2) The use of police and fire resources to support the proposed special event or temporary use event, as applicable, shall not deny reasonable police and fire protection to the city.

(3) The proposed special event or temporary use event, as applicable, shall not cause irreconcilable interference with previously approved and/or scheduled construction, maintenance, another special event, another event that has been granted a temporary use event permit or other activity or activities.
(4) The proposed special event or temporary use event, as applicable, can provide an
adequate traffic control plan for traffic control and parking management and which may require
accommodating transportation and parking demand management measures.

(5) The location and route plan of the proposed special event or temporary use event, as
applicable, meets the criteria established in the special events ordinance.

(6) The special event or temporary use event will not substantially interrupt the safe
and orderly movement of other traffic, pedestrian and vehicular, contiguous to its route.

(7) The special event or temporary use event is not reasonably likely to cause injury to
persons or property, or to provoke disorderly conduct.

(k) Conditions authorized and additional permits and licenses. The committee may include in
a special event permit or temporary use event permit, among other provisions:

(1) Reasonable terms and/or conditions as to the time, place, and manner of the special event
or temporary use event permit, as applicable.

(2) Compliance with health and sanitary regulations, emergency services, and security.

(3) Additional permits and/or licenses as are required to meet the conditions established by
the special event permit or temporary use event permit, as applicable, and/or other city ordinances,
including but not limited to city business licenses, building permits, and county or state code
permits.

(4) In order to accommodate other concurrent special events or temporary use events, as
applicable, the rights of adjacent property owners and the needs of the public to use streets or
parks, additional conditions may be imposed on the applicant which may include, but not be
limited to, reasonable adjustments in the date, time, route or location of the proposed special event
or temporary use event, as applicable, as well as accommodations for pedestrian and/or vehicular
traffic using public right-of-ways and limitations on the duration of the special event or temporary
use event, as applicable.

(1) **Alternates.** The committee, in denying an application for a special events permit,
shall be empowered to authorize the conduct of the special event on a day, at a time, or over
a route different from that named by the applicant. An applicant desiring to accept an
alternate permit shall file a written notice of acceptance with the committee within 10 days or
a reasonable time period as determined by the Special Events Manager or Committee Chair.
An alternate special events permit shall conform to the requirements of and shall have the
effect of a special events permit under this division.

(m) Application and permit fees.

(1) All special events and events that require a temporary use event permit shall be subject to
the payment of all applicable fees set forth in the city special events fee schedule as approved by
city council.

(2) Additional fees may include department of parks user fees and deposits enumerated in the
park permit fee structure as set forth in section 22-4(I) of this Code ("park permit fees"). Park
permit fees associated with permit conditions, including but not limited to electrical, security,
meter bags or fire permits are in addition to the above special events fee schedule and are the sole
responsibility of the applicant.
(3) All fees and deposits are due thirty (30) days prior to the date of the special event or temporary use event, as applicable. Subject to the city's authority as set forth in section 2-1904, deposits shall be refunded within fourteen (14) business days following the special event or temporary use event, as applicable, if all conditions are followed, and with respect to a special event, public property on which the special event is held is left in good condition and without damage. Failure to comply with restrictions and conditions of a special events permit or temporary use event permit, as applicable, shall cause an automatic forfeiture of the security deposit(s).

(4) Subject to the city's authority as set forth in section 2-1904, refunds for fees and deposits charged pursuant to the special events fee schedule are refundable (minus the application fee), if the special event or temporary use event, as applicable, is canceled after such permit is issued, and written notice is received by the special events committee five (5) business days prior to the date of the special event or temporary use event, as applicable.

(mn) Hold harmless. As a condition to the issuance of any special events permit or temporary use event permit, as applicable, the permittee of a special event or temporary use event permit, as applicable, shall agree to defend, indemnify and hold harmless the city, its officers, employees and agents, for and against any and all suits, claims, damages, costs or liabilities caused by or arising out of any use authorized by the permittee of the special event or temporary use event, as applicable.

(no) Insurance requirements. The permittee of a special event or temporary use event, as applicable, shall provide general liability insurance insuring the special event or temporary use event, as applicable, and shall name the city as an additional insured on such general liability insurance policy. Certificates of insurance shall be submitted to the city for approval at least fifteen (15) working days prior to the date of the special event or temporary use event, as applicable. The following limits of insurance are required per individual occurrence:

(1) General liability of one million dollars ($1,000,000.00).

(2) Liquor liability of one million dollars ($1,000,000.00), if alcohol is served.

(ep) Promulgation of procedures. The committee, with the approval of the mayor and corporation counsel, may promulgate procedures for the purpose of implementing the special events ordinance or to carry out other responsibilities as may be required by the special events ordinance or other codes, ordinances of the city or other agencies.

(pg) Requirements for certain city-owned facilities. Events which are exclusively confined within the interior areas of the Old Exchange Building, the Charleston Maritime Center, the historic VRTC building and the Gaillard Auditorium shall not be required to obtain a special events permit provided:

(1) Each facility has an annual approved operations plan, which shall include but not limited to acceptable alcohol management and security measures, which is approved by the committee.

(2) Each facility complies with its approved operations plan while hosting events which are exclusively confined within the defined interior areas of such facility.

Notwithstanding the foregoing, events at the VRTC bus shed shall require a special events permit.

(r) First Amendment demonstrations for which a special events permit has been issued pursuant to this section shall comply with all regulations, conditions and requirements provided in Chapter 25, Article III.
Sec. 2-190. **Revocation.**

The committee shall have the authority to revoke a special events permit issued hereunder upon the violation of the standards for issuance as set forth in this division.

Sec. 2-191. **Appeal.**

See Chapter 25, Article III for appeals of denials of special events permits issued for First Amendment demonstrations.

Sec. 2-192. **Special events permit required.**

No person shall engage in, participate in, aid, form or start any special event as defined in this division unless a special events permit shall have been obtained from the Special Events Committee of the City of Charleston pursuant to section 2-189. Any person engaging in any special event for which a special events permit has been issued shall not violate any of the conditions or provisions of such permit.

Sec. 2-193. **Safety Restrictions and Prohibitions**

(a) **Threats to safety.**

(1) It shall be unlawful for any person to point or present a firearm (as defined in S.C. Code § 16.25.10(7)), or to brandish a weapon (as defined in City Code § 21-219), while participating in or attending a special event as defined in this division.

(2) For purposes of this division, brandish shall mean to wave or flourish menacingly, to display ostentatiously, threateningly, angrily or aggressively.

(3) For purposes of this division to present a firearm shall mean to offer to view in a threatening manner, or to show in a threatening manner.

(b) **Open carry prohibited.**

It shall be unlawful for any person(s) participating in a special event to openly carry a firearm. The person or entity hosting the event must post signs as approved and directed by the special events committee to indicate the specific area where the open carry of firearms are prohibited.

(c) **Driving through parades.**

No driver of a vehicle shall drive between the vehicles or persons comprising a parade when such vehicles or persons are in motion or conspicuously designated as a parade, except that this portion shall not apply to single file parades on the sidewalk areas of the city, where vehicular traffic and those constituting the parade shall be required to obey all traffic-control signals unless otherwise directed by a police officer.

(d) **Parking on parade route.**

The chief of police shall have the authority, when reasonably necessary, to prohibit or restrict parking of vehicles along a street or part thereof constituting a part of the route of a parade. The chief of police shall post signs to such effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof. No person shall be liable for parking on a street unposted in violation of this section.
(e) Obstructing or interfering with parades.
No person shall unreasonably hamper, obstruct, impede or interfere with any parade or parade assembly or with any person, vehicle or animal participating or used in a parade.

(f) Hours for conducting parade restricted.
No special events permit shall be granted for a parade to convene before 8:00 a.m. or terminate after 8:00 p.m.

Sec. 2-194. Penalty and retention of deposits.
Any person violating any provision of the special events ordinance, to include any conditions or provisions of a special events permit, shall be subject to the general penalty set forth in section 1-16 of this Code. In addition, the special events committee shall have the authority to retain deposit(s) in the event a permittee of a special event or temporary use event, as applicable, causes the city to incur costs or damage(s) as a result of permittee's special event or temporary use event, as applicable, and to pursue any other remedy against a permittee of a special event or temporary use event, as applicable, available to the city at law or in equity for a violation of any provision of this special events ordinance.”

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 ___ Year of the Independence of the United States of America.

________________________
John J. Tecklenburg, Mayor

ATTEST:

________________________
Jennifer Cook,
Clerk of Council
AN ORDINANCE

AN ORDINANCE TO AMEND ARTICLE I OF CHAPTER 22 OF THE CODE OF THE CITY OF CHARLESTON RELATED TO PARK AND RECREATION FACILITIES TO PROVIDE ADDITIONAL REQUIREMENTS AND PROCEDURES FOR THE RESERVATION PERMITTING PROCESS FOR RESERVED USE OF PARKS, TO PROVIDE OPEN CARRY RESTRICTIONS AND OTHER SAFETY PROHIBITIONS, AND TO PROVIDE ADDITIONAL PROHIBITED ACTIVITIES TO BE INCLUDED IN THE PARK RULES.

BE IT ORDAINIED BY THE MAYOR AND COUNCIL MEMBERS OF CHARLESTON, IN CITY COUNCIL ASSEMBLED:

Section 1. Sec. 22-4 of the Code of the City of Charleston, is hereby amended to state as follows (new text shown in bold and underlined and deleted text shown with strikethrough):

"Sec. 22-4. Reservation permit for reserved use.

(a) For all organized activities or organized sports which do not require a special events permit pursuant to section 2-185, et seq., or a First Amendment demonstration permit pursuant to section 25-36, et seq., of this Code, but require reserved use of a park, park facility, recreational facility, recreation field, athletic field, tennis court, and/or playground or any portion thereof, a person may reserve such space for a reasonable period of time at reasonable intervals for the purposes of organized sports, picnics, or group activities upon obtaining a reservation permit for the proposed use. For the purposes of this section, "organized sports" shall mean any game or sport which is played by three or more persons or by two or more teams that play and/or practice together regularly in a league or association.

(b) A person seeking issuance of a reservation permit shall file a reservation permit application with the department of recreation. The application shall be filed with the department not less than fourteen (14) business days before the date on which the proposed activity is to take place. For events scheduled for the preceding calendar year which require reserved use, the reservation calendar for the preceding year will be opened on September 1st of the current year.

(c) The department of recreation and the chairman of the special events committee shall have the authority to consider any application hereunder which is filed less than fourteen (14) business days before the date such activity is proposed to be conducted.

(d) The request for a reservation permit shall set forth the following information:

(1) The name, address and telephone number of the person seeking the permit.
(2) The name, address and telephone number of the headquarters of the organization or association requesting the permit and of the authorizing and responsible person for such organization or association.

(3) The name, address, and telephone number of the person who will be the chairman and who will be responsible for the conduct of the activity.

(4) The date when the activity is to be conducted.

(5) The specific location of the activity proposed.

(6) The approximate number of persons who will participate in the activity.

(7) The hours when such activity will start and terminate, including set up and tear down time.

(8) A detailed description of the proposed activity.

(9) Any additional information which the department of recreation and the chairman of the special events committee shall find reasonably necessary to a fair determination as to whether a reservation permit should be issued.

(e) The department of recreation and the chairman of the special events committee in concert with the department of parks shall issue a reservation permit as provided for hereunder when, from a consideration of the request and from such other information as may otherwise be obtained, they find that:

(1) The conduct of the activity proposed will not substantially interrupt the safe and orderly activity of the park, park facility, recreational facility, recreation field, athletic field, tennis court and/or playground or any portion thereof, in question or the safe and orderly movement of traffic, pedestrian and vehicular.

(2) In the opinion of the chief of police, the conduct of the activity will not require the diversion of so great a number of police officers of the city to properly police the activity so as to prevent normal police protection to the city.

(3) The concentration of persons at the activity will not unduly interfere with proper utilization of the park, park facility, recreational facility, recreation field, athletic field, tennis court and/or playground or any portion thereof, or with proper fire and police protection of the park and playground and areas contiguous to such area.

(4) The conduct of the activity is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or create a disturbance.

(5) The conduct of the activity is not reasonably likely to cause excessive littering or a health hazard to the citizens of the city.

(6) The reservation of the park, park facility, recreational facility, recreation field, athletic field, tennis court and/or playground or any portion thereof, will not unduly interfere with the use of the facilities by individuals not involved in the activity.

(7) The size, location, and primary purpose of the park, park facility, recreational facility, recreation field, athletic field, tennis court and/or playground and the nature of the surrounding neighborhood is consistent with the proposed activity.
(f) Any person aggrieved shall have the right to appeal the denial of a reservation permit to the Recreation commission Committee of Council. The appeal shall be filed within forty-eight (48) hours after notice of the denial to the clerk of council. The Recreation commission Committee of Council shall act upon the appeal at its next regularly scheduled meeting, but no later than thirty (30) days from the time of receipt of the appeal.

(g) The department of recreation and the chairman of the special events committee, in denying a request for a permit, shall be empowered to authorize the activity on a day, at a time, or at a location different from that named by the applicant. An applicant desiring to accept an alternate permit shall, within two (2) days after notice of the action, file a written notice of acceptance with the department of recreation. An alternate permit shall conform to the requirements of and shall have the effect of a permit under this section.

(h) The department of recreation and the chairman of the special events committee shall have the authority to revoke a permit issued hereunder upon violation of the standards for issuance as set forth in subsection (e) of this section. It shall be grounds for denial of a permit if substantially the same group who proposes to use the facilities has violated the standards as set forth in subsection (e) on a previous occasion.

(i) The activity chairman or other person heading or leading such activity shall carry the permit upon his person during the conducting of the permitted activity.

(j) The activity chairman or other person heading or leading such permitted activity shall comply with all permit directions and conditions and with all applicable laws and ordinances.

(k) Should more than one group apply for use of the same facility, the department of recreation and the chairman of the special events committee shall give priority to the earlier request, provided, however, the department of recreation and the chairman of the special events committee shall ensure that repeated reservation of facilities by one group will not interfere with the reasonable use of the facility by other groups and individuals, or with the tranquility of the neighborhood surrounding the facility, and in their discretion may deny or reschedule an activity to achieve this end.

(l) All reservation permits shall be subject to the applicable fees set forth in the city park permit fee structure, marked as Exhibit A, incorporated by reference herein. Additional fees may include reservation permit deposits and athletic field rental fees. All fees and deposits are due seven (7) days prior to the reserved event.

(m) The city reserves the right in its sole discretion to require a person seeking a reservation permit to obtain a special events permit issued pursuant to section 2-185, et seq., or a First Amendment demonstration permit issued pursuant to section 25-36, et seq., when the city finds that requiring such special events permit or First Amendment demonstration permit is in its best interest.

(n) Safety restrictions and prohibitions.

(a) Threats to safety.

(1) It shall be unlawful for any person to point or present a firearm (as defined in S.C. Code § 16-25-10(7)), or to brandish a weapon (as defined in City Code § 21-219), while participating in or attending an organized event for which a permit has been issued pursuant to this section.
(2) For purposes of this section, "brandish" shall mean to wave or flourish menacingly, to display ostentatiously, threateningly, angrily or aggressively.

(3) For purposes of this section, to "present" a firearm shall mean to offer to view in a threatening manner, or to show in a threatening manner.

(b) Open carry prohibited. It shall be unlawful for any person(s) participating in organized events for which a permit has been issued pursuant to this section to openly carry a firearm. The person or entity hosting the organized event must post signs as approved and directed by the department of recreation to indicate the specific area where the open carry of firearms are prohibited."

Section 2. Sec. 22-5 of the Code of the City of Charleston, is hereby amended to state as follows (new text shown in bold and underlined and deleted text shown with strikethrough):

“Sec. 22-5. Prohibited activities in or upon a public park, park facility, recreational facility, or playground.

Unless permitted expressly approved under a city special event permit issued pursuant to section 2-185 et seq. of this Code, the following activities shall be prohibited for any person using a public park, park facility, recreational facility, or playground:

(a) Alcoholic beverages. No person shall possess an open container or consume any beer, wine or alcoholic beverage in or upon a public park, park facility, recreational facility, or playground in the city; provided however, this prohibition shall not apply to any park, park facility, recreational facility or playground in the city, or applicable part thereof, that is subject to a lease, management or operation agreement approved by city council that authorizes the sale, possession in an open container or consumption of beer, wine or alcoholic beverages.

(b) Destruction of property. No person shall remove, deface, damage, or otherwise injure any structure, sign, fence, equipment, or improvement, monument or memorial, to include fountains, sculptures, plaques, statues, markers, gazebos, objects and other architectural elements or structures, in or upon a public park, park facility, recreational facility, or playground, including hanging, attaching or placing signs, flags, placards or any other object of any kind on such city property; nor shall any person remove, deface, damage, or otherwise injure any flower, plant, shrub, tree, grass, or ground cover in or upon any park or playground.

(c) Conduct on public property. No person shall walk, stand, sit, lie, or climb upon any wall, fence, shelter, tree, shrub, or other vegetation, or any or structure, monument or memorial, to include fountains, sculptures, plaques, statues, markers, gazebos, objects and other architectural elements not designed or intended for such purposes located in a public park, park facility, recreational facility, or playground.

(d) Obstruction. No person shall obstruct or cause an obstruction, whether alone or together with one or more persons, or with equipment or personal property of any nature, which limits or impedes access or inhibits the ingress or egress of other persons utilizing the park from the intended use or enjoyment of any building, structure, shed, monument or memorial, to include fountains, sculptures, plaques, statues, markers, gazebos, objects
and other architectural elements or structures, restroom, stairs, sidewalk, right-of-way, entryway or exit located in a public park, park facility, recreational facility, or playground.

(ee) Audio devices. No person shall play an audio device, such as a television set, radio, compact disc or tape player, at such a volume as to disturb persons utilizing the park outside of the immediate vicinity of the user.

(ef) Bands, concerts. No band or group of musicians shall perform in or upon a public park, park facility, recreational facility, or playground so as to unreasonably disturb the tranquility of the residents surrounding a public park, park facility, recreational facility, or playground.

(eg) Solicitation. No person shall solicit, peddle, or charitably solicit in a public park, park facility, recreational facility, or playground without the express written approval of the city.

(fh) Storage. No person shall store any goods, materials, vehicles, or other property in or upon a park, park facility, recreational facility, or playground without the written approval of the director of the department of recreation or the director of the department of parks.

(gi) Fireworks and weapons. No person shall possess, discharge, or set off any fireworks, firearms, weapons, or other explosive devices in or upon any park or playground, without written approval of the director of the department of recreation or the director of the department of parks.

(i) Weapons. No person shall brandish any weapon to any person or the public at large within a public park, park facility, recreational facility, or playground. For the purposes of this section, “weapon” and “brandish” shall have the meanings ascribed in section 21-219.

(k) Open carry. No person shall openly carry a firearm at a public protest, rally, fair, parade, festival or other organized event in a public park, park facility, recreational facility, or playground when the City has issued a permit for such event. The pointing or presenting of a firearm is prohibited by S.C. Code § 16-23-410.

(l) Open burning. No person shall kindle, maintain, or authorize to be kindled or maintained any open burning in or upon a public park, park facility, recreational facility, or playground, except in designated areas as permitted in section 13-10. For the purposes of this section, “open burning” shall have the meaning ascribed in section 13-10.

(hm) Litter. No person shall discard litter in any park or playground except in designated receptacles.

(in) Golfing. No person shall play or practice golf in a public park or playground without the written approval of the director of the department of recreation or the director of the department of parks.

(jo) Remote control devices. No person shall operate a remote control device, including, but not limited to, any model plane, glider, helicopter, car, truck, or any other wheeled vehicle in any park, park facility, recreational facility, or playground, recreational facility parking lot, or other public recreation area. Model plane shall mean any device that flies, whether uncontrolled or controlled by radio, wire, or string, and is powered by internal combustion, electricity, gasoline, battery, or any other type of fuel.
Commercial activities. No person shall carry on any commercial activity in any park or playground without the written approval of the director of the department of recreation or the director of the department of parks.

Unlawful activities. No person shall carry on any activity in or upon a public park, park facility, recreational facility, or playground of the city which is prohibited by the statutes of the state or the ordinances of the city, or the posted rules of the facility or park.

Treasure hunting. Metal detecting and/or digging in public parks, public rights-of-way, and playgrounds is prohibited.

Photographic/video equipment. It shall be unlawful for a person to install, maintain or operate a video recording device, camera or cell phone with a camera incorporated therein in any dressing room, restroom, bathroom, toilet, washroom, shower or locker room in or upon a city recreation facility.

Camping. No person shall camp, camp out, sleep, lodge, or take up residence in any camper, van, bus, or other motor vehicle in any park or public place.

Dogs.

1. No person owning or having possession, charge, custody or control of any animal shall cause, permit or allow the animal to stray or in any manner to run at large in or upon any athletic field, athletic facility, or park, if such animal is not under a physical restraint or a leash so as to allow the animal to be controlled. The length of a leash shall not be more than sixteen feet long.

2. Animals may be permitted to occupy a city park or an area of a city park under sufficient strict voice control without physical restraint or a leash when the director of the department of parks determines that during certain hours or under certain conditions animals may be permitted to occupy a city park or an area of a city park under strict voice control and posts the city park accordingly.

3. No animal of any kind shall be permitted on any tennis court, fenced recreation field, or athletic field at any time, even if such animal is physically restrained, leashed or otherwise controlled.”

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 ___ Year of the Independence of the United States of America.

__________________________
John J. Tecklenburg, Mayor

ATTEST:

__________________________
Jennifer Cook,
Clerk of Council
AN ORDINANCE TO AMEND ARTICLE X OF CHAPTER 21 OF THE CODE OF THE CITY OF CHARLESTON RELATED TO WEAPONS BY AMENDING THE PROVISIONS RELATED TO CARRYING OF HANDGUNS, CONCEALABLE WEAPONS AND FIREARMS, CONFISCATION OF WEAPONS, AND BRANDISHING OF WEAPONS TO BE COMPLIANT WITH STATE LAW.

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

Section 1. Sec. 21-217 of the Code of the City of Charleston, is hereby amended to state as follows (new text shown in bold and underlined and deleted text shown with strikethrough):

Sec. 21-217. Carrying loaded firearm. Carrying of handguns, concealable weapons and firearms.

(a) Except as provided in S.C. Code 1976, § 16-23-20, and not otherwise specifically prohibited by law, no person without valid authority from a proper government agency shall carry on or about his person any firearm containing ammunition, or any pistol, handgun, as defined in S.C. Code § 16-23-10(1), whether concealed or not and whether or not containing ammunition.

(b) Pursuant to S.C. Code § 16-23-420, it is unlawful for a person to possess a firearm of any kind on any premises or property owned, operated, or controlled by a private or public school, college, university, technical college, other post-secondary institution, or in any publicly owned building, without the express permission of the authorities in charge of the premises or property.

(c) Persons, including concealed weapons permit holders, are prohibited from carrying concealable weapons as defined in S.C. Code § 23-31-210, whether concealed or not, in those locations listed in S.C. Code § 23-31-215 (M).

(d) The open carrying of firearms on public property is prohibited at public protests, rallies, fairs, parades, festivals, or other organized events when the City has issued any type of permit for such event.
Section 2. Sec. 21-218 of the Code of the City of Charleston, is hereby amended to state as follows (new text shown in bold and underlined and deleted text shown with strikethrough):

“Sec. 21-218. Confiscation.

Any person arrested and subsequently convicted of the violation of the provisions of this article shall in addition to any other penalties provided by law have the weapon involved in such violation confiscated to be disposed of by the chief of police as provided by law. However, if any person other than the convicted person has an interest in the weapon, that person must be given the opportunity to come forward and show, if he can, why the weapon should not be forfeited and disposed of as provided for by law.”

Section 3. Sec. 21-219 of the Code of the City of Charleston, is hereby amended to state as follows (new text shown in bold and underlined and deleted text shown with strikethrough):

“Sec. 21-219. Brandishing with a deadly weapon prohibited.

(a) Brandish means to wave or flourish menacingly, to display ostentatiously, threateningly, angrily or aggressively.

(b) Deadly Weapon in this section means any device or object designed, made or adapted to be used for the purpose of inflicting bodily injury or death including firearms but not limited to, a knife, flag pole, metal or wood pole, bat, staff, golf club, sign post, or other similar solid wood or metal object, but excluding firearms.

(c) It shall be unlawful for any person to brandish any deadly weapon to any person or the public at large within the city limits.

(d) Upon conviction thereof, besides that penalty as may be imposed by the court, the weapon shall be forfeited to the city, and be destroyed.

(e) The pointing or presenting of a firearm is prohibited by S.C. Code § 16-23-410. For purposes of this section, to “present” a firearm shall mean to offer to view in a threatening manner, or to show in a threatening manner.”

Section 4. This ordinance shall become effective upon ratification.

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

______________________________
John J. Tecklenburg, Mayor

ATTEST:

______________________________
Jennifer Cook,
Clerk of Council

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