

December 14, 1982

Regular Meeting, December 14, 1982

PROCEEDINGS OF COUNCIL

CHARLES TOWNE LANDING

Regular meeting.

December 14, 1982

The seventy-sixth meeting of the City Council of Charleston was held this date convening at 7:00 P.M., at Charles Towne Landing.

Notice of this meeting and an agenda were sent to all local news media December 10, 1982. Notice of the meeting was published in SATURDAY, December 11, 1982.

PRESENT

The Honorable Joseph P. Riley, Jr., Mayor; and, Councilmembers Gaillard, Kinloch, Jefferson, Christopher, Scott, Ford, Tecklenburg, Ader, Baker, Stephens, and Cochran -- 12.

The Mayor explained that Councilmember Richardson was attending another meeting, and hoped that meeting would adjourn in time to be present at this meeting.

The meeting was opened with prayer by Reverend F. P. Metz, Pastor of Zion Olivet United Presbyterian Church, at Councilmember Ford's invitation.

The Mayor welcomed the citizens at this meeting and explained City Council's reason for meeting away from City Hall.

The first item of business on the agenda was the Citizens Participation Period. After explaining the purpose of this portion of the meeting, the Mayor invited the citizens who were present to address City Council. No one indicated a desire to address City Council. The Mayor then declared this portion of the meeting concluded.

Next, the minutes of City Council's November 23, 1982 meeting were approved on motion of Councilmember Scott.

The following report of the Committee on Ways and Means was received:

TO THE MAYOR AND COUNCILMEMBERS,

THE CITY COUNCIL OF CHARLESTON:

The Committee on Ways and Means wishes to report that it has studied the matters listed below and it recommends they be acted on in the following manner:

- 1.) \$500,000 General Obligation Fire Protection Bond of 1983 of The City of Charleston, South Carolina: The Committee on Ways and Means submits herewith a proposed ordinance providing for the issuance and sale of a \$500,000 General Obligation Fire Protection Bond of 1983 and it recommends that the proposed ordinance be given the required readings and be ratified the earliest date feasible. Monies from this bond sale will be spent to make various purchases and improvements to the City of Charleston's Fire Department.
- 2.) Donation of Real Property to City from the Estate of Nathan Rosen: The Estate of Nathan Rosen has approached the City with respect to a gift to the City of real property located at Cooper and Hanover Streets. The property consists of eight (8) separate lots and fronts on Cooper Street a distance of 175 feet and on Hanover Street a distance of 158 feet. The Committee on Real Estate has

recommended that the City accept this donation of property. The Committee on Ways and Means concurs with the Committee on Real Estate's recommendation and so recommends to City Council.

3.) Lease with The First Baptist Church covering Market Street Parking Lot: On recommendation of the Committee on Real Estate, the Committee on Ways and Means submits herewith for City Council's approval a lease between the City and The First Baptist Church covering the Market Street Parking Lot. The committee recommends that City Council authorize the Mayor to execute this lease on the City's behalf.

4.) Contract with Charles H. Olin covering Restoration of Two City-owned Paintings: The Committee on Ways and Means submits for City Council's approval a contract between the City of Charleston and Charles H. Olin covering the restoration of two City-owned paintings, i.e., (a) Arrival of the Mail by John Blake White, and (b) James Monroe by Samuel Finley Breese Morse. The Committee recommends that the Mayor be authorized to sign this contract on the City's behalf.

5.) Agreement with Virginia Museum covering Loan of Two City-owned Paintings: On recommendation of the Arts and History Commission, City Council at its August 20, 1982 meeting approved the Virginia Museum's request that it be allowed to borrow two City-owned paintings, i.e., Arrival of the Mail, by John Blake White, and Miniature of Marquis de Lafayette by Charles Fraser. These two paintings will be displayed in the Museum's exhibition entitled "Painting in the South", scheduled to open in Richmond, Virginia in the fall of 1983. The exhibition will travel throughout the United States to five museums, closing at the New Orleans Museum of Art in early 1985.

The Committee on Ways and Means submits herewith an agreement with the Virginia Museum covering the loan of the two-mentioned City-owned paintings, and it recommends that the Mayor be authorized to sign the agreement on the City's behalf.

W. L. STEPHENS, JR., Chairman W. FOSTER GAILLARD JEROME KINLOCH HILDA HUTCHINSON
JEFFERSON ARTHUR W. CHRISTOPHER BRENDA C. SCOTT ROBERT FORDE THER H. TECKLENBURG MARY R.
ADER STEVEN L. BAKER EDWARD H. COCHRAN JOSEPH P. RILEY, JR., Mayor

Councilmember Gaillard noted the presence of Attorney William Youngblood, and asked Mr. Youngblood, as the City's Bond Attorney, to give his views on the feasibility of using a bond ordinance, more specifically the funds from the proposed \$500,000 General Obligation Fire Protection Bond Ordinance, to purchase equipment for the Fire Department.

Mr. Youngblood replied, in his opinion, this was an ideal financial vehicle to use for the type of purchase the City proposed to make.

He stated that Act 125 contained a provision which made it possible for public bodies to borrow for items well beyond their capital budget for any given year, but which were not large enough to warrant the expense of a prospectus and a public offering of securities. He believed the reason the draftsmen added this provision to Act 125 was that they recognized the need for some sort of vehicle whereby a public body could borrow, in effect, at private sale, although the City would be inviting bids from all of the banks in the area.

Councilmember Gaillard asked if this was something that only in the past few years a municipality had been able to do, and if there was a precedent for it. Mr. Youngblood replied in the affirmative.

Councilmember Gaillard expressed the belief that this was the first time the City of Charleston had used a bond method to purchase rolling equipment. Mr. Youngblood replied while this was true, other municipalities and counties had done so. He repeated his belief that this was the ideal vehicle for what the City wanted to do. Councilmember Gaillard agreed. He had been wondering, however, if this would disturb the City's bond rating. Mr. Youngblood replied it would not in any way affect the City's bond rating.

The Mayor asked Mr. Youngblood if he thought it was a healthy practice for the City to commit to a short term bond. Mr. Youngblood replied in the affirmative. He pointed out that the draftsmen were

careful in the Act to limit it to borrowings of \$500,000 or less, and to a debt which a public body would retire within eight years or less. He noted that the City would be well within these stipulations, as its debt would be retired in five years of repayments.

No further questions were directed to Mr. Youngblood.

On motion of Councilmember Stephens, the Committee on Ways and Means' report was adopted.

The following bill was given first reading:

A BILL

PROVIDING FOR THE ISSUANCE AND SALE

OF A FIVE HUNDRED THOUSAND DOLLARS (\$500,000) GENERAL OBLIGATION BOND OF 1982 OF THE CITY OF CHARLESTON, SOUTH CAROLINA, TO PRESCRIBE THE PURPOSES FOR WHICH THE PROCEEDS SHALL BE EXPENDED, TO PROVIDE FOR THE PAYMENT THEREOF, AND OTHER MATTERS RELATING THERETO.

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

ARTICLE I

FINDINGS OF FACT

Section 1.01

As an incident to the adoption of this Ordinance, and the issuance of the bonds provided for herein, the City Council of the City of Charleston, South Carolina (Council), the governing body of the City of Charleston, South Carolina (City), finds that the facts set forth in this Article exist and the statements made with respect thereto are in all respects true and correct:

1. Pursuant to the provisions of Sections 5-21-210, et. seq., Code of Laws of South Carolina, 1976, as amended and supplemented by those provisions of Act No. 125 of the 1977 Acts of the South Carolina General Assembly, now codified as Section 11-27-40 of the Supplement to the aforesaid Code, (collectively, the Enabling Act), the City is empowered to issue general obligation bonds for any "authorized purpose" as defined therein.

2. The City proposes to make various purchases and improvements to its existing fire department, including the acquisition of a 100 foot aerial ladder truck, the purchase of a 1,250,000 gallon per minute pumper truck, the completion of its new West Ashley Fire Station, the acquisition of land for a new James Island fire station and various improvements to existing peninsula Charleston fire stations. To accomplish these purposes (which are herein referred to as the "Undertaking") requires the issuance of a general obligation bond in the principal amount of \$500,000.

Section 1.02.

The assessed value of all taxable property in the City for the year 1982, which is the last completed assessment thereof, is the sum of \$85,967,000. The City may incur (under the applicable 8 percent constitutional debt limitation established by Article X of the South Carolina Constitution) bonded indebtedness without referendum in the aggregate principal sum of \$6,877,360. The City presently has outstanding \$4,200,000 of general obligation bonds chargeable against this debt limitation. Thus, the City may issue the Bonds authorized by this Ordinance without the necessity of an election.

Section 1.03.

The Enabling Act authorizes the City to issue general obligation bonds maturing not later than eight years from the date of issuance and in an amount not exceeding \$500,000 at private sale and

without advertisement if not less than ten days prior to delivery, notice of intention to sell such bonds at private sale shall be given by publication in a newspaper of general circulation in the City.

Council has determined that it would be most advantageous to informally call for bids for the sale of the Bonds from banks maintaining branches and doing business in the City and/or others and to thereafter effect a "private" sale of the Bonds in accordance with Paragraph 4 of Section 11-27-40.

Finally, Council is desirous of utilizing the provisions of Section 11-27-40(3) Code of Laws of the State of South Carolina 1976, as amended, which limits the period within which taxpayers of the City may file a petition requesting that this Ordinance be repealed.

Council intends to observe all of the foregoing requirements.

ARTICLE II

ISSUANCE OF THE BOND

Section 2.01.

Pursuant to the provisions of the Enabling Act, and for the purpose of raising the sum of \$500,000 for the Undertaking there shall be issued a FIVE HUNDRED THOUSAND DOLLARS (\$500,000) General Obligation Bond of 1983 of the City of Charleston, South Carolina (the Bond). The Bond shall be designated GENERAL OBLIGATION FIRE PROTECTION BOND OF 1983.

Section 2.02.

The Bond shall be in denomination of \$500,000, shall be numbered R-1, and shall be payable to the order of the purchaser.

The Bond shall be dated the first day of January, 1983, and shall mature, in annual series or installments, in numerical order as follows:

\$75,000 on January 1, 1984;

\$75,000 on January 1, 1985;

\$100,000 on January 1, 1986;

\$125,000 on January, 1, 1987; and

\$125,000 on January 1, 1988.

The Bond shall not be subject to redemption prior to maturity.

Section 2.03.

The Bond shall bear such rate or rates of interest, payable July 1 and January 1 of each year commencing July 1, 1983, as shall at the sale of the Bond reflect the lowest interest cost to the City, at a price of not less than par and accrued interest to the date of delivery, but:

- (a) the principal amount of each maturity shall bear the same rate of interest;
- (b) if the net interest cost in the lowest bid is in excess of 7 percent per annum, the award of the Bond shall be subject to the approval of the State Budget and Control Board;
- (c) no rate of interest named shall be more than 11/2 percent higher than the lowest rate of interest named;
- (d) each interest rate named shall be a multiple of 1/20th of 1 percent; and
- (e) any premium offered must be paid in cash as a part of the purchase price.

For the purposes of this Section, interest cost shall mean the aggregate of interest on the Bond from the date of the Bond, until their respective maturities, less any sum named by way of premium.

Section 2.04.

Both the principal of and interest on the Bond shall be payable to the purchaser in any coin or currency of the United States of America which, at the time of payment, is legal tender for the payment of public and private debts, at the principal office of such purchaser. Payments of principal and interest shall be noted on the "Schedule of Payments" attached to the Bond.

Section 2.05.

The Bond shall be executed in the name of the City, by the Mayor and by the Director of Administrative Services of the City, attested by the Clerk of Council, under the Seal of the City, impressed thereon.

Section 2.06.

Both the principal of and interest on the Bond shall be exempt from all State, county, municipal, school district and all other taxes or assessments of the State of South Carolina, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, except inheritance, estate or transfer taxes.

Section 2.07.

For the payment of the principal of and interest on the Bond, as the same respectively mature, the full faith, credit and taxing power of The City of Charleston, South Carolina, are hereby irrevocably pledged, and there shall be levied annually and collected a tax on all taxable property in the City, sufficient to pay the principal of and interest on the Bond, as the same become due.

Section 2.08.

The finance Director of the City of Charleston shall be notified of this issue and be directed to levy and collect, respectively, upon all taxable property in the City an annual tax sufficient to meet the payment of the principal of and interest on the Bond, as the same respectively become due, and to create such sinking fund as may be necessary therefor.

Section 2.09.

The Bond shall be in form substantially as follows:

UNITED STATES OF AMERICA

STATE OF SOUTH CAROLINA

THE CITY OF CHARLESTON

GENERAL OBLIGATION FIRE PROTECTION BOND OF. 1983

No. R-1 \$500,000

KNOW ALL MEN BY THESE PRESENTS THAT

THE CITY OF CHARLESTON, SOUTH CAROLINA, is justly indebted, and, for value received, hereby promises to pay to the order of _____ the sum of

FIVE HUNDRED THOUSAND DOLLARS

as follows:

\$75,000 on January 1, 1984;

\$75,000 on January 1, 1985;
\$100,000 on January 1, 1986;
\$125,000 on January 1, 1987; and
\$125,000 on January 1, 1988

and to pay interest on said principal sum from the date of this bond at the rate of _____ per centum (_____ percent) per annum, payable on the first days of July and January of each year, commencing July 1, 1983. Both the principal of and interest on this bond are payable at the principal office of _____, in the City of Charleston, State of South Carolina, in any coin or currency of the United States of America, which is, at the time of payment, legal tender for the payment of public and private debts. For the prompt payment hereof, both principal and interest, as the same shall become due, the full faith, credit and taxing power of the City of Charleston, South Carolina, are hereby irrevocably pledged.

The bond constitutes an issue of FIVE HUNDRED THOUSAND DOLLARS (\$500,000) General Obligation Fire Protection Bond issued for the purposes authorized by and pursuant to Sections 5-21-210, et. seq., Code of Laws of South Carolina, 1976, as amended, and an ordinance duly adopted by the City Council of the City of Charelston. This bond is not subject to redemption prior to its maturity.

This bond is transferable at the office of the Finance Director of the City of Charleston, South Carolina.

This bond and the interest hereon are exempt from all State, county, municipal, school district, and all other taxes or assessments of the State of South Carolina, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, except inheritance, estate or transfer taxes.

It is hereby certified and recited that all acts, conditions and things required by the Constitution and Laws of the State of South Carolina to exist, to happen and to be performed precedent to or in the issuance of this bond exist, have happened and have been done and performed in regular and due time, form and manner, that the total indebtedness of the City of Charleston, South Carolina, including this bond, does not exceed any constitutional or statutory limitation thereon, and that provision has been made for the levy and collection of sufficient annual taxes, without limit, for the payment of the principal and interest hereof, as the same shall fall due.

IN WITNESS WHEREOF, THE CITY OF CHARELSTON, SOUTH CAROLINA, has caused this bond to be signed by its Mayor and by its Director of Administrative Services, attested by the Clerk of City Council, under the Seal of the City, impressed hereon, and this bond to be dated the first day of January, 1983.

THE CITY OF CHARLESTON, SOUTH CAROLINA

(SEAL)

BY (Exhibit)

Mayor

BY (Exhibit)

Director of Administrative

Services

Attest:

(Exhibit)

Clerk to City Council of the
City of Charleston, South Carolina

(REGISTRATION PROVISION TO APPEAR ON THE REVERSE OF EACH BOND)

AT THE REQUEST of the holder, the within bond has been registered as to principal and interest in accordance with the provisions contained therein.

Date of Registration	Name of Registered Holder	Signature of Finance Director
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Section 2.10

In the event the bond is mutilated, lost, stolen, or destroyed, the City shall cause to be executed and delivered a new bond of like tenor as that mutilated, lost, stolen, or destroyed, provided that (a) in the case of any such mutilated bond, such bond is first surrendered to the City, and (b) in the case of any such lost, stolen, or destroyed bond, there is first furnished evidence of such loss, theft, or destruction satisfactory to the City and also upon the furnishing of indemnity satisfactory to the City. No service charge shall be made for any such transaction, but a charge may be made to cover any actual expense involved.

ARTICLE III

SALE OF THE BOND

Section 3.01

Bids for the sale of the Bond authorized hereby shall be received by City Council at a time specified by the Mayor. Not less than two days prior to the date fixed for the receipt of bids for the sale of the Bond, a written notice shall be sent by the Mayor to such banking institutions as he shall determine maintaining branches or doing business within the City requesting bids therefor, and shall be in such form as shall be prescribed by him. The written notice may be mailed prior to the second reading of this Ordinance. Upon receipt of the bids, the Mayor shall award the Bond to the bidder offering the lowest rate of interest or, if more than one bidder shall name the same lowest rate of interest, then to that one of such bidders as shall offer the greatest premium; PROVIDED, that if it should happen that tie bids are received, the Bond shall be awarded jointly, and if for any reason bids shall not be awarded pursuant to the provisions of this Section, then the Mayor shall be, and he

is hereby authorized and empowered to negotiate with one or more banks and/or others for the sale of the Bond. Any bid in excess of 7 percent shall be subject to the approval of the South Carolina State Budget and Control Board.

Section 3.02

The Mayor is hereby authorized to act on behalf of City Council and to award the Bond hereby authorized to the lowest bidder at the sale thereof which award is to be evidenced by a written instrument executed in the name of and on behalf of the City by the Mayor.

ARTICLE IV

DISPOSITION OF PROCEEDS OF SALE OF THE BOND

Section 4.01

The proceeds derived from the sale of the Bond issued pursuant to this Ordinance shall be paid to the Director of Administrative Services and deposited in a Bond Account Fund for the City, and shall be expended and made use of by Council as follows:

- (a) Any accrued interest shall be applied to the payment of the first installment of interest to become due on the Bond;
- (b) Any premium shall be applied to the payment of the first installment of principal of the Bond;
- (c) The remaining proceeds shall be expended, upon the warrant or order of City Council, for the following purposes:
 - (i) to defray the cost of issuing the Bond;
 - (ii) to make the payments referred to in Section 1.01 herein.

PROVIDED, that no purchaser or holder of the Bond shall be liable for the proper application of the proceeds thereof.

ARTICLE V

DEFERANCE

Section 5.01.

If the City shall:

- (a) pay or cause to be paid the principal of and interest on the Bond at the time and in the manner stipulated therein, or
- (b) provide for the payment of principal of the Bond and interest thereon by depositing with the Paying Agent of the Bond at, or at any time before, maturity amounts sufficient either in cash or in direct obligations of or obligations fully guaranteed as to principal and interest by the United States of

America, the principal and interest on which when due and payable (or redeemable at the option of the holder thereof but not at the option of the issuer thereof) and without consideration of any reinvestment thereof shall be sufficient, to pay the entire amount due or to become due thereon for principal and interest to maturity of all Bonds outstanding,

then and in that case the Bond shall be deemed to be paid and discharged.

ARTICLE VI

DIRECTION TO PUBLISH

Section 6.01

The Clerk is hereby directed to publish at the appropriate time notice to comply with the provisions of Paragraphs 4 and 8 of Section 11-27-40, Code of Laws of South Carolina, 1976, as amended.

ARTICLE VII

EFFECTIVE DATE

Section 7.01.

This Ordinance shall take effect upon its second reading.

(SEAL)

Mayor

Attest:

Clerk to City Council of the

City of Charleston, South Carolina

First Reading given: December _____, 1982

Second Reading given: January _____, 1983

The following resolution was received:

A RESOLUTION

BE IT RESOLVED that the Mayor be and he hereby is authorized and directed, for and in behalf of The City Council of Charleston, to execute and deliver under the corporate seal, attested by the Clerk of Council, a lease which shall be substantially as follows:

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

LEASE)

THIS AGREEMENT made this _____ day of _____, 1982, between THE FIRST BAPTIST CHURCH OF CHARLESTON, hereinafter styled the Landlord, and THE CITY COUNCIL OF CHARLESTON, hereinafter styled the Tenant.

WITNESSETH:

THAT said Landlord does hereby lease unto the said Tenant, and the said Tenant does hereby lease from the Landlord, the parking lot located on the Landlord's property on Market Street and bounded on the West by Church Street as designated and shown within red lines on a plat attached hereto, the said parking lot to be used for public parking facilities.

TO HAVE AND TO HOLD the premises above described for a term to commence on the 1st day of January, 1983, and to end on the 31st day of December, 1992, at a rental of One Thousand and No/100 (\$1,000.00) Dollars per month payable out of the parking meter revenues on or before the 1st day of each month. This minimum rental payment shall be payable by Tenant whether parking lot revenues are sufficient or not. The parking meter revenues received from the lot shall next be applied to the City's expenses of maintenance and operation and then the City of Charleston will be allowed to keep the next \$12,000.00 of parking meter revenues from said lot, with any parking meter revenues remaining to be split between Landlord and Tenant equally.

AND IT IS AGREED that the Tenant will use the premises as and for a public parking facility and it is specifically agreed that the tenant shall have the right to install and maintain parking meters in the parking lot in such fashion as the Tenant shall determine to be necessary for the public good. Parking shall be limited to passenger vehicles.

AND IT IS AGREED that the Tenant shall be wholly responsible for the maintenance of the parking lot surface, the removal of trash and debris, repairing of all improvements and shall provide lighting for the parking lot, the cost of watering and maintaining the landscaping and clean up and trash removal, as well as responsibility for the maintenance of the parking meters and other equipment installed by Tenant. The Tenant is to pay for damage to property occurring during the term of the Lease.

AND IT IS AGREED that the Tenant shall be responsible for installation and maintenance of signs respecting the use of the parking lot and shall be responsible for procuring removal of any vehicles improperly parked in the lot at such times as the lot is being used by Landlord as hereinafter set forth.

AND IT IS AGREED that the Tenant declares, represents and agrees to indemnify and hold harmless the Landlord and its agents, servants, and successors from and against all claims, damages, losses and expenses in the event that any litigation results from the use of the parking lot.

USE BY LANDLORD

AND IT IS AGREED that the Landlord shall have the right to the use, at all times without charge, of five (5) parking spaces to be chosen by the Landlord and designated for the use of the Landlord and that the Landlord may further have the full use without charge of the parking lot for four (4) days per month provided that Landlord shall notify Tenant of such use, not less than forty-eight (48) hours before such use is to begin. Landlord shall not use the lot more than four (4) Saturdays per year. The Landlord shall also have the right to use the lot without charge at its option, at night, beginning at 6:00 o'clock P.M., when any event is being held at the Church Activities Building and no special notice shall be required for such use. Landlord shall also have the right to close the lot to the general public at 4:00 P.M. on evenings when varsity basketball games are being played.

REAL ESTATE TAXES

AND IT IS AGREED that the Tenant shall pay any real estate taxes owed by the Landlord as a result of this Lease.

REMOVAL OF METERS AT CONCLUSION OF LEASE

It is further understood at such times as this Lease is not renewed or is canceled, the Tenant shall remove parking meters and related equipment and shall return the property to a condition as good or better than the condition of the property when the Lease began.

EARLY TERMINATION OF LEASE

Notwithstanding any other provision of this Lease, this Lease may be canceled on six (6) months written notice by one party to the other party.

CAPITAL EXPENDITURES

Landlord reserves the right to approve all capital expenditures, such as re-paving, construction of walls, etc., prior to the Tenant's incurring of any expenses or obligations for capital expenditures, if said expenditures are to be charged or amortized as expenses against the parking lot revenues.

IN WITNESS WHEREOF, and under the authority of the parties hereto, to-wit, The City Council of Charleston and The First Baptist Church of Charleston, have caused this Lease to be executed by their respective officers and their seals affixed and the same to be delivered, each to the other, as the respective act and deed of said parties, the day and year first above written.

THE CITY COUNCIL OF CHARLESTON BY: Mayor BY: Clerk of Council THE FIRST BAPTIST CHURCH OF CHARLESTON BY: BY:

The resolution was adopted on motion of Councilmember Jefferson.

The following resolution was received:

A RESOLUTION

BE IT RESOLVED that the Mayor be and he hereby is authorized and directed, for and in behalf of The City Council of Charleston, to execute and deliver under the corporate seal, attested by the Clerk of Council, a contract which shall be substantially as follows:

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

CONTRACT)

Contract concluded this _____ day of _____,

19_____, by and between the CITY OF CHARLESTON, SOUTH CAROLINA, hereinafter referred to as "City", and CHARLES H. OLIN, hereinafter referred to as "Olin".

WITNESSETH

WHEREAS, the City is the owner of two (2) paintings known as Arrival of the Mail by John Blake White and James Monroe by Samuel Finley Breese Morse, which works of art are in need of restoration and conservation work; and

WHEREAS, Olin is a skilled conservator, knowledgable with the processes and techniques required in restoring and conserving paintings and other works of art; and

WHEREAS, Olin has proposed to restore the two (2) aforementioned paintings for the City, and the City has determined to accept this proposal.

NOW, THEREFORE, in consideration of the mutual promises, covenants, conditions and warranties made herein, it is agreed as follows:

I. SUBJECT OF CONTRACT

The subject of this Contract is the restoration by Olin of two (2) paintings owned by the City, to wit: Arrival of the Mail, by John Blake White, and James Monroe, by Samuel Finley Breese Morse, said restoration and conservation work to be performed pursuant to the reports heretofore submitted by Olin dated May 16, 1981, and attached hereto as Exhibits "A" and "B", and made a part hereof.

It is acknowledged by Olin that the City has the exclusive right, title and interest of and to said paintings and also of and to any reproduction rights of said paintings.

II. RESTORATION AND CONSERVATION WORK

Olin and his staff shall perform all conservation and repair work to restore, preserve and conserve the aforementioned paintings in accordance with the details of the reports heretofore submitted by Olin and attached hereto as Exhibits "A" and "B".

Olin does warrant, agree and represent that he and his staff shall utilize the highest degree of skill in the undertaking, to utilize the best method available for accomplishing same and, in the event that a staff member should undertake any portion of the work to be performed hereunder, that Olin shall personally oversee and supervise the same and remain fully accountable to the City for the results.

Olin does acknowledge that partial payment for the work performed hereunder is being funded by a grant from the National Endowment of the Arts and requires pictures of the paints before and after conservation work in this regard, Olin does agree to supply to the City an 8" by 10" picture of each painting showing the condition of each painting before work is performed thereto and a picture of each painting showing its condition after the work has been performed.

III. CONSIDERATION

A. (1) Arrival of the Mail, by John Blake White: The City, subject to paragraph (2), below, agrees to pay Olin the reasonable value of his work, to be billed by him to the City consistent with his report, here attached as Exhibit "A", provided however, that in no event shall the City pay to Olin any sum greater than one thousand (\$1,000.00) dollars for work performed on this painting.

(2) Olin agrees to have the work performed to this painting by June 1, 1983. It is acknowledged by Olin, however, that the City and the Virginia Museum have entered into an Agreement with respect to Arrival of the Mail, a copy of which is attached hereto as Exhibit "C", (not printed as part of this contract, printed below as a separate contract) and that he is familiar with the terms contained therein. Olin recognizes that time is of the essence, and, in the event that the work is not completed by June 1, 1983, the funds to be paid to him by the City of Charleston will be paid only if the painting arrives in Richmond, Virginia no later than September 5, 1983, after being properly repaired in accordance with the Report of Recommended Treatment (see Exhibit "A"). However, if Olin completes the work prior to September 5, 1983 but the painting does not arrive in Richmond, Virginia on the specified date, through no fault of Olin's, the City will pay Olin for the work completed. If said preservation and conservation work is not completed by September 5, 1983, and the painting does not arrive in Richmond, Virginia on the specified date, then the City shall not be obligated to pay Olin in any amount whatsoever and nothing shall be due him under this contract. However, if the City is reimbursed \$500.00 for the work completed no matter when the painting arrives in Richmond, Virginia, then the City shall pay \$500.00 to Olin for the work completed under this contract for this painting.

B. (1) James Monroe, by Samuel Finley Breese Morse: The City agrees to pay Olin the reasonable value of his work, to be billed by him to the City consistent with his report, here attached as Exhibit "B", provided however, that in no event shall the City pay Olin any sum greater than eighteen thousand three hundred (\$18,300.00) dollars for work performed on the painting.

(2) Olin does agree that the work to be performed to the painting shall be completed approximately six (6) months after the painting is delivered to his studio, but in any event, no later than June 1, 1983.

C. It is specifically understood and acknowledged that the total obligation of the City to Olin for work performed to both paintings shall not exceed the sum of nineteen thousand three hundred (\$19,300.00) dollars.

IV. WORKING CONDITIONS

It is agreed that the work to be performed on the paintings herein described shall take place at Olin's studio located in Great Falls, Virginia.

V. REPRESENTATION AS TO SKILL

Olin does warrant and represent that he and his staff have the sufficient skills required to complete the work set forth in this contract and the attached exhibits, said skills being consistent with his Curriculum Vitae, here attached as Exhibit "D", and upon which the City has relied.

VI. TIME OF PAYMENT

The City agrees to pay Olin upon completion of the conservation work and the return of the paintings to the City or within two (2) weeks thereafter, provided that the work is completed in a proper fashion and the time limitations set forth in Paragraphs III (A) (2) and III (B) (2) are met.

VII. GOVERNING LAW

This Agreement shall be governed by the laws of the State of South Carolina, and there shall be no modification or amendment hereof unless the same is reduced to writing and signed by both parties hereto.

CITY OF CHARLESTON BY: Joseph P. Riley, Jr. ITS: Mayor ATTEST: Mary R. Wrixon Clerk of Council Charles H. Olin Conservator

EXHIBIT "A"

ARTIST: John Blake White

TITLE: Arrival of the Mail

DATE AND/OR SCHOOL: American, 1901

SIZE: 29 3/4" X 24 1/2"

SHAPE: Rectangular

OWNER: City of Charleston

City Hall

OWNER'S ADDRESS: Broad & Meeting Streets

Charleston, South Carolina

INSURANCE:

EXAMINEE: Charles H. Olin/Alexandra Riddleberger

DATE OF EXAMINATION: May 16, 1981

FRAME:

REPORT OF EXAMINATION

This painting is executed in traditional oil medium on canvas that has subsequently been lined in past restoration onto another canvas with what appears to be a glue adhesive. The canvases were then attached to a stretcher. It has suffered from poor attachment of paint-ground to canvas, from numerous tears, and from the considerable effects of poor restoration in the past.

Poor attachment of paint-ground to canvas has been continuing as evidenced by old, repaired losses and more recent unrepaired ones. Paint is loose, flaking and lost in many areas but particularly the bottom third of the painting. The fact that the canvas

is buckled and out of plane further contributes to flaking. The glue lining does not function to adhere the painting to the support and paint will continue to be lost unless the painting is consolidated.

Contracted paint in several areas typically occurs in the drying process of the paint film. These areas appear matte. Impasto was flattened in the lining process.

There are numerous tears, some with uneven fill and all clumsily and freely applied darkened repaint. Tears are located just beneath the third figure from the left, on the right edge 5" up from the bottom, in the sky over the second chimney from the left, 3" above that, 2" above the white steeple, 1" up and just right of that, 1 1/2" above and to the right of the chimney at the far right, and two thirds of the way up from the bottom 3" in from the right edge. In the large central area of repaint in the sky several layers of repaint and partially removed dark varnish are mingled. Repaint is very heavy, with white lead undoubtedly being used. It is not only unsightly -- does not match the original in either color or texture, but covers more area than necessary. The exact nature of the damage underneath cannot be determined until it is removed, but solvent abrasion from past cleaning is likely and the effort to cover a dark varnish that could not be completely removed is obvious. Solvent abrasion is apparent elsewhere in the painting along the raised branch fork cracks that characterize the painting.

At least two varnishes are present, the dark partially removed residue of an older varnish, and a yellow varnish that after several applications of acetone is slowly soluble. A glossy substance is spattered along the left side. The overall effect is an uneven matte and glossy surface and a darkened and yellowed tonality.

It is anticipated that after cleaning, the street scene may be considerably lighter and the sky area may be revealed as darker than at present.

Recommended Treatment:

1. Readhere flaking paint with wax-resin adhesive and a tacking iron.
2. Remove excess adhesive with benzine.
3. Remove varnish with acetone and repaint with ammonium hydroxide.
4. Face painting with mino tissue.
5. Remove old lining and adhesive.
6. Mend tears.
7. Wax-resin line painting to new linen canvas using vacuum hot table.
8. Attach painting to new turnbuckle stretcher.

9. Remove facing and excess adhesive.
10. Lightly spray varnish with Acryloid B-72
11. Fill noticeable losses with gesso.
12. Inpaint noticeable losses to match surrounding original paint with pigments hand ground in MS2A resin.
13. Final spray varnish with Acryloid B-72.

Estimated Cost of Treatment: \$1,000.

plus cost of stretcher

Exhibit "B"

ARTIST: Samuel Finley Breese Morse

TITLE: James Monroe

DATE AND/OR SCHOOL: 1819 (American)

SIZE: 92 1/4" H X 59 1/2" W

SHAPE: Rectangle

OWNER: City of Charleston

City Hall

OWNER'S ADDRESS: Broad & Meeting Streets

Charleston, South Carolina

INSURANCE:

EXAMINEE: Charles H. Olin

DATE OF EXAMINATION: May 16, 1981

FRAME:

REPORT OF EXAMINATION

This portrait painting is executed on one piece of canvas adhered to another canvas with what appears to be a water soluble adhesive. There are numerous tears in the original canvas that are listed below:

1. A vertical tear starting near the top left corner of the painting, coming down in a scalloped manner approximately 1" away from the left edge until the midpoint where it continues 1/4" away from the edge to the bottom of the painting.
2. A 6" long horizontal tear 1/5 of the way down from the top of the painting.
3. A 10" long tear that begins on the left edge one third of the way down. Both this tear and No. 2 above appear to have "1/4" canvas inserts.
4. There may be a tear running horizontally at the top left corner of the painting running half its width. Repaint in this area is too thick to determine.
5. Large compound tear originating 3-4" from the center of the left edge, running slightly diagonally into the painting. It is 2 1/2 feet long and has extensive paint loss and repaint.

6. Complex tear in the bottom left corner that is approximately 11/2 feet horizontally and 1/2 foot vertically.
7. 3" horizontal tear just right of No. 6.
8. 19" above the tear just mentioned is a complete rip in the canvas horizontally that is over two feet long, through his boots at the horizon level.
9. Compound tear 6" vertical X 12" horizontal that is located 2" below the right end of the above mentioned tear.
10. Just right of center is a complex tear one foot square.
11. There appears to be a long vertical tear along the right edge, running most of the height of the painting. It is completely covered by repaint.
12. There appears to be a vertical tear approximately 8" long along his right thigh.
13. Complex tear right of his left shoulder and arm, approximately one foot square that is extensively repainted.
14. Vertical tear from the top extending down the middle for approximately 8".
15. Compound tear under the chin and through the cravat.
16. In the top right corner a 1" X 2" section of canvas is missing.

Several of the torn areas have completely separated from the lining canvas and all are repainted. There is noticeable impression of the canvas weave.

Adhesion of paint-ground to the canvas is poor as evidenced by numerous small flaking losses throughout the painting. The paint film has suffered extensively from solvent abrasion from past over-cleaning. It appears intermittently throughout the paint surface revealing the bare canvas weave in many areas. Good examples include his right hand and the sky area right of his left arm. In fact the upright book left of his right hand that has "Constitution" written on it is almost entirely bare canvas and repaint. On the surface of badly abraded original paint is the remains of overpaint left from an earlier cleaning as well as repaint added in the last restoration. This together with the very poorly applied fill and thick texture of the repaint and its darkened discoloration, give the painting a mottled and harsh appearance. A few drying cracks are present as well as intermittent small, fine cracks.

Overall is a yellowed varnish with a dusty surface. It is unevenly matte and dull and slowly soluble in acetone. The repaint is not, but can slowly be dissolved in full strength ammonia.

Recommended Treatment:

1. Remove the added canvas and adhesive from the back.
2. Mend tears properly where required.
3. Wax-resin line painting onto new canvas.
4. Reattach painting to the present stretcher.
5. Remove varnish and repaint.
6. Fill noticeable losses with gesso.
7. Inpaint losses to match surrounding original paint with pigments hand ground in MS2A resin.
8. Final spray varnish with Acryloid B-72.

Estimated Cost of Treatment: \$18,300

Exhibit "D"

CURRICULUM VITAE

Charles H. Olin

Painting Conservator

Virginia, USA

Charles H. Olin was graduated with a B.S. in Physics from Dickinson College in 1956. He served as a regular officer in the United States Marine Corps from 1956-1960. In 1960 he entered the Graduate School of Painting at Cornell University where for one year he studied oil painting and the materials and techniques used by past masters. In 1961 he was awarded a four year Rockefeller Foundation

Fellowship to study Museum Conservation at the Conservation Center, Institute of Fine Arts, New York University. In 1963 he accepted an appointment at the Smithsonian Institution as Head Conservator of the U.S. National Museum to set up the Conservation-Analytical Laboratory while he simultaneously continued his studies at the Conservation Center. In 1966 Mr. Olin accepted the appointment of Head Conservator of the National Portrait Gallery and the National Collection of Fine Arts. This position involved a survey of the collections of the two museums in order to determine the condition, required treatment, priorities and eventual treatment of each painting and sculpture and to assure their completed treatment for the openings of the two museums. Coincident to this program, he also had to design, equip and make the N.C.F.A./N.P.G. Conservation Laboratory functional by training personnel. In 1971 Mr. Olin resigned from the Smithsonian Institution to practice privately. In 1977 he moved into a new building he expressly designed and built for conservation of oil paintings.

Mr. Olin's clients include: the Hammond-Harwood House, Annapolis, MD; Colonial Williamsburg; Abby Aldrich Folk Art Collection; the Gibbes Art Gallery, Charleston, South Carolina; the Folger Library; the Corcoran Art Gallery; private collectors and historical houses throughout Virginia, North Carolina, and South Carolina as well as numerous other private collectors in other parts of this country and others. During his private practice he has provided survey reports for the collections of the Gibbes Art Gallery and the Hammond-Harwood House which have been used to establish conservation treatment programs carried out by Mr. Olin and to provide funding support obtained from the National Endowment for the Arts.

Mr. Olin is a Fellow of the International Institute for the Conservation of Historic and Artistic Works and the American Institute for Conservation. He has been active as a research collaborator at Brookhaven National Laboratory in the application of neutron autoradiography in the study of Ralph Blakelock and the works of other American painters and is presently under contract with the Smithsonian Institution and the National Gallery of Art to establish the feasibility of neutron autoradiography of paintings in the Washington, D.C. area utilizing the facilities of the National Bureau of Standards and the Armed Forces Radiobiology Research Institute.

Mr. Olin has lectured extensively to historical societies and universities and presented the first Gwendolyn Cafritz twelve lecture series with the Department of Fine Arts at Georgetown University for 1971. He continues the training of conservators with an informal apprenticeship program of one or two years for students entering or interning from Graduate School.

The resolution was adopted on motion of Councilmember Tecklenburg.

The following resolution was received:

A RESOLUTION

BE IT RESOLVED that the Mayor be and he hereby is authorized and directed, for and in behalf of The City Council of Charleston, to execute and deliver under the corporate seal, attested by the Clerk of Council, a contract which shall be substantially as follows:

Also Exhibit "C"

mentioned in above contract

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

AGREEMENT)

WHEREAS the City of Charleston, South Carolina (hereinafter City Council), and the Virginia Museum (hereinafter Museum), believe that it is in the interest of both parties to exhibit two paintings hereinafter described, at an exhibition, Painting in the South, which will be presented at the Virginia Museum beginning on September 11, 1983, and ending at the New Orleans Museum of Art, February 3, 1985; and

WHEREAS the parties intend to set forth in this Agreement the terms governing the loan of the paintings, the transportation, insurance, and use of the paintings and other matters, both at the exhibition and in publications or reproductions connected therewith;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS THAT the City of Charleston (hereinafter City) and the Virginia Museum (hereinafter Museum) in consideration of the mutual promises and covenants herein, agree as follows:

I. Subject of the Contract/Exclusive Rights

The paintings referred to herein are John Blake White's painting entitled, The Arrival of the Mail, and Charles Fraser's (miniature) portrait of Marquis de Lafayette, both of which are owned by the City of Charleston and the parties recognize the City's exclusive right, title and interest in and to said portraits and all reproduction rights in and to said paintings, except as provided herein.

II. Loan

The City agrees to lend to the Museum the paintings referred to above for the period September 11, 1983 to February 3, 1985, by which date the paintings shall be returned to the Council Chambers at City Hall, Charleston, South Carolina.

III. Consideration

The Museum agrees to pay to the City of Charleston the sum of \$500.00 to be applied by the City toward the cost of preservation and conservation work to be done on one painting by Charles H. Olin of Great Falls, Virginia, said sum to be paid to the City at the time of arrival of the paintings at the Museum on or before September 8, 1983.

IV. Conditions of Loan

A. The parties agree that both paintings will be displayed at the exhibition entitled Painting in the South. The paintings will be shown from September 11, 1983 to February 3, 1985, starting at the Virginia Museum, traveling five (5) states and ending at the New Orleans Museum of Art, February 3, 1985.

B. The Museum agrees to do the following:

- 1.) To pay all costs of handling, crating and shipping said paintings in connection with this contract;
- 2.) To be responsible for the handling and crating of the paintings at the City Council Chambers in August, 1983, and to pay the cost thereof;
- 3.) To ship the paintings to the Museum, to store and exhibit them under reasonable and safe conditions from that time until their transportation and to pay the costs thereof;
- 4.) To provide for the paintings' safe transportation to the five (5) states, and the handling and care thereof in the five (5) states, and to pay the costs thereof;
- 5.) Provide for the handling and shipping of the paintings in the five (5) states, and for transportation and return to the City Council Chambers, Charleston, South Carolina, and to pay the costs thereof.

C. All arrangements shall be made in accordance with the highest standards reasonably and ordinarily utilized by museum curators.

D. Insurance. The Museum agrees to provide all insurance necessary and customarily utilized in protecting paintings of this type and value and utilized in exhibitions of this type, and in connection therewith agrees to pay all premiums therefor and to provide the City, prior to August 25, 1983, with a copy of the certificate of insurance or a copy of the policy itself. The insurance coverage shall be wall-to-wall. That is the paintings shall be fully insured from the moment their removal is commenced from the Council Chamber to the moment they are finally replaced thereon. The Museum agrees to insure the Arrival of the Mail painting for Twenty Thousand No/100 (\$20,000.00) Dollars and the Marquis de Lafayette portrait for Fifth Thousand and No/100 (\$50,000.00) Dollars.

E. The parties also agree to the conditions which appear on the reverse side of the Loan Agreement attached hereto as Exhibit "A". The parties agree that the terms of the within Agreement shall govern in the event of a conflict between this Agreement and the Loan Agreement attached hereto as Exhibit "A".

VI. Reproduction of the Paintings

The parties agree to be governed by the Loan Agreement attached hereto as Exhibit "A", provided as follows: That the Museum agrees that it will not allow the reproduction of said paintings by any means, whether print or other media, by any persons, other than the Museum and the news media for news or educational purposes. The Museum agrees not to allow reproduction of said paintings for any commercial purpose and agrees to note in all

publications that the portraits are owned by the City of Charleston, South Carolina, and are reproduced with its permission.

VII. Governing Law

This Agreement shall be governed by the laws of South Carolina.

CITY OF CHARLESTON JOSEPH P. RILEY, JR. Its Mayor MARY R. WRIXON Its Clerk of Council DAVID S. BUNDY Curatorial Assistant Virginia Museum

The resolution was adopted on motion of Councilmember Jefferson.

Next, the bill to amend Chapter 54 of the City Code so as to place limitations on applications for rezoning was given second reading on motion of Councilmember Jefferson. The bill passed second reading on motion of Councilmember Gaillard, and third reading on motion of Councilmember Tecklenburg. On the further motion of Councilmember Ader, the rules were suspended and the bill immediately was ratified as:

Ratification

Number 1982-99

AN ORDINANCE

TO AMEND CHAPTER 54 OF THE CODE OF THE CITY OF CHARLESTON (1975) SO AS TO PLACE LIMITATIONS ON APPLICATIONS FOR REZONING:

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

Section 1: Section 54-84 of the Code of the City of Charleston (1975) is amended by adding a new sentence to subparagraph 1 as follows:

"Provided, however, where Council has refused a petition to amend the zoning ordinance, no application requesting an identical change shall be considered by the Planning and Zoning Commissioner for a period of six (6) months unless initiated by City Council or recommended by the Chairman of the Planning and Zoning Commission and the Zoning Administrator."

Section 2: Section 54-85 of the Code of the City of Charleston (1975) is amended by adding a new subsection 4. as follows:

"When an applicant has twice withdrawn a petition to amend the zoning ordinance from the published agenda of the Planning and Zoning Commission, without good cause as determined by the Commission, the petition shall be deemed denied by Council and reapplication must be made pursuant to Section 54-84 of the Code."

Section 3: This ordinance shall become effective upon ratification.

A bill to alter the fares to be charged for transporting passengers in non-metered taxicabs within Zone 1 in the City of Charleston was given second reading, on motion of Councilmember Jefferson.

During a brief period of discussion which followed, Councilmember Scott moved that the ordinance be amended by changing its effective date to January 1, 1983. Councilmember Tecklenburg seconded the motion. The motion to amend the ordinance carried. Councilmember Jefferson voted "Nay".

The bill, as amended, passed second reading on motion of Councilmember Scott, and third reading on motion of Councilmember Christopher. On the further motion of Councilmember Stephens, the rules were suspended and the bill immediately was ratified as:

Ratification

Number 1982-100

AN ORDINANCE

TO AMEND SECTION 50-77 OF THE CODE OF THE CITY OF CHARLESTON SO AS TO ALTER THE FARES TO BE CHARGED FOR TRANSPORTING PASSENGERS IN NON-METERED TAXICABS WITHIN ZONE 1 IN THE CITY OF CHARLESTON.

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

Section 1. Section 50-77(B) is hereby amended by deleting therefrom the fares within Zone 1 in the City of Charleston and inserting in lieu thereof the following:

Zone 1 - First passenger \$1.75

Zone 1 - Each additional passenger \$0.75

Section 2. This ordinance shall become effective upon ratification.

The bill to adopt the Revenue Sharing Entitlement XIV budget was given second reading. The bill passed second reading on motion of Councilmember Tecklenburg, and third reading on motion of Councilmember Christopher. On the further motion of Councilmember Stephens, the rules were suspended and the bill was immediately ratified as:

Ratification

Number 1982-101

AN ORDINANCE

TO MAKE APPROPRIATIONS FOR REVENUE SHARING ENTITLEMENT XIV FUNDS OF THE CITY OF CHARLESTON COVERING THE PERIOD OCTOBER 1, 1982 THROUGH SEPTEMBER 30, 1983.

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

Section 1: That the following sums of money be, and are hereby appropriated for the purposes hereinafter mentioned to-wit:

INCOME

Contribution from Federal Government \$2,161,600

Estimated interest Income 25,000

Total Income \$2,186,600

EXPENSES

Policy and Administration \$75,000

Programs

Computer Expenses \$45,000

City Hall 30,000

Repair paintings -- match for
"Arrival of the Mail"
restoration (\$5,000)

Additional match for climate
control (\$15,000)

Building Improvement
(\$10,000)

Public Safety Programs \$1,403,000

Police Department \$676,500

Fire Department 676,500

Radio Equipment (Consoles) 50,000

Public Service Programs \$522,900

Drainage Equipment \$300,400

(Obligated)

1-10 yd. truck (\$30,000)

1 Jet Rodder/Basin cleaner
(109,500)

1 Jet Rodder (\$59,800)

1 Basin Cleaner (\$71,100)

1 Mini Excavator (\$30,000)

Sanitation Equipment \$60,000

(Obligated)

2 Scows at \$30,000

Sanitation Route Study 12,500

Street and drainage 150,000
improvements

Master Drainage Plan
(\$100,000)

Street and Drainage Projects
(\$50,000)

Leisure Services/Parks \$157,700
Programs

Facility Improvements	\$22,700	
College Park	15,000	
Cypress Gardens	15,000	
Waterfront Park	100,000	
Tree Planting	5,000	
Miscellaneous Programs		\$28,000
Horizon House	5,000	
Charleston Speech and Hearing Clinic	2,500	
People Against Rape	8,000	
Senior Citizens	2,500	
Palmetto Pathway House	5,000	
Old Slave Mart Museum	5,000	
TOTAL BUDGET	\$2,186,600	

Section 2: This Ordinance shall become effective upon ratification.

A bill to annex 15 acres (TMS No. 356-0-0-008) located east of Ashley Towne Landing on the Ashley River, owned by E & F Properties, Inc., was given second reading. Councilmember Baker asked who had signed this annexation petition and, was informed by the Clerk that the petition had been signed by Albert V. Estes. The bill passed second reading on motion of Councilmember Stephens, and third reading on motion of Councilmember Jefferson. On the further motion of Councilmember Cochran, the rules were suspended and the bill was immediately ratified as:

Ratification

Number 1982-102

AN ORDINANCE

TO PROVIDE FOR THE ANNEXATION OF A 15 ACRE TRACT (TMS NO. 356-0-0-008) LOCATED EAST OF ASHLEY TOWNE LANDING ON THE ASHLEY RIVER, IN ST. ANDREWS PARISH, IN CHARLESTON COUNTY, TO THE CITY OF CHARLESTON.

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

Section 1. Findings of Fact

As an incident to the adoption of this Ordinance, City Council of Charleston finds the following facts to exist:

(a) Section 5-3-150, Code of laws of South Carolina, (1976), as amended, provides a method of annexing property to a city or town upon a petition by seventy-five (75 percent) per cent of the freeholders owning more than seventy-five (75 percent) per cent of the assessed valuation of real property in the area requesting annexation.

(b) The City Council of Charleston has received a Petition requesting that a tract of land in Charleston County hereinafter described be annexed to and made a part of the City of Charleston, which petition is signed by seventy-five (75 percent) per cent of the freeholders owning more than seventy-five (75 percent) per cent of the assessed valuation of real property in the area requesting annexation.

(c) The area comprising the said property is contiguous to the City of Charleston.

Section 2.

Pursuant to Section 5-3-150, Code of Laws of South Carolina, (1976), as amended, the following described property be and hereby is annexed to and made a part of the City of Charleston and is annexed to and made a part of present District 10 of the City of Charleston, to wit:

SAID property to be annexed is identified by the Charleston County Assessor's Office as TMS No. 356-0-0-008 (See attached map) and all adjacent public rights-of-way.

Section 3.

This Ordinance shall become effective upon ratification.

Second reading was then given to a bill to annex 1.8 acres (TMS No. 350-05-00-46) located south of Savannah Highway and north of the S.C. Highway Department right of way in the St. Andrews Parish Section of Charleston County, owned by Anthony J. Tellis. The bill passed second reading on motion of Councilmember Scott, and third reading on motion of Councilmember Tecklenburg. On the further motion of Councilmember Jefferson, the rules were suspended and the bill was immediately ratified as:

Ratification

Number 1982-103

AN ORDINANCE

TO PROVIDE FOR THE ANNEXATION OF A 1.8 ACRE PARCEL (TMS NO. 350-05-00-46) LOCATED SOUTH OF SAVANNAH HIGHWAY AND NORTH OF THE S.C. HIGHWAY DEPARTMENT RIGHT OF WAY IN THE ST. ANDREWS PARISH SECTION OF CHARLESTON COUNTY TO THE CITY OF CHARLESTON.

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

Section 1. Findings of Fact

As an incident to the adoption of this Ordinance, City Council of Charleston finds the following facts to exist:

(a) Section 5-3-150, Code of Laws of South Carolina, (1976), as amended, provides a method of annexing property to a city or town upon a petition by seventy-five (75 percent) per cent of the freeholders owning more than seventy-five (75 percent) per cent of the assessed valuation of real property in the area requesting annexation.

(b) The City Council of Charleston has received a Petition requesting that a tract of land in Charleston County hereinafter described be annexed to and made a part of the City of Charleston, which Petition is signed by seventy-five (75 percent) per cent of the freeholders owning more than seventy-five (75 percent) per cent of the assessed valuation of real property in the area requesting annexation.

(c) The area comprising the said property is contiguous to the City of Charleston.

Section 2.

Pursuant to Section 5-3-150, Code of Laws of South Carolina, (1976), as amended, the following described property be and hereby is annexed to and made a part of the City of Charleston and is annexed to and made a part of present District 10 of the City of Charleston, to wit:

SAID property to be annexed is identified by the Charleston County Assessor's Office as TMS No. 350-05-00-46 (See attached map) and all adjacent public rights-of-way.

Section 3.

This Ordinance shall become effective upon ratification.

City Council was reminded that its January 25, 1983 meeting was scheduled to be held away from City Hall and, it was necessary to determine the site for that meeting. City Council agreed to hold its January 25, 1983 meeting at Rivers Middle School, as suggested by Councilmember Jefferson.

City Council entered into a lengthy discussion on the reapportionment plan prepared by the City's Planning Department.

The following memorandum from the Mayor was received:

MEMORANDUM

To: City Councilmembers

From: Joseph P. Riley, Jr., Mayor

Re: City Council Reapportionment

Date: December 14, 1982

Our Planning Department has completed a plan for the reapportionment of City Council Districts to be effective January 1984. It will be presented to you tonight for your consideration.

The preparation of this reapportionment plan was very difficult because there are so many factors that must be considered. Each factor often conflicts with the others creating a necessary balancing effort. I think the Planning Department did an excellent job.

An explanation of the plan must begin with the consideration of the changes in population that have occurred within the districts. Of the twelve districts, only three had relative population shifts small enough not to require change. But even with those, changes were required because adjoining districts required changes. I have attached charts which show the current and proposed districts' population variances and other important information.

The constitutionally mandated one-man, one-vote requirement means that each district must be as close as reasonably possible to the others in population. This plan has an overall variance of 8.9 percent which, considering the other factors, is excellent.

The plan started with the twelve existing districts as opposed to beginning with the twelve totally new districts. Reasonable continuity in government is important; citizens become accustomed to existing districts and in redrawing the district boundaries we have tried to maintain continuity. In each instance a substantial portion of the existing district is still intact.

Neighborhoods are very important to our City. We have strongly encouraged the development of neighborhood councils to strengthen neighborhoods and thereby strengthen our City. Every attempt was made to honor existing neighborhoods' boundaries, although this was not possible in every instance.

Under the requirements of the Voting Rights Act of 1965, as well as the mandates of fairness, we must consider the impact of any reapportionment on the racial makeup of City Council. The plan in and of itself should not alter the current racial balance. This plan would not.

The Ashley River is a geographic boundary which makes an already difficult reapportionment plan even more difficult. There is no question but that the Ashley River must be crossed and one or more districts occupy both sides of the river. Any plan which did not cross the river would produce unacceptably high variances -- probably in the neighborhood of 20 percent. So once it is clear the river must be crossed, the question is where. It was felt that it should be crossed where the current bridges are so as to have functionally close districts. If the river were crossed between Districts 5 and 9, you would have parts of a district that were close as the crow flies, but very remote otherwise; similarly so with Districts 1 and 12. The distance over the Ashley River or Charleston Harbor is not great, but can be an automobile trip of several miles.

This plan was prepared without regard to any political considerations. No Councilmember was considered over any other. I am sure there is no Councilmember who will prefer the new plan to the old; however, no change is not an option. Single Member Districts will require change every ten years.

No Councilmember has been given an opportunity over any other to impose his or her desires on the plan. I thought it best so that no one could feel that a colleague had been given an advantage over another.

The plan is now for you to consider and change if you think best.

I do commend this plan to you. Our planners have worked very hard on this effort and should be congratulated.

POPULATION BY PROPOSED COUNCIL DISTRICTS CITY OF CHARLESTON

Total District	Population	# White	# Black	# Other	Variance from Average
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(5865)1

1	5,703	5,379(94%)	289(5%)	35(1%)	-162
2	5,710	1,139(20%)	4,553(80%)	18	-155
3	5,686	102(2%)	5,565(98%)	19	-179
4	5,712	259(5%)	5,448(95%)	5	-153
5	5,714	1,912(33%)	3,739(65%)	63(1%)	-151
6	5,731	1,642(29%)	4,077(71%)	12	-134
7	5,687	2,172(38%)	3,481(61%)	34(1%)	-178
8	5,684	5,016(88%)	627(11%)	41(1%)	-181

Peninsula

Total	45,627	17,621(39%)	27,779(61%)	227	
9	6,181	5,720(93%)	366(6%)	95(1%)	316
101	6,177	5,370(87%)	693(11%)	114(2%)	312
112	6,206	3,671(59%)	2,543(40%)	82(1%)	341
122 3	6,196	4,562(74%)	1,593(26%)	41	331

West

Ashley/James

Island

Total 24,760 19,328(78%) 5,105(21%) 332(1%)

City of

Charleston

Total 70,387 36,944(52%) 32,884(47%) 559(2%)

1 70,387 -- 12

2 Includes the 1980 Population of areas annexed through December 14, 1982

3 The total for district 12 includes 86 persons in Tract 20.07 not attributed to the city by the Census

Note: Figures may not total 100% due to rounding

POPULATION BY COUNCIL DISTRICTS CITY OF CHARLESTON

Total District	Population	# White	# Black	# Other	Variance from Average
					(5865) ¹
1	5,604 4,392(78%)	1,173(21%)	40(1%)		-261
2	3,603 120(3%)	3,471(96%)	12		-2,262
3	4,756 92(2%) 4,651(98%)	13			-1,109
4	6,909 431(6%)	6,468(94%)	10		+1,044
5	6,873 3,259(47%)	3,554(52%)	60(1%)		+1,008
6	4,753 133(3%)	4,609(97%)	11		-1,112

7	4,544	1,313(29%)	3,199(70%)	32(1%)	-1,321
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8	6,228	5,547(89%)	645(10%)	36(1%)	363
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Peninsula

Total	43,270	15,286(35%)	27,770(64%)	214(1%)	
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9	5,720	5,281(92%)	347(6%)	92(2%)	-145
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101	8,638	6,766(78%)	1,711(20%)	161(2%)	+2,773
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112	5,494	3,333(61%)	2,115(39%)	46(1%)	-373
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122 3	7,265	6,278(86%)	941(13%)	46(1%)	+1,400
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West		5,114(19%)	345(1%)		
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Ashley/James

Island

Total	27,117	21,658(80%)			
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Charleston			32,884(47%)	559(2%)	
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Total	70,387	36,944(52%)			
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1 70,387 -- 12

2 Includes the 1980 Population of areas annexed through December 14, 1982.

3 The total for District 12 includes 86 persons in Tract 20.07 not attributed to the city by the Census.

Note: Figures may not total 100% due to rounding.

The Mayor praised the Planning Department's work on the plan, and he explained the work that went into the plan's preparation and the guidelines which had to be met. He reviewed his memorandum briefly.

He explained that the Planning Department believed continuity in governmental districts was important. It began the plan with the existing districts, believing that the citizens were entitled to that effort of continuity, as long as all of the other factors were considered. The overriding consideration in preparing the plan had been the mandated one-man, one-vote principle. He explained that an acceptable population variance level had to be worked out, and expressed the belief that the 8.9 percent variance which had been worked out in this plan was excellent for a city such as Charleston, with the number of relatively small populated districts.

The Mayor stated that in addition to continuity and population, another factor the Planning Department tried to adhere to was "neighborhood boundaries". The Planning Department also had to consider, the Mayor said, the 1965 Voting Rights Act's requirements as well as City Council's commitment to fairness, in order not to change the racial make-up or the racial opportunity for representation on City Council.

Charleston's geographic boundary in the Ashley River, the Mayor said, created a very difficult problem. If some districts had not crossed the Ashley River, there would have been a population variance in excess of 20 percent, which was unacceptable. A variance in excess of 10 percent would be very difficult to uphold, in his opinion, based on research by the City's Legal staff.

The Mayor explained that in crossing the river, an effort was made to do so logically, believing that a Councilmember's district should be as close together as possible. He called attention to his memorandum explaining why Districts 9 and 5, and 1 and 12 should not cross the Ashley River.

The Mayor said the plan was prepared without any regard to political consideration. It was the work of the City's Planning Department, and no Councilmember was given an opportunity over any other. He explained that the reapportionment had become necessary because of population shifts.

The reapportionment plan was presented to the Councilmembers. The Mayor commended the plan to the Councilmembers, and stated he and the Planning staff would be available to discuss it with individual Councilmembers after they had had an opportunity to study it. Also, he repeated the complexity of maintaining an acceptable population variance, should any changes be made to the plan.

The Mayor informed City Council that the City's Legal staff had determined only the six members of City Council scheduled to run for re-election in 1983 will have to run. The City attorneys determined that in a case similar to Charleston's the U.S. Supreme Court had said the electorate elected the Councilmembers for a four-year term and that pact could not be altered even though the district boundaries changed. Also, the Mayor pointed out that under the proposed plan no Councilmember had been reapportioned out of his or her district.

Yvonne Fortenberry, of the Planning Department, explained that in preparing the plan, the basic objective had been to average the population in each district to a general average of 5865. To do so, it became necessary to combine some peninsular and West Ashley districts. There was then a somewhat clockwise shift of population in all of the districts to compensate for that.

She then pointed out the proposed boundaries of each new District, and answered questions asked by the Councilmembers.

During her presentation she explained that a total of roughly 2300 persons were taken from the West Ashley area and combined with Districts 7 and 8. She observed that under the proposed reapportionment plan, the population averages were slightly below the average in the peninsula districts, and slightly higher than the average in the West Ashley districts. She answered numerous questions asked by the Councilmembers concerning proposed changes in their district lines.

Councilmember Baker asked Ms. Fortenberry if any consideration had been given to keeping eight City Council seats downtown and four west of the Ashley. Ms. Fortenberry replied in the affirmative, adding that had that been done, there would have been a population variance of 31 percent. Under

the current plan, she said, with no changes and without looking at the proposed plan, there was a population variance of 86 percent. The Mayor added that a 30 percent variance was totally out of the question. Councilmember Baker agreed. His point was that now there were eight seats downtown and four seats west of the Ashley. The proposed plan seemed to continue the trend of more downtown seats than West Ashley seats.

The Mayor disagreed, pointing out it was possible West Ashley could pick up two additional seats under the proposed reapportionment plan. Councilmember Baker disagreed with this argument, noting that the majority in Districts 7 and 8 still resided on the peninsula. Therefore, the likelihood was that there would remain an 8 to 4 split on Council. In response to one of Councilmember Baker's questions, the Mayor replied that reapportionment was done every ten years. He felt it was almost impossible to change the West Ashley lines and stay within the population variance, unless every district in the City was redrawn in a large scale.

Councilmember Baker maintained that from a geographical standpoint and from the standpoint of undeveloped land, present Districts 10 and 12 were the population growth areas in the City. He noted that the figures used in the proposed plan were taken from the 1980 Census and told of subdivisions which have "sprung up" in his District since the 1980 Census was taken, which made those figures outdated. He noted that every district on the peninsula did not come up to average and every district west of the Ashley was already over average. It seemed to him the plan could combine the peninsula parts of Districts 7 and 8 into one district and the West Ashley parts of Districts 7 and 8 into another district. The Mayor pointed out this would be unacceptable because it would result in a 25 percent to 30 percent variance. Councilmember Baker stated he would have to see the figures before he could accept the plan which was before City Council.

The Mayor and Ms. Fortenberry explained how the 8.9 percent variance was obtained.

Responding to Councilmember Baker's comments about the projected growth of the West Ashley area not being considered in the proposed reapportionment plan, the Mayor stated the Planning staff had looked into this but found that the Courts will not allow a municipality to use a projected growth figure. Councilmember Baker maintained that if this plan was adopted, a year from its passage it would be out of date because the population is going to shift to the West Ashley and to James Island, judging by the development taking place there. The Mayor agreed but added that with the one-man, one-vote rule there was a very solid body of technical law on reapportionment which required using the most recent Census figures.

Councilmember Baker continued to express concern that the West Ashley area constituted almost 40 percent of the City's total population, yet its representation on City Council did not reflect this. The Mayor maintained that under the present plan there could only be four West Ashley representatives on City Council, whereas under the proposed plan there could be six. Councilmember Baker replied that while the potential would exist, the likelihood of that occurring was very small, given the fact that the two incumbent City Council people were from the peninsula and that a minority of the West Ashley areas would be going into districts where there were a majority of downtown areas.

Councilmember Baker said he would prefer to see Districts 7 and 8 combined in such a manner that the majority of some of those districts existed west of the Ashley. He felt this then would be a far fairer plan for the West Ashley and James Island residents and for all of the City residents than the plan which was before City Council. If that was not true, he said he would like to know the reason why.

The Mayor felt before debating the plan further, and taking a position on it, it would be wise for the members of City Council to study the map and spend some hours with the Planning Department working out alternate plans. The Mayor pointed out again the amount of work that had gone into the preparation of the plan, and he again praised the Planning

Department for its work on the plan, which he believed to be fair.

Councilmember Baker expressed appreciation for the Planning Department's work and for its presentation tonight. He said he intended to research his theory. He pointed out the plan City Council ultimately adopted was one the City would have to live with for the next ten years. He was concerned that in the next ten years the downtown and West Ashley populations would be very different from the way they were represented on the plan presented to City Council this evening. The Mayor agreed with him totally.

Councilmember Cochran tended to agree with Councilmember Baker, however, he felt it would be difficult to discuss the plan intelligently, since the Councilmembers had not had an opportunity to study it. For that reason, he wished to reserve comment on the plan until he had studied it.

Councilmember Ader agreed with Councilmember Baker. She felt in the past eight years the West Ashley area had been led to believe eventually there would be five or more Councilmembers on City Council representing the West Ashley area, because of annexations. She asked the Planning Department why the figures could not be shifted so that there would be seven (7) districts with higher population figures on the peninsula and five (5) districts with lower population figures west of the Ashley, thereby providing for growth west of the Ashley within less than the next ten years.

The Mayor and others indicated the guidelines the City had to meet would not be satisfied if Councilmember Ader's suggestion were followed. The Mayor added that the plan was not up for City Council's consideration this night. It was merely being presented as the first step of a lengthy process.

Ms. Fortenberry briefly explained why Councilmember Ader's suggestion could not be worked out in order to meet an acceptable percentage variance in population.

Responding to a comment made earlier, contrary to what had been said, Councilmember Ader stated it was her understanding the Justice Department would look at growth potential. The Mayor explained that the City's reapportionment plan would have to satisfy (1) the Constitution's requirements, which looked solely at population; and, (2) the U.S. Justice Department's requirements, which looked at minority voting and representation. He pointed out that if the population variance was out of line, the courts would turn the plan down before the Justice Department had acted on it.

Councilmember Ford felt the plan was "a good Charleston plan." He said during the seven years he had been on City Council he had never heard a serious discussion of the peninsular City and the West Ashley portion of the City, such as was underway now. He thought this City Council represented all of the citizens, and such a reapportionment plan brought everyone closer together. He pointed out that his present term would expire next year, and since his district in the proposed plan would encompass an area lying west of the Ashley, there was a chance someone from the West Ashley area could win that seat. In such a case, the West Ashley area would have five seats on City Council. There also was the possibility three years from now that the same might occur in the district which Councilmember Tecklenburg now represented. In his opinion, there was a possibility that in four years the West Ashley area could have six Councilmembers. He pointed out that under the proposed reapportionment plan, there was a chance he could lose his seat on City Council, if he chose to run this year. Nevertheless, he felt the plan prepared by the Planning Department was a good one, as it brought together the peninsular City and West Ashley. In his arguments for the proposed plan, Councilmember Ford referred to the U.S. District Court's ruling that Berkeley County, one of the fastest growing counties in the State, be divided into two Congressional Districts. In view of what had occurred with Berkeley County, he saw no reason why the City's district lines could not cross the Ashley River.

Councilmember Ford agreed a growth in population would occur west of the Ashley, and pointed out this was the reason the Constitution required a review of reapportionment plans every ten years. He concluded his statement by saying he had tried to come up with a plan which would have given the West Ashley area an additional seat on City Council, and after several tries concluded it could

not be done and still meet the guidelines. He felt the Planning Department had done an excellent job in drawing up the proposed reapportionment plan.

Councilmember Jefferson felt it would be erroneous to say that population in the peninsular City would not increase because there was a potential for population growth in the Neck Area.

Councilmember Gaillard felt before he could intelligently comment on the plan he would need additional information. He asked if the Councilmembers could be provided with Census tracts showing the population figures for the entire city. Ms. Fortenberry replied it would be more helpful if the Councilmembers went to the Planning Department where there was a very large map containing this type of information. Also, Councilmember Gaillard asked if copies of alternate plans were available which the Planning Department prepared and for one reason or another rejected. In response to this question Mr. Fortenberry and the Mayor replied that while the Planning staff had come up with other plans, the plan before City Council was the only one that came under the 10 percent population variance guideline and met all of the other mandates. The Mayor again encouraged the members of City Council over the next few weeks to meet with the Planning staff. He assured them that the staff would work with them in determining whether or not a better plan could be drawn up and would make an effort to address any concerns they might have.

Councilmember Baker repeated that his position was not that there should be seven Councilmembers representing the peninsular City and five representing the West Ashley area. He envisioned a majority in population in either District 7 or District 8 west of the Ashley, as opposed to both majorities being downtown, and both minorities being west of the Ashley. He said he had not seen figures, so he would reserve his final opinion on this.

Councilmember Christopher asked the Mayor if City Council were to combine Districts 7 and 8, as mentioned by Councilmember Baker, would that not be out of proportion with the Justice Department's guidelines because the district would have a much larger population than the other districts. The Mayor felt there was no question but that the City would have a serious problem with the Justice Department guidelines, if Districts 7 and 8 were combined.

The Councilmembers then agreed with the Mayor's suggestion to defer further discussion until they had had an opportunity to go over the plan with the Planning staff.

Next, the Mayor asked if there was any objection to adding to the agenda a matter pertaining to an agreement which the City entered into last year with the South Carolina State Ports Authority on the acquisition and re-acquisition of property from the Ports Authority for the Waterfront Park and the proposed parking garage. He elaborated on the following memorandum dated December 14, 1982 to the members of City Council:

TO: Members of City Council

FROM: Honorable Joseph P. Riley, Jr., Mayor of the City of Charleston

RE: State Ports Authority Land Swap/Concord-Cumberland Streets Parking Garage

DATE: December 14, 1982

As you will recall on September 9, 1981, the City entered into an agreement with the State Ports Authority under the terms of which the State Ports Authority agreed to deed to the City the parking lot in front of the Colony House Restaurant, a triangular strip of land on the site of the proposed Waterfront Park, and the land in front of the State Ports Authority office building, upon which we propose to construct a parking garage and maritime office building.

After the approval of this agreement by the Ports Authority and City Council, the attorneys for the Ports Authority raised certain legal questions concerning the enforceability of the agreement once the deeds were delivered and recorded.

Their concern was basically that the agreements between the parties would "merge", legally, into the deed and that provisions of the original agreement not included in the language of the deed would not be enforceable.

They, therefore, insisted upon language in the deeds that the property would revert to the Ports Authority should the City fail to fully comply with the agreement of September 9, 1981. This was unacceptable to our attorneys since they feared that a minor deviation from the strict language of the deed by a future city administration would cause the title to automatically revert to the State Ports Authority.

In order to resolve this matter, the attorneys have agreed that there will be no reverter clauses but that the parties would execute into an additional agreement, after the delivery of the deeds, stating that the agreement of September 9, 1981, will not merge, and in addition that should the City fail to begin construction of the parking facility within five years the Ports Authority will have a right to require the return of that portion of that site, and should the City indefinitely abandon its plans for a maritime office building or fail to develop a master plan and put it out for public bid within five years, the Ports Authority can require the reconveyance of that portion of the property.

We have on hand the funds for the construction of the parking garage and bids will be let shortly. We have every intention of going forward with the development and bidding on the maritime office building, and I feel that the City can easily live with the requirements worked out by the attorneys and recommend the approval of the attached supplementary agreement. The Ports Authority approved the agreement at their meeting last week.

The Mayor recalled that under the subject agreement, the City agreed to commence construction of the parking garages within five years. The Ports Authority attorneys sought to stipulate this in a deed. The City attorneys felt the more that was put into the instrument of conveyance, the more possible clouds were raised on a title. Since some of the property involved in the agreement would be put up for private development, the Mayor said, the City did not want to do anything to encumber the property or affect its marketability. The Mayor said, therefore, the Ports Authority agreed to handle all of this with a contract rather than in the deed of conveyance.

The Mayor stated that unless a special meeting of City Council was held, this would be the last City Council meeting for this year and this matter required prompt action.

Corporation Counsel Regan elaborated on the Mayor's explanation, and explained the land swap between the Ports Authority and the City in the September 9, 1981 agreement. He explained that when the City submitted the deeds for the Ports Authority to convey the property to the City, they became concerned because there is an area of law which provides that if one enters into a contract of sale on a piece of real estate with all sorts of considerations, and then one executes the contract by signing a deed, all of the agreements between the parties merge into the deed and nothing is enforceable except what is in the deed. The Ports Authority attorneys were concerned, and, therefore, wanted a reverter clause in the deed saying that if the City did not carry out all of the provisions of the 1981 agreement, the property would automatically revert to the Ports Authority. Mr. Regan said the City's Legal staff thought that was too broad. For example, he said, in the agreement it was stated that the proposed building on the property was to be called the "Maritime Office Building". If at some time it was decided to change the name, for whatever reason, technically the property could revert to the Ports Authority.

Mr. Regan stated that the Ports Authority attorneys and the City attorneys had worked on and negotiated on this matter for approximately one year. Finally, the agreement was reached that the Ports Authority would transfer the deeds and then the City would sign the new agreement (printed below) which had been submitted with the Mayor's December 14th memorandum, wherein the agreements made prior to the deed would be renewed. He called attention to the provision in the new agreement whereby the City would agree that if the City did not construct the parking garage

within five years, the Ports Authority could require the City to reconvey the property to the Ports Authority; or, if the City abandoned the plans for the Maritime Office Building or failed to provide development plans and put it out for bids, the Ports Authority could require the City to reconvey the property to the Ports Authority. He pointed out that the City had the money to construct the parking garage, so he felt confident there would be no problem for the City if it agreed to that portion of the agreement. The Mayor pointed out that the agreement stated that the property "can" revert rather than "will" revert to the Ports Authority.

Mr. Regan expressed the opinion that it was appropriate for City Council to approve the new agreement and authorize the mayor to sign it. He repeated, the only addition to the agreement, which was implied in the former agreement, was that it specifically said if the parking garage and the Maritime Office Building were not constructed in five years, the property will revert to the Ports Authority. He said he did not think there was any question but that the City's plans were to do both of those things in the five-year period. He wholeheartedly recommended approval of the new agreement. Also, he pointed out the City was ready to begin construction on the parking garage once it got title to the property.

Councilmember Gaillard asked Mr. Regan if his understanding was correct that City Council would not be changing anything of substance from the September 9, 1981 agreement; that the only thing the new agreement did was to clarify the reverter points; that the specified five years would be no problem since the City would commence construction of the parking garage next year. Mr. Regan answered in the affirmative. In the case of the Maritime Office Building, Mr. Regan added, the terms of the agreement would be met by the City providing a plan and putting it out for bids in five years.

In response to questions asked by Councilmember Tecklenburg, Mr. Regan stated that after calling for public bids, if the City rejected all of those bids, the City still would have complied with the agreement. The five-year period, he explained, commenced five years from the date of the 1981 agreement. Therefore, the Mayor added, the City had four more years in which to comply with the terms of the agreement. he did not believe this would create any problems, since the City planned to commence construction of the parking garage, to commence the first phase of the Waterfront Park, and to put the land out for developing the Maritime Office Building next year, three years ahead of schedule.

Councilmember Tecklenburg moved that this item be placed on the agenda. Councilmember Christopher seconded the motion. The motion carried.

The following resolution was adopted on motion of Councilmember Ader, seconded by Councilmember Jefferson:

A RESOLUTION

BE IT RESOLVED that the Mayor be and he hereby is authorized and directed, for and in behalf of The City Council of Charleston, to execute and deliver under the corporate seal, attested by the Clerk of Council, an agreement which shall be substantially as follows:

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

AGREEMENT)

WHEREAS, South Carolina State Ports Authority and the City of Charleston entered into an agreement dated September 9, 1981, under the terms of which the parties agreed to exchange certain properties and to do various other things set out in said agreement; a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference; and

WHEREAS, pursuant to said agreement the South Carolina State Ports Authority and the City of Charleston have made certain conveyances of property to each other; and

WHEREAS, the parties originally intended that the conveyance of the property necessary for the Maritime Office Building and parking facility should be subject to a reverter upon failure of the agreements set forth in Article 3 of the September 9, 1981, agreement but requirements for Federal government financing have precluded the placing of the reverter in the Deed; and

WHEREAS, it is the desire of the parties to amend the Agreement of September 9, 1981, to provide for a return of the property to the Ports Authority upon the

failure of the Agreements set forth in Article 3; and

WHEREAS, it was the intention of the parties upon the execution of the agreement dated September 9, 1981, that said agreement would not merge into any conveyances executed pursuant thereto and that said agreement would survive such conveyances, remaining in full force and effect and would be enforceable by or against either of the parties; and

WHEREAS, the parties are desirous of removing any questions as to whether or not the agreement of September 9, 1981, may have merged into any of the conveyances between the parties; and

WHEREAS, the parties desire to reconfirm said agreement to eliminate any questions that may arise.

NOW THEREFORE, in consideration of the premises, the mutual agreements, and the agreement of the Ports Authority not to insist upon a reverter in the Deed itself and sum of \$5.00 by the Ports Authority to the said City paid the receipt whereof is hereby acknowledged, the parties agree as follows:

I. Article 3 of the Agreement attached hereto as Exhibit "A" (not printed in City Council Proceedings) and incorporated herein by reference shall be changed by adding the following:

It is understood and agreed that the City will subdivide the property described in this Article 3 and upon the site fronting on Cumberland Street have thereon constructed a Maritime Office Building and on the remaining portion of the site construct an off-street parking facility. Should the City fail to begin construction of the off-street parking facility within five (5) years of the date of the attached Agreement, then the Ports Authority shall have the option of requiring a reconveyance of the property on which the off-street parking facility was to be constructed. Provided further that should the City fail to prepare a development proposal for the Maritime Office Building and offer the property on a public bid basis to a private development for the construction of the building within five (5) years of the date of the attached Agreement, or, should the City abandon or indefinitely postpone its plan for a Maritime Office Building, then, in either such event, the Ports Authority will likewise have the option of requiring a reconveyance of the property upon which the Maritime Office Building was to have been constructed.

II. The provisions of the said Agreement of September 9, 1981, are hereby modified and/or supplemented to conform herewith but in all respects are to be and continue in full force and effect and the parties hereby reconfirm said provisions.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this _____ day of December, 1982.

CITY OF CHARLESTON By: Joseph P. Riley, Jr., Mayor Attest: Clerk of Council SOUTH CAROLINA STATE PORTS AUTHORITY By: Its:

There being no further business, the meeting was adjourned on motion of Councilmember Cochran.

Mary R. Wrixon

Clerk of Council